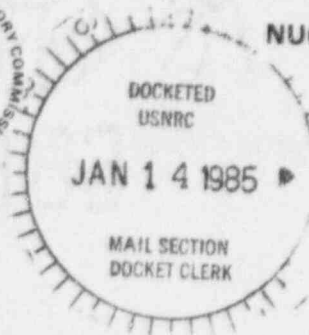




UNITED STATES
NUCLEAR REGULATORY COMMISSION

40-8859



REGION IV
PARKWAY CENTRAL PLAZA BUILDING
811 RYAN PLAZA DRIVE, SUITE 1000
ARLINGTON, TEXAS 76011

December 20, 1984



MEMORANDUM FOR: Harry J. Pettengill, Chief, Licensing Branch 2,
Uranium Recovery Field Office, RIV

FROM: William L. Brown, Regional Counsel

SUBJECT: POISON BASIN (BAGGS, WYOMING) RECLAMATION PLAN

This is pursuant to your December 6, 1984, same subject memorandum to me in response to my August 10, 1984, same subject memorandum to you. You asked for my opinion on the question of whether a license was required for the Poison Basin reclamation in light of the new information given in your memorandum.

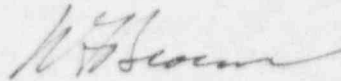
As I informed you on August 10, 1984, as a matter of practice, the NRC has not required a license for old processing sites where there is no adverse impact on public health, safety, welfare, and the environment. I further informed you that, in circumstances where reclamation activity is being planned, a license should be issued before reclamation is initiated. However, you have now furnished me with new information, both verbally and in the above referenced December 6, 1984, memorandum.

You stated that the Poison Basin site would be reclaimed primarily for naturalization and safety reasons; i.e., to cover the open pits and normalize the landscape. As part of that process, long-term stability of the upgrade residues in place will be provided and there will be a further reduction of the already very low radon emanation and gamma radiation levels in this area. Indeed, it is my understanding that, on an average, the Ra-226 activity levels are well below the 5 pCi/g above background specified by EPA in 40 CFR 192 for site cleanup. Also, implementation of the plan poses no groundwater contamination problem as the residues are dry and there would be minimal hazard from airborne radionuclides to the workers involved due to the very low radiation levels. The plan provides for a minimum of 10 feet of overburden cover and URFO's assessment concluded that 7 feet of cover would meet the objectives of long term stability of the reclaimed byproduct material for one thousand years.

There are no nearby population centers; the nearest (Baggs, Wyoming) being approximately 6 miles away. The surface is owned by BLM and even though mineral rights are owned by a private firm, any development of the remaining ores would have to be approved by the Wyoming Department of Environmental Quality and/or the NRC, depending on the circumstances. Therefore, the post reclamation integrity of the site is assured.

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In light of the above new information it is my opinion that, pursuant to the legal maxim de minimis non curat lex, the NRC need not concern itself with an activity of such insignificant consequences. Therefore, I do not believe licensing is required under the factual situation and circumstances outlined to me by URFO.



William L. Brown
Regional Counsel

cc:
R. Martin
D. Smith
R. Doda



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ED HERSCHLER
GOVERNOR

Department of Environmental Quality

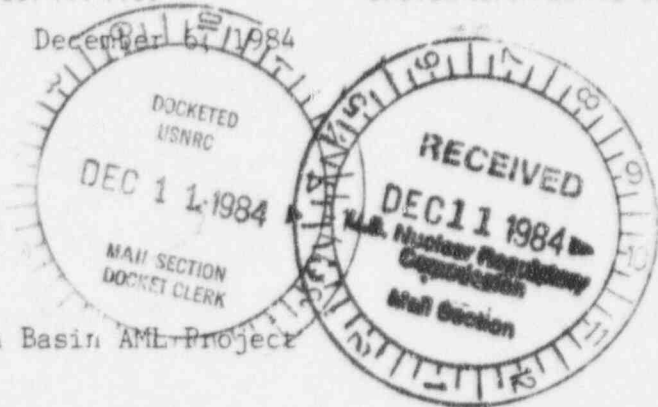
LAND QUALITY DIVISION

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0400859101E
HERSCHLER BLDG. - THIRD FLOOR
122 WEST 25TH

TELEPHONE 307-777-7756

CHEYENNE, WYOMING 82002

Mr. Jim Voeller
A.V.I.
1700 Westland Road
Cheyenne, WY 82001



Re: Final Plans, Stage I, Poison Basin AML Project

Dear Jim:

You are hereby notified to begin preparation of the final plans and specifications for the Stage I of the Poison Basin AML Project with complete bid document expected to be delivered to our office on or before Jan. 4, 1985. Include in this task:

1. Obtaining BLM authorization to proceed with the plans.
2. Obtaining AGIP's concurrence.
3. Obtaining NRC's concurrence with the Shawano site design.
4. Obtaining EPA's concurrence with the overall design.
5. Evaluating the effects of the activities on AGIP's monitoring program.
6. Obtaining access approval.
7. Assuring that all applicable State, Federal or local permits or licenses will or have been obtained. We need to run the final plans by Air Quality, Solid Waste and Water Quality for their blessing?

I also wish to receive from you a cost proposal for the construction management for this phase.

Sincerely,

Kurt Anselmi
Range Ecologist

KA:kfh

cc: John Crane, BLM
Gary Konwinski, NRC
John Geidt, EPA

File #4.3.9

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