

March 1, 2005

Mr. Jeff Lux, Project Manager  
Kerr-McGee Corporation  
Cimarron Corporation  
P.O. Box 25861  
Oklahoma City, OK 73125

SUBJECT: SUMMARY OF DECEMBER 16, 2004 MEETING REGARDING THE EPA  
NOTIFICATION LETTER AND REMEDIATION ALTERNATIVES FOR THE  
CIMARRON FACILITY IN CRESCENT, OKLAHOMA

Dear Mr. Lux:

Enclosed is a summary of the subject meeting. If you have any questions regarding this letter, please contact me at (301) 415-6664 or by e-mail at [klk@nrc.gov](mailto:klk@nrc.gov).

Sincerely,

**/RA/**

Kenneth L. Kalman, Project Manager  
Materials Decommissioning Section  
Division of Waste Management  
and Environmental Protection  
Office of Nuclear Material Safety  
and Safeguards

Docket No.: 70-925

License No.: SNM-928

Enclosure: Summary of 12/16/04 Meeting

Attachments: 1. Draft Notification of The Decommissioning of The Kerr-McGee,  
Cimarron Site (ML050260252)  
2. Notification of The Decommissioning of The Kerr- McGee,  
Cimarron Site (ML050380190)  
3. Docket No. 70-925; License No. SNM-928 Notification of EPA in Accordance  
with Memorandum of Understanding (ML041540159)

cc: Cimarron distribution list

Cimarron Corporation Distribution List:

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Cimarron Corporation  
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Crescent, OK 73028

Mike Broderick  
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Waste Management Division  
Department of Environmental Quality  
707 North Robinson  
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**ML050140042**

\*See previous concurrence

<b>OFC:</b>	DCD*		DCD*		DCD		DCD	
<b>NAME:</b>	KKalman		TMixon		KGruss		DGillen	
<b>DATE:</b>	02/11/05		02/15/05		02/25/05		03/01/05	

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**SUMMARY OF DECEMBER 16, 2004 NRC/CIMARRON MEETING  
REGARDING NRC/EPA MOU NOTIFICATION LETTER AND REMEDIATION  
ALTERNATIVES  
FOR THE CIMARRON FACILITY**

**Attendees**

NRC/DMWEP

Derek Widmayer

Andrew Persinko

Ken Kalman

Robert L. Johnson

Jon Peckenpaugh

Cimarron Corporation

Mike Logan

Jeff Lux

Karen Morgan

Don Shandy

Steve Marshall (NEXTEP)

**Summary**

On December 16, 2004, the U.S. Nuclear Regulatory Commission's (NRC's) Division of Waste Management and Environmental Protection (DWMEP) staff met with representatives of Cimarron Corporation at NRC Headquarters, in Rockville, MD, to discuss the October 17, 2004, Letter from NRC to Michael Cook, U.S. Environmental Protection Agency (EPA) notifying the EPA of the decommissioning activities at the Cimarron in Crescent, OK. The letter of notification was sent to the EPA under the Memorandum of Understanding (MOU) between NRC and EPA on, "Consultation and Finality on Decommissioning and Decontamination of Contaminated Sites." Cimarron staff requested this meeting to discuss concerns related to the information contained in the letter that was transmitted to the EPA.

Following the discussion of the EPA notification, NRC and Cimarron staff discussed the four groundwater remediation alternatives that Cimarron was considering and the status of the NRC staff's work in determining which alternatives would require the submittal of a new or revised decommissioning plan, and what would necessitate a change from the use of the Site Decommissioning Management Plan Criteria currently in effect for the site, to the use of License Termination Rule (LTR) criteria. NRC and Cimarron staff also made plans to hold teleconferences to discuss and help resolve issues regarding groundwater remediation.

**Discussion of NRC/EPA MOU Notification Letter**

Background

Prior to the December 16, 2004 meeting, Cimarron staff had transmitted to the NRC (via e-mail), an edited version of the NRC's October 17, 2004, Notification Letter to the EPA with revisions included that reflected their concerns.<sup>1</sup> In response to this, the NRC staff had transmitted to Cimarron (via e-mail), an alternative version of a revised October 17, 2004 Notification Letter that reflected NRC's views on the revisions suggested by Cimarron.<sup>2</sup>

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<sup>1</sup> Included as Attachment 1

<sup>2</sup> Included as Attachment 2

NRC staff apprised Cimarron staff that the NRC MOU Project Manager (Widmayer) had met with Stuart Walker, the EPA MOU Project Manager on Monday, December 13, 2004, to discuss the draft EPA response on the October 17, 2004, Cimarron Notification Letter. NRC staff reported that the draft EPA response was similar to the other EPA response letters to NRC Notification letters they had already seen, except that EPA would be asking (1) a clarification question on the inclusion of the uranium soil contamination levels in the Cimarron Notification letter, and (2) why NRC had reported that the 30 pCi/g Derived Concentration Guideline Level (DCGL) from the Cimarron Decommissioning Plan exceeded the 47 pCi/g level in the MOU. (NRC had previously reported to both EPA and Cimarron staff that this was an error and the Cimarron Notification letter should not have included the uranium soil concentration values in the text of the letter). The EPA response letter, therefore, will require a response from NRC to clarify that the uranium soil value was erroneously included and to provide additional information to the EPA on how the DCGL was calculated.

