



SECRETARY

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

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USNRC

June 6, 1997

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OFFICE OF SECRETARY
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BRANCH

MEMORANDUM TO: B. Paul Cotter, Jr.
Chief Administrative Judge
Atomic Safety and Licensing Board Panel

FROM: *John C. Hoyle*
John C. Hoyle, Secretary

SUBJECT: REQUEST FOR HEARING SUBMITTED BY
ENVIROCARE OF UTAH, INC.

Attached is a request for hearing dated May 28, 1997, and submitted by Envirocare of Utah, Inc. The request was submitted in response to a notice in the Federal Register of a "Final Finding of No Significant Impact" by the Nuclear Regulatory Commission staff with respect to an amendment of the license of the Quivira Mining Company (Docket No. 40-8905). The license amendment would allow Quivira Mining to accept 11e.(2) material for disposal at its Ambrosia Lake uranium mill and tailings site located near Grants, New Mexico. The "Final Finding" by the NRC staff was published in the Federal Register at 62 Fed. Reg. 23282 (April 29, 1997). Copy attached.

The request for hearing is being referred to you for appropriate action in accordance with 10 C.F.R. §2.1261.

Attachment: As stated

cc: Commission Legal Assistants

OGC

CAA

OPA

EDO

NMSS

Mark Stout, Esquire

Quivira Mining Company

Lynda L. Brothers, Esquire

Envirocare of Utah, Inc.

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Davis Wright Tremain LLP

LAW OFFICES

2600 Century Square · 1501 Fourth Avenue · Seattle, Washington 98101-1688
(206) 622-3150 · Fax: (206) 628-7699

Jeff Weber
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May 28, 1997

Secretary
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

ATTENTION: Docketing and Service Branch

**Re: In the Matter of Quivira Mining Co.'s Proposed Amendment
to NRC Source Material License SUA-1473
Docket No. 40-8905**

Dear Sir/Madam:

Enclosed are the original and three copies of :

1. Request for Hearing of Envirocare of Utah, Inc., and
2. Certificate of Service.

Please conform one copy and return it to us in the enclosed stamped, self-addressed envelope.

Thank you for your assistance.

Very truly yours,

Davis Wright Tremain LLP



Jeff Weber

JW/gm
Enclosure

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Seattle

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OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

BEFORE THE UNITED STATES NUCLEAR REGULATORY COMMISSION

IN THE MATTER OF QUIVIRA MINING)
COMPANY'S PROPOSED AMENDMENT TO)
NRC SOURCE MATERIAL LICENSE SUA-)
1473)

No. 40-8905

CERTIFICATE OF SERVICE

The undersigned certifies:

I am an employee of Davis Wright Tremaine and I am not a party to this action.

On the date executed below, I served true and correct copies of:

REQUEST FOR HEARING OF ENVIROCARE OF UTAH, INC.; and

CERTIFICATE OF SERVICE

by depositing same in the U.S. mail, postage prepaid, properly addressed to:

Quivira Mining Company
6305 Waterford Blvd., Suite 325
Oklahoma City, OK 73118

Executive Director for Operations
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555.

CERTIFICATE OF SERVICE- 1

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Seattle

Davis Wright Tremaine LLP
LAW OFFICES

2600 Century Square · 1501 Fourth Avenue
Seattle, Washington 98101-1688
(206) 622-3150 · Fax: (206) 628-7699

1 The originals and two copies were also mailed on this date to:

2 Secretary, U.S. Nuclear Regulatory Commission
3 Washington, D.C. 20555
4 Attention: Docketing and Service Branch

5 I declare under penalty of perjury under the laws of the State of Washington that the
6 foregoing is true and correct.

7 EXECUTED at Seattle, Washington, this 28th day of May, 1997.

8 Eric M. Alexander

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CERTIFICATE OF SERVICE- 2

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usually obtained from the local water supply.

Radioactive gaseous effluents during normal operations are limited to argon-41, and the release of radioactive liquid effluents can be carefully monitored and controlled. Liquid wastes are collected in storage tanks to allow for decay and monitoring before dilution and release to the sanitary sewer system or the environment. This liquid waste may also be solidified and disposed of as solid waste. Solid radioactive wastes are packed and shipped offsite for disposal or storage at NRC-approved sites. The transportation of such waste is done in accordance with existing NRC and Department of Transportation regulations in approved shipping containers.

Chemical and sanitary waste systems are similar to those at other similar laboratories and buildings.

Environmental Effects of Site Preparation and Facility Construction

Construction of such facilities invariably occurs in areas that have already been disturbed by other building construction and, in some cases, solely within an already existing building. Therefore, construction would not be expected to have any significant effect on the terrain, vegetation, wildlife, or nearby waters or aquatic life. The societal, economic, and aesthetic impacts of construction would be no greater than those associated with the construction of an office building or a similar research facility.

Environmental Effects of Facility Operation

Release of thermal effluents from a reactor of less than 2 Mw(t) will not have a significant effect on the environment. This small amount of waste heat is generally rejected to the atmosphere by means of small cooling towers. Extensive drift and/or fog will not occur at this low power level. The small amount of waste heat released to sewers, in the case of heat exchanger secondary flow directly to the sewer, will not raise average water temperatures in the environment.

Release of routine gaseous effluents can be limited to argon-41, which is generated by neutron activation of air. In most cases, this release will be kept as low as practicable by using gases other than air for supporting experiments. Experiments that are supported by air are designed to minimize production of argon-41. Yearly doses to unrestricted areas will be at or below established 10 CFR Part 20 limits. Routine releases of radioactive liquid effluents can be carefully

monitored and controlled in a manner that will ensure compliance with current standards. Solid radioactive wastes will be shipped to an authorized disposal site in approved containers. These wastes should not require more than a few shipping containers a year.

On the basis of experience with other research reactors, specifically TRIGA reactors operating in the 1-to-2-Mw(t) range, the annual release of gaseous and liquid effluents to unrestricted areas should be less than 30 curies and 0.01 curie, respectively.

No release of potentially harmful chemical substances will occur during normal operation. Small amounts of chemicals and/or high-solid-content water may be released from the facility through the sanitary sewer during periodic blowdown of the cooling tower or from laboratory experiments.

Other potential effects of the facility, such as aesthetics, noise, or societal effects or impact on local flora and fauna are expected to be too small to measure.

Environmental Effects of Accidents

Accidents ranging from the failure of experiments up to the largest core damage and fission product release considered possible result in doses that are less than 10 CFR Part 20 limits and are considered negligible with respect to the environment.

Unavoidable Effects of Facility Construction and Operation

The unavoidable effects of construction and operation involve the materials used in construction that cannot be recovered and the fissionable material used in the reactor. No adverse impact on the environment is expected from either of these unavoidable effects.

Alternatives to Construction and Operation of the Facility

To accomplish the objectives associated with research reactors, there are no suitable alternatives. Some of these objectives are training of students in the operation of reactors, production of radioisotopes, and use of neutron and gamma ray beams to conduct experiments.

Long-Term Effects of Facility Construction and Operation

The long-term effects of research facilities are considered to be beneficial as a result of their contribution to scientific knowledge and training. Because of the relatively small amount of capital resources involved and the small impact on the environment, very little irreversible or irretrievable

commitment is associated with such facilities.

Costs and Benefits of Facility Alternatives

The costs of facility alternatives are on the order of several millions of dollars and have very little environmental impact. The benefits include, but are not limited to, some combination of the following: conduct of activation analyses, conduct of neutron radiography, training of operating personnel, and education of students. Some of these activities could be conducted using particle accelerators or radioactive sources, which would be more costly and less efficient. There is no reasonable alternative to a nuclear research reactor for conducting this spectrum of activities.

Conclusion

The staff concludes that there will be no significant environmental impact associated with the licensing of research reactors or critical facilities designed to operate at a power level of 2 Mw(t) or lower and that no environmental impact statements must be written for the issuance of construction permits, operating licenses, or license renewals for such facilities.

