

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration**

[I.D. 110404C]

**Endangered Species; File No. 1510**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Receipt of application.

**SUMMARY:** Notice is hereby given that the Liberty Science Center (Richard Weddle, Principal Investigator), 251 Phillip Street, Jersey City, New Jersey 07305, has applied in due form for a permit to take shortnose sturgeon (*Acipenser brevirostrum*) for purposes of enhancement through educational display.

**DATES:** Written, telefaxed, or e-mail comments must be received on or before January 14, 2005.

**ADDRESSES:** The application and related documents are available for review upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713-2289; fax (301)713-0376; and Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930-2298; phone (978)281-9200; fax (978)281-9371.

Written comments or requests for a public hearing on this application should be mailed to the Chief, Permits, Conservation and Education Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

Comments may also be submitted by facsimile at (301)713-0376, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period.

Comments may also be submitted by e-mail. The mailbox address for providing email comments is [NMFS.Pr1Comments@noaa.gov](mailto:NMFS.Pr1Comments@noaa.gov). Include in the subject line of the e-mail comment the following document identifier: File No. 1510.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Jefferies or Amy Sloan, (301)713-2289.

**SUPPLEMENTARY INFORMATION:** The subject permit is requested under the

authority of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222-226).

The Liberty Science Center proposes to receive and use five captive-bred, non-releasable shortnose sturgeon for the purpose of educational display. The proposed project of displaying endangered cultured shortnose sturgeon responds directly to a recommendation from the NMFS recovery outline for this species. In addition, the facility would create a public education program and exhibit to increase awareness of the shortnose sturgeon and its status. The proposed project would educate the public on shortnose sturgeon life history and the reasons for its declining numbers.

Dated: December 9, 2004.

**Jennifer Skidmore,**

*Acting Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 04-27430 Filed 12-14-04; 8:45 am]

**BILLING CODE 3510-22-S**

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration**

[I.D. 120604A]

**Marine Mammals; File No. 87-1593**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Issuance of permit amendment.

**SUMMARY:** Notice is hereby given that Daniel Costa, Ph.D., University of California, Santa Cruz, Long Marine Lab, 100 Shaffer Road, Santa Cruz, CA 95060, has been issued an amendment to Permit No. 87-1593 conduct scientific research on southern elephant seals (*Mirounga leonina*).

**ADDRESSES:** The permit and related documents are available for review upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713-2289; fax (301)713-0376; and Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213; phone (562)980-4001; fax (562)980-4018.

**FOR FURTHER INFORMATION CONTACT:** Amy Sloan or Ruth Johnson, (301)713-2289.

**SUPPLEMENTARY INFORMATION:** On July 15, 2004, notice was published in the **Federal Register** (69 FR 42424) that a request for a permit amendment to take the species identified above had been submitted by the above-named individual. The requested amendment has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

The permit holder is authorized to capture, sedate, tag (flipper and instrument), sample, and release up to 30 adult southern elephant seals; tag and weigh up to 50 immature elephant seals; conduct population censusing; and incidentally disturb up to 100 elephant seals during research. The purpose of this project is to examine the foraging behavior and habitat utilization of the southern elephant seal in the Western Antarctic Peninsula.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), a final determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Dated: December 8, 2004.

**Stephen L. Leathery,**

*Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 04-27431 Filed 12-14-04; 8:45 am]

**BILLING CODE 3510-22-S**

**DEFENSE NUCLEAR FACILITIES SAFETY BOARD**

[Recommendation 2004-2]

**Active Confinement Systems**

**AGENCY:** Defense Nuclear Facilities Safety Board.

**ACTION:** Notice, recommendation.

**SUMMARY:** The Defense Nuclear Facilities Safety Board has unanimously approved Recommendation 2004-2, for DOE to consider. Recommendation 2004-2 deals with the confinement of hazardous materials at defense nuclear facilities in the Department of Energy complex.

**DATES:** Comments, data, views, or arguments concerning the recommendation are due on or before January 14, 2005.

**ADDRESSES:** Send comments, data, views, or arguments concerning this recommendation to: Defense Nuclear

Facilities Safety Board, 625 Indiana Avenue, NW., Suite 700, Washington, DC 20004-2001.

**FOR FURTHER INFORMATION CONTACT:**

Kenneth M. Pusateri or Andrew L. Thibadeau at the address above or telephone (202) 694-7000.

