

April 22, 2008

Christopher S. Pugsley, Esq.
Thompson & Simmons, PLLC
1225 19th Street, NW, Suite 300
Washington, DC 20036

SUBJECT: DISPOSAL OF ION EXCHANGE RESIN APPROVED FOR PROCESSING,
KENNECOTT URANIUM COMPANY, SWEETWATER COUNTY, WYOMING,
SUA-1350 (TAC J60488)

Dear Mr. Pugsley:

This letter follows up on the March 25, 2008 teleconference held at your request, regarding the ion exchange (IX) resin and Alternate Feed Guidance issues discussed in the U.S. Nuclear Regulatory Commission (NRC) staff's letter to Anthony J. Thompson dated March 14, 2008. During the teleconference, you asked two questions on behalf of the Kennecott Uranium Company (KUC). One question was if the NRC staff grants a KUC storage-only license amendment, and KUC then received and stored the IX resin at its uranium mill – but never processed it – would the unprocessed resin be eligible for disposal in KUC's tailings impoundment as 11e.(2) byproduct material.

As discussed in the staff's March 14 letter (pages 3 and 6), the answer to this question is no. In the scenario you posit, the unprocessed resin would not be eligible for disposal in KUC's tailings impoundment as 11e.(2) byproduct material.

Your other question is a similar one, asking if the unprocessed resin could be disposed in KUC's tailings impoundment as 11e.(2) byproduct material under a scenario where the NRC staff has received and approved a request to both store and process the IX resin. Here, the Alternate Feed Guidance would be applicable. To approve the IX resin as alternate feed material under this guidance, the NRC staff would need to find that (1) the resin meets the guidance's definition of "ore"; (2) its acceptance at KUC's site would not introduce there a non-exempted hazardous waste; and (3) KUC's intent is to process the resin for its source material content. Given the mill's present standby status, this question of KUC's intent is significant. In this regard, the staff would look to see if KUC is following through on its letter of intent to build and operate at its mill site a new IX processing facility. But assuming the staff grants a KUC license amendment request to store and process the IX resin under the Alternate Feed Guidance, and KUC then received and stored the IX resin – but never processed it – the unprocessed resin would be eligible for disposal in KUC's tailings impoundment as 11e.(2) byproduct material, because it would then qualify as ore. This policy is reflected in the enclosure to the staff's March 14, 2008 letter.

If you have any questions regarding this matter, please contact Mr. Stephen J. Cohen, KUC Project Manager, at (301)-415-7182, or, by email, at sjc7@nrc.gov.

In accordance with 10 CFR 2.390 of the NRC's Rules of Practice, 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 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, by Andrew Persinko for/

Keith I. McConnell, Deputy Director
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.: 40-8584
License No.: SUA-1350

cc: Anthony J. Thompson, Esq.
Thompson and Simmons, PLLC
Oscar Paulson, KUC

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