



STATE OF WASHINGTON
DEPARTMENT OF HEALTH
OFFICE OF RADIATION PROTECTION
111 Israel Road SE • PO Box 47827 • Olympia, Washington 98504-7827
TDD Relay Services: 1-800-833-6388

February 12, 2009

Dennis Sollenberger
U.S. Nuclear Regulatory Commission
FSME/DMSSA/NMPD
Mail Stop 8 E24
Washington, DC 20555

Dear Mr. Sollenberger:

Dawn Mining Company (DMC) submitted an application for a radioactive materials license amendment on November 20, 2008, for their Ford, Washington uranium millsite. The license amendment request is to extend the authorization of Midnite Mine water treatment plant sludge into Tailings Disposal Area 4 (TDA-4) for two years of water treatment plant operation, until the end of the 2010 treatment plant operation season. Washington State Department of Health has evaluated DMC's license amendment request for extension of Midnite Mine water treatment plant sludge disposal to ensure that: (1) there are no additional impacts to human health and the environment than previously evaluated; and (2) extension of sludge disposal into TDA-4 will not delay the December 31, 2013 deadline for the completion of the installation of the final cover and radon barrier. The department has documented staff technical review with a Technical Evaluation Report that is enclosed for your review. Note that with the additional two seasons of sludge disposal into TDA-4, the total volume of sludge disposed into TDA-4 will be only about 40 percent of the volume of sludge evaluated in 2000, and only about 33 percent of the radioactivity projected for sludge disposal.

The initial authorization for Midnite Mine sludge disposal was granted by the department in 2001 after detailed human health risk and environmental review. The authorization was granted after concurrence from the U.S. Nuclear Regulatory Commission, the U.S. Department of Energy, and the Northwest Regional Low-Level Radioactive Waste Compact. I have enclosed the original concurrence letter from the NRC to Department of Health, dated December 14, 2000, for your reference. After detailed review, the department has determined that extending sludge disposal for two years continues to meet the ten criteria required by NRC guidance, and will not delay construction of the final cover if DMC implements TDA-4 fill and cover construction activities in 2009 and 2010.

It is the department's intent to conditionally amend DMC's license to allow the two-year extension for sludge disposal if the Department of Energy, the Nuclear Regulatory Commission,



Dennis Sollenberger
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and the Northwest Regional Low-Level Radioactive Waste Compact concur. The amendment to DMC's license would conditionally approve DMC's request for extension of disposal of Midnite Mine sludge into TDA-4 for a maximum of two years (2009-2010). It would also set conditions for the continuation of sludge disposal for two years, including milestones for filling and stabilization activities in TDA-4 during 2009 and 2010; if the milestones are not met for filling and stabilizing TDA-4, the authorization for the two-year extension may be revoked by the department.

We appreciate your timely review of this DMC license amendment request for concurrence. If you concur, it would be helpful to receive your concurrence by April 1, 2009 in order for there to be timely start-up of the mine water treatment plant.

You may contact me at (360) 236-3241 or mike.elsen@doh.wa.gov if you have any questions.

Sincerely,



Mikel J. Elsen, Supervisor
Waste Management Section

Enclosures

cc: John Mudge, Dawn Mining Company
Steve Miller, Department of Energy
Richard Bell, Department of Energy
Mike Garner, Northwest Low-Level Waste Compact
Elly Hale, EPA, Region X
Rudy Peone, Spokane Tribe of Indians
Alice Blado, AAG

Dawn Mining Company Uranium Millsite

TECHNICAL EVALUATION REPORT

License Amendment Request to Extend Midnite Mine Sludge Disposal into Tailings Disposal Area 4 (TDA-4)

January 2009

INTRODUCTION

Dawn Mining Company (DMC) submitted an application for a radioactive materials license amendment on November 20, 2008, for their Ford, Washington uranium millsite. The license amendment request is to extend the authorization of Midnite Mine water treatment plant sludge into Tailings Disposal Area 4 (TDA-4) for two years of water treatment plant operation, until the end of the 2010 treatment plant operation season. The current radioactive materials license WN-1043-2, Condition 33, states that "Unless specifically approved by the department, receipt and disposal of MMWTP filtercake sludge at the licensee's millsite shall cease December 31, 2008." Washington State Department of Health has evaluated DMC's request for extension of Midnite Mine water treatment plant sludge disposal to ensure that: (1) there are no additional impacts to human health and the environment; and (2) extension of sludge disposal into TDA-4 will not delay the December 31, 2013 deadline for the completion of the installation of the final cover and radon barrier.