Dated: December 3, 1996.

[FR Doc. 97-10973 Filed 4-28-97; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[Docket No. 40-8905]

Quivira Mining Company; Final Finding of No Significant Impact; Notice of Opportunity for Hearing

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) proposes to amend NRC Source Material License SUA-1473 to authorize the licensee, Quivira Mining Company (QMC), to accept 11e.(2) material for disposal at its Ambrosia Lake uranium mill and tailings site, located near Grants, New Mexico. An Environmental Assessment was performed by the NRC staff in accordance with the requirements of 10 CFR Part 51. The conclusion of the Environmental Assessment is a Finding of No Significant Impact (FONSI) for the proposed licensing action.

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth R. Hooks, Uranium Recovery Branch, Mail Stop TWFN 7-J9, Division

of Waste Management, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Telephone 301/415-7777.

SUPPLEMENTARY INFORMATION:

Background

Source Material License SUA-1473 was originally issued by NRC on September 2, 1986, pursuant to Title 10, Code of Federal Regulations (10 CFR), Part 40, Domestic Licensing of Source Material. This license currently authorizes QMC to (1) receive, acquire, possess, and transfer uranium at the Ambrosia Lake facility, (2) possess byproduct material in the form of uranium waste tailings and other uranium byproduct waste generated by operations at the mill, and (3) accept, for disposal, limited amounts of byproduct material from in situ leach (ISL) uranium mining facilities. The mill was operated on a continual basis from May 1958 until January 1985, when the mill was placed on standby.

Identification of the Proposed Action

On November 20, 1995, Quivira Mining Company (Quivira) requested a license amendment for the Ambrosia Lake facility to annually receive and dispose of up to 10,000 yd³ (about 14,000 tons at a nominal 1.4 tons per yd³) per generator of 11e.(2) byproduct material in tailings impoundment #2, with an annual total limit of 100,000 yd³ from all generators. NRC staff would require by license condition that all generators, including in situ facilities, be limited to the 10,000 yd³ per generator, and that the total annual limit of 100,000 yd³ be inclusive of all material received from generators, including in situ facilities.

Summary of the Environmental Assessment

The NRC staff performed an appraisal of the environmental impacts associated with the requested disposal of 11e.(2) material at the Ambrosia Lake site, in accordance with 10 CFR Part 51, Licensing and Regulatory Policy Procedures for Environmental Protection. In conducting its appraisal, the NRC staff considered the following: (1) information contained in the approved Reclamation Plan for the Ambrosia Lake site; (2) information contained in QMC's amendment request; and (3) information derived from NRC staff site visits and inspections of the Ambrosia Lake mill site and from communications with QMC. The results of the staff's appraisal are documented in an Environmental Assessment. The safety aspects for the

continued operation of the mill are discussed in a Technical Evaluation Report.

In the approved 1986 reclamation plan, the Ambrosia Lake facility's tailings capacity was based on an assumption of 18 more years of production at 7,000 tons of tailings per day which would yield an additional 43 million tons of tailings material. When added to the 31 million tons already in the disposal impoundments, the total quantity the design accounted for was 74 million tons. Ambrosia Lake halted operations far earlier than the planned 18 year run and currently has 33 million tons of tailings in impoundments #1 and #2. Therefore, the excess capacity under the 1986 reclamation plan is 41 million tons.

Conclusions

NRC believes this request will not result in significant environmental impacts because the impacts will be a small fraction of those that could result due to currently approved activities for the following reasons:

(1) The total annual volume is a small fraction of the total volume allowed to be produced under the current license.

(2) Groundwater impacts are minimized because the received material will be free of standing liquids and the disposal cells will have a 3-foot thick minimum clay liner.

(3) Air releases will be minimized because most of the material received will be packaged in drums or crates.

(4) Exposure to workers is expected to be similar or lower than exposures to personnel working with 11e.(2) byproduct material under currently licensed operations.

(5) Standard operating procedures are in place for all operational process activities involving radioactive materials that are handled, processed, or stored;

(6) The licensee will continue an acceptable groundwater detection monitoring program to ensure compliance with the requirements of 10 CFR Part 40, Appendix A;

(7) The licensee will conduct site decommissioning and reclamation activities in accordance with NRC-approved plans; and

(8) Because the staff has determined that there will be no significant impacts associated with approval of the license renewal, there can be no disproportionately high and adverse effects or impacts on minority and low-income populations. Consequently, further evaluation of 'Environmental Justice' concerns, as outlined in Executive Order 12898 and NRC's Office of Nuclear Material Safety and

Safeguards Policy and Procedures Letter 1-50, Rev.1, is not warranted.

Alternatives to the Proposed Action

The licensee's proposed action is to amend Source Material License SUA-1473, to allow disposal of 11e.(2) material at the Ambrosia Lake site, as requested by QMC. Therefore, the principal alternatives available to NRC are to:

(1) Approve the license amendment with such conditions as are considered necessary or appropriate to protect public health and safety and the environment; or

(2) Deny the amendment to the license.

Based on its review, the NRC staff has concluded that there are no significant environmental impacts associated with the proposed action; therefore, any alternatives with equal or greater environmental impacts need not be evaluated. Since the environmental impacts of the proposed action and the no-action alternative (i.e., denial of the renewal) are similar, there is no need to further evaluate alternatives to the proposed action.

Finding of no Significant Impact

The NRC staff has prepared an Environmental Assessment for the proposed amendment to NRC Source Material License SUA-1473. On the basis of this assessment, the NRC staff has concluded that the environmental impacts that may result from the proposed action would not be significant, and therefore, preparation of an Environmental Impact Statement is not warranted. The Environmental Assessment and other documents related to this proposed action are available for public inspection and copying at the NRC Public Document Room, in the Gelman Building, 2120 L Street NW., Washington, DC 20555.

Notice of Opportunity for Hearing

The Commission hereby provides notice that this is a proceeding on an application for a licensing action falling within the scope of Subpart L, "Informal Hearing Procedures for Adjudications in Materials Licensing Proceedings, of the Commission's Rules of Practice for Domestic Licensing Proceedings in 10 CFR Part 2" (54 FR 8269). Pursuant to § 2.1205(a), any person whose interest may be affected by this proceeding may file a request for a hearing. In accordance with § 2.1205(c), a request for a hearing must be filed within thirty (30) days from the date of publication of this *Federal Register* notice. The request for a hearing must be filed with the Office of the Secretary either:

(1) By delivery to the Docketing and Service Branch of the Office of the Secretary at One White Flint North, 11555 Rockville Pike, Rockville, MD 20852; or

(2) By mail or telegram addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch.

Each request for a hearing must also be served, by delivering it personally or by mail to:

(1) The applicant, Quivira Mining Company, 6305 Waterford Boulevard, Suite 325, Oklahoma City, OK 73118;

(2) The NRC staff, by delivery to the Executive Director of Operations, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852, or by mail addressed to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

In addition to meeting other applicable requirements of 10 CFR Part 2 of the Commission's regulations, a request for a hearing filed by a person other than an applicant must describe in detail:

(1) The interest of the requestor in the proceeding;

(2) How that interest may be affected by the results of the proceeding, including the reasons why the requestor should be permitted a hearing, with particular reference to the factors set out in § 2.1205(g);

(3) the requestor's areas of concern about the licensing activity that is the subject matter of the proceeding; and

(4) The circumstances establishing that the request for a hearing is timely in accordance with § 2.1205(c).

Any hearing that is requested and granted will be held in accordance with the Commission's Informal Hearing Procedures for Adjudications in Materials Licensing Proceedings in 10 CFR Part 2, Subpart L.

Dated at Rockville, Maryland, this 22nd day of April 1997.

For the Nuclear Regulatory Commission.

