

Public Participation Summary

Radioactive Material License (RML) UT0900480

License Amendment #6
For the
Uranium One Americas, Inc.
Shootaring Canyon Uranium Mill
Garfield County, Utah

Introduction

The purpose of this document is to summarize public comments received by the Utah Division of Radiation Control (DRC) regarding the amendment request to grant a two year extension to the RML expiration date for the Uranium One Americas, Inc. Shootaring Canyon Uranium Mill facility located in Garfield County, Utah. Two sets of written comments were received from the public during the comment period that ended on Friday, November 25, 2011. Each of these comments is listed below in italics, followed by DRC's response.

Comments from Mr. Steve Erickson on November 25, 2011

We recommend that the DRC deny the requested license extension for the Shootaring Canyon uranim[sic] mill. This mill has failed to operate profitably or effectively for two generations, regardless of market conditions. There is no indication whatsoever that it will ever be brought back on-line, and we would that it should never be allowed to operate again. It appears that this extension request is merely an effort to stall the inevitable – to push the costs of decommissioning off as far as possible into the cheaper dollars future. We see no reason to accommodate[sic] this request. It is in the best interest of the citizens of the state to order the mill be decommissioned.

DRC Response

NUREG-1757 Vol. 3 *Consolidated NMSS Decommissioning Guidance Financial Assurance, Recordkeeping, and Timeliness* in Section 2.1 the Nuclear Regulatory Commission (NRC) identifies the four situations that lead to the decommissioning of a facility or part of a facility with an RML. In summary they are:

1. The RML of the facility has been revoked or expired;
2. The Licensee has decided to permanently cease all or in part of the activities associated with the RML;
3. The activities that are authorized by the RML have not occurred at the facility for a time period of 24 months; or
4. The activities that are authorized by the RML have not occurred at any separate building or area of the facility for a time period of 24 months that do not meet release criteria outlined in 10 CFR 20 subpart E.

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Additionally, in Section 2.4 of NUREG-1757 the NRC identifies the exceptions to the four conditions for decommissioning. One of the exemptions applies to Uranium Mills by exempting them from the 24-month limits as stated in the 3rd and 4th bullets in Section 2.1 (as noted above).

The NRC further clarified these exemptions in a letter dated February 16, 1996 in which the NRC responded to comments submitted by the National Mining Association (NMA) on decommissioning of Uranium Mills. In the response to the 4th comment submitted by the NMA, the NRC confirmed that there is no limit to the number of extensions that a Uranium Mill can receive for its RML. The DRC acknowledges that licensed activities have not been conducted for a long period of time; however, there is little or no threat to the public or the environment at this time creating the need to deny the license extension request.

Comments from Ms. Sarah Fields and Mr. John Weisheit on November 25, 2011

- 1. The SOB states that certain conditions and information are required by the Licensee to update the License for this two-year extension. However these conditions and information requirements are not included in the amended license as conditions. The DRC should include any conditions required for the two-year extension in the amended license.*
- 2. Condition 1 in the SOB states: "An updated Reclamation Plan shall be submitted to the UDRC." Commentors support the requirement for an updated Reclamation Plan. However, no date for this submittal is indicated. The due date for the submittal of an updated Reclamation Plan should be included as a license condition.*
- 3. The SOB states that the updated Reclamation Plan should include "an itemized cost estimate of decommissioning the Shootaring Canyon Mill facility at current status to an unrestricted release." This would include estimates for disposing of any tailings, contaminated soils, and equipment at two other licensed 11 e.(2) byproduct material facilities in Utah. The DRC should explain their rationale for this request. The DRC should explain why they believe that Uranium One should consider decommissioning the Shootaring Canyon Mill by removing all tailings and other contaminated material from the site, rather than reclaiming the tailings and other contaminated materials from the site, rather than reclaiming the tailings onsite and transferring the site to the Department of Energy for perpetual care.*
- 4. The DRC should determine how the amended license complies with 10 C.F.R. Part 40 Appendix A, Criterion 6 and 6A, regarding the decommissioning of a uranium recovery facility "at the end of milling operations" and such decommissioning and placement of a final radon barrier should be conducted "as soon as reasonably achievable."*
- 5. The Shootaring Canyon Mill has not conducted milling operations for approximately 30 years. Clearly, the Mill should have undergone complete decommissioning and reclamation many years ago to comply with Utah regulations, Nuclear Regulatory Commission (NRC), Environmental Protection Agency (EPA) regulations and the*

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assumptions made when the EPA rescinded the National Emission Standards for Radon Emissions From the Disposal of Uranium Mill Tailings (40 C.F.R. Part 61 Subpart T) as they apply to Title II uranium recovery facilities that are no longer operational.

