

allowed for the exchange of shoreline access rights of equal or greater value. TVA determined that the environmental impacts of the modification of SMP would not materially differ from the impacts quantified in the original EIS and that the effect of removing the Maintain and Gain provision is adequately addressed in the EIS. The environmental and project goals of the SMI and SMP would still be met without the Maintain and Gain program.

**FOR FURTHER INFORMATION CONTACT:** Charles P. Nicholson, Program Manager, NEPA Compliance, Environment and Technology, Tennessee Valley Authority, 400 West Summit Hill Drive, WT 11D, Knoxville, Tennessee 37902-1499; telephone (865) 632-3582 or e-mail [cpnicholson@tva.gov](mailto:cpnicholson@tva.gov).

**SUPPLEMENTARY INFORMATION:** In 1999, TVA adopted SMP to implement the April 1999 TVA Board decision to adopt the preferred alternative (Blended Alternative) of the November 1998 EIS entitled "Shoreline Management Initiative: An Assessment of Residential Shoreline Development Impacts in the Tennessee Valley." In June 1999, TVA published a ROD in the **Federal Register** (64 FR 300092, June 4, 1999) reflecting this decision. The Blended Alternative emphasized conservation of shoreline resources and no net loss of public lands while providing for reasonable access and compatible use of the shoreline by adjacent residents. It also included the Maintain and Gain program that allowed TVA to consider requests from property owners without shoreline access rights to obtain those rights in exchange for eliminating shoreline access rights of equal or preferably greater length and value; such exchanges would result in no net loss, or preferably a net gain, of public shoreline.

TVA recently reviewed the Maintain and Gain program. Since its inception in 1999, TVA has approved nine Maintain and Gain requests for the exchange of water access rights on TVA reservoirs, which have resulted in only a small increase in the amount of shoreline protected. The closing of 7,113 linear feet of shoreline for private water use access rights and opening 6,036 linear feet of shoreline access rights to private landowners has yielded a net gain of 1,077 linear feet of shoreline closed to residential water use access. Overall, this is less than one-tenth of 1 percent of the 4,100 miles of shoreline available for private water use throughout the Tennessee Valley.

The Maintain and Gain program was used infrequently, and the decisions required to be made thereunder were

vulnerable to some inconsistency. TVA has determined that the elimination of the Maintain and Gain program would have minor and insignificant environmental impacts and that such impacts would not significantly differ from the impacts quantified in the original EIS. The environmental and project goals of the SMI and SMP would still be met. Consequently, the TVA Board of Directors terminated the Maintain and Gain program on August 20, 2009. The termination of the Maintain and Gain program does not affect the other key components of SMP, such as the use of vegetation management plans, limits to the size of residential water use facilities, use of shoreline management zones, management of access/view corridor size, use of best management practices for construction, management of vegetation, stabilization of shoreline erosion, and education activities.

Dated: February 25, 2010.

**Anda Ray,**

*Senior Vice President of Environment and Technology and Environmental Executive.*

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## UTAH RECLAMATION MITIGATION AND CONSERVATION COMMISSION

### Notice of a Project Waiver of Section 1605 (Buy American Requirement) of the American Recovery and Reinvestment Act of 2009 to the Utah Division of Wildlife Resources (Division)

**AGENCY:** Utah Reclamation Mitigation and Conservation Commission.

**ACTION:** Buy American Exception under the American Recovery and Reinvestment Act of 2009.

**SUMMARY:** The Utah Reclamation Mitigation and Conservation Commission (Commission) hereby provides notice that on February 17, 2010, the Commission's Executive Director granted a limited waiver of Section 1605 of the American Recovery and Reinvestment Act of 2009 (Recovery Act), Public Law 111-5, 123 Stat. 115, 303 (2009) with respect to certain water quality treatment and monitoring equipment that will be used in a project funded under the Recovery Act (Pub. L. 111-5) and implemented through the Central Utah Project Completion Act Program (CUPCA).

**DATES:** The Recovery Act Buy American waiver was signed February 17, 2010.

**ADDRESSES:** Utah Reclamation Mitigation and Conservation

Commission, 230 South 500 East, Suite 230, Salt Lake City, Utah 84102-2045. Internet address: <http://www.mitigationcommission.gov>.

**FOR FURTHER INFORMATION CONTACT:** Maureen Wilson, Project Coordinator, Utah Reclamation Mitigation and Conservation Commission, 801-524-3166.

**SUPPLEMENTARY INFORMATION:** In accordance with section 1605(c) of the Recovery Act and with section 176.80 of Title 2 of the Code of Federal Regulations, the Commission hereby provides notice that on February 17, 2010, the Executive Director granted a limited waiver of section 1605 of the Recovery Act (Buy American provision) with respect to certain water quality treatment and monitoring equipment components that will be used in a project funded under the Recovery Act. The basis for this waiver is a non-availability determination pursuant to section 1605(b)(2) of the Recovery Act.

### I. Background

Agreement No. 09FCUT-RA04 June Sucker Facility Improvements—Fisheries Experiment Station between the Commission and the State of Utah, Division of Wildlife Resources (Division) was entered into pursuant to the Recovery Act, for the purpose of funding hatchery improvements for culture of June sucker, an endangered species. The hatchery improvements include expansion of a recirculation system that allows optimal water temperatures for culture of June sucker. The recirculation system requires water treatment and water quality monitoring. In Section 1605(a) of the Recovery Act, the Buy American provision states that none of the funds appropriated by the Act, "may be used for a project for the construction, alteration, maintenance or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States."

