



COLORADO
**Department of Public
Health & Environment**

Dedicated to protecting and improving the health and environment of the people of Colorado

July 5, 2017

Stephen Poy
Office of Nuclear Material Safety and Safeguards
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Dear Stephen,

In a June 2, 2017 letter, Western Uranium Corporation ("WUC") requested that NRC Staff issue an advisory opinion concluding that: (1) WUC may apply for and, if regulatory requirements are satisfied, receive an research and development ("R&D") license for ablation activities by submitting a license application in accordance with NRC guidance; and (2) that "the type of R&D license that could be issued would be a source material license and not a uranium milling license under 10 CFR Part 40." Western Uranium did not specify where it planned to conduct these ablation activities.

As you know, WUC has previously proposed uranium ablation activities at the Sunday Mine in Nucla, Colorado. In 2016, the State of Colorado's Department of Public Health and the Environment ("Colorado") examined WUC's proposal in detail and concluded that uranium ablation at the Sunday Mine is to be regulated through a uranium milling license¹. Making such a decision was within the scope of Colorado's NRC Agreement, wherein the federal government ceded its jurisdiction to Colorado over such areas as section 11e.(2) byproduct materials and source materials.²

In order avoid any overlapping jurisdiction between Colorado's Agreement State program and the NRC, Colorado now requests that, prior to issuing an advisory opinion on R&D licenses for ablation activities, NRC first obtain from Western Uranium Corporation the location of Western Uranium's planned ablation activities. Doing so would allow NRC and Colorado to confirm that the ablation activities to be the subject of the requested NRC advisory opinion are not to be conducted in Colorado and preserve Colorado's Agreement State jurisdiction.

If you have any questions regarding this letter, please contact me at 303-692-3403 or jennifer.opila@state.co.us.

Jennifer T. Opila, MPA
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CC: Meg Parish, Colorado Attorney General's Office
Randy Erickson, Regional State Agreements Officer, US NRC Region IV
Paul Michalak, Branch Chief, NMSS/MSTR/ASPB, US NRC Headquarters

¹ That decision and the supporting documentation can be found at <https://www.colorado.gov/pacific/cdphe/ablation-process-black-range-minerals>

² 33 Fed. Reg. 2400 (Jan. 20, 1968), amended 47 Fed. Reg. 20037 (May 10, 1982) (the "NRC Agreement").

