



June 13, 2014

**Transmittal via Electronic Mail**

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Division of Materials Safety & State Agreements  
Office of Federal & State Materials & Environmental Management Programs

Andrew Persinko, Deputy Director  
Decommissioning and Uranium Recovery Licensing Directorate  
Office of Federal & State Materials & Environmental Management Programs

Duncan White, Chief  
Agreement State Programs Branch  
Office of Federal & State Materials & Environmental Management Programs

RE: Hecla Durita Site - 13 May 2014 NRC Letter to Steve Tarlton, Colorado Radiation Control Program Mgr.

Dear Director Dudes, Deputy Director Persinko, Chief Duncan White:

After review of the above-referenced letter, Hecla is extremely disappointed in the NRC's position relative to the State of Colorado's Completion Review Report (CRR) after nearly ten years of review and, more specifically, with respect to groundwater monitoring at the Durita Site. Hecla conducted site reclamation and closure activities at the Durita Site, including groundwater monitoring, as directed by the State of Colorado's Agreement State Program (CDPHE), to the State's satisfaction. Further, the United States Department of Energy (DOE) has concurred with the CRR. Hecla is unaware of any obligation for the State to pre-approve with NRC any individual site reclamation or closure activities. Hecla continues to believe it has met its full obligations at the Durita Site under CDPHE's NRC-approved State program. Thus, it is troubling that after the past decade-long site reclamation and closure activities, the NRC would only now take exception to the State of Colorado's technical oversight on the closure and monitoring program for the Durita site.

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While we would strongly support an appeal of this action by Colorado (and Hecla) to NRC's Atomic Safety and Licensing Board (ASLB), Hecla would very much like for the NRC and the State to seek a resolution short of legal proceedings.

NRC's review of the CDPHE CRR and its subsequent analyses and conclusions completely disregards the technical expertise directed at the Durita Site over the past quarter of a century. Hecla firmly believes that:

- the Mancos Shale is competent
- the groundwater monitoring conducted at the Durita Site meets applicable regulatory requirements for both siting and longevity
- groundwater monitoring results show no threat to human health or the environment
- closure of the leach tanks and construction of the closure cell preclude pollution migration
- the fully implemented and approved reclamation plan is more than sufficient for the Durita Site

State site inspectors Don Simpson, Phil Stoffey, and Edgar Ethington, under the supervision of Steve Tarlton, in addition to all site consultants to Hecla, represent many decades of not only Durita Site-specific technical expertise, but expertise at many other similar sites where Mancos Shale is a component of the geologic substrate. In stark contrast, NRC's position appears to be based upon a single site visit by NRC and a very selective review of the extensive Durita Site documentation. This available documentation on the site climate and the engineered closure of the leach tanks and closure cell simply do not support any reasonable potential for the migration of materials that would result in a threat to either human health or the environment. Indeed, these issues were specific to site reclamation and closure objectives of Hecla's approved reclamation plan.

NRC's position also appears to hinge on a technically flawed perception that the subsurface Mancos Shale is somehow compromised given observations of weathered Mancos Shale at the exposed ground surface. As supported by numerous experts, the Mancos Shale is structurally predictable and dependable across the Mancos Shale footprint, which extends from the Rio Grande Valley in New Mexico to Crescent Junction, Utah. In fact the presence of subsurface Mancos Shale formations is both desired and sought after by state, federal, and private entities seeking to locate environmentally stable sites for all types of uranium recovery processes, including current *in situ* leach uranium recovery (ISR) projects. The extensive site-specific data does not support NRC's perception that within the tens of thousands of square miles within the



geologic Mancos Shale footprint the Durita Site's 160 acres is somehow different from this norm. Hecla also believes that NRC's final report on the Durita site is rife with nothing more than speculative statements and conclusions that provide no evidence that contravenes CDPHE's conclusions in its CRR.

In addition to the technical flaws in the NRC's rationale, we believe the NRC is simply incorrect in their interpretation of the appropriate legal/regulatory basis for this action. We expect that these issues will be discussed with the NRC next week by both the State and Hecla's outside counsel, in hopes of avoiding a legal appeal process.

Regards,



Paul L. Glader  
Environmental Director

C: Steve Tarlton, CDPHE  
Janine Katanic, NRC