6. *The DRC must justify its decision not to require Uranium One to move directly to decommissioning a mill that has not operated for 30 years and explain why such a decision has been “in the public interest.” The DRC must justify authorizing the delay in decommissioning for an additional two years.*
7. *In support of the decision to allow a 2-year extension of the license, the SOB cites the R313-22-36(6), which states: “The Executive Secretary may grant a request to extend the time periods established in Subsection R313-22-36(4) if the Executive Secretary determines that this relief is not detrimental to the public health and safety and is otherwise in the public interest..” It appears that the two-year extension is primarily, if not solely, in the financial interest of Uranium One. If the amendment is approved, Uranium One would gain financially by selling the mill and its uranium mine and uranium claim properties and interests. If the Mill would move to decommissioning Uranium One would have to pay for that decommissioning. The DRC must explain specifically why the two-year extension is “in the public interest,” rather than in the interest of the Licensee.*
8. *Commentors do not believe that the extension of the license is “in the public interest.” We do not believe that it is in the public interest to ignore the statutory and regulatory requirements to reclaim a uranium mill in a timely manner after the operation of the mill. The DRC’s lack of clear regulations and policy guidance with respect the time that a mill can remain on stand-by is also not in the public interest. It is not in the public interest to have an operational uranium mill near Lake Powell is also not in the public interest to have uranium mill tailings in perpetual care at the Shootaring Canyon site. It is not in the public interest to have a reclaimed site that will eventually erode and expose uranium mill tailings to natural erosion processes so close to the Colorado River.*
9. *Uranium One became the owner of the Mill in 2007. Since that time they have not commenced the operation of the Mill. Therefore, it is likely that any subsequent owner will not operate the Mill or will not be able to operate the Mill for quite some time because of the costs and steps that must be taken before the Mill could process ore. Therefore the Mill will continue to remain in an unacceptable stand-by status for an indefinite period of time. The continual maintenance of the Mill in a not-operational status without any definite time-frame for either the commencement or operation or decommissioning of the Mill is not good regulatory policy and is contrary to the intent of both the NRC and EPA when 40 C.F.R. Part 61 Subpart T was rescinded.*
10. *The SOP[sic] states that this is a major license amendment. Utah Rule R313-24-3 states, in part: “(1) Each new license application, renewal or major amendment shall contain an environmental report describing the proposed action, a statement of its purposes, and the environment affected.” However, Uranium One did not submit an Environmental Report evaluating the environmental impacts of the amendment*

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request, as required for major amendments. Therefore, Uranium One's application for a major license amendment did not meet the requirements in R313-24.3.

- 11. As a major license amendment, the DRC should have issued an environmental analysis of the proposed license amendment for public comment, pursuant to the requirements in 42 U.S.C. § 2021 (o)(C) and R313-24-3(3). The SOB does not include an analysis of the environmental impacts associated with the proposed license amendment; therefore, it is not in compliance with the requirements for an analysis of the environmental impacts of the amendment request.*
- 12. Commentors do not support a two-year extension of the License. The extension is solely in the interest of the Licensee, is not justified under the requirements that a non-operational uranium mill should be decommissioned in a timely manner, and is not in the interest of the public.*

DRC Response

1. In DRC's letter to the Licensee dated October 13, 2011, the requested information of an updated Reclamation Plan, unrestricted decommissioning costs, Standard Operational Procedures (SOPs), and training records were assigned the due date of 30 days prior of the current RML expiration date of April 30, 2012. Utah Code Ann. § 19-3-103.5(1)(a) allows for the "submittal of specifications or other information relating to licensing applications for radioactive materials." The DRC believes that given this statutory authority, the licensee can be equally obligated to provide this information without the need for a license condition.
2. In the DRC letter to the Licensee dated October 13, 2011, the requested information of an updated Reclamation Plan, unrestricted decommissioning costs, SOPs, and training records were assigned the due date of 30 days prior of the current RML expiration date of April 30, 2012. Utah Code Ann. § 19-3-103.5(1)(a) allows for the "submittal of specifications or other information relating to licensing applications for radioactive materials." The DRC believes that given this statutory authority, the licensee can be equally obligated to provide this information without the need for a license condition.
3. The "Tailings Reclamation Plan and Decommissioning Plan for Shootaring Canyon Mill Project" dated December 2005 is the most current, approved Reclamation Plan for the Shootaring Canyon Mill. This plan documents how the Mill will be decommissioned and all contaminated equipment, mill structures and tailings will be placed in lined cells and covered with an approved cover system. At the conclusion of the decommissioning activities the property will be turned over to the DOE for perpetual care.