The initial authorization for Midnite Mine sludge disposal was granted by the department in 2001 after detailed human health risk and environmental review (Addendum to Environmental Documents, June 2000). The authorization was granted after concurrence from the U.S. Nuclear Regulatory Commission, the U.S. Dept of Energy, and the Northwest Regional Low-Level Radioactive Waste Compact (letters attached). The direct disposal of sludge into TDA-4 is subject to the ten criteria found in the Nuclear Regulatory Commission's *Final Revised Guidance on Disposal of Non-Atomic Energy Act of 1954, Section 11.e(2) Byproduct Material In Tailings Impoundments* (September 22, 1995 Federal Register). After detailed review, the department has determined that extending sludge disposal for two years continues to meet the ten criteria required by NRC guidance, and will not delay construction of the final cover if DMC implements TDA-4 fill and cover construction activities in 2009 and 2010 as outlined below. Additionally, DMC's request does not increase the volume or activity of sludge from what was previously analyzed in the 2000 Addendum.

STATE ENVIRONMENTAL POLICY ACT

The department's review of DMC's license amendment request also considers whether, under the State Environmental Policy Act (SEPA), changes to the approved proposal are substantial and/or involve new information indicating probable significant adverse environmental impacts not adequately evaluated in the existing environmental documents. Because the volume of sludge disposed into TDA-4 from 2001 to 2008 is only about 31 percent of the volume of sludge evaluated in the June 2000 SEPA Addendum, with only about 27 percent of the radioactivity

projected for disposal, all of the potential adverse impacts for direct disposal of sludge were adequately evaluated in the June 2000 SEPA addendum.

2009-2010 TDA-4 CLOSURE ACTIVITIES AND DIRECT DISPOSAL OF MIDNITE MINE WATER TREATMENT PLANT SLUDGE

DMC's November 20, 2008 application for extension of sludge disposal in TDA-4 and their *Technical Detail Addendum to the November 20, 2008 Request for Extension of Sludge Disposal*, dated December 24, 2008, state that continued sludge disposal in TDA-4 will not interfere with or delay the final closure of TDA-4 because all or a portion of TDA-4 will remain open and will be receiving fill material during the summer months of 2009 and 2010. During this two-year period, the addition of sludge will not adversely affect the stability, timing, or management of the filling and closure of TDA-4.

During the 2009 water treatment plant operating period, the eastern portion of TDA-4 will remain open and available for sludge disposal in conjunction with the filling and stabilization project. During the 2010 operating period, the western portion of TDA-4 is projected to remain available for sludge disposal until completion of the placement of the overliner in the western portion of TDA-4. The following discussion provides additional information regarding the technical acceptability of allowing sludge disposal in TDA-4 to continue for two operating seasons, 2009-2010.

TDA-4 Sludge Disposal Areas

The current open area on the bottom of TDA-4 is approximately 15.1 acres. Of this total, the eastern portion is approximately 7.8 acres with approximately 75% of this area covered and stabilized with fill material excavated from the mill and stockpile areas in 2003 (Figure 2, Area 1). The western portion of TDA-4 is approximately 7.3 acres and will require fill to be placed to cover and stabilize currently uncovered tailings slimes. This activity is scheduled for 2009. The current topography of TDA-4 is shown on Figure 1.