Charles L. Cain,

Acting Chief, Uranium Recovery Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 97-10974 Filed 4-28-97; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATE: Weeks of April 28, May 5, 12, and 19, 1997.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of April 28

Friday, May 2

9:00 a.m. Meeting with Advisory Committee on Reactor Safeguards (ACRS) (Public meeting) (Contact: John Larkins, 301-415-7360)

10:30 a.m. Meeting with Nuclear Safety Research Review Committee, (NSRRC) (Public meeting) (Contact: Jose Cortez, 301-415-6596)

Noon Affirmation Session (Public meeting) (if needed)

Week of May 5

Tuesday, May 6

2:00 p.m. Briefing on PRA Implementation Plan (Public meeting) (Contact: Gary Holahan, 301-415-2884)

Wednesday, May 7

2:00 p.m. Briefing on IPE Insight Report (Public meeting)

3:30 p.m. Affirmation Session (Public meeting) (if needed)

Thursday, May 8

9:00 a.m. Meeting with Advisory Committee on Medical Uses of Isotopes (ACMUI) (Public meeting) (Contact: Larry Camper, 301-415-7231)

Week of May 12

Tuesday, May 13

2:00 p.m. Briefing by National and Wyoming Mining Associations (Public meeting)

Wednesday, May 14

2:00 p.m. Briefing on Status of Activities with CNWRA and HLW Program (Public meeting)

Thursday, May 15

10:00 a.m. Briefing on Status of HLW Program (Public meeting)

2:00 p.m. Briefing on Performance Assessment Progress in HLW, LLW, and SDMP (Public meeting)

3:30 p.m. Affirmation Session (Public meeting) (if needed)

Week of May 19

Tuesday, May 20

11:30 a.m. Affirmation Session (Public meeting)

2:00 p.m. Meeting with Advisory Committee on Nuclear Waste (Public meeting) (Contact: John Larkins, 301-415-7360)

Wednesday, May 21

10:00 a.m. Briefing on Program to Improve Regulatory Effectiveness (Public meeting)

* The schedule for Commission Meetings is subject to change on short notice. To verify the status of meetings call (Recording)—(301) 415-1292. Contact person for more information: Bill Hill (301) 415-1661.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: <http://www.nrc.gov/SECY/smj/schedule.htm>

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, D.C. 20555 (301-415-1661).

In addition, distribution of this meeting notice over the internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to wmh@nrc.gov or dkw@nrc.gov.

* * * * *

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 97-11231 Filed 4-25-97; 2:47 pm]

BILLING CODE 7590-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 040-07102]

Shieldalloy Metallurgical Corp. (Newfield, New Jersey); Director's Decision Under 10 CFR § 2.206

I. Introduction

In an undated letter addressed to U.S. Nuclear Regulatory Commission ("NRC") Chairman Shirley Jackson and received on October 11, 1996, Sherwood Bauman, Chairperson of Save Wills Creek ("Petitioner"), requested that the NRC take action with respect to NRC licensee Shieldalloy Metallurgical Corporation ("SMC"), of Newfield, New Jersey. The Petitioner requested, pursuant to 10 CFR § 2.206, that the NRC modify SMC's license to allow only possession of radioactive material for the express purpose of decommissioning and decontaminating its Newfield facility, and that current operations resulting in additional radioactive material being stored at the site be immediately halted. The Petitioner cites the lack of adequate financial assurance, as required by 10 CFR § 40.36, as the basis for his request.

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BEFORE THE UNITED STATES NUCLEAR REGULATORY COMMISSION
OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

IN THE MATTER OF QUIVIRA)
MINING COMPANY'S PROPOSED)
AMENDMENT TO NRC SOURCE)
MATERIAL LICENSE SUA-1473)

DOCKET NO. 40-8905

REQUEST FOR HEARING OF
ENVIROCARE OF UTAH, INC.

I. INTRODUCTION

1.1 This is a request by Envirocare of Utah, Inc. ("Envirocare") to the United States Nuclear Regulatory Commission ("NRC") pursuant to 10 C.F.R. § 2.1205, for a hearing on (1) the proposed amendment to Quivira Mining Company's ("QMC") Source Material License SUA-1473, and (2) the Finding of No Significant Impact ("FONSI") issued by the NRC for that license amendment. See 62 Fed. Reg. 2328 (April 29, 1997).

The proposed amendment would allow QMC's Ambrosia Lake Facility to:

Annually receive and dispose of up to 10,000 [cubic yards] (about 14,000 tons at a nominal 1.4 tons per cubic yard) per generator of 11e.(2) byproduct material, in tailings impoundment #2, with an annual total limit of 100,000 [cubic yards.]

Id.

1.2 The proposed amendment and FONSI are challenged because (1) the proposed amendment effectively licenses QMC as a commercial disposal facility, and is therefore subject

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to the standards set forth in 10 C.F.R. part 40, and QMC's license amendment application does not demonstrate that the requirements in 10 C.F.R. part 40 have been, or will be, met; and (2) the action is inconsistent with the National Environmental Policy Act ("NEPA"), 42 U.S.C. § 4232, the NRC's prior interpretation and application of NEPA to similarly situated licensees.

II. PETITIONER

2.1 Envirocare is a Utah corporation that is in the business of operating a facility in Clive, Utah, for the disposal of radioactive waste.

2.2 Envirocare is licensed by the NRC to receive and dispose of uranium and thorium byproduct material (as defined in section 11e.(2) of the Atomic Energy Act ("AEA"), as amended).

2.3 Further service of documents in this matter may be made upon Lynda L. Brothers, at the address stated at the end of this Request for Hearing.

III. ACTION REQUESTED

3.1 Envirocare requests that the NRC hold a hearing, pursuant to 10 C.F.R. part 2 subpart L, on QMC's request for an amendment to Source Material License SUA-1473 to allow QMC to receive and dispose of 11e.(2) byproduct material

from other persons at its Ambrosia Lake site.

3.2 Envirocare requests that the NRC require QMC to demonstrate that the proposed amendment meets the standards set forth in 10 C.F.R. part 40 (including Appendix A), and other regulations applicable to commercial 11e.(2) disposal facilities, that the NRC deny the proposed amendment if QMC cannot make such a showing.

3.3 Envirocare also requests that the NRC withdraw the FONSI and require the preparation of an Environmental Impact Statement("EIS") for the proposed amendment.

IV. STATEMENT OF FACTS

4.1 Licensing Requirements for Envirocare's Commercial 11e.(2) Disposal Facility.

4.1.1 Envirocare was the first private facility in the United States to be licensed by the NRC to accept 11e.(2) material¹ from outside generators for disposal. In licensing Envirocare, the NRC set forth the requirements an 11e.(2) disposal facility must comply with for licensure. Specifically, the NRC requires:

¹The 11e.(2) material Envirocare is authorized to accept for disposal includes byproduct materials, which consist of tailings or wastes produced by the extraction or concentration of uranium or thorium.

- Compliance with the regulations set forth in 10 C.F.R. part 40, including Appendix A. These include stringent site and design criteria, groundwater protection standards, radon barrier requirements, detection monitoring requirements, and inspection requirements.
- Preparation by NRC staff of an Environmental Impact Statement ("EIS"), pursuant to 10 C.F.R. part 51, based upon a detailed Environmental Report prepared by the applicant.
- Compliance with the administrative and record keeping requirements delineated in 10 C.F.R. §§ 61.80 and 61.82.
- Compliance with the waste manifest requirements delineated in 10 C.F.R. § 20.311.
- Compliance with the worker safety and other requirements delineated in 10 C.F.R. parts 19, 20, and 21.

See 56 Fed. Reg. 2959 (Jan. 25, 1991); 56 Fed. Reg. 25142 (June 3, 1991); 58 Fed. Reg. 62690 (Nov. 29, 1993). Copies of these documents are attached as Appendix A. See also Byproduct Material License No. SMC-1559

4.1.2 Since 1991, Envirocare has paid more than \$1.6 million to NRC for licensing and oversight activities related to Envirocare's 11e.(2) disposal facility.