However, the DRC requested the Licensee to prepare a cost estimate at current Mill conditions to completely remove all contaminated soils, equipment, Mill structures, ore and tailing from the entire Mill site including the tailings cells and returning the site to pre-Mill conditions or in other words unrestricted release. This Mill site is unique because it only operated for 76 days. That means compared to other Mill sites in the State of Utah there is a very small amount of contamination and tailings

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at the Mill Facility/site. Unrestricting the entire Mill site will eliminate the potential health and safety concerns that come with other sites currently in perpetual care (i.e. intruder scenarios and contamination seepage into the environment). For now all the DRC has requested is a cost estimate to further the discussion regarding whether or not it is feasible to request the licensee to decommission the mill facility to unrestricted release. The commenter is correct, that the currently approved plan requires the licensee to dispose of radioactive material on site.

4. See DRC's response to Mr. Steve Erickson's comment above. In addition to those comments, the commenter raised concerns regarding 10 CFR 40 Appendix A Criterion 6 and 6A. In the *NRC Inspection Manual Chapter 2801 definition 03.05 Operation*, the NRC defines a Uranium Mill in standby status as an operational mill. The Shootaring Canyon Mill is in standby status and therefore, under NRC guidance, can be considered operational. 10 CFR 40 Appendix A Criterion 6 and 6A do not apply until the Mill is no longer considered operational.
5. Even though the mill tailings at the Shootaring Canyon Mill do not have a permanent cover they do have a temporary cover of soil. The Mill does yearly NESHAP monitoring according to 40 CFR 61 for Uranium Mills and Radon-222. The results of that monitoring are reported to Utah Department of Environmental Quality's Division of Air Quality and a courtesy copy is sent to the DRC. The results of that yearly monitoring, document that the Mill is in compliance with Radon emissions.
6. In a letter dated February 16, 1996 in which the NRC responds to comments submitted by the National Mining Association (NMA) on decommissioning of Uranium Mills, the responses to the 2nd and 3rd NMA comments, the NRC defines how to demonstrate a Uranium Mill is not "detrimental" to public health and safety and to the public interest. In short, if a Mill is compliant with Federal Regulation, State Rule, RML License Conditions and has a reclamation surety sufficient enough to pay for decommissioning, then they are not considered to be detrimental to public health and safety and the public interest.

The DRC performs regular inspections of the Shootaring Canyon Mill and the Mill is currently in compliance. Uranium One has a reclamation surety in place to cover the costs of decommissioning. That surety is based on the currently approved *Tailings Reclamation and Decommissioning Plan for Shootaring Canyon Uranium Project* dated December 2005. The surety is updated and approved by the DRC annually.

7. See comment 6 above.
8. See comments 1 through 6.
9. See comments 1 through 6.
10. The Shootaring Canyon Mill has not been in operation since 1982. The last Environmental Report was submitted in 2006. Conditions at the Mill have not changed such that an Environmental Report is warranted. Therefore the DRC did not require an Environmental Assessment for this License Amendment.
11. See Comment 10 above.

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12. See Comments 1 through 6.

References

USNRC, "Consolidated NMSS Decommissioning Guidance Financial Assurance, Recordkeeping, and Timeliness," NUREG-1757, Volume 3, September 2003.

USNRC, "TIMELINESS IN DECOMMISSIONING RULE" U.S. Nuclear Regulatory Commission Staff Response to National Mining Association Comments on Decommissioning Timeliness Rule, February 1996.

USNRC, "NRC Inspection Manual," Manual Chapter 2801 Uranium Mill and 11e.(2) Byproduct Material Disposal Site and Facility Inspection Program, August 2000.