



June 22, 2012

Keith I. McConnell, Ph.D.  
Deputy Director  
Division of Waste Management and Environmental Protection  
United States Nuclear Regulatory Commission  
Mail Stop: T8F5  
Washington, DC 20555-0001

RE: Licensing Path for Rare Element Resources, Inc., Bear Lodge Project, Wyoming

Dear Dr. McConnell:

This correspondence is to follow up on the licensing path, if needed, for the Rare Element Resources (RER) Bear Lodge Project in northeast Wyoming as presented at the May 18, 2012 meeting with you and other NRC staff in Rockville. We appreciate the recent phone communication from Mr. Paul Michaluk to Paul Bergstrom of my staff to discuss the ongoing pre-operational environmental monitoring program, the rare earth element (REE) mining and recovery process, waste components and licensing strategy.

Based on the discussion with Mr. Michaluk, it is our understanding that the NRC is concerned with potential source material remaining in waste generated from the REE recovery process for decommissioning compliance with NRC rules and regulations at closure of the processing plant. This information is also consistent with prior verbal and written communication between RER staff and Mr. Jack Whitten and Ms. Linda Gersey of the NRC Region IV office in Arlington, Texas.

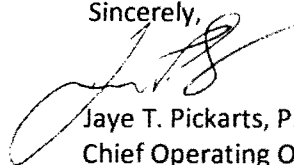
As a forward strategy, it was recommended by NRC staff that RER continue to focus on developing the process technology to assure that the tailings would not exceed the 0.05% by weight (U+Th) threshold in the definition for source material contained in 10 CFR 40.4 or the exemption from source material licensing found in 10 CFR 40.13. We agree with this approach and are optimistic that the tailings will be kept below the 0.05% mass-based threshold. The process flowsheet provided at the May 18<sup>th</sup> meeting indicates that the mass balance of U+Th in the tailings admixture from the initial pilot studies is 0.052%. However, these results were generated from processing of high grade ore and would not necessarily be representative of the run of mine operations. Additional pilot studies to address run of mine operations are being planned as part of the feasibility study later this year, and we anticipate that U+Th concentrations will be significantly less than 0.05%.

In the event that U+Th concentrations would exceed the 0.05% threshold in the tailings, RER intends to submit a license application to possess source material. As confirmed during the June 15, 2012 call between Mr. Michaluk and Mr. Bergstrom, RER is not required to submit a source material license application in order to conduct mining and processing of rare earth minerals, even if intermediate processing steps temporarily result in materials with concentrations of U+Th that exceed 0.05% by weight. A license application for the tailings, if necessary, would be prepared in accordance with Regulatory Guide 10.4, *Guide For The Preparation Of Applications For Licenses To Process Source Material*, NUREG-1556, Volume 12, *Consolidated Guidance About Materials Licenses: Program-Specific*

*Guidance About Possession Licenses for Manufacturing and Distribution* and NUREG-1748, *Environmental Review Guidance For Licensing Actions Associated With NMSS Programs*. Since the NRC does not have regulatory guidance related to pre-operational environmental monitoring for source material possession licenses, RER has designed its pre-operational baseline monitoring program to essentially comply with Regulatory Guide 4.14, *Radiological Effluent and Environmental Monitoring at Uranium Mills*. This pre-monitoring approach was also recommended by Mr. Michaluk. It is anticipated that a license application including an Environmental Report could be submitted to the Region IV NRC office in mid-summer 2013, if required.

We would appreciate your input regarding the licensing approach and path as presented in this letter and confirmation if it is acceptable to you and your staff. Because of the time needed to collect data and prepare a high-quality application in the event that NRC licensing is necessary, we would appreciate any comments on our planned approach as soon as possible. If you have any questions, please contact myself or Mr. Bergstrom.

Sincerely,



Jaye T. Pickarts, P.E.  
Chief Operating Officer

Cc: Mr Larry Camper, Director-Division of Waste Management and Environmental Protection  
Mr. Mark Satorius, Director- Federal and State Materials and Environmental Management Programs