The eastern portion of TDA-4 is the area in which sludge has been placed for disposal since 2001. Approximately 25% of this area will require additional fill material and preparation for overliner placement in September/October of 2009 (Figure 2, Area 2). Sludge can be disposed in the eastern portion of TDA-4 until grading for the overliner begins (Figure 2, Areas 1 and 2). At that time sludge disposal would continue in the western portion of TDA-4 (Figure 2, Area 3). Relocating sludge disposal to the western portion of TDA-4 will not impact TDA-4 closure activities or pose any additional human health risk. The volume of sludge that would be disposed in the eastern portion of TDA-4 in 2009 is estimated to be approximately 45,000 cubic feet (1,667 cubic yards), only a small portion of the total fill required.

The western portion of TDA-4 currently includes filled and stabilized surfaces and unstabilized areas of slimes and standing water. Stabilization activities in the western portion of TDA-4 during 2009 will cover all surfaces resulting in a significant expansion in the stabilized surface area that will allow vehicle and truck traffic and provide additional areas for disposal of the estimated 1,667 cubic yards of sludge during the summer of 2010 (Figure 2, Area 3).

Volume

The June 2000 SEPA Addendum evaluated a total anticipated sludge volume of 753,000 cubic feet for placement into TDA-4. However, as of December 31, 2008, a total of 231,983 cubic feet of sludge has actually been placed. The proposed additional volume of sludge will be a very small increment of the total estimated volume of material needed to fill and stabilize the surface of TDA-4 to the level necessary for placement of the overliner. The volume of material that will be placed in TDA-4 to reach the final grade necessary for overliner placement is approximately 90,000 cubic yards. This volume consists of approximately 4,000 cubic yards of structural debris from millsite building demolition, 24,000 cubic yards of contaminated site soil, and 62,000 cubic feet of clean borrow material.

The maximum sludge volume that would be disposed in TDA-4 is estimated to be 45,000 cubic feet per year; or, for the two-year period, a total volume of no more than 3,350 cubic yards. If this volume of sludge is co-placed with the other filled materials, the 3,350 cubic yards would displace the need for an equivalent amount of clean fill material and would represent only about 4% of the estimated total volume of fill. The diagram below gives a graphic presentation of the relative volumes of the various fill materials that would be placed in TDA-4 in 2009 and 2010, including Midnite Mine water treatment plant sludge. When compared to the volumes of the other materials to be placed in TDA-4, the volume of sludge is small and will easily be incorporated in the rest of the fill material.

Consolidation

As summarized in the June 2000 Addendum to other SEPA documents, free-standing liquids are removed from the sludge at the Midnite Mine. Sludge is then placed in TDA-4 in lifts no greater than two feet and covered with clean fill or contaminated site soil. The elimination of free-standing liquids and two-foot lifts greatly reduces potential impacts from geotechnical instability. If sludge disposal were to be approved to continue in 2009 and 2010, these disposal techniques would remain the same. Considering these conditions, coupled with the small volume of sludge relative to the total volume of fill to be placed in TDA-4 prior to placement of the overliner, settlement and consolidation of the sludge as a contribution to overall consolidation within TDA-4 is not significant.

Geochemistry

Midnite Mine water treatment plant sludge and the existing materials within TDA-4 have similar circumneutral pH. Under these conditions, uranium has limited mobility, and disposal of additional sludge will not affect the current geochemical conditions within TDA-4. Further, the additional mass of uranium and other elemental constituents associated with disposal of an additional 3,350 cubic yards of sludge would be insignificant compared to existing materials in TDA-4 (tailings, contaminated site soil, mill debris).

Radioactive materials

In the June 2000 Addendum to other SEPA documents, the calculated total radioactivity values (uranium, radium, and thorium) for mill demolition debris, site soil cleanup, processed sludge, and direct disposal of unprocessed sludge, totaled approximately 290 curies. In the year 2000, a volume of 753,500 cubic feet of sludge with an estimated radioactivity of 30 curies was approved for disposal in TDA-4. Less than one third of that anticipated volume has actually been placed in TDA-4 between 2001 and 2008. Only 231,983 cubic feet (8,593 cubic yards) of sludge has been placed in TDA-4 since 2001. Based upon the calculated amount of radioactive

material that has been disposed for the period, approximately 1 curie per season, only 8 curies have been disposed since 2001, with an additional 2 curies predicted during the two-year extension period. If the two-year extension is approved, the total volume of sludge disposed in TDA-4 will total less than half of the originally approved volume and radioactivity.

