

STATE OF COLORADO

Bill Owens, Governor
Jane E. Norton, Executive Director

Dedicated to protecting and improving the health and environment of the people of Colorado

4300 Cherry Creek Dr. S. Laboratory and Radiation Services Division
Denver, Colorado 80246-1530 8100 Lowry Blvd.
Phone (303) 692-2000 Denver, Colorado 80230-6928
TDD Line (303) 691-7700 (303) 692-3090
Located in Glendale, Colorado
<http://www.cdphe.state.co.us>



Colorado Department
of Public Health
and Environment

June 4, 2002

Mr. Art Kleinrath
U.S. Department of Energy
2597 B ¾ Rd.
Grand Junction, CO 81503

Subject: Disposal of 11e.(2) byproduct material at the Cotter Corporation Canon City Title II site

Dear Mr. Kleinrath,

The Colorado Department of Public Health and Environment (CDPH&E), Laboratory and Radiation Services Division (LARS) is providing the enclosed documents for your review and consideration.

LARS would like the Department of Energy's (DOE) concurrence that direct disposal of 11e.(2) byproduct material from the Maywood Chemical Superfund Site (MCSS) site at a Uranium Mill Tailings Radiation Control Act (UMTRCA) Title II site is not going to interfere with transfer of the site to DOE custody after closure under the Long Term Stewardship Management Program (LTSM).

Colorado is an Agreement State whose radioactive materials authority under the Atomic Energy Act is derived from the U.S. Nuclear Regulatory Commission (NRC). The Cotter Corporation, Canon City Milling Facility (CCMF), operates under Colorado Radioactive Materials license 369-01. The CCMF is authorized to receive, store, process, transfer and dispose of uranium-bearing and thorium-bearing solids and liquid. The authorized forms are: ore, solid and liquid product concentrates, process residues, and residual material present in soil or as a residue on, and in, mining, milling or similar equipment, building debris, and shipping containers. The current license allows possession limits of 4,000,000 tons (3,600,000 metric tonnes) of tailings or residues. Approximately 3,300,000 tons now reside in the impoundments, the vast majority of which are from Cotter's on-site operations. The CCMF is on the DOE LTSM list of stewardship sites to be transferred Under Title II.

Cotter has recently entered into agreement to dispose of approximately 26,000 tons of vicinity properties materials from Maywood at the CCMF. The ore was processed for its thorium content, based on the information provided to us by Cotter and U.S. Army Corps of Engineers (ACOE), and appears to be physically and chemically similar to existing 11e.(2) material in the impoundment, with the exception that it is mixed with soil, and has low radionuclide content. Average radionuclide concentrations reported by Cotter for this initial contract of soils are approximately 4 pCi/g Ra-226, 17 pCi/g Th-232 and U-238 at 11 pCi/g. No hazardous constituents have been identified above any regulatory limits on these vicinity properties.

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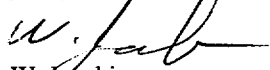
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The MCSS is being remediated by the ACOE under the Formerly Utilized Sites Remedial Action Program (FUSRAP). DOE had previously determined the Maywood material to be 11e.(2) when it administered cleanups under FUSRAP. The NRC has classified the material at Maywood as 11e.(2). The Rocky Mountain Low Level Waste Compact has made its determination that the material is within the exclusion of byproduct material. The U.S. Environmental Protection Agency (EPA) has approved the impoundments under the CERCLA off-site rule (but not ore pads or other staging areas). Documentation for these determinations is provided in the attachments. Cotter's Materials Acceptance Report containing radiological and chemical analytical results is available upon request.

Current USNRC guidance on disposal of non-11e.(2) byproduct materials in UMTRA cells is found in a Regulatory Issues Statement, dated November 2000 (RIS 2000-23). This guidance calls for: "A concurrence and commitment from either DOE or the State to take title to the tailings impoundment after closure must be received before granting the license amendment to the 11e.(2) license."

Since this material is classified as 11e.(2) byproduct material, there may be no need for DOE to make a further determination of suitability. However, since the 11e.(2) byproduct material is from a site not associated with the CCMF, LARS believes DOE should be consulted for concurrence in the spirit of the RIS-2000-23, and give DOE opportunity to decide internally if there are issues associated with this proposed action.

Please respond to LARS within 30 days. If you have questions, please contact me at 303.692.3036, or email jake.jacobi@state.co.us



W. Jacobi
Program Manager
Radiation Services

WJ:pe

Attachments: As stated

cf: w/o attachments:

Greg Sullivan (DOE HQ)
Donna Bergman-Tabbert (DOE GJO)
Steve Landau (Cotter)
✓ Dennis Sollenberger (NRC HQ)