

June 10, 2005

Mr. Lawrence J. Corte, President  
and General Manager  
Western Nuclear, Inc.  
17222 S. Golden Road, Suite A  
Golden, CO 80401

SUBJECT: ACKNOWLEDGMENT OF REQUEST FOR AN EXEMPTION PURSUANT TO  
10 CFR 40.14(a) (TAC LU0090)

Dear Mr. Corte:

I am responding to a letter dated May 26, 2005, sent by Thompson and Simmons, PLLC., on your behalf, which forwarded a request for an exemption from the requirements of 10 CFR 40, Appendix A, Criterion 5, to continue an active groundwater corrective action program, for U.S. Nuclear Regulatory Commission staff review and approval. We have completed the initial processing of your request, which is an administrative review.

During the initial processing, some deficiencies were identified. These deficiencies are discussed in the enclosure to this letter. The identified information should be provided within 30 days of the date of this letter, so that your request can be forwarded for technical review. Please note that failure to provide this information within 30 days may result in delays in our review of the information. In addition, the technical review may identify omissions in the submitted information or technical issues not identified during the administrative review that require additional information.

Staff is closing this Technical Assignment Control (TAC) number. A new TAC number will be assigned upon receipt of the requested information.

L. Corte

- 2 -

If you have any questions, please call me at (301) 415-7298

In accordance with 10 CFR 2.390 of the NRC's Rules of Practice, a copy of this letter will be available electronically from the Publicly Available Records (PARS) component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>.

Sincerely,

**/RA/**

Robert A. Nelson, Chief  
Uranium Processing Section  
Fuel Cycle Facilities Branch  
Division of Fuel Cycle Safety and Safeguards  
Office of Nuclear Material Safety and Safeguards

Enclosure: Additional Information Needed  
To Process Exemption Request

Docket No.: 040-01162

License No.: SUA-56

cc: A. Thompson, Esq.  
J. Wagner, WDEQ  
A. Klienrath, DOE

June 10, 2005

L. Corte

- 2 -

If you have any questions, please call me at (301) 415-7298.

In accordance with 10 CFR 2.390 of the NRC's Rules of Practice, a copy of this letter will be available electronically from the Publicly Available Records (PARS) component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>.

Sincerely,

**/RA/**

Robert A. Nelson, Chief  
Uranium Processing Section  
Fuel Cycle Facilities Branch  
Division of Fuel Cycle Safety and Safeguards  
Office of Nuclear Material Safety and Safeguards

Enclosure: Additional Information Needed  
To Process Exemption Request

Docket No.: 040-01162  
License No.: SUA-56

cc: A. Thompson, Esq.  
J. Wagner, WDEQ  
A. Klienrath, DOE

DISTRIBUTION: FCFB r/f S.Treby B.Smith, OGC M.Higgins, OGC B.vonTill S.Cohen  
J.Whitten J.Walker

**ML051640016**

OFC	FCFB	FCFB	FCFB		
NAME	RNelson	BGarrett	GJanosko		
DATE	06/08/05	06/08/05	06/10/05		

**OFFICIAL RECORD COPY**



**WESTERN NUCLEAR, INC.**  
**ADDITIONAL INFORMATION NEEDED TO PROCESS**  
**EXEMPTION REQUEST**

INTRODUCTION

10 CFR Part 40, Appendix A, Criterion 5D, requires that if the groundwater standards established under Criterion 5B(1) are exceeded at a licensed site, a ground water (GW) corrective action program (CAP) must be put into operation. The objective of the program is to return hazardous constituent concentration levels in ground water to the concentration limits set as standards. At the present time, ground water standards have not been achieved at this site. WNI has applied for an exemption to the requirements of Criterion 5D for a GW CAP.

REQUEST FOR ADDITIONAL INFORMATION

1. Discussion: The principal documents referenced in support of the exemption request are the Site Closure Plan, dated October 29, 1999, and the U.S. Nuclear Regulatory Commission's (NRC's) response dated January 7, 2000. Your application states that the Site Closure Plan addressed alternatives. Your application further states that NRC's response found the current CAP to be inadequate to restore groundwater.

NRC's January 7, 2000, response states, in part:

"...the NRC has determined that groundwater pumping associated with the existing CAP, under License Condition 74(C), is inadequate to restore groundwater to the standards in License Condition 74(B) ... It appears that the only technical alternative presented by WNI that would restore groundwater constituents to the standards in License Condition 74(B) is technical alternative number 4, Perpetual Containment Pumping...The NRC believes that this alternative, as presented, may not be the only alternative... and we would like to give you the opportunity to propose another alternative that would accomplish this."

In summary, although the NRC concluded that the CAP was inadequate to restore groundwater, as stated in your application, the NRC did not foreclose alternatives and offered WNI the opportunity to propose another alternative. WNI's exemption application does not document any response to NRC's January 7, 2000, letter.

The Introduction to Appendix A of 10 CFR Part 40 states that the licensee may propose alternatives to the requirements in this appendix (in this case, Criterion 5D). WNI has not proposed an alternative to replace the present CAP, as further discussed in a letter to WNI, dated January 7, 2005. WNI has not responded to this letter.

An analysis of alternatives is needed to support the staff's development of an environmental assessment for the proposed action.

Request: WNI should address alternatives to the present CAP, including the feasibility of these alternatives, or identify where this information has been supplied in previous submittals.

Enclosure

2. Discussion: Because this proposed action can not be categorically excluded under 10 CFR 51.22, the staff must develop an environmental assessment

Request: Please prepare and submit an environmental report (ER). Guidance for developing an ER is contained in Section 6 of NUREG-1748, "Environmental Review Guidance for Licensing Actions Associated with NMSS Programs." To expedite development of the ER, we suggest that WNI reference applicable portions of previously submitted documents, to the extent practicable.

3. Discussion: Because of the nature of this review (i.e., administrative rather than technical), we did not attempt to verify technical conclusions or statements made in the application.

Request: To minimize our review time, please ensure that all technical statements and conclusions are clearly documented with complete references to previously submitted reports or are independently substantiated in the application.