Transportation Logistics

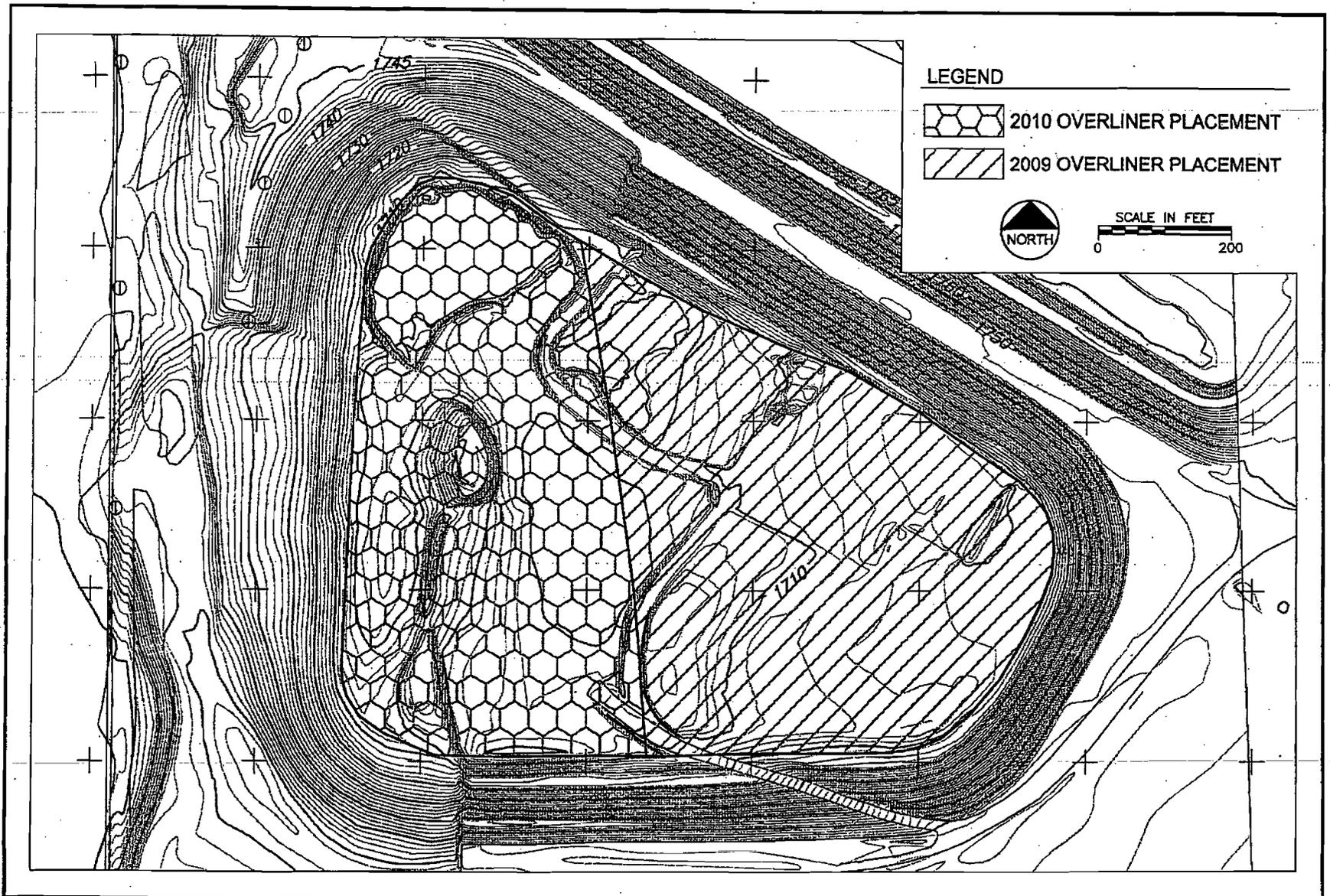
Transportation of water treatment plant sludge into TDA-4 would not adversely affect other closure activities or jeopardize the safety of workers. The number of sludge shipments would be approximately one truck per day. This transport volume would be inconsequential and would have no detrimental effect on the filling, grading, and overliner placement operations that will be occurring during this period. It is estimated that during active hauling of fill and contaminated site soils into TDA-4, an average of 30 truckloads of fill and contaminated site soils will be placed in TDA-4 each day. This volume of truck traffic is not large and can easily accommodate an additional one truck per day resulting from sludge disposal. In addition, filling, grading, and sludge disposal activities will occur in a separate location within TDA-4 than overliner placement activities. The overliner placement plan for the eastern portion of TDA-4 will also include relocation, as necessary, of the access road into TDA-4. Thus an additional one truck per day of sludge will not impact traffic related to fill placement, nor will it impact overliner placement operations or compromise safety.

