

June 27, 2012

Mr. Steve Hatten
President
Lost Creek ISR, LLC
5880 Enterprise Drive, Suite 200
Casper, WY 82609

SUBJECT: REQUEST FOR ADDITIONAL INFORMATION – REVISED SURETY
ESTIMATE LOST CREEK ISR, LLC'S LOST CREEK PROJECT, U.S.
NUCLEAR REGULATORY COMMISSION LICENSE SUA-1598
(TAC J00665)

Dear Mr. Hatten:

By letter dated February 10, 2012 (ML12048A678), Lost Creek ISR, LLC (LCI) submitted to the U.S. Nuclear Regulatory Commission (NRC) staff a revised surety estimate as required by license condition 9.5 of license SUA-1598. The submittal updated its prior surety estimate provided in the license application, as well as clarifications to demonstrate compliance with the Wyoming Department of Environmental Quality, Land Quality Division, Guideline 12 entitled, "Standardized Reclamation Performance Bond Format and Cost Calculation Methods." Lost Creek's updated surety estimate remains at \$1.75 million.

The NRC staff has completed a detailed review of LCI's submission and has identified deficiencies that require additional information to meet acceptance criteria in NUREG-1569 and regulatory requirements of 10 CFR 40, Appendix A, Criterion 9. The request for additional information (RAI) is included in the enclosure. Within 30 days, please provide the information requested or a schedule for submitting the requested information. Please note that untimely responses to this RAI could delay issuance of the amendment to your license.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice for Domestic Licensing Proceedings and Issuance of Orders," a copy of this letter will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records component of NRC's Agencywide Documents Access and Management System (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>.

S. Hatten

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If you have any questions concerning this letter, please contact me, either by telephone at (301) 415-6142, or by e-mail at tanya.oxenberg@nrc.gov.

Sincerely,

/RA/

Tanya Palmateer Oxenberg, Ph.D.
Project Manager
Uranium Recovery Licensing Branch
Decommissioning and Uranium Recovery
Licensing Directorate
Division of Waste Management
and Environmental Protection
Office of Federal and State Materials
and Environmental Management Programs

Docket No. 40-9068

Enclosure: RAI

cc:

John Cash, LCI
Mark Newman, BLM
Melissa Bautz, WDEQ
John Corra, WDEQ

S. Hatten

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**U.S. Nuclear Regulatory Commission Request for Additional Information
Lost Creek ISR, LLC, Lost Creek Project
Amendment to NRC Source Materials License SUA-1598**

By letter dated February 10, 2012 (ML12048A678), Lost Creek ISR, LLC (LCI) submitted to the U.S. Nuclear Regulatory Commission (NRC) staff a revised surety estimate as required by license condition 9.5 of license SUA-1598. The submittal updated its prior surety estimate provided in the license application, as well as clarifications to demonstrate compliance with the Wyoming Department of Environmental Quality (WDEQ) Land Quality Division (LQD) Guideline 12 entitled, "Standardized Reclamation Performance Bond Format and Cost Calculation Methods." Lost Creek's updated surety estimate remains at \$1.75 million. NRC staff completed its technical review of this request and offers the following request for additional information.

The submission should be modified to meet acceptance criteria in NUREG-1569 and comply with 10 CFR 40, Appendix A, Criterion 9.

1. The licensee should insert additional commitments in the surety to meet acceptance criterion in NUREG-1569, Section 6.5.3. NUREG-1569, Section 6.5.3 recommends that licensees include certain statements in the cost estimate submission. The licensee's submission does not include several of the recommended elements. Specifically, the submission should state that the licensee will:
 - a. Update the surety value annually "in response to changes in closure or decommissioning plans, and as necessitated by changes in the facility and its operations." NUREG-1569, Section 6.5.3.7.
 - b. Extend the surety for an additional year if the NRC has not approved a proposed revision thirty (30) days prior to the surety expiration date. NUREG-1569, Section 6.5.3.8.
 - c. Revise the surety arrangement within three (3) months of the NRC approval of a revised closure plan if estimated costs exceed the amount of the existing financial surety. NUREG-1569, Section 6.5.3.9.
 - d. Submit for NRC approval an updated surety to cover any planned expansion or operational change not included in the annual surety update at least ninety (90) days prior to beginning associated construction. NUREG-1569, Section 6.5.3.11.
 - e. Provide the NRC with copies of surety-related correspondence submitted to a State, a copy of the State's surety review, and the final approved surety arrangement. NUREG-1569, Section 6.5.3.12.
 - f. Cover all appropriate costs if the surety is authorized to be held by the State. NUREG-1569, Section 6.5.3.12.
2. The unit cost references should be revised or justified as recommended in NUREG-1569, Appendix C. Appendix C of NUREG-1569 states that, "Unit costs, calculations, references, assumptions, equipment and operator efficiencies, et cetera, must be provided." In the cover letter accompanying the cost estimate, the licensee states that the "third party costs in the estimate come from the WDEQ Land Quality Division Guideline 12," where applicable. However, the references provided with the unit costs in the estimate do not explicitly cite Guideline 12. As a result, the NRC staff could not confirm the basis for many of the unit cost estimates. The NRC staff requests that the licensee revise or justify the unit cost references to identify the cost elements that are based on the data provided in Guideline 12.

Enclosure

3. The licensee should specify whether the cost estimate is expressed in current dollars or is adjusted for inflation to meet acceptance criteria in NUREG-1569, Section 6.5.3. NUREG-1569, Section 6.5.3 recommends that submissions specify whether the cost estimate is expressed in current dollars or adjusted for inflation. The licensee's submission does not explicitly state the method used in its cost estimate. Therefore, the NRC staff requests that the licensee specify the method used.
4. Revise or justify the labor costs used as recommended in NUREG-1569, Appendix C. Appendix C of NUREG-1569 states that, "Overhead costs for labor and equipment and contractor profit may be calculated as separate items or loaded into hourly rates. If included in hourly rates, the unit costs must identify the percentages applied for each area." NUREG-1569 also recommends that cost estimates include "a minimum 15-percent contingency."

Worksheet 1, Section VI, in LCI's surety submission estimates the labor cost associated with groundwater restoration. The cost estimate provides hourly rates for various labor categories. It is not clear to the NRC staff if the hourly rates include overhead costs for labor because the licensee did not provide a separate overhead percentage.

The licensee's submission includes a 29 percent contingency. The cost estimate indicates that this contingency accounts for "miscellaneous items" (such as project design, contractor profit and mobilization, pre-construction investigation, project management, on-site monitoring, site security and liability assurance, and long-term administration) and "unknown costs," per WDEQ's Guideline 12. However, based on the detail provided, the NRC staff finds that it is not clear if the 29 percent contingency includes labor overhead. NRC staff requests that the licensee revise or justify the labor costs in the cost estimate by identifying the overhead percentage applied for labor.

5. The licensee did not provide a financial assurance mechanism as listed in 10 CFR 40, Appendix A, Criterion 9. Licensees are required to establish financial surety arrangements in the form of one of the approved mechanisms listed in Criterion 9 prior to the commencement of operations. The cost estimate submission provided by LCI did not include a financial assurance mechanism. The NRC staff requests the financial assurance mechanism to ensure that it is reviewed prior to commencement of operations.