#### Cimarron Concerns about the EPA MOU

Cimarron Corporation staff summarized its concerns with the Notification Letter. Cimarron's concerns are with the way the letter reports the groundwater concentration values established as decommissioning criteria, and the fact that clarifying details and precise language would be helpful in providing the EPA with accurate information about the situation with the cleanup of groundwater and the soils at Cimarron. Attachment 1 shows where Cimarron believes more precise language would be helpful in explaining the establishment of the groundwater concentration levels at Cimarron (and providing a more complete picture of the remaining activities to cleanup the site). A key part of the Cimarron staff concern is the large role that the Oklahoma Department of Environmental Quality (ODEQ) (which administers both RCRA and CERCLA programs in Oklahoma) had in reviewing and approving the documentation that led to the establishment of the groundwater concentration levels. As part of this discussion, Cimarron staff provided NRC staff with a copy of a letter that was sent to the NRC (which is included in the Cimarron Docket 70-925), on May 27, 2004<sup>3</sup>, explaining how the groundwater concentration levels were established at Cimarron. Cimarron staff expressed its concern that EPA should be provided with some or all of this information as part of the Notification process under the MOU.

Cimarron staff also expressed a desire to be involved at an earlier stage in the development of future Notification or Consultation Letters on Cimarron (and other Kerr-McGee sites).

#### NRC Response

NRC Staff explained that the EPA Notification Letters contain standard language desired by the Commission in the Staff Requirements Memorandum approving the staff's approach to implementing the EPA MOU, and some of the background on the implementation process. Therefore, the NRC staff is reluctant to include other information in the Notification Letters. NRC staff also explained that the expectation was that a future Level 2 consultation that would take place on the Cimarron site when the license was terminated was the more appropriate time for the additional information to be provided to the EPA. NRC staff said that the EPA response letter would require the NRC staff to respond to the question about soil

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<sup>3</sup> Included as Attachment 3.

contamination, and this was the only subject that the NRC staff believed needed to be clarified at this Notification step.

NRC staff suggested that the EPA MOU Communication Plan used on this project by NRC staff to guide communications would be one option for improving the involvement of Cimarron staff at an earlier stage in the development of future Notification or Consultation Letters on Cimarron (and other Kerr-McGee sites). NRC staff noted that a change in the Communications Plan would impact all licensees. NRC staff said that it would discuss the possibilities for future communication improvements involving the Cimarron site (and other Kerr-McGee sites), and get back to Cimarron staff on a path forward.

### **Actions Regarding EPA MOU**

1. NRC staff will answer the EPA response letter with accurate, clarifying language on the Uranium DCGL established for soil at the Cimarron site (After further consideration of the content of the EPA response letter, clarifying language on the Uranium DCGL was not included).
2. NRC staff will discuss options (including the option of revising the Communication Plan) to include more involvement of licensees in the development and/or review of the letters transmitted to EPA on decommissioning actions at specific sites (Notification or Consultation Letters). NRC will apprise Cimarron staff of the results of this discussion.
3. NRC staff will ask the EPA's MOU Project Manager about the standard process by which distribution of the Cimarron MOU-related documents at the EPA takes place (if any) and whom was provided a copy of the documents. NRC staff will inform Cimarron staff of the EPA's response.

### **Discussion of Remediation Alternatives**

Following the discussion of the EPA notification, NRC staff discussed the status of its work in responding to Cimarron's request at the November 10, 2004 meeting with NRC for the NRC staff to explain the regulatory implications for each of the four remediation alternatives that Cimarron was considering. These included natural attenuation, bioremediation, excavation, and the use of institutional controls. The NRC staff noted that it was still looking into the legal implications such as which alternatives would require the submittal of a new or revised decommissioning plan, and what would necessitate a change from the use of the Site Decommissioning Management Plan (SDMP) Criteria currently in effect for the site, to the use of LTR criteria.

The NRC staff noted that the four remediation alternatives each have certain aspects that need to be coordinated with ODEQ and that the staff planned on discussing the alternatives with ODEQ in an upcoming telephone conference.

NRC staff stated that Cimarron had recently presented an idea regarding termination of license SNM-928, based on the completion of decommissioning of buildings and soil, provided Cimarron submit an application for a license to possess licensed material in the form of contaminated groundwater. Cimarron thought that this may resolve existing difficulties with the current license, SDMP criteria, etc. NRC stated that it would not consider terminating a license with groundwater exceeding decommissioning criteria.

NRC staff stated that the data it has received, to date, would not support a contention that natural attenuation is remediating the groundwater plume at Burial Area #1. This may make it difficult to justify using this method for groundwater remediation in this area.

Cimarron stated that one important difference between the SDMP and the LTR criteria pertains to sites whose licenses are terminated with residual dose between 25 and 100 mRem/yr. Under the SDMP, sites with residual dose between 25 and 100 mRem/yr can be released for unrestricted use. Under the LTR, this would require a restricted release. Restricted release under the LTR necessitates many additional requirements, which would pose substantial additional burden on Cimarron.

Cimarron stated it met with the ODEQ and that ODEQ favors the implementation of bioremediation as an enhanced natural attenuation. NRC stated that it would take this under consideration and would be talking to ODEQ in the next few weeks.

### **Action Regarding Remediation Alternative**

NRC agreed to participate in legal, regulatory, and technical information exchanges with Cimarron and ODEQ, to help resolve issues in these areas and make progress toward an approved decommissioning plan for groundwater. Mr. Lux, Mr. Kalman, and Mr. Broderick (ODEQ) will take the lead on arranging the discussions. Mr. Lux will take the lead on putting together a summary document presenting the legal and technical issues, with a focus on what Cimarron desires to accomplish and what Cimarron would propose in resolution of these issues. NRC, Cimarron, and ODEQ will discuss these issues via teleconference to ensure that all agencies have an opportunity to research the issues prior to a meeting to resolve them.