Water Management

Disposal of additional water treatment plant sludge in TDA-4 would not affect water management plans. As discussed above, sludge will be placed on existing or newly filled and stabilized areas and will not be in contact with standing water.

CONCLUSION

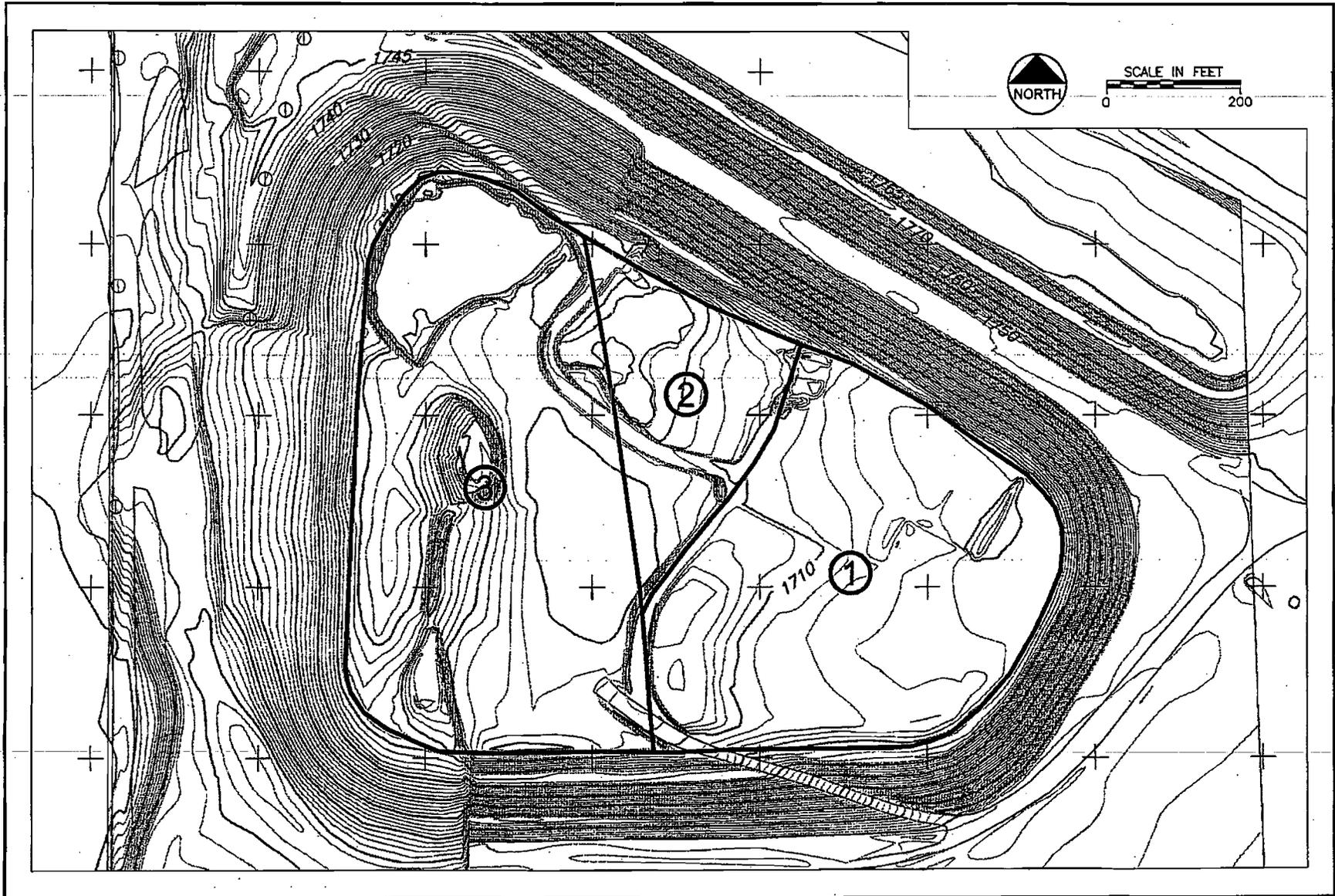
Dawn Mining Company's license amendment request to extend direct disposal of Midnite Mine water treatment plant sludge into TDA-4 for two years complies with applicable radiation protection laws and regulations. The request does not increase the volume or activity of the sludge from what was previously analyzed and approved in the 2000 Addendum. If the two-year extension is approved, the total volume and activity of sludge disposed in TDA-4 will total less than half of the originally approved volume and radioactivity. Furthermore, the extension of sludge disposal into TDA-4 for two years is consistent with applicable NRC guidance in that it will not interfere with the timing of closure activities and construction of the final radon barrier. DMC's amendment request does not involve substantial changes or new information indicating probable significant adverse environmental impacts that have not already been adequately evaluated in existing environmental documents. Therefore, the department recommends approval of the license amendment request, conditioned so that proposed closure activities will proceed on schedule during 2009 and 2010. The department will condition the license amendment with milestones for proposed closure activities. If these milestones for closure activities in 2009 and 2010 are not met, the authorization for extended sludge disposal may be revoked. DMC would have the opportunity to challenge any decision by the department to withdraw the authorization for sludge disposal in TDA-4 based upon DMC not meeting closure milestones.



