

October 19, 2009

Mr. Brian Kelly
U.S. Fish and Wildlife Service
Ecological Services Field Office
5353 Yellowstone Road, Suite 308
Cheyenne, WY 82009

SUBJECT: LOST CREEK ISR, LLC, NOTIFICATION OF AN EXEMPTION FROM THE COMMENCEMENT OF CONSTRUCTION REQUIREMENTS IN 10 CFR 40.32(E), LOST CREEK IN SITU RECOVERY FACILITY, SWEETWATER COUNTY, WYOMING (TAC J00595)

Dear Mr. Kelly:

By letter dated July 2, 2009, Lost Creek ISR, LLC (LCI) requested an exemption that would allow them to commence certain activities prior to the U.S. Nuclear Regulatory Commission's (NRC's) completion of its environmental review under Title 10 of the Code of Federal Regulations, Part 51 (10 CFR 51) and the NRC's issuance of a Source Materials License for the Lost Creek uranium *in situ* recovery (ISR) facility in Sweetwater County, Wyoming, under 10 CFR 40. NRC's approval of the exemption would permit LCI to undertake the actions listed below.

1. Leveling and surfacing of the area around the Plant and Maintenance Building
2. Construction of Maintenance Buildings
3. Install household septic systems for the Plant and Maintenance Buildings
4. Install fence around the Plant and Maintenance Building Area
5. Upgrade Existing Road Access from the West to the Plant
6. Upgrade Existing Road Access from the East to the Plant
7. Install Fence for Early Wellfield Area
8. Install Power Line to the Plant and Maintenance Buildings and Drillers Shed
9. Construct a Drillers Shed and Staging Area

These actions do not affect radiological health and safety or common defense and security. As such, NRC has determined that these activities do not require a license.

If approved, the exemption would allow LCI to commence the above site preparation activities before NRC completes its licensing determination. LCI plans on performing this site preparation work, as soon as possible in 2009, and it will continue into 2010. The approval to perform site preparation does not equate to approval of a license to construct, operate and decommission a facility. LCI assumes the risk of completing these activities and then not receiving a license to construct and operate the facility.

Environmental impacts of the site preparation activities, listed above, and construction/operation of the facility will be considered in NRC's environmental impact statement which will be issued after site preparation activities begin. NRC staff will continue to communicate with you regarding important issues for the staff to consider regarding the assessment of site preparation and construction environmental impacts.

B. Kelly

2

NRC staff anticipates completing its review of the exemption request by the end of November 2009. Please respond by November 15, 2009 with any comments or concerns that you may have on this subject. If you have any questions or comments with regard to this request from LCI, or need any additional information, please contact me at 301-415-7182, or, by email, at stephen.cohen@nrc.gov.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice for Domestic Licensing Proceedings and Issuance of Orders," a copy of this letter will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records component of NRC's Agencywide Documents Access and Management System (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>.

Sincerely,

/RA/

Stephen J. Cohen, Team Leader
Uranium Recovery Licensing Branch
Decommissioning and Uranium Recovery
Licensing Directorate
Division of Waste Management
and Environmental Protection
Office of Federal and State Materials
and Environmental Management Programs

Docket No.: 40-9068

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2

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Sincerely,

/RA/

Stephen J. Cohen, Team Leader
Uranium Recovery Licensing Branch
Decommissioning and Uranium Recovery
Licensing Directorate
Division of Waste Management
and Environmental Protection
Office of Federal and State Materials
and Environmental Management Programs

Docket No.: 40-9068

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