

**HARLEY W. SHAVER**

Attorney at Law

720 S. Colorado Blvd., #345S

Denver, CO 80246-1904

303-757-7500

303-756-7085 (fax)

DRAFT

August 7, 2001

Mr. Art Kleinrath  
DOE Grand Junction Office  
Program Manager for Long-Term Surveillance  
and Maintenance Program  
U.S. Department of Energy  
Grand Junction Office  
2597 B 3/4 Road  
Grand Junction, CO 81503

RE: Split Rock Title II Site Located Near Jeffrey City, Wyoming; Western Nuclear,  
Inc., - NRC Licensee

Dear Mr. Kleinrath:

This letter memorializes the agreement reached between the United States Department of Energy (DOE) and Western Nuclear, Inc., (WNI) on July 31, 2001.

On July 31, 2001 at the Adams Mark Hotel in Grand Junction, Colorado, during the DOE's Fourth Annual Long-Term Stewardship Workshop, a conference was held among Art Kleinrath, David Geiser, Cooper Wayman and Mark Plessinger on behalf of DOE and Brad DeWaard, Harley Shaver and Anthony J. Thompson (for part of the meeting) on behalf of WNI. The subject of that meeting was the proposed inclusion of the "Red-Mule" property in WNI's proposed long term care area which would be included in the proposed site to be transferred to DOE for long term care upon termination of WNI's NRC license.

The "Red-Mule" area consists of just less than 3% of the proposed long term control area (approximately 150 acres) and is located at the south central edge of the proposed long term control area. Prior correspondence and maps have identified the area with particularity. There are fifteen parcels of separate ownership in the Red Mule area, some of which are vacant, some of which are occupied as residences and some of which have former improvements but are unoccupied. The owners of the Red Mule parcels do, or would, rely upon domestic wells on their property for water for domestic use.

When WNI filed its site closure plan with the NRC in October of 1999, WNI proposed a program to supply an alternate source of domestic water, including drinking water, to this small area should it ever be required.

The alternate water supply would remove any need for residents of the Red Mule area to use well water from under their ground for domestic or drinking water purposes and other uses of groundwater in this area will not pose any substantial potential future hazard to public health, safety and the environment.

The DOE has expressed some concerns about the inclusion of the "Red Mule" area in the long term control area to be perpetually under NRC license to the DOE and those concerns were manifested in a letter of February 15, 2001 to Mr. Philip Ting, Branch Chief, U.S. Nuclear Regulatory Commission over the signature of Donna Bergman-Tabbert, Manager, DOE-Grand Junction office.

An agreement to resolve any outstanding issues concerning the inclusion of Red Mule in the long term care area was reached on July 31, 2001. DOE would have no objection to termination of the WNI NRC license and inclusion of the Red Mule properties in the long term control area upon an undertaking by WNI to do the following:

1. WNI would undertake a good faith effort to acquire in fee those Red Mule parcels which can be acquired easily. This would include those properties which are vacant, have modest improvements or can otherwise be acquired at reasonable costs (at or near fair market value).
2. For parcels not acquired in fee by WNI, WNI would undertake to offer remaining property owners a significant present payment to present Red Mule owners in return for the Red Mule owner conveying to WNI their property with an approximate 60 year lease back arrangement or, alternatively, the retention of a possessory estate for approximately 60 years. WNI would document this effort.
3. For those properties which WNI is unable to acquire prior to license termination or within approximately 60 years pursuant to item 2, above, WNI will undertake one of the following two alternatives: (a) either pre-fund a program to supply an alternate source of domestic water for the remaining Red Mule properties or (b) fund a trust for the benefit of DOE to condemn, if necessary, any remaining properties that would be necessary for the protection of public health and safety. If alternative (b) were selected, WNI would fund a "condemnation trust" with an amount not to exceed the appraised fair market value of the properties plus 20%.

Based upon the foregoing agreement, DOE can now advise the U.S. Nuclear Regulatory Commission that it has resolved the concerns expressed in its letter of February 15, 2001 and has no objection to the inclusion of the Red Mule properties in the long term care area.

Very truly yours,

Harley W. Shaver

HWS/vw

c: David Geiser, Director  
Office of Long-Term Stewardship  
Donna Bergman-Tabbert, Manager  
U.S. Department of Energy - Grand Junction office  
Mark Plessinger  
MACTEC-ERS  
Cooper Wayman, Esq.  
Senior Legal Counsel - Grand Junction Office  
Brad DeWaard, WNI  
Lawrence J. Corte, WNI