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FIGURE 1
 SEQUENCE OF OVERLINER PLACEMENT IN TDA-4

Date:	DECEMBER 2008
Project:	180883
File:	TDA-4-AREAS-01



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FIGURE 2
 DISPOSAL AREAS IN TDA-4

Date:	DECEMBER 2008
Project:	180883
File:	TDA-4-AREAS-01



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

December 14, 2000

Mr. John L. Erickson, Director
Division of Radiation Protection
Department of Health
7171 Cleanwater Lane, Bldg. #5
P.O. Box 47827
Olympia, WA 98504-7827

Dear Mr. Erickson:

I am responding to your August 8, 2000 letter to Dennis Sollenberger, November 7, 2000 letter to me, and December 7 and 8, 2000 letters to Kevin Hsueh. In the letters, you requested the U.S. Nuclear Regulatory Commission (NRC) to review the Washington Department of Health's (WDOH) assessment of the Dawn Mining Company (DMC) license amendment application for direct disposal of source material into the DMC's tailings disposal area, for consistency with the NRC guidance. As stated in your letter, it is WDOH's understanding that the disposal of non-11e.(2) byproduct material directly into the uranium mill tailings impoundment is subject to ten criteria found in an NRC guidance document. The guidance document, entitled "Final Revised Guidance on Disposal of Non-Atomic Energy Act of 1954, Section 11e.(2) Byproduct Material In Tailings Impoundments," was published in a September 22, 1995 Federal Register.

We have completed our review of your submittals. Based on our review of WDOH's response to each criterion stated in the NRC's 1995 guidance document, we find that WDOH has appropriately followed the guidance in conducting its assessment. However, as identified in the enclosure of your December 8, 2000 letter, concurrence from the U.S. Department of Energy has not yet been received. Upon receipt of the concurrence, we would agree that all the criteria in NRC's 1995 guidance document will have been met. Since the licensing decision includes consideration of additional information and the Agreement State has the responsibility to make that decision, we make no comment on the overall licensing action.

If you have any questions concerning our response, please contact me at (301) 415-3340 or Kevin Hsueh at (301) 415-2598.