Dated: December 10, 2004.

**A.J. Eggenberger,**  
*Vice Chairman.*

**Recommendation 2004-2 to the Secretary of Energy, Pursuant to 42 U.S.C. 2286a(a)(5), Atomic Energy Act of 1954, As Amended**

Dated: December 7, 2004.

There is a long-standing safety practice in the design, construction, and operation of nuclear facilities to build-in and maintain structures, systems, and components that contain or confine radioactive materials. The Department of Energy (DOE) establishes requirements to ensure such containment or confinement. In the hierarchy of safety controls, passive design features are preferred over active systems; however, controls must be capable of performing their intended function. Passive confinement systems are not necessarily capable of containing hazardous materials with confidence because they allow a quantity of unfiltered air contaminated with radioactive material to be released from an operating nuclear facility following certain accident scenarios. Safety related active confinement ventilation systems will continue to function during an accident, thereby ensuring that radioactive material is captured by filters before it can be released into the environment.

The enclosed technical report, DNFSB/TECH-34, *Confinement of Radioactive Materials at Defense Nuclear Facilities*, compares the benefits of including a safety-related active confinement ventilation system to those of relying only on a passive confinement system. This technical report illustrates that using only a passive confinement system for an existing or new defense nuclear processing facility would not account for many safety considerations such as post-accident monitoring and response, and may result in the release of an undeterminable amount of radioactive materials, the consequences of which could approach that of the unmitigated scenarios.

The Defense Nuclear Facilities Safety Board (Board) has advised DOE in various ways during the past decade regarding the need to pay increased attention to the design and operational reliability of the confinement ventilation systems at defense nuclear facilities. These Board efforts include transmittal of a technical report on May 31, 1995, *Overview of Ventilation Systems at Selected DOE Plutonium Processing and Handling Facilities*, a letter to the Deputy Secretary of Energy dated July 8, 1999, and Recommendation 2000-2, *Configuration Management, Vital Safety Systems*, on March 8, 2000. This advice has helped DOE improve the reliability of its confinement ventilation systems. However, DOE requirements have become less prescriptive during the last decade as DOE Order 6430.1A, *General Design Criteria Manual*, was replaced with

DOE Order 420.1, *Facility Safety*, and its subsequent revisions. Furthermore, it has become apparent that the Board's advice on confinement systems is not being rigorously pursued as evidenced by the following:

- On December 27, 2002, the Board sent a letter to the National Nuclear Security Administration (NNSA) regarding the confinement concept used for the Highly Enriched Uranium Materials Facility at the Y-12 National Security Complex. The proposed confinement concept was based on isolating the radioactive material in the building using a passive confinement system under certain abnormal events. The Board communicated safety concerns associated with this concept in the letter; subsequently, the confinement concept for HEUMF was modified to adopt a safety-related active ventilation system.

- On April 12, 2004, the Board sent a letter to the Administrator of NNSA regarding similar safety issues related to the confinement systems for the plutonium facility at the Lawrence Livermore National Laboratory. The proposed approach utilized passive confinement of radioactive material from the facility during certain accident scenarios. Further, because the offsite dose consequences of such an unfiltered release were calculated to be below DOE's evaluation guideline (25 rem), the proposal included downgrading the existing safety-class active confinement ventilation system to a safety-significant system. The Board believed that the new approach was inconsistent with a defense-in-depth philosophy. Subsequently, the Livermore Site Office commissioned an independent calculation of the amount of the unfiltered release. These calculations yielded results that were an order of magnitude greater than the original building leakage estimates—clearly indicating that significant uncertainties existed in the analytical techniques. As a result, NNSA decided to maintain the existing safety-class active confinement ventilation system.

- On August 27, 2004, the Board sent a letter to the Under Secretary of Energy regarding the confinement approach proposed for the Salt Waste Processing Facility at the Savannah River Site. The confinement concept for this new facility is based on isolation of the process building using passive confinement during accident scenarios. The Board suggested that the salt waste facility should be designed with a safety-related active ventilation system.

A number of existing facilities (including the TA-55 Plutonium Facility, the Device Assembly Facility, and the Hanford Evaporator) rely on passive or non-safety related confinement systems. More importantly, designs for proposed facilities (including Chemistry and Metallurgy Research Replacement Facility and the Salt Waste Processing Facility) are based on the same passive confinement concept and use an assumed quantitative value for the building leak path factor as a design criterion.