4.2 QMC's Facility.

4.2.1 QMC has operated a uranium mill at the Ambrosia Lake site, at which it processed materials from its own mines, and from outside generators. QMC disposed of the

radioactive wastes that were produced as byproducts of its milling operations on site. According to QMC's Byproduct Disposal Request, the mill and mines have been placed on standby status pending more favorable market conditions. However, QMC has continued to conduct Uranium reclamation activities at the site.

4.2.2 On September 2, 1986, the NRC issued upgraded Source Material License SUA-1473 for QMC's Ambrosia Lake mill, pursuant to 10 C.F.R. part 40. This license authorizes QMC to receive and transfer uranium, possess byproduct material generated by mill operations, and accept limited amounts of byproduct material from *in situ* leach uranium mining facilities. Envirocare is unaware of any EIS having been prepared for the upgraded license.

4.2.3 Under this license, QMC continued to receive materials from outside generators for processing and continued to dispose of radioactive waste byproducts on site. QMC subsequently applied for over 25 amendments to its license. The NRC did not conduct full environmental review under NEPA for any of those license amendments.

4.3 QMC's Proposed License Amendment.

4.3.1 On November 20, 1995, QMC submitted its request for an amendment to Source Material License SUA-1473

in order to allow it to accept for disposal 10,000 cubic yards per generator per year of 11e.(2) material from outside generators, in addition to the material it already accepted from *in situ* leaching facilities. QMC's proposed amendment effectively licenses its Ambrosia Lake site as a commercial disposal facility. The request for amendment did not limit the total annual volume of radioactive waste to be accepted by QMC from outside generators.

4.4 NEPA Requires Full Environmental Review of QMC's License Amendment.

4.4.1 NRC's NEPA regulations give NRC the discretion to require an applicant for an amendment to a source material license or an applicant for a license to accept for disposal radioactive wastes from other persons, to submit an Environmental Report with that application. 10 C.F.R. § 51.60(b)(2). The NRC required Envirocare to submit an Environmental Report with its application for a license to accept 11e.(2) waste from outside generators for disposal. Yet, the NRC did not require QMC to submit an Environmental Report with its application for an amendment to its license to allow it to accept 11e.(2) waste from outside generators for disposal.

4.4.2 NRC's NEPA regulations also allow it to require that an EIS be prepared for licensing actions that

significantly affect the quality of the human environment, including actions that are covered by a categorical exemption. 10 C.F.R. §§ 51.20(b)(14) and 51.22(b). The NRC determined that the approval of a license for the commercial disposal of 11e.(2) material is a major action for which an EIS should be prepared, when it required Envirocare to fund an EIS for its 11e.(2) disposal.

4.5 The NRC Did Not Comply With Its Own Interpretation and Application of NEPA With Regard to QMC's Amendment.

4.5.1 In spite of the precedent it set with Envirocare's license, the NRC issued a FONSI for QMC's license amendment, indicating that it would not require that an EIS be prepared.

4.5.2 In deciding that it would not require an EIS for QMC's proposed license amendment, the NRC performed an Environmental Assessment of the environmental impacts associated with the license amendment. See 62 Fed. Reg. 23282, 23283. The NRC based its Environmental Assessment on (1) information in the approved Reclamation Plan for the Ambrosia Lake site (dated September 1986); (2) information in QMC's amendment request; and (3) information derived from NRC staff visits and inspections of the site. Id.; see also Environmental Assessment, attached as Appendix B.

4.5.3 The documents the NRC relied on in the Environmental Assessment are inadequate. First, they contain outdated information about the environmental conditions at the site. For example, the Ambrosia Mill site Reclamation Plan referenced in the Environmental Assessment was prepared in 1986. Second, they contain unsubstantiated allegations about the probable environmental impacts of the proposed activity. See, e.g., Request for Amendment at 7. Third, the information only summarily discusses the environmental impact that the receipt and disposal of additional volumes of radioactive wastes from other persons will have on the environment. Finally, the information only summarily discusses whether the proposed activity will exacerbate existing environmental problems at the site.

4.5.4 At no time did the NRC require QMC to submit an Environmental Report addressing the environmental impacts that would occur from the requested license amendment, nor did it require QMC to update previous Environmental Reports submitted for the facility. The Environmental Assessment indicates that, when it prepared the Environmental Assessment, the NRC failed to even review previous Environmental Reports that QMC submitted in relation to the Ambrosia Lake facility.

4.5.5 Further, the Environmental Assessment is legally insufficient. It fails to comply with the NRC's own regulations because it does not discuss (1) alternatives, as required by section 102(2) of NEPA, and (2) the environmental impacts of those alternatives. 10 C.F.R. § 51.30(a)(1)(ii) and (iii).

4.5.6 The Environmental Assessment does not assess whether and to what degree the proposed activity will adversely impact the environment and public health. Publicly available documents indicate that the site has existing environmental problems that may be exacerbated by the receipt and disposal of large volumes of additional radioactive wastes from other persons for disposal. For example, there is documented groundwater contamination from the site, which has been the subject of ongoing corrective action since at least 1989. Three groundwater plumes exist beneath the site that are the subject of this corrective action program. According to QMC's 1983 hydrogeological assessment, about one-third of the tailings solution in the unlined ponds has seeped into the subsurface, contributing to the groundwater problem. QMC proposes to dispose of the additional wastes in its tailings impoundment #2, which is unlined and therefore subject to this kind of seepage.

Additional radioactive waste disposal could exacerbate the site's existing adverse impacts on the environment. An EIS is necessary to identify and analyze these and other impacts that may be caused by the proposal.

4.5.7 Additionally, the Environmental Assessment fails to address the impacts that the shipment of 100,000 cubic yards of radioactive wastes will have on the environment. Transportation impacts can include the need for wider shoulders and bridges, deleterious impacts on pavement of the highways and public roads from the increased heavy traffic associated with the shipments, and the increased risk of radiological accidents that results from increased numbers of trucks and railcars carrying radioactive wastes to QMC's facility.

V. ENVIROCARE'S SHOWING UNDER 10 C.F.R. § 2.1205(e)

5.1 Envirocare is a "person" whose interest may be affected by the proposed amendment to QMC's license, and is therefore entitled to file this request for a hearing pursuant to 10 C.F.R. § 2.1205(a).

5.2 Envirocare makes the following showing in support of its right to request a hearing on Quivira's proposed amendment, pursuant to 10 C.F.R. § 2.1205(e) and (h):

5.3 Interest of requestor in proceeding:

5.3.1 Envirocare is in the business of operating a facility in Clive, Utah, for the commercial disposal of radioactive waste, and is licensed by the NRC to receive and dispose of 11e.(2) byproduct material from other persons. Envirocare's license complied with strict standards, as set forth in 56 Fed. Reg. 2959.

5.3.2 Accordingly, Envirocare has an economic interest in ensuring that all licensees that propose to accept 11e.(2) byproduct material from other persons for disposal comply with applicable NRC standards. Additionally, Envirocare has an interest, as a member of an environmentally sensitive and controversial industry, in ensuring that the environmental laws designed to protect human health and the environment from the hazards of radioactive waste disposal are uniformly applied and enforced by the NRC.

5.4 How interest may be affected by results of proceeding:

5.4.1 If QMC's proposed amendment does not comply with the standards in 10 C.F.R. part 40; 10 C.F.R. §§ 61.80, 61.82; 10 C.F.R. § 20.311 and C.F.R. parts 19, 20, and 21 which Envirocare was required to comply with, Envirocare would be adversely affected in the following ways:

5.4.2 First, compliance with the strict standards applied to Envirocare constitutes a substantial financial burden to Envirocare. For example, 10 C.F.R. part 40 Appendix A sets forth stringent site and design criteria, groundwater protection standards, radon barrier requirements, detection monitoring requirements, and inspection requirements. Envirocare is required to construct and operate its byproduct material disposal system in accordance with these standards. If QMC's Ambrosia Lake site is not required to meet the same strict standards, Envirocare will be placed at a severe competitive disadvantage, because QMC's lower costs will allow it to attract customers away from Envirocare.

