

STATE OF COLORADO

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

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Colorado Department
of Public Health
and Environment

March 31, 2006

Ms. Janet Schlueter
United States Nuclear Regulatory Commission
State and Tribal Programs
One White Flint North
11555 Rockville Pike
Room 3C-10
Rockville, Maryland 20852

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STP

Subject: Colorado Radioactive Materials License # 317-02 for the Hecla Durita Site Response to March 9, 2006 Letter Regarding Ground-Water Monitoring

Dear Ms. Schlueter:

In your letter to the Colorado Department of Public Health and Environment (Department) dated December 2, 2005 regarding the decommissioning of the Hecla Durita Site, you indicated three specific concerns regarding the discontinuance of groundwater monitoring:

- First, U.S. Nuclear Regulatory Commission (NRC) staff concluded that they should have been consulted prior to well abandonment.
- Second, NRC staff does not believe that an Agreement state is allowed to terminate groundwater monitoring at a uranium milling site, but this must be done by the NRC.
- Third, NRC technical staff does not understand the technical basis for the discontinuation and insists that a new groundwater monitoring system and process be implemented.

In our response dated January 4, 2006, the Department disagreed with the NRC that ground water detection monitoring was prematurely terminated by the licensee with our approval and provided additional technical support for this decision. Your letter of March 9, 2005 and subsequent conversation with your staff indicates that the NRC is now interpreting the existing regulations to require long-term groundwater monitoring at all sites, since termination is not specifically addressed in the regulatory language. No technical or legal basis (other than a new interpretation of an ambiguous provision) for the continued monitoring was provided.

SISP Review Complete

STP-006 Template
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NRC staff provided as justification that all UMTRA sites require long-term monitoring following decommissioning. However, despite NRC assertions in our meeting and conference call on March 14, 2006 that only one UMTRA site does not have groundwater monitoring, the DOE has provided the following information indicating that at least eight Title I and II UMTRA sites do not have long-term monitoring:

Edgemont, SD, Title II Disposal Site: NRC did not require groundwater monitoring.
Lowman, ID, Title I Mill/Disposal Site: NRC approved discontinuing groundwater monitoring per 4/6/05 letter.

Ambrosia Lake, NM, Title I Mill/Disposal Site: NRC did not require groundwater monitoring. Two wells were left in place for monitoring at the request of the State.

Mexican Hat, UT, Title I Mill/Disposal Site: NRC did not require groundwater monitoring. Several seeps were monitored at the request of the Navajos for several years but that has since been discontinued.

Spook, WY, Title I Mill/Disposal Site: NRC did not require groundwater monitoring.

Salt Lake City, UT, Title I Disposal Site: NRC did not require groundwater monitoring.

Rifle (Estes Gulch), CO, Disposal Site: NRC did not require groundwater monitoring.

Day Loma, WY, Heap Leach Title II Site: This site in the Gas Hills was part of the Western Nuclear Jeffrey City site license. NRC deleted the site from the list of Title II sites requiring DOE ownership/long-term custody, in 1996. This heap leach site does not have NRC-required groundwater monitoring. It is no longer under NRC license.

Adopting the proposed interpretation of the regulations and the subsequent new policy to require long-term monitoring at all sites will have repercussions beyond the Hecla Durita site and the State of Colorado. NRC appears to be proposing actions contrary to established precedent.

The decision to terminate the groundwater monitoring at Durita is fully consistent with Colorado regulations [6 Code Colorado Regulations 1007-1, Part 18, Criterion 7]. Colorado's *Rules and Regulations Pertaining to Radiation Control*, Section 18.3.3 states that "throughout the construction and operating phases of the mill, the applicant/licensee shall conduct an operational monitoring program to measure or evaluate compliance with applicable standards and regulations, to evaluate performance of control systems and procedures, to evaluate environmental impacts of operation, and to detect long-term effects." Groundwater was monitored at the site from 1976 before construction, during operation through 1979, and post-operation through all reclamation phases until 1999 when reclamation was complete. The detection monitoring program has two purposes: first to detect leakage, and second, if leakage is detected, to generate data to establish standards. As you know, after more than 20 years of monitoring, no leakage was detected at Durita. Our legal and technical review confirms that continued monitoring for the second purpose is unnecessary and not justified.

The department reaffirms the contention that staff have completed due diligence in overseeing activities at the Hecla site with regards to approved plans and designs and that work done meets the Colorado requirements of the *Rules and Regulations Pertaining to Radiation Control*. Department staff disagrees with the NRC staff that it is necessary to reinstall five detection

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monitoring wells at the site. The Department believes that the technical justification for discontinuing monitoring as discussed in the Draft Completion Review Report Section 7.2.3 *Well Closure* is sufficient.

We would be happy to meet with you and your staff to resolve this issue. Please contact me at 303-692-3402 or joe.vranka@state.co.us.

Sincerely,



Joseph Vranka
Manager, Radiation Control Program
Hazardous Materials and Waste Management Division

CC: File RML-317-3.2
Phil Stoffey, CDPHE
Dennis Sollenberger, NRC STP