

Memorandum

Date: April 20, 2022

To: Docket 070-00925

From: James Smith

Docket No.: 070-00925

License: SNM-928

Re: Response to CERT's Soil Comment in Emails dated February 1, and March 24, 2022

The purpose of this memorandum is to provide written responses to requests by Cimarron Environmental Response Trust (CERT) in the March 23, 2022, teleconference between CERT, the U.S. Nuclear Regulatory Commission (NRC), and the Oklahoma Department of Environmental Quality, and the letter dated March 29, 2022 (ADAMS Accession Number, ML22088A133). Specifically, the written responses discussed below are intended to provide clarity on the request by the CERT for the NRC to explain why radiological surveys of soil that the NRC has documented are releasable for unrestricted use should be surveyed at all, because the additional expense associated with continuing to conduct such surveys diverts needed funds from the remediation of groundwater which **does** exceed license criteria.

In its letter dated, March 29, 2022, the CERT states that:

"The NRC has released from the license areas within which uranium concentrations exceed license criteria for groundwater. Consequently, EPM has submitted a license amendment request to bring the appropriate portions of the site "back under license". There should be no need to conduct **any** radiological surveys for soil in areas that have been released from the license; for the NRC to require continuing surveys to evaluate soil against the decommissioning criteria is unwarranted."

As part of its argument, the CERT refers to the February 14, 2011(ADAMS Accession Number ML110280485), License Transfer Order (the Order), which transferred Materials License SNM-928 (the license) to the CERT. Specifically, the CERT refers to the following statement in the Order:

"Final status surveys and confirmatory surveys have confirmed that Subareas G and N are releasable for unrestricted use, but NRC has determined that these areas should not be released until groundwater remediation is complete. Because groundwater exceeds license criteria in Subarea F, this area cannot be released for unrestricted use until groundwater remediation is complete."

The NRC staff acknowledges the statement referenced by the CERT in the Order. However, this statement taken on its own does not provide evidence of the NRC staff's evaluation and documentation necessary to release Subareas G and N from CERT's license. If CERT has such documentation of the NRC staff's analysis, it is encouraged to provide it to the NRC staff. In any case, even if Subareas G and N were specifically released from the license, the NRC staff would still require actions on the part of CERT to maintain isolation and control of any former or current area associated with the license until such time as the license is terminated.

As an example of isolation and control, in Cimarron Corporation's (Cimarron) letter dated February 25, 2004 (ADAMS Accession Number ML040610800), discussing the regulatory treatment of areas exceeding groundwater criteria, Cimarron agreed to incorporate previously released land back into the license provided that "NRC agrees that final status surveys need not be repeated in these newly incorporated areas (provided groundwater remediation activities do not result in a new ground surface, such as would result from the excavation and replacement of the aquifer)." As another example, the CERT committed to perform radiological surveys on soils brought to the surface during drilling activities to ensure compliance with license conditions (ADAMS Accession Number ML19154A597). These types of commitments are appropriate and necessary to ensure the integrity and validity of the previous release surveys and that previous evaluations of these surveys remain transparent and traceable.

Part of the reason for ensuring isolation and control of land areas associated with the license is the requirement for the NRC staff to perform a dose assessment before recommending license termination. This dose assessment will reflect contributions from the entire original site, including subareas previously released (ADAMS Accession Number ML020360485). For the NRC staff to perform this dose assessment, it must have reasonable assurance that the licensee's actions after performing any release surveys have not changed the radiological status of land areas associated with the license. If any discrepancies were found at the time of the dose assessment, additional radiological surveys would need to be performed at that time before the license could be terminated. As CERT's license is not expected to be terminated for many years in the future, the NRC staff considers it more efficient to perform reasonable surveys during groundwater remediation efforts.