Deferring Active Regulation of Groundwater Protection at *In Situ* Leach Uranium Extraction Facilities

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BACKGROUND

- July 26, 2000

  – Staff Requirements Memorandum (SRM) SECY 99-0013)

  – Commission reaffirmed NRC's authority to regulate all waste waters from ISL facilities as 11e.(2) byproduct material

  – Commission recognized that dual regulation of ground-water protection at ISL facilities would exist between the NRC and the EPA or EPA-authorized States

BACKGROUND Contd. (July 26, 2000)

– Commission approved that the staff continue discussions with EPA and the appropriate EPA-authorized States to:

"determine the extent the NRC can rely on the EPA Underground Injection Control (UIC) program for ground-water protection issues, thereby potentially minimizing NRC review of ground-water protection issues at ISL facilities"

BACKGROUND Contd. (July 26, 2000)

- Commission directed the staff to include in those discussions appropriate methods for implementing any agreements, including Memoranda of Understanding (MOUs) or language, in a new 10 CFR Part 41.

BACKGROUND Contd.

- October 10 & November 29, 2000

  – Staff held meetings with EPA at NRC Headquarters

- May 29, 2001

  – SRM SECY 01-0026 - Staff discontinued development of a new Part 41

BACKGROUND Contd.

- June 2001

    – The NRC staff held closed meetings with non-Agreement State regulators and other Federal regulators during the annual Uranium Recovery Workshop.

BACKGROUND Contd.

- February 5, 2002

  – Standard Review Plan for ISL Uranium Extraction License Applications, NUREG-1569

  – issued for public comment by Notice in the Federal Register

BACKGROUND Contd.

- June 2002

  – The NRC staff held closed meetings with non-Agreement State regulators and other Federal regulators during the annual Uranium Recovery Workshop

BACKGROUND Contd. (June 2002)

NRC staff proposed that:

1. NRC would retain its authority provided by the Atomic Energy Act of 1954, as amended, to regulate ground-water protection at ISLs.

BACKGROUND Contd. (June 2002)

2. NRC would defer active regulation of ground-water protection at ISL operations to a non-Agreement State authorized to administer the EPA's UIC program at ISL facilities, if the State entered into an MOU with the NRC.

BACKGROUND Contd. (June 2002)

3a. ISL facilities in Agreement States authorized to administer EPA's UIC Program would not be impacted by this proposal (ex. Texas)

3b. Agreement States not authorized to administer EPA's UIC program could choose to pursue an individual agreement with EPA for reducing or eliminating dual regulation of ground-water protection (ex. Colorado)

(At present, no ISL uranium facilities are licensed in an Agreement State that is not a UIC EPA authorized State.)

BACKGROUND Contd.

- June 2003

  - The NRC staff held closed meetings with non-Agreement State regulators and other Federal regulators during the annual Uranium Recovery Workshop and provided a copy of the strawman MOU to the States.

  - ISL Standard Review Plan, NUREG-1569, was issued in final form

BACKGROUND Contd.

- July 24, August 9, & October 18, 2003

  – The staff received letters from Nebraska, Wyoming, and the National Mining Association supporting the pursuit of this proposal.

BACKGROUND Contd.

- October 29, 2003

  - SECY-03-0186, OPTIONS AND RECOMMENDATIONS FOR NRC DEFERRING ACTIVE REGULATION OF GROUND-WATER PROTECTION AT *IN SITU* LEACH URANIUM EXTRACTION FACILITIES

  - Sent to the commission ML031210874

BACKGROUND Contd.

- November 19, 2003

  – SRM SECY-03-0186 - Commission approved Option 2a.

  1. Develop a Regulatory Issue Summary (RIS) to inform the public about this proposal

  2. Develop a MOU with each appropriate State

  3. Management to ensure the development of MOUs involves minimum resource expenditures by the States and the NRC.

RECENT ACTIONS

- January 2004 - Met with States of Nebraska and Wyoming and US EPA to derive dates for completing necessary actions

- February 2004 - Issued RIS 2004-02 for comment

RECENT ACTIONS (Contd.)

- June 2004:

  - Issued RIS 2004-09

  - Developed program assessment procedures

  - Visited Nebraska for program assessment

- August 2004 - Visited Wyoming for program   assessment