These examples illustrate two primary concerns. First, a reliance on calculations that do not appropriately account for large uncertainties is not defensible. These analytically determined building leak path

factors are based on a combination of several computer programs that were not specifically designed for this purpose. Furthermore, it is generally impossible for these programs to model the true conditions of a real accident because of the uncertain behavior of the workers and emergency crews responding to the event.

Second, these examples represent a fundamental change in DOE's approach to protection of the public near defense nuclear facilities. DOE appears to be using the evaluation guideline of 25 rem exposure at the site boundary as a design criterion and an allowable dose to the public. This is contrary to the Board's July 8, 1999 letter to the Deputy Secretary of Energy that states "the 25 rem evaluation guideline is not to be treated as a design acceptance criterion nor as a justification for nullifying the general design criteria relative to defense-in-depth safety measures." It is also contrary to DOE-STD-3009 that states that the 25 rem evaluation guideline "is not to be treated as a design acceptance criterion." However, the Board continues to see 25 rem at the site boundary used as an acceptance criterion for the performance of confinement systems. The Board is concerned that in these examples DOE and its contractors are underestimating the significance of the performance requirements for a confinement ventilation system and are relying on questionable calculations of offsite doses to evaluate performance. The Board reiterates that the 25 rem evaluation guideline is solely to be used for guidance for the classification of safety controls, and not as an acceptable dose to the public for the purpose of designing or operating defense nuclear facilities.

Notwithstanding the concerns discussed above, DOE continues to pursue a passive confinement approach in the design of some new nuclear facilities that have the potential for a radiological release. The Board recognizes that DOE's defense nuclear complex is comprised of a wide variety of nuclear facilities with an equally diverse range of materials, forms, activities, and proximities to the public. For this reason, it is difficult to prescribe a single, broadly-applicable design requirement. However, in light of the examples discussed above, the Board believes a more prescriptive design requirement is needed.

The Board further recognizes that certain Hazard Category 2 and 3 defense nuclear facilities may not benefit significantly from an active confinement ventilation system. An example would be a facility that stores radioactive material in protected, safety-class containers. Other examples may be certain tritium facilities, outside storage locations, burial grounds, or facilities with planned declining nuclear material inventories and scheduled for decommissioning in the near future. This recommendation is not meant to require an active confinement ventilation system in all such cases.

Therefore, the Board recommends that DOE:

1. Disallow reliance on passive confinement systems and require an active confinement ventilation system for all new and existing Hazard Category 2 defense nuclear facilities with the potential for a

radiological release. These systems are expected to be classified as safety-class or safety-significant as required by a conservative application of DOE-approved methodology, and should be designed and maintained to function during abnormal and accident conditions. Exceptions to such classifications should be approved at a level in DOE that ensures a consistent, conservative approach throughout the complex.

2. Disallow reliance on passive confinement systems and require an active confinement ventilation system for all new and existing Hazard Category 3 defense nuclear facilities with the potential for a radiological release. These systems would not ordinarily be classified as safety-class or safety-significant unless such designation is required by the DOE-approved methodology.

3. Revise all applicable DOE directives pertaining to operation of existing facilities, design and construction of new facilities, and major modifications to existing facilities, in accordance with Items 1 and 2 above. These revisions should include guidance for determining when a facility would not benefit from an active confinement ventilation system.

4. Assess existing facilities, ongoing major modifications, and new design/construction projects, to ensure that:

(a) The confinement strategy described above is implemented, and

(b) The 25 rem evaluation guideline is used solely for classification of safety controls.

Section 42 U.S.C. 2286d(e) provides authority to the Secretary of Energy to "implement any such Recommendation (or part of any such Recommendation) before, on, or after the date on which the Secretary of Energy transmits the implementation plan to the Board under this subsection." The Board suggests that the Secretary of Energy consider taking action on Item 4 above in parallel with the development of an Implementation Plan for this Recommendation.

In addition, the Board's Recommendation 2004-1, *Oversight of Complex, High-Hazard Nuclear Operations*, addresses the need for complex-wide consistency in the application of DOE requirements and expectations. The Board expects the mechanisms established in response to Recommendation 2004-1 would likewise ensure consistent, conservative implementation of the confinement requirement provided here.