5.4.3 Second, as an operator in the radioactive waste disposal industry, Envirocare will be harmed by inconsistency and uncertainty in the NRC's application of its regulations, as would result from the NRC failing to apply to Quivira's amendment application the same standards as the NRC applied to Envirocare. Envirocare relies on certainty and consistency on the part of the NRC in making its business and investment decisions, and the NRC's failure to uniformly apply the same regulatory standards upsets Envirocare's settled expectations. It is unfair and

inconsistent for the NRC to apply different, less stringent standards for the commercial disposal of 11e.(2) wastes at a former mill site, than the NRC applies for the commercial disposal of 11e.(2) at a disposal facility.

5.4.4 Third, the criteria set forth in 56 Fed. Reg. 2959 are designed to protect the environment and the public against the health and safety dangers posed by byproduct material. If the NRC does not hold QMC to the same strict standards, there is a risk that QMC's operation of the Ambrosia Lake facility might result in harm to the public health and safety. Harm to the public resulting from QMC's operation of the Ambrosia Lake facility would harm the public image of and public confidence in the entire byproduct material disposal industry, including Envirocare.

5.4.5 Fourth, the NRC also required the preparation of an EIS for Envirocare's licensing as an 11e.(2) disposal facility, at Envirocare's expense. Preparation of an EIS ensured that (1) any significant adverse effect on the human environment from its facility would be identified and analyzed, (2) alternatives to the licensing action would be identified and analyzed, (3) the public would have the opportunity to comment on the potential adverse environmental effects, and (4) any adverse

effects could then be mitigated. Failure to require QMC to prepare an EIS means that the potentially negative environmental impacts of, and alternatives to, QMC's proposed license amendment will not be identified and analyzed; nor will there be the public comment and participation mandated by NEPA and 40 C.F.R. part 40, Appendix A, criteria 6A-(3). This failure potentially threatens public health and the environment and threatens to undermine public confidence in the licensing and operation of 11e.(2) radioactive waste disposal facilities.

5.4.6 Fifth, failure to impose comparable requirements on QMC creates an unfair competitive advantage for QMC and a concomitant disadvantage for Envirocare. Not requiring QMC to pay for the preparation of an EIS for a license to accept 11e.(2) material for disposal, when Envirocare was required to pay for the preparation of an EIS for the same activity, confers an unfair economic (and hence competitive) advantage on QMC.

5.5 Envirocare Meets the Requirements for Judicial Standing.

5.5.1 Envirocare satisfies the judicial standards for standing. The adverse effects described in the preceding paragraphs satisfy the injury in fact requirement.

5.5.2 Moreover, Envirocare's financial interests as an operator in the byproduct material disposal business are within the zone of interests protected by the Atomic Energy Act ("AEA"), 42 U.S.C. §§ 2011-2284. The AEA and the regulations promulgated thereunder provide that the NRC in its management of byproduct material shall give due consideration to the economic costs associated with possession and transfer of such material. See 42 U.S.C. § 2114(a)(1), 10 C.F.R. part 40 Appendix A.

5.5.3 Envirocare's environmental and economic interests are also within the zone of interests protected by both NEPA and the AEA. See 42 U.S.C. § 4331-4332; and 42 U.S.C. § 2114. Both these statutes are designed to protect the public health and the environment, as well as foster the environmentally responsible growth of the nuclear energy industry. Envirocare, as a member of that industry, is in a unique position to ensure that the NRC meets those statutory objectives.

5.5.4 An order from the NRC requiring QMC's proposed amendment to comply with the same AEA and NEPA requirements as Envirocare was required to comply with would prevent the above-described injury to Envirocare's interests.

5.6 Requestor's areas of concern about the licensing activity that is the subject matter of the proceeding:

5.6.1 QMC's proposed amendment is subject to the requirements of 10 C.F.R. part 40. See 10 C.F.R. §§ 40.2, 40.3.

5.6.2 10 C.F.R. part 40, Appendix A sets forth stringent site and design criteria, groundwater protection standards, radon barrier requirements, detection monitoring requirements, and inspection requirements.

5.6.3 Applications for license amendments must be filed in accordance with 10 C.F.R. § 40.31. See 10 C.F.R. § 40.44.

5.6.4 10 C.F.R. § 40.31 requires the applicant to clearly demonstrate, by means of written specifications in the application, how the requirements of 10 C.F.R. part 40, Appendix A have been addressed. Failure to make such a showing is grounds for the NRC to refuse to accept an application.

5.6.5 QMC's summary application for its proposed amendment fails to contain written specifications showing that the requirements of 10 C.F.R. part 40, Appendix A have been met. See QMC's Request for Amendment, November 20, 1995.

5.6.6 QMC proposes to dispose of newly received byproduct material by placing it in earthen cells constructed on top of the finished NRC-approved radon attenuation cover system on impoundment #2. It is not clear that this arrangement will comply with the standards set forth in 10 C.F.R. part 40 Appendix A. It is not clear whether this proposal will disrupt the radon attenuation system required by QMC's Stabilization Plan. It is not clear whether this proposal will exacerbate the existing ground water contamination problem that is the subject of a Corrective Action Program.

5.6.7 Additionally, the NRC required Envirocare to comply with additional administrative and record keeping requirements in 10 C.F.R. §§ 61.80 and 61.82, waste manifest requirements in 10 C.F.R. § 20.311, and the worker safety and other requirements delineated in 10 C.F.R. parts 19, 20, and 21. See 59 Fed. Reg. 2959. The Federal Register's Notice on QMC's license amendment does not indicate whether the NRC will require QMC to comply with these requirements. See 62 Fed. Reg. 23282. The NRC decided that compliance with these regulations ensures the safe operation of 11e.(2) disposal facilities when it required Envirocare to comply with them. QMC should therefore also be required to comply

with them. Additionally, compliance with those regulations is a cost of doing business for commercial facilities for disposal of 11e.(2) wastes from other persons. If QMC does not have to comply with them, it will have an economic and competitive advantage over similarly situated commercial 11e.(2) disposal facilities.

5.6.8 NEPA is designed to ensure that federal agencies fully develop information that will allow them to consider the environmental impact of their actions, and an EIS is evidence that an agency has considered environmental concerns. It appears from the Environmental Assessment and FONSI that the NRC has failed to consider the environmental impact of QMC's license amendment to the extent required by NEPA. An historical review of Federal Register notices regarding QMC's facility indicates that the NRC has yet to perform a full environmental review under NEPA of QMC's operations under its current license. The NRC has therefore failed to inform the public of any adverse environmental effects from QMC's operations.

5.6.9 Envirocare is concerned that the FONSI violates the letter and spirit of NEPA by failing to develop full information on the environmental impacts of the proposed action, and by not allowing public comment on the

environmental impacts of the action. Envirocare has a concern under both NEPA and the AEA to ensure that public confidence in commercial low-level radioactive waste disposal sites is not undermined by the NRC's failure to ensure that it identifies and analyzes adequate information about the environmental impacts of a proposed disposal scheme is identified and analyzed.

5.6.10 Envirocare has an economic concern that the NRC failed to adequately address the environmental impact of QMC's proposed amendment. Envirocare spent substantial sums to reimburse the NRC for the costs the NRC incurred in preparing an EIS for Envirocare's disposal facility. If the FONSI for QMC's facility is not withdrawn, QMC will save the substantial costs associated with preparing an EIS, costs that it will not have to pass on in fees charged to 11e.(2) waste generators. QMC will be able to charge lower fees and will gain a competitive advantage over Envirocare.

5.6.11 Envirocare's economic interest is also tied to its environmental interest in the safe operation of QMC's facility. If the environmental impacts of QMC's proposed license amendment are not adequately assessed or identified for public comment, public confidence in the safe

operation of low-level radioactive waste facilities could suffer. The nuclear energy industry is a controversial and politically sensitive one. If public confidence in the safe disposal of radioactive waste is lost, the economic viability of these facilities will be endangered.

