

April 2, 2001

MEMORANDUM TO: D. Blair Spitzberg, Chief
Fuel Cycle and Decommissioning Branch
Division of Nuclear Materials Safety, Region IV

FROM: Larry W. Camper, Chief **/RA/**
Decommissioning Branch
Division of Waste Management, NMSS

SUBJECT: RESPONSE TO TECHNICAL ASSISTANCE REQUEST - NON -
APPLICABILITY OF 10 CFR 51.22 (c)(14)(xvi) TO DEPARTMENT OF
THE AIR FORCE KIRTLAND AFB, NM, ENVIRONMENTAL REVIEW

We have reviewed your technical assistance request (TAR) dated November 15, 2000, pertaining to the decommissioning of four outdoor training areas at Kirtland AFB licensed under the Department of the Air Force Master License 42-23539-01AF. As requested in your TAR, we have reviewed the Decommissioning Plan (DP) and Region IV's request for determination and approval of a Categorical Exclusion based on 10 CFR 51.22 (c)(14)(xvi) for the review and approval of the DP. Based on coordination with the Office of General Counsel, staff concludes that the Categorical Exclusion in 10 CFR 51.22 (c)(14)(xvi) does not apply and an Environmental Assessment (EA) should be prepared to support the review of the licensing action associated with the approval of the DP.

10 CFR 51.22(c)(20) provides for categorical exclusions for decommissioning in two situations - small quantities of short-lived radioactive materials; and sealed sources, provided there is no evidence of leakage. The reason for this conclusion, as stated in the Generic Environmental Impact Statement (GEIS); NUREG-1496, prepared for the License Termination Rule (LTR), is that the decommissioning of sites associated with the above types of material will not individually or cumulatively have a significant effect on the human environment. The LTR, in turn, provided for a categorical exclusion for those two classes of licenses. Because the action does not fall into one of these two classes, an EA should be developed. It should be noted that what took place on the Kirtland site was a deliberate release of unsealed thorium - not a short-lived nuclide, into the environment. The conclusion to prepare an EA differs from the earlier discussions among our staff based on Type III decommissioning environmental review exclusions noted in the NMSS decommissioning handbook. The LTR was promulgated subsequent to issuance of NMSS Decommissioning Handbook, and the regulatory requirements prevail over the handbook guidance. As part of our guidance consolidation effort, we will address inconsistencies such as this, to clarify and update our decommissioning guidance.

CONTACT: Amir Kouhestani, DWM/NMSS
301-415-0023

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AN: ML
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NAME	T.Harris	B.Poole	A.Kouhestani	S.Moore	L.Camper
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