**John T. Conway,**  
*Chairman.*

[FR Doc. 04-27426 Filed 12-14-04; 8:45 am]

**BILLING CODE 3670-01-P**

## DEPARTMENT OF ENERGY

[Docket No. EA-274-A]

### Application To Export Electric Energy; Wisconsin Public Service Corporation

**AGENCY:** Office of Fossil Energy, DOE.

**ACTION:** Notice of application.

**SUMMARY:** Wisconsin Public Service Corporation (WPSC) has applied to renew its authority to transmit electric energy from the United States to Canada pursuant to section 202(e) of the Federal Power Act.

**DATES:** Comments, protests or requests to intervene must be submitted on or before January 14, 2005.

**ADDRESSES:** Comments, protests or requests to intervene should be addressed as follows: Office of Coal & Power Import/Export (FE-27), Office of Fossil Energy, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585-0350 (FAX 202-287-5736).

**FOR FURTHER INFORMATION CONTACT:** Xavier Puslowski (Program Office) 202-586-4708 or Michael Skinker (Program Attorney) 202-586-2793.

**SUPPLEMENTARY INFORMATION:** Exports of electricity from the United States to a foreign country are regulated and require authorization under section 202(e) of the Federal Power Act (FPA) (16 U.S.C. 824a(e)).

On February 6, 2003, the Office of Fossil Energy (FE) of the Department of Energy (DOE) issued Order No. EA-274 authorizing WPSC to transmit electric energy from the United States to Canada as a power marketer. That two year authorization will expire on February 6, 2005.

On November 30, 2004, FE received an application from WPSC to renew its authorization to transmit electric energy from the United States to Canada for a five-year term. WPSC proposes to arrange for the delivery of those exports over the international transmission facilities owned by Basin Electric Power Cooperative, Bonneville Power Administration, Eastern Maine Electric Cooperative, International Transmission Company, Joint Owners of the Highgate Project, Long Sault, Inc., Maine Electric Power Company, Maine Public Service Company, Minnesota Power, Inc., Minnkota Power Cooperative, New York Power Authority, Niagara Mohawk Power Corporation, Northern States Power, Vermont Electric Company and Vermont Electric Transmission Company.

The construction of each of the international transmission facilities to be utilized by WPSC, as more fully described in the application, has previously been authorized by a Presidential permit issued pursuant to Executive Order 10485, as amended.

**Procedural Matters:** Any person desiring to become a party to these proceedings or to be heard by filing comments or protests to this application should file a petition to intervene,

comment or protest at the address provided above in accordance with §§ 385.211 or 385.214 of the FERC's Rules of Practice and Procedures (18 CFR 385.211, 385.214). Fifteen copies of each petition and protest should be filed with the DOE on or before the dates listed above.

Comments on the WPSC application to export electric energy to Canada should be clearly marked with Docket EA-274-A. Additional copies are to be filed directly with Dennis M. Derricks, Director, Regulatory Policy & Analysis, Wisconsin Public Service Corporation, 700 North Adams Street, P.O. Box 19001, Green Bay, WI 54307-9001, and David Martin Connolly, Esquire, Bruder, Gentile & Marcoux, L.L.P., 1701 Pennsylvania Avenue, NW., Suite 900, Washington, DC 20006-15807.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above or by accessing the Fossil Energy Home Page at <http://www.fe.doe.gov>. Upon reaching the Fossil Energy Home page, select "Electricity Regulation," and then "Pending Proceedings" from the options menus.

Issued in Washington, DC, on December 8, 2004.

**Anthony J. Como,**

*Deputy Director, Electric Power Regulation, Office of Fossil Energy.*

[FR Doc. 04-27416 Filed 12-14-04; 8:45 am]

**BILLING CODE 6450-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

December 9, 2004.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Amendment of License to Reflect Terms and Conditions of Settlement Agreement.

b. *Project No:* 2360-144.

c. *Date Filed:* November 12, 2004.

d. *Applicant:* ALLETE, Inc.

e. *Name of Project:* St. Louis Project.

f. *Location:* The project is located on the St. Louis, Beaver, and Cloquet Rivers in Carlton and St. Louis Counties, Minnesota.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a) 825(r) and sections 799 and 801.

h. *Applicant Contact:* Ingrid K. Johnson, Assistant General Council,