5.7 Circumstances establishing that request for hearing is timely:

5.7.1 A Notice of Opportunity for Hearing on the NRC's Finding of No Significant Impact for QMC's proposed amendment was published in the Federal Register on April 29, 1997. See 62 FR 23282-23284. This was the first Federal Register notice referring or relating to QMC's proposed amendment. This request for hearing is being filed within 30 days of the April 29, 1997 Federal Register notice. Thus, this request is timely pursuant to 10 C.F.R. § 2.1205(d)(1).

VI. CONCLUSION

For the foregoing reasons, Envirocare respectfully requests that the NRC grant a hearing on QMC's proposed amendment pursuant to 10 C.F.R. part 2 subpart L, and take the other actions requested in Part III of this Petition.

DATED this 28th day of May, 1997.

Davis Wright Tremaine LLP
Attorneys for Envirocare
of Utah, Inc.

By

A handwritten signature in blue ink, appearing to read "Lynda L. Brothers", with a long horizontal flourish extending to the right.

Lynda L. Brothers; WSBA No. 16072
Alexandra K. Smith; WSBA No. 20058
Richard W. Elliott; WSBA No. 5605
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Appendix A:

56 Federal Register 2559 (Jan. 25, 1991)

56 Federal Register 25142 (June 3, 1991)

58 Federal Register 62690 (Nov. 29, 1993)

Appendix B:

Environmental Assessment for the November 20, 1995 Proposed
Amendment to Quivira Mining Company's Source Material License
SUA-1473.

EXHIBIT A

Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated December 19, 1990, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the Local Public Document Room located at the Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223.

Dated at Rockville, Maryland, this 17th day of January, 1991.

For the Nuclear Regulatory Commission,
Timothy A. Reed, -

*Project Manager, Project Directorate II-3,
Division of Reactor Projects-I/II, Office of
Nuclear Reactor Regulation.*

[FR Doc. 91-1758 Filed 1-24-91; 8:45 am]

BILLING CODE 7540-01-M

[Docket No. 04006989]

Envirocare of Utah, Inc.; Receipt of Application for Byproduct Material Waste Disposal License

Notice of Receipt of Application for Byproduct Material Waste Disposal License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (NRC) has received, by letter dated November 14, 1989, an application and safety analysis report from Envirocare of Utah, Inc., for a license to accept and dispose of uranium and thorium byproduct material (as defined in section 11e.(2) of the Atomic Energy Act, as amended) received from other persons, at a site near Clive, Utah.

The applicant proposes to dispose of high-volume, low-activity section 11e.(2) byproduct material received in bulk by rail and truck.

The material will be placed in earthen disposal cells in lifts and covered with earth and rock. The applicant proposes to conduct operations on a site where the applicant currently disposes of Naturally Occurring Radioactive Material (NORM) under license from the Utah Department of Health, Bureau of Radiation Control.

The State of Utah has recently been granted an amended agreement, pursuant to section 274b. of the Atomic Energy Act, as amended, to expand its regulatory authority to include the disposal of low-level radioactive waste. The authority does not, however, include authority to regulate the

disposal of section 11e.(2) byproduct material. Regulatory authority for the disposal of section 11e.(2) byproduct material in the State of Utah remains with the NRC.

The disposal of waste considered in this notice would occur in disposal units separate from those used to dispose of other categories of waste.

FOR FURTHER INFORMATION CONTACT:
Terry L. Johnson, Uranium Recovery Branch, Division of Low-Level Waste Management and Decommissioning, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492-3440.

Notice of Availability of Applicant's Application

The applicant's application, which describes the natural and proposed design features of the facility, as well as facility operations, is being made available for public inspection at the Commission's Public Document room at 2120 L Street, NW. (Lower Level), Washington, DC 20555.

Notice of the Regulatory requirements That NRC Will Apply in the Review of the Application and in Reaching a Licensing Decision

By this notice, the Commission is establishing the applicability of its regulations to this specific application for the commercial disposal of section 11e.(2) byproduct material.

1. The Commission has determined that 10 CFR part 40, including appendix A, applies to the review of this application to dispose of section 11e.(2) byproduct material. The applicant may request an exemption from any requirements in 10 CFR part 40 that it believes should not apply.

2. The NRC staff will prepare an environmental impact statement (EIS) pursuant to the requirements of 10 CFR part 51. The EIS will be based on the staff evaluation of an environmental report to be prepared by the applicant.

3. Certain administrative and recordkeeping requirements delineated in 10 CFR part 61, subpart G, must be included in the license. These requirements are given in 10 CFR 61.80 and 61.82.

4. The waste manifest requirements contained in 10 CFR 20.311 will be made applicable by a license condition. The licensee will be allowed to accept waste only if it is accompanied by a manifest prepared according to 10 CFR 20.311. Based on the application, the NRC staff may consider, as part of the licensing process, exemptions for certain specific packaging, classification, and labeling requirements contained in 10 CFR

20.311, for land burial, that may not be germane to section 11e.(2) byproduct material waste shipped to the facility. The staff will also require that more information be obtained from the generator on the chemical constituents than the "principle chemical form" as specified in 10 CFR 20.311(b) in order to address the data and groundwater protection requirements of appendix A to 10 CFR part 40.

5. The general requirements of other Commission regulations: 10 CFR part 19—"Notices, Instructions, and Reports to Workers: Inspections and Investigations"; 10 CFR Part 20—"Standards for Protection Against Radiation"; and 10 CFR Part 21—"Reporting of Defects and Noncompliance," will apply according to their terms.

Notice of Opportunity for Hearing

The applicant and any person whose interest may be affected by the issuance of this license may file a request for a hearing. A request for hearing must be filed with the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, within 30 days of the publication of this notice in the *Federal Register*; be served on the NRC staff (Executive Director for Operations, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852); be served on the applicant (Envirocare of Utah, Inc., 175 South West Temple, suite 500, Salt Lake City, Utah 84101); and must comply with the requirements set forth in the Commission's regulations, 10 CFR 2.105 and 2.714. The request for hearing must set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding, including the reasons why the request should be granted, with particular reference to the following factors:

1. The nature of the petitioner's right, under the Act, to be made a party to the proceeding;

2. The nature and extent of the petitioner's property, financial or other interest in the proceeding; and

3. The possible effect, on the petitioner's interest, of any order which may be entered in the proceeding.

The request must also set forth the specific aspect or aspects of the subject matter of the proceeding as to which petitioner wishes a hearing.

The applicant, any person admitted as a party, or an entity participating under 10 CFR 2.715(e), may move the Commission to reconsider any portion of this notice relating to the applicability of 10 CFR 20.311 and 10 CFR 61.80 and 61.82. The petition must be filed within

all technical or other arguments to support the petition. The motion will be processed under 10 CFR 2.738.

Dated at Rockville, Maryland, this 18th day of January 1991.

For the Nuclear Regulatory Commission,
Samuel J. Chilk,
Secretary of the Commission.
[FR Doc. 91-1756 Filed 1-24-91; 8:45 am]
BILLING CODE 7590-01-8

[Docket No. 50-461

Illinois Power Company, Et. AL, Clinton Power Station, Unit No. 1; Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed no Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-62, issued to Illinois Power Company (IP) et. al. (the licensee), for operation of the Clinton Power Station, Unit No. 1 located in DeWitt County, Illinois.

The proposed amendment would consist primarily of an administrative change to the Clinton Power Station's (CPS's) Technical Specifications (TS's) to reflect an exemption to Appendix J of Title 10 of the Code of Federal Regulations, Part 50 (Appendix J) if approved by the Commission. The one time exemption to Appendix J would authorize plant operation for one cycle following the current refueling outage. NRC approval of this request would allow IP ample time to develop and implement a long term solution (which may involve a change to the current plant design) to air leakage problems in check valves 1B21-F032A and B.