Sincerely,

Paul H. Lohaus, Director
Office of State and Tribal Programs



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DEPARTMENT OF HEALTH

OFFICE OF RADIATION PROTECTION

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February 12, 2009

John Mudge, President
Dawn Mining Company
427 Ridge St, Suite C
Reno, Nevada 89501-1736

Dear Mr. Mudge:

Dawn Mining Company (DMC) submitted an application for a radioactive materials license amendment on November 20, 2008. Your license amendment request is to extend the authorization of Midnite Mine water treatment plant sludge into Tailings Disposal Area 4 (TDA-4) for two years of water treatment plant operation, until the end of the 2010 treatment plant operation season. Washington State Department of Health has evaluated DMC's license amendment request for extension of Midnite Mine water treatment plant sludge disposal to ensure that: (1) there are no additional impacts to human health and the environment than previously evaluated; and (2) extension of sludge disposal into TDA-4 will not delay the December 31, 2013 deadline for the completion of the installation of the final cover and radon barrier.

The department has documented staff technical review with a Technical Evaluation Report that is enclosed for your review. After detailed review, the department has determined that extending sludge disposal for two years continues to meet the ten criteria required by NRC guidance, and will not delay construction of the final cover if DMC implements TDA-4 fill and cover construction activities in 2009 and 2010.

It is the department's intent to conditionally amend DMC's license to allow the two-year extension for sludge disposal if the Department of Energy, the Nuclear Regulatory Commission, and the Northwest Regional Low-Level Radioactive Waste Compact concur. The amendment to DMC's license would conditionally approve DMC's request for extension of disposal of Midnite Mine sludge into TDA-4 for a maximum of two years (2009-2010). It would also set conditions for the continuation of sludge disposal for two years, including milestones for filling and stabilization activities in TDA-4 during 2009 and 2010; if the milestones are not met for filling and stabilizing TDA-4, the authorization for the two-year extension may be revoked by the department.

DMC should contact Richard Bell at the U.S. Department of Energy, Dennis Sollenberger at the U.S. Nuclear Regulatory Commission, and Mike Garner, Chair of the Northwest Interstate Low-



John Mudge, President
Page Two

Level Waste Compact to answer any questions they may have regarding your license amendment request.

You may contact me at (360) 236-3241, or mike.elsen@doh.wa.gov if you have any questions.

Sincerely,



Mikel J. Elsen, Supervisor
Waste Management Section

Enclosures

cc: Steve Miller, Department of Energy
Richard Bell, Department of Energy
Dennis Sollenberger, U.S. Nuclear Regulatory Commission
Mike Garner, Northwest Low-Level Waste Compact
Elly Hale, EPA, Region X
Rudy Peone, Spokane Tribe of Indians
Alice Blado, AAG



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DEPARTMENT OF HEALTH

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February 12, 2009

Mr. Richard Bell, Project Manager
U.S. Department of Energy
2597 B ¾ Road
Grand Junction, Colorado 81503

Dear Mr. Bell:

Dawn Mining Company (DMC) submitted an application for a radioactive materials license amendment on November 20, 2008, for their Ford, Washington uranium millsite. The license amendment request is to extend the authorization of Midnite Mine water treatment plant sludge into Tailings Disposal Area 4 (TDA-4) for two years of water treatment plant operation, until the end of the 2010 treatment plant operation season. The current radioactive materials license states that "unless specifically approved by the department, receipt and disposal of MMWTP sludge at the licensee's millsite shall cease December 31, 2008." Washington State Department of Health has evaluated DMC's license amendment request for extension of Midnite Mine water treatment plant sludge disposal to ensure that: (1) there are no additional impacts to human health and the environment; and (2) extension of sludge disposal into TDA-4 will not delay the December 31, 2013 deadline for the completion of the installation of the final cover and radon barrier. The department has documented staff technical review with a Technical Evaluation Report that is enclosed for your review. Note that with the additional two seasons of sludge disposal into TDA-4, the total volume of sludge disposed into TDA-4 will be only about 40 percent of the volume of sludge evaluated in 2000, and only about 33 percent of the radioactivity projected for sludge disposal.

