

**From:** Stan Fitch <abqfitch@swcp.com>  
**To:** Ron Linton <RCL1@nrc.gov>  
**Date:** 06/27/2007 8:22:49 PM  
**Subject:** Re: 10CFR 40.32(e) (Docket 040-09070)

Ron:

Thanks for your response. The points are fully understood.

Stan  
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Ron Linton wrote:

>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  
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>the  
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>  
>>1970s and 1980s, the NRC agreement with of New Mexico (under AEA  
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>>  
>section  
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>  
>>274) extended to uranium milling. The former Radiation Protection  
>>Bureau issued a source material license to RGRC to construct and  
>>  
>>  
>operate  
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>  
>>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  
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>  
>>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  
>>  
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>

CC: Betty Garrett <BSG@nrc.gov>, John Hull <JTH@nrc.gov>, Bill VonTill  
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**Subject:** Re: 10CFR 40.32(e) (Docket 040-09070)  
**Creation Date** 06/27/2007 8:22:11 PM  
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