The current exigent circumstances were unforeseeable due to the fact that prior to January 8, 1991, IP believed it was in full compliance with Appendix J and the CPS TS's. On January 8, 1991, the NRC staff informed IP that the CPS design did not have supporting analysis to allow check valves 1B21-F032A and B to be excluded from the maximum pathway leakage determination for the feedwater penetrations 1 MC-009 and 010. The exigent nature of this request is necessary due to the identification of this issue near the completion of the current CPS refueling outage and is required to be reviewed and approved by the staff prior to resumption of operation of CPS.

Before issuance of the proposed license amendment, the Commission

(the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The staff has evaluated the licensee's request and analysis of no significant hazards considerations and is providing an evaluation against each of the above criteria below:

(1) The licensee has indicated that the three postulated accident analyses potentially impacted by the request are: (1) the feedwater line break outside containment, (2) the feedwater line break inside containment, and (3) the design basis accident recirculation line break. For all the postulated accident scenarios above, the licensee has indicated that the design of the feedwater system piping would provide adequate assurance that an air leakage pathway from the containment to the environment would not exist. Additionally, the CPS feedwater penetrations have two additional containment isolation valves, 1B21-F010A/B and 1B21-F065A/B, which have demonstrated acceptable air leakage rates. Based mainly on the above information and the successful completion of an ASME Code water test of the 1B21-F032A and B check valves, it appears that this request would not result in an increase in the probability of occurrence of any event previously evaluated.

(2) The licensee's request does not involve a change to the plant design. However, plant operation in accordance with the proposed exemption would constitute a change in plant operation relative to the testing requirements of the 1B21-F032AZ and B check valves. The licensee has determined that this change in plant operation has the potential to impact only the consequences of loss-of-coolant accidents previously discussed in Item 1 above. Based on the above discussion, it appears that leakage or failure of the 1B21-F032A and B check valves cannot alone create the possibility of a new or different kind of accident from any accident previously evaluated.

any margin of safety that could potentially be impacted by the request is the margin concerning the offsite dose consequences of the postulated design basis loss of coolant accident. The licensee's analysis indicates that the capability to prevent containment atmosphere leakage to the environment is maintained by a combination of both satisfactory leak rate tests of two additional containment isolation valves, 1B21-F010A/B and 1B21-F065A/B, and the presence of a water seal that would be in the feedwater piping. Based on the above analysis, it appears that the licensee's request would not result in a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three criteria are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Accordingly, the Commission proposes to determine that this change does not involve a significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within fifteen (15) days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this Federal Register notice.

Written comments may also be delivered to Room P-223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland, from 7:30 a.m. to 4:15 p.m. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By February 23, 1991, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request

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II. Specific Terms

For purposes of applying the Class Exemptions to the prohibitions of section 8477(c)(2) of FERSA, (1) Any amendment to one of the Class Exemptions adopted pursuant to section 408(a) of ERISA and the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32738, 32847, August 19, 1990), relating to the relief provided from the prohibitions of section 406(b) of ERISA or subsections thereunder, shall be deemed to apply for purposes of FERSA, unless the Department expressly determines, as part of the proceeding to amend such class exemption, that the amendment is not applicable with respect to the Fund. (2) Any reference in the Class Exemptions to "section 406", "section 406 of the Act", "section 406(b)", or "section 406(b) of the Act" shall be deemed to apply to section 8477(c)(2) of FERSA. Reference to subsections of section 406(b) of ERISA shall be deemed to apply to the corresponding subsection of section 8477(c)(2) of FERSA. Thus, reference to "section 406(b)(1)" shall mean section 8477(c)(2)(A) of FERSA; reference to "section 406(b)(2)" shall mean section 8477(c)(2)(B) of FERSA; and reference to "section 406(b)(3)" shall mean section 8477(c)(2)(C) of FERSA. (3) The term "fiduciary" as used in the Class Exemptions shall be construed to mean "fiduciary" as defined in section 8477(a)(3) of FERSA. (4) The terms "employee benefit plan(s)" and "plan(s)" shall be construed to mean "Thrift Savings Fund" as established under section 8437 of FERSA. (5) The term, "party in interest" shall be construed to mean "party in interest" as defined in section 8477(a)(4) of FERSA. (6) Reference in the Class Exemptions to "section 502(i) of the Act" shall be deemed to apply to section 8477(e)(1)(B) of FERSA. (7) References in the Class Exemptions to "subsections (a)(2) and (b) of section 504 of the Act" shall be deemed to apply to section 8478a of FERSA. (8) References in the Class Exemptions to section 4975 of the Internal Revenue Code (the Code) or subsections thereunder are not applicable with respect to the Fund, pursuant to sections 4975(g) and 414(d) of the Code. (9) For purposes of section I(b)(2) of PTE 80-128, the term "relative [as defined in section 3(15) of ERISA]" shall mean any spouse, ancestor, lineal descendant, or spouse of a lineal descendant. (10) For purposes of PTE 78-19 and PTE 80-51, the phrase "by reason of a relationship to a service provider described in section 3(14)(F), (G), (H) or (I) of the Act", shall mean "by reason of a relationship to a service

provider described in section 8477(a)(4)(F), (G), (H), (I) or (J) of FERSA".

Signed at Washington, DC this 28th day of May, 1991.

Alan D. Labowitz,

Deputy Assistant Secretary for Program Operations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

(FR Doc. 91-13008 Filed 5-31-91; 8:45 am)

BILLING CODE 4910-28-4

NUCLEAR REGULATORY COMMISSION

(Docket No. 04008986)

Envirocare of Utah, Inc.; Intent to Prepare a Draft Environmental Impact Statement

1. Description of Proposed Action—

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has received, by letter dated April 28, 1991, a revised application, environmental report and safety analysis report from Envirocare of Utah, Inc., for a license to receive, store, and dispose of uranium and thorium byproduct material (as defined in section 11e.(2) of the Atomic Energy Act, as amended) received from other persons, at a site near Clive, Tooele County, Utah.

The applicant proposes to dispose of high-volume, low-activity section 11e.(2) byproduct material received in bulk by rail and truck. The material will be placed in earthen disposal cells in lifts and covered with earth and rock. The applicant proposes to conduct operations on a site where the applicant currently disposes of Naturally Occurring Radioactive Material (NORM) under license from the Utah Department of Health, Bureau of Radiation Control.

The State of Utah recently was granted an amended agreement, pursuant to section 274b. of the Atomic Energy Act, to expand its regulatory authority to include the disposal of low-level radioactive waste. Under this agreement, the State has licensed Envirocare to dispose of low-level waste at the Clive, Utah site, pending fulfillment of a number of technical requirements stipulated in Ground Water Quality Discharge Permit No. UGW 450065, issued by the Executive Secretary of the Utah Water Pollution Control Committee. The authority does not, however, include authority to regulate the disposal of section 11e.(2) byproduct material. Regulatory authority for the disposal of section 11e.(2) byproduct material in the State of

Utah remains with the Nuclear Regulatory Commission (NRC).

2. Alternatives—The principal alternatives currently planned to be considered in the preparation of a draft statement include alternative siting of the facility, alternative design and operation, acceptance of additional radioactive waste, and the alternative of no licensing action.

3. Scoping Process—The scoping process will consist of the solicitation of comments on the scope of the proposed environmental impact statement by interested parties. Comments from the public and all interested government agencies are invited. Copies of this notice will be mailed to all affected Federal, State, and local agencies, and other interested persons. Written comments concerning the scope of the proposed statement will be accepted through July 15, 1991.

4. Document Availability—The applicant's Environmental Report and Application and any subsequent documents will be available for inspection and copying at the Public Document Room, 2120 L Street, NW., Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: Sandra L. Wastler, Uranium Recovery Branch, Division of Low-Level Waste Management and Decommissioning, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, (301) 492-0582.

Dated at Rockville, Maryland, this 28th day of May 1991.