Subsections 1605(b) and (c) of the Recovery Act authorize the head of a Federal department or agency to waive the Buy American provision by finding that: (1) Applying the provision would be inconsistent with the public interest; (2) the relevant goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or, (3) the inclusion of the goods produced in the United States will increase the cost of the project by more than 25 percent. If the head of a Federal department or agency waives the Buy American provision, then the head is required to publish a

detailed justification in the Federal Register. Finally, section 1605(d) of the Recovery Act states that the Buy American provision must be applied in a manner consistent with the United States' obligations under international agreements.

## II. Nonavailability Finding

The Commission's Executive Director determined—as applied to certain water quality treatment and monitoring equipment components to be used in a hatchery rearing June sucker, an endangered species—application of the Buy American provision is not possible because the components, specifically rotating drum filter upgrades and a water quality monitoring system expansion, are not available from American manufacturers in sufficient and reasonably available commercial quantities of a satisfactory quality.

Expansion of the recirculation system requires adding a second drum filter for aquaculture water treatment. The existing system uses a drum filter manufactured by PRAqua Supplies Ltd.—Nanaimo, British Columbia, Canada. The Division owns an RFM 4872 drum filter also manufactured by PRAqua Supplies Ltd that will be used for the system expansion. This drum filter requires modification with new drum filter seals, screen panels and a new control panel to be suitable for use in the aquaculture system. This will allow the expanded system to match the existing equipment and drum filter.

The existing recirculation facility is equipped with a variety of automated sensors that allow system operators to monitor water quality, flow and temperature in the fish hatchery. The existing equipment was provided and installed by Point Four Systems Inc. of Coquitlam, BC, Canada.

Recirculation system expansion will also require new components to expand aquaculture water quality monitoring. New components will include additional oxygen sensors, flow meters and related control panel wiring to connect to the existing system. Use of components sharing the same manufacturer will allow efficient operation of equipment that is in place. New monitoring system components that will function with existing components are not available from American manufacturers in sufficient and reasonably available commercial quantities of a satisfactory quality.

## III. Waiver

On February 17, 2010 based on the non-availability finding discussed above and pursuant to ARRA section 1605(c), the Commission's Executive Director

granted a limited waiver of the Recovery Act's Buy American requirements with respect to Agreement No. 09FCUT-RA04 between the Commission and Division for the aforementioned components of a hatchery recirculation system.

Dated: February 25, 2010.

**Michael C. Weland,**

*Executive Director.*

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## DEPARTMENT OF VETERANS AFFAIRS

### Determinations Concerning Illnesses Discussed in the Institute of Medicine Report on *Gulf War and Health: Updated Literature Review of Depleted Uranium*

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** As required by law, the Department of Veterans Affairs (VA) hereby gives notice that the Secretary of Veterans Affairs, under the authority granted by the Persian Gulf War Veterans Act of 1998, Public Law 105-277, title XVI, 112 Stat. 2681-742 through 2681-749 (codified at 38 U.S.C. 1118), has determined not to establish a presumption of service connection at this time, based on exposure to depleted uranium in the Persian Gulf during the diseases, illnesses, or health effects discussed in the July 30, 2008, report of the Institute of Medicine (IOM) of the National Academy of Sciences (NAS), titled *Gulf War and Health: Updated Literature Review of Depleted Uranium*. This determination does not in any way preclude VA from granting service connection for any disease, including those specifically discussed in this notice, nor does it change any existing rights or procedures.

**FOR FURTHER INFORMATION CONTACT:**

Nancy Copeland, Regulations Staff (211D), Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, telephone (202) 461-9685. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:**

### I. Statutory Requirements

The Persian Gulf War Veterans Act of 1998, Public Law 105-277, title XVI, 112 Stat. 2681-742 through 2681-749 (codified at 38 U.S.C. 1118), and the Veterans Programs Enhancement Act of

1998, Public Law 105-368, 112 Stat. 3315, previously directed the Secretary to seek to enter into an agreement with the NAS IOM to review and evaluate the scientific literature regarding associations between illness and exposure to specific toxic agents, environmental or wartime hazards, or preventive medicines or vaccines to which service members may have been exposed during service in the Southwest Asia theater of operations during the Persian Gulf War.

In 1998, IOM began a program to examine the scientific and medical literature on the potential health effect of specific agents and hazards to which Gulf War Veterans might have been exposed during their deployment. Five reports have examined health outcomes related to (1) depleted uranium (DU), pyridostigmine bromide, sarin, and vaccines (Volume 1); (2) insecticides and solvents; (3) fuels, combustion products, and propellants; (4) health effects of serving in the Gulf War irrespective of exposure information; and (5) infectious diseases. A sixth IOM report, *Gulf War and Health, Volume 6: Deployment Related Stress*, examined the physiologic, psychologic, and psychosocial effects of deployment-related stress.

The present report updates the review of DU presented in Volume 1. When Volume 1 was published, few studies of health outcomes of exposure to DU had been conducted. Therefore, the IOM studied the health outcomes of exposure to natural and processed uranium in workers at plants that processed uranium ore for use in weapons. After evaluating the literature, the IOM concluded that there was inadequate or insufficient evidence to determine whether an association exists between uranium exposure and 14 health outcomes: lymphatic cancer; bone cancer; nervous system disease; reproductive or developmental dysfunction; non-malignant respiratory disease; gastrointestinal disease; immune-mediated disease; effects on hematologic measures; genotoxic effects; cardiovascular effects; hepatic disease; dermal effects; ocular effects; and musculoskeletal effects. The IOM also concluded that there was limited or suggestive evidence of no association between uranium and clinically significant renal dysfunction and between uranium and lung cancer at specified cumulative internal doses.

Although previously used, the Gulf War marked the first time that DU munitions and armor were used extensively by the military. DU was used by the U.S. military for both offensive and defensive purposes in the