The initial authorization for Midnite Mine sludge disposal was granted by the department in 2001 after detailed human health risk and environmental review. The authorization was granted after concurrence from the U.S. Nuclear Regulatory Commission, the U.S. Department of Energy, and the Northwest Regional Low-Level Radioactive Waste Compact. I have enclosed the original concurrence letter from the Department of Energy to Department of Health, dated March 29, 2001, for your reference. After detailed review, the department has determined that extending sludge disposal for two years continues to meet the ten criteria required by NRC guidance, and will not delay construction of the final cover if DMC implements TDA-4 fill and cover construction activities in 2009 and 2010.

It is the department's intent to conditionally amend DMC's license to allow the two-year extension for sludge disposal if the Department of Energy, the Nuclear Regulatory Commission, and the Northwest Regional Low-Level Radioactive Waste Compact concur. The amendment to

Mr. Richard Bell, Project Manager
Page Two

DMC's license would conditionally approve DMC's request for extension of disposal of Midnite Mine sludge into TDA-4 for a maximum of two years (2009-2010). It would also set conditions for the continuation of sludge disposal for two years, including milestones for filling and stabilization activities in TDA-4 during 2009 and 2010; if the milestones are not met for filling and stabilizing TDA-4, the authorization for the two-year extension may be revoked by the department.

We appreciate your timely review of this DMC license amendment request for concurrence. If you concur, it would be helpful to receive your concurrence by April 1, 2009 in order for there to be timely start-up of the mine water treatment plant.

You may contact me at (360) 236-3241 or mike.elsen@doh.wa.gov if you have any questions.

Sincerely,



Mikel J. Elsen, Supervisor
Waste Management Section

Enclosures

cc: John Mudge, Dawn Mining Company
Steve Miller, Department of Energy
Dennis Sollenberger, U.S. Nuclear Regulatory Commission
Mike Garner, Northwest Low-Level Waste Compact
Elly Hale, EPA, Region X
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February 12, 2009

Mr. Mike Garner, Chair
Northwest Interstate Compact
Department of Ecology
PO Box 47600
Olympia, Washington 98504-7600

Dear Mr. Garner:

Dawn Mining Company (DMC) submitted an application for a radioactive materials license amendment on November 20, 2008, for their Ford, Washington uranium millsite. The license amendment request is to extend the authorization of Midnite Mine water treatment plant sludge into Tailings Disposal Area 4 (TDA-4) for two years of water treatment plant operation, until the end of the 2010 treatment plant operation season. The current radioactive materials license states that "unless specifically approved by the department, receipt and disposal of MMWTP sludge at the licensee's millsite shall cease December 31, 2008." Washington State Department of Health has evaluated DMC's license amendment request for extension of Midnite Mine water treatment plant sludge disposal to ensure that: (1) there are no additional impacts to human health and the environment than previously evaluated; and (2) extension of sludge disposal into TDA-4 will not delay the December 31, 2013 deadline for the completion of the installation of the final cover and radon barrier. The department has documented staff technical review with a Technical Evaluation Report that is enclosed for your review. Note that with the additional two seasons of sludge disposal into TDA-4, the total volume of sludge disposed into TDA-4 will be only about 40 percent of the volume of sludge evaluated in 2000, and only about 33 percent of the radioactivity projected for sludge disposal.

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It is the department's intent to conditionally amend DMC's license to allow the two-year extension for sludge disposal if the Department of Energy, the Nuclear Regulatory Commission,



Mr. Mike Garner, Chair
Page Two

and the Northwest Regional Low-Level Radioactive Waste Compact concur. The amendment to DMC's license would conditionally approve DMC's request for extension of disposal of Midnite Mine sludge into TDA-4 for a maximum of two years (2009-2010). It would also set conditions for the continuation of sludge disposal for two years, including milestones for filling and stabilization activities in TDA-4 during 2009 and 2010; if the milestones are not met for filling and stabilizing TDA-4, the authorization for the two-year extension may be revoked by the department.

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Sincerely,



Mikel J. Elsen, Supervisor
Waste Management Section

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