For the Nuclear Regulatory Commission:
John J. Surmeier,
Chief, Uranium Recovery Branch, Division of Low-Level Waste Management and Decommissioning, Office of Nuclear Materials Safety and Safeguards, NRC.
(FR Doc. 91-13028 Filed 5-31-91; 8:45 am)

BILLING CODE 7590-01-M

(Docket No. 50-155)

Consumers Power Co. (Big Rock Point Plant); Exemption

I

Consumers Power Company (CPCo, the licensee) is the holder of Facility Operating License No. DPR-6 which authorizes the operation of the Big Rock Point Plant (the facility) at steady-state reactor power levels not in excess of 240 megawatts thermal (rated power). The facility consists of one boiling water reactor located at the licensee's site in Charlevoix County, Michigan. The license provides, among other things, that it is subject to all rules, regulations

Citation
58 FR 62690-01
1993 WL 492115 (F.R.)
(Cite as: 58 FR 62690)

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NOTICES

NUCLEAR REGULATORY COMMISSION

(Docket No. 40-8989)

Envirocare of Utah, Inc.; Issuance of Facility License

Monday, November 29, 1993

***62690** Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission or NRC), has issued Byproduct Material License N. SMC-1559 to Envirocare of Utah, Inc. which authorizes the receipt, storage, and disposal of le.(2) byproduct material (as defined in section 11e.(2) of the Atomic Energy Act of 1954, as amended) at a site near Clive, Utah.

The application for the license complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's Regulations in 10 CFR chapter I which are set forth in the license. Prior public notice of the overall action involving the proposed issuance of license was published in the Federal Register on January 25, 1991 (56 FR 2659).

The Commission has determined that the issuance of this license will not result in any environmental impacts other than those evaluated in the Final Environmental Statement since the activity authorized by this license is encompassed by the overall evaluation described in the Final Environmental Statement.

For further details with respect to this action, see (1) byproduct Material License SCM-1559; (2) the Commission's Final Safety Evaluation Report, dated June 18, 1993, and Supplement 1; (3) the License Application, and amendments thereto; (4) the Environmental Report, and amendments thereto; and (5) the Final Environmental Statement dated August 1993.

These items are available for inspection at the Commission's Public Document Room located in the Gelman Building, Lower Level, 2120 L Street, NW., Washington, DC.

Dated at Rockville, Maryland this 19th day of November 1993.

***62691** For the Nuclear Regulatory Commission.

Daniel M. Gillen,

Acting Chief, Uranium Recovery Branch, Division of Low-Level Waste Management and Decommissioning, Office of Nuclear Material Safety and Safeguards.

(FR Doc. 93-29128 Filed 11-26-93; 8:45 am)

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EXHIBIT B

ENVIRONMENTAL ASSESSMENT

11e.(2) BYPRODUCT MATERIAL DISPOSAL AMENDMENT REQUEST FOR QUIVIRA MINING
COMPANY'S AMBROSIA LAKE FACILITY

On November 20, 1996, Quivira Mining Company (Quivira) requested a license amendment for the Ambrosia Lake facility to annually receive and dispose of up to 10,000 yd³ (7,650 m³) per generator of 11e.(2) byproduct material in tailings impoundment #2. Additional information (May 9, 1996, January 24, 1997, and February 13, 1997) has also included an annual total limit of 100,000 yd³ (76,500 m³) from all generators. Quivira requested that material from in situ facilities be excluded from the limits. NRC staff will require by license condition that all generators, including in situ facilities be limited to the 10,000 yd³ (7,650 m³) per generator and the total annual limit of 100,000 yd³ (76,500 m³) be inclusive of all material received from generators, including in situ facilities.

The disposal of the requested material at the Ambrosia Lake facility will not result in any significant adverse environmental impacts. The potential impacts are less than any impacts that could have resulted due to the facility operating as licensed. Specifically, the total amount of material received each year is a small fraction of the allowed production rate of 11e.(2) byproduct material under operations. Unlike material created during the Ambrosia Lake's milling operations, the received material will be free of standing liquids and usually contained in sealed 55-gallon (0.21 m³) drums or crates. At the end of receipt activities, a final radon attenuation and erosion protection cover will be designed and placed to assure compliance with the radon flux standard of 20 pCi/m²/s (0.7 Bq/m²/s).

Materials would arrive on site usually in sealed 55-gallon (0.21 m³) drums and/or crates as Low Specific Activity exclusive use shipments. Full drums will be directly disposed into the disposal area. The disposal area will be a series of earthen cells on the east side of tailing impoundment #2 and abutting impoundment #1, constructed on top of the finished radon attenuation cover system. Partially full drums will be opened and either filled with material or emptied into the disposal area and the drum crushed. Types of material not contained within sealed drums or crates, such as pumps, process equipment, cement, and pipes, will be crushed, dismantled, and/or spread within the disposal area in a tight compact manner to minimize void space. When the crushed material layer reaches 2 to 3 feet (0.6 to 0.9 m) thick, clean fill will be utilized to fill any remaining void space. Upon cessation of receipt and disposal operations, Quivira will submit a new reclamation plan based on the final characteristics of the impoundments, including a final radon attenuation cover system.

In the approved 1986 reclamation plan, the Ambrosia Lake facility's tailing capacity was based on an assumption of 18 more years of production at 7,000 tons (5,000 yd³ [3,825 m³]) of tailings per day which would yield an additional 43 million tons (31 million yd³ [24 million m³]) of tailings material. When added to the 31 million tons (22 million yd³ [17 million m³])

Enclosure 2

in the disposal impoundments in 1986, the total quantity the design accounted for was 74 million tons (53 million yd^3 [40 million m^3]). Ambrosia Lake halted operations far earlier than the planned 18 year run and currently has 33 million tons (24 million yd^3 [18 million m^3]) of tailings in impoundments #1 and #2. Therefore, the excess capacity under the 1986 reclamation plan is 41 million tons (29 million yd^3 [22 million m^3]) of tailings.

Quivira has not requested to fill the entire available space under the reclamation plan. Quivira is limiting the height of impoundment #2 to that of impoundment #1 to insure proper run-off controls during reclamation. Based on this assumption, there is approximately a 30 foot (9 m) elevation difference between the average elevation of impoundment #1 and #2. Multiplying by the current size of tailings impoundment two, 78.3 acres (31.7 ha), the usable capacity is approximately 5.3 million tons (3.8 million yd^3 [2.9 million m^3]).

NRC believes this request will not result in significant impacts because the impacts will be a small fraction of those that could result due to currently approved activities for the following reasons:

- 1) The total annual volume is a small fraction of the total volume allowed to be produced under the current license. Based on an approved production rate of 7,000 tons (5,000 yd^3 [3,825 m^3]) per day, the requested annual limit would be reached in only 20 days of production.
- 2) Groundwater impacts are minimized because the received material will be free of standing liquids and the disposal cells will have a 3 foot (1 m) thick minimum clay liner. In comparison, material produced by milling operations would result in solid and liquid phases that would need to be dried. Additionally, the licensee will be required to only accept material similar in physical, chemical and radiological characteristics to material already disposed in the impoundments.
- 3) Air releases will be minimized because most of the material received will be packaged in drums or crates. Under full production activities, produced 11e.(2) byproduct material is not confined but must be wetted to reduce fugitive dust emissions.
- 4) Exposure to workers is expected to be similar or lower than exposures expected to personnel working with 11e.(2) byproduct material due to currently licensed operations. In addition to being licensed for full operations, Quivira is currently licensed to accept small volumes of 11e.(2) byproduct material from a couple of specific sources: In-situ byproduct material from Rio Algom Smith Ranch and damaged yellow-cake drums from Sequoyah Fuels Corporation. Material received under the disposal request would be packaged similarly and would be handled under the pre-existing radiation protection program. The radiological characteristics of the waste from each generator will be similar to those already present in the tailings impoundments and most material will be packaged which will minimize exposures due to inhalation.