

February 20, 2007

Mr. John McCarthy
Manager-Health, Safety
and Environmental Affairs
Power Resources, Inc.
P.O. Box 1210
Glenrock, WY 82637

SUBJECT: RESPONSE TO POWER RESOURCES, INC.'S JANUARY 31, 2007 REQUEST
TO CONSTRUCT NEW SATELLITE FACILITY - SOURCE MATERIAL LICENSE
SUA-1548 (TAC NO. J00504)

Dear Mr. McCarthy:

The following is in response to Power Resources, Inc.'s (PRI's) January 31, 2007 request to the Nuclear Regulatory Commission (NRC) for approval to construct the *In Situ* Leach (ISL) satellite SR-2 (SR-2), located in the southwest portion (Township 35, Range 74) of the Smith Ranch Highland Uranium Project (SR-HUP) site in Converse County, Wyoming. Per Source Material License SUA-1548, License Condition 10.1.5, PRI is prohibited from constructing new satellite facilities at SR-HUP "prior to NRC review and approval of designs and specifications...." In its January 31, 2007 request, PRI is proposing that the evaluation of safety and environmental impacts of the construction of SR-2 be performed prior and separately to the evaluation of safety and environmental impacts of the operation of SR-2. In this way, PRI can initiate construction of SR-2 upon NRC's approval of the construction phase, but would not operate the facility until NRC's approval of the operational phase.

Based on the analysis below, the NRC has concluded that construction of SR-2 cannot proceed until an operational safety evaluation [in the form of a safety evaluation report (SER)] and an evaluation of the environmental impacts of the construction and operation of SR-2 [in the form of an environmental assessment (EA)] has been completed. Upon receipt and evaluation of PRI's revised radiological dose assessment for SR-HUP (as requested in the NRC's January 22, 2007 correspondence to PRI), the NRC will complete its SER and draft EA for SR-2. The draft EA will be sent to the Wyoming Department of Environmental Quality for review and comment prior to issuance of the final EA.

Regulatory Background

Under License Condition 10.1.5 of Source Material License SUA-1548, the NRC is to perform a safety evaluation of the designs and specifications of new satellite facilities at the SR-HUP. In this action, a satellite facility is defined as a structure (i.e., building and associated equipment) where a portion of the ISL processing circuit is conducted. SR-2 will service Mine Units 9, 10 and 11, located near the southwest corner of Smith Ranch. In addition to its safety review, the NRC is required to evaluate the environmental impacts of construction and operation of SR-2 under the National Environmental Policy Act (NEPA). These evaluations can be in the form of an Environmental Impact Statement (EIS) or an EA. The NRC's specific regulations with

respect to NEPA are found in 10 CFR 51. Three previous NEPA-related environmental evaluations were developed by the NRC for the Smith Ranch site: a 1981 EIS for ISL research and development activities under Source Material License SUA-1387 to Kerr-McGee Corporation; an October 28, 1991 EA developed in conjunction with commercial-scale production at Smith Ranch under Source Material License SUA-1548 to Rio Algom Mining Corporation (RAMC), and an April 30, 2001 EA for the renewal of Source Material License SUA-1548 to RAMC.

Environmental impacts related specifically to the construction of SR-2 were not considered in any of the previous EAs for Smith Ranch. In contrast, environmental impacts related to radiological effluents from Smith Ranch ISL Satellite operations appear to have been considered in the April 30, 2001 EA for license renewal. However, as discussed in PRI's January 31, 2007 request and detailed in the NRC's January 22, 2007 correspondence to PRI, a reassessment of PRI's radiological dose estimates for the SR-HUP (including SR-2) has been requested.

Evaluation

Source Material License SUA-1548 contains two license conditions pertinent to PRI's present request: License Condition 10.1.5, prohibiting construction of satellite facilities and evaporation ponds; and License Condition 10.1.10, prohibiting wellfield installation in T35, R74. Although not directly related to PRI's present request, License Condition 10.1.10 is nevertheless pertinent to the present discussion because it involves the installation of wellfields that will be supported by SR-2. It is duly noted that neither license condition was present in the Smith Ranch license until issuance of the performance based license in May 2001; however, both license conditions, when considered together, appear to have been placed in Source Material License SUA-1548 to preclude commercial-scale ISL development in the southwestern portion of Smith Ranch (i.e., T35, R 74) until all 10 CFR 40 safety requirements and 10 CFR 51 Subpart A, NEPA-related requirements have been met. Essentially, although PRI was granted a source material license to conduct ISL operations at the Smith Ranch facility, construction of a satellite facility or ISL wellfield within T35, R 74, is prohibited until the license conditions established in Source Material License SUA-1548 have been met. As such, License Conditions 10.1.5 and 10.1.10 are both consistent with 10 CFR 40.32(e), which prohibits commencement of construction of a facility prior to an environmental evaluation, pursuant to 10 CFR 51 Subpart A.

A further complication arises in PRI's request for the NRC to separate its analysis of construction from its operational evaluation. The NRC has concluded that the construction and operation of SR-2 meets the regulatory definition of a "connected action" (i.e., operation of SR-2 cannot proceed without the construction of SR-2). Consistent with 40 CFR 1502.4(a) and 1508(a)(1), the NRC believes segmenting the evaluation of SR-2 related construction environmental impacts from the evaluation of SR-2 operational environmental impacts is improper and is not supported by NEPA case law.

Finally, the primary remaining issue at SR-2, the radiological dose assessment, has both safety and environmental implications. It is acknowledged that the design of SR-2 is virtually identical to the Reynolds Ranch satellite building, which was recently approved and added to Source Material License SUA-1548. Nevertheless, neither the SER nor the EA for SR-2 can be completed until PRI's reassessment of the radiological dose has been reviewed and approved by the NRC.

If you have any questions concerning this letter, please contact me, either by telephone at 301-415-7612, or by e-mail, at pxm2@nrc.gov.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice for Domestic Licensing Proceedings and Issuance of Orders," a copy of this letter will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records component of the NRC's Agencywide Documents Access and Management System (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>.

Sincerely,

/RA/

Paul Michalak, Hydrogeologist
Uranium Recovery Licensing Branch
Decommissioning and Uranium Recovery
Licensing Directorate
Division of Waste Management
and Environmental Protection
Office of Federal and State Materials
and Environmental Management Programs

Docket No.: 40-8964
License No.: SUA-1548

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Sincerely,

/RA/

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Docket No.: 40-8964
 License No.: SUA-1548

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