From: Ron Linton
To: abqfitch@swcp.com
Date: 06/27/2007 8:17:12 AM
Subject: Re: 10CFR 40.32(e) (Docket 040-09070)

Stan:

10 CFR 40.32(e) pertains to preventing the occurrence of NEPA impacts from constructing a facility before a license is issued. If the renovation of an existing facility before an NRC license is issued will not cause NEPA impacts, such renovation actions would not fall within the regulation's prohibition. NRC staff will need to be informed of renovation activities as if, in our judgement, some of the activities have NEPA impacts, they may have to wait until the NEPA analysis is finalized and the license issued.

Please be advised that any such actions taken prior to the issuance of a license are taken at RGRC risk as there is no guarantee that a license will be issued.

Ron

>>> <abqfitch@swcp.com> 6/25/2007 11:43 AM >>>
Thanks.

Stan

Quoting Ron Linton <RCL1@nrc.gov>:

> I've forwarded this to our legal counsel for an opinion. Ron
>
>>>> Stan Fitch <abqfitch@swcp.com> 06/24/2007 6:55 PM >>>
> Ron,
>
> Hope you are doing well.
>
> I am seeking a point of clarification regarding the Rio Grande
> Resources Corporation (RGRC) ion exchange plant. As you recall, in the
> 1970s and 1980s, the NRC agreement with of New Mexico (under AEA section
> 274) extended to uranium milling. The former Radiation Protection
> Bureau issued a source material license to RGRC to construct and operate
> the IX plant. The plant was constructed but never produced yellowcake.
> Instead, the plant was only briefly operations-tested under the New
> Mexico license. In the late 80s, New Mexico turned that portion of
> their agreement back to the Commission.
>
> Fast forward to today. RGRC now needs an NRC source material license
> for a plant that is already in place. RGRC wishes to pursue renovation
> of the mill (e.g., replace gaskets, services) plus order IX resin to
> charge the tanks while waiting for issuance of the NRC license. The
> intent is to start the IX plant on the day that the Commission issues
> the license. Given the fact that the mill was constructed under a
> previously existing Agreement State license, would proceeding with mill
> renovation and resin procurement be equivalent to "commencement of
> construction" as discussed in 40.32(e)? If so, would RGRC be in
> violation of 40.32(e) if they proceeded with mill renovation and resin
> procurement prior to NRC license issuance?
>
> In my mind, it would appear that no violation would be committed by

> preparing an existing mill for operation given that it was previously
> licensed by the state.
>
> Thanks in advance for your response.
>
> Stan
>
> Stanley A. Fitch, CHP, RRPT
> Vice-President
> Trinitek Services, LC
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>
>

CC: Betty Garrett; Bill VonTill; John Hull

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Subject: Re: 10CFR 40.32(e) (Docket 040-09070)
Creation Date 06/27/2007 8:17:07 AM
From: Ron Linton

Created By: RCL1@nrc.gov

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