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**From:** Sharyn Cunningham [Sharyn@bresnan.net]  
**Sent:** Friday, May 15, 2009 10:04 PM  
**To:** Stephen Cohen  
**Subject:** Comment - Proposed Pre-Licensing Construction U Facilities  
**Attachments:** NRC Pre-Lic U Recovery Const - CCAT Comment 5-15-09.pdf

Dear Chief:

Re: Federal Register/Vol. 74, No. 91/Wednesday, May 13, 2009, pg. 22599

**Proposed Generic Communication; Pre-Licensing Construction Activities  
at Proposed, Unlicensed Uranium Recovery Facilities**

Colorado Citizens Against ToxicWaste, Inc. (CCAT) are concerned about the uranium industry's proposal to allow potentially harmful pre-licensing construction activities at uranium processing sites. Attached is our letter of comment on the proposal.

Sincerely,

Sharyn Cunningham, Co-Chair  
Colorado Citizen's Against ToxicWaste, Inc.

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Message-ID: <3141C976DABB44A381B073089339070E@HPLT>

From: Sharyn Cunningham <Sharyn@bresnan.net>

To: <stephen.cohen@nrc.gov>

Subject: Comment - Proposed Pre-Licensing Construction U Facilities

Date: Fri, 15 May 2009 20:04:18 -0600

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Chief, Uranium Recovery Licensing Branch  
Division of Waste Management and Environmental Protection,  
Office of Federal and State Materials and Environmental Management Programs  
U.S. Nuclear Regulatory Commission

Re: Federal Register/Vol. 74, No. 91/Wednesday, May 13, 2009, pg. 22599

### **Proposed Generic Communication; Pre-Licensing Construction Activities at Proposed, Unlicensed Uranium Recovery Facilities**

Dear Chief,

Colorado Citizens Against ToxicWaste, Inc. are concerned about the uranium industry's proposal to allow potentially harmful pre-licensing construction activities at uranium processing sites. We agree with, and therefore would like to incorporate and adopt the comments submitted by the Natural Resources Defense Council, Powder River Basin Resource Council, and Southwest Research and Information Center, as our own.

In addition, we would like to comment on our personal experience in regard to a uranium facility being constructed prior to licensing authorization. We live next door to the Cotter Uranium Mill in Canon City, CO, where approximately 8,000 people live inside a 2-mi radius of the mill. Approximately 20,000 people live inside a 5-mi radius of the mill. The nearest neighbor is approximately 1/4 mi from the mill, with an active golf course bordering Cotter's driveway and Restricted Area, and the Arkansas River downhill and approximately 2-mis away. We are sure you are familiar with the Cotter Corporation's uranium mill, as it has been one of only two operating mills in the U.S. for many years.

The mill began operations under the Atomic Energy Commission in 1958, and unlined tailings impoundments were used that leaked uranium mill contamination off-site and into neighboring communities via an ephemeral stream that passes through the Mill property. The tailings ponds overflowed and flooded into the downstream community several times between 1965 and 1970. The Cotter Mill (OU1) and neighboring community of Lincoln Park (OU2) were added to the National Priorities List in 1984. We've been a Superfund Site ever since, due to persistent groundwater contamination. Groundwater contamination in neighboring Lincoln Park has been much slower to improve than anyone expected, with current concentrations of U and Mo in some private wells at levels found in the late 1980s.

In May 1978, Cotter asked CDPHE for an exemption from the regulatory prohibition against pre-license construction to build a new impoundment pond. Cotter did not receive approval from the State for pre-license construction until February 1979. The design for the new impoundments wasn't approved by EPA until February 1979. A July 24, 1978 letter from David Wagoner, USEPA Air & Hazardous Materials Division, and another memo from EPA, strongly advised the State of Colorado to have Cotter find an alternative site for the mill due to the size of the operation and its close proximity to a population. Nevertheless, in July 1978, Cotter began excavating the new 145-ac impoundment pond (the largest in the world at the time) where they encountered seven springs that required special drains to funnel water away from the liner that was eventually constructed over them. Cotter began excavation and construction months before receiving the exemption from the State, or approval for designs. The new impoundment was finished in late 1979 and top drains were installed in early 1980.

The results of this haste are many. Recent investigations (by the Colorado Department of Public Health and Environment Radiation Management Division) of the 1980 Wahler construction reports, and current groundwater sampling near the impoundment, have confirmed that the tailings impoundment built in 1978-79 had many flaws in materials and construction and is leaking contaminants into groundwater. CDPHE confirmed in July 2008 that groundwater contamination has migrated to the west and north of Cotter, creating a new arm to the contamination plume under the adjacent golf course (uranium concentrations off-site range from 0.11 to 2.70 mg/L). Until 2001, from 1.5 to 3.0 gals a minute of contaminated water was migrating into Lincoln Park via the ephemeral stream. A Soil Conservation Dam, a failed PRTW turned into a Cut-Off Wall, and pumps are being used to stop contaminated water from entering Lincoln Park. However, the public is not convinced that all contamination migration has been stopped.

Citizens have paid the price for haste. No Environmental Impact Statement has ever been done at this site - only lesser quality environmental assessments. Only one Water Use Survey was done in 1989 to determine how people in Lincoln Park used their private wells. In 2007, EPA did the first 5-Yr Review of this Superfund Site since 1984, and initiated another Water Use Survey in 2008, done by the Cotter Corporation. Seven families were found using their wells for all domestic purposes, because no institutional controls have ever been in place to warn newcomers about well contamination.

Haste to solve a problem at Cotter's Uranium Mill in 1978 led to poor construction practices, use of inferior materials in the clay/random fill liner by the Cotter Corporation, and construction of a facility that should have been moved to another location. Haste led to little, if any, oversight by agencies in the design and construction of the impoundments. For thirty years, innocent citizens have paid the price.

Besides the example of disastrous results from "pre-licensing construction activities" at the Cotter Uranium Mill site in 1978, there are several reasonable, logical, and common sense reasons to not allow "pre-licensing construction activities at proposed uranium recovery sites":

- 1.) Allowing pre-licensing construction puts the NRC and State regulatory agencies in the untenable position of saying "No" to a company that has spent millions in pre-licensing construction. Once millions have been spent, logic tells the ordinary citizen that it will be very difficult for the NRC or any other agency to say "No" to the onslaught of pressure that will come from industry lobbyists and lawyers.
- 2.) Allowing pre-licensing construction before Environmental Impact Statements have been completed is putting the cart before the horse. Will impacts to our water resources, ecology, socioeconomics, or from transportation, or the cumulative effects from previous contamination be honestly and thoroughly evaluated? It will be very difficult for the public to trust that NRC assessments and decisions about environmental impact are not being compromised and minimized in order to allow the facility to go forward after so much money and effort have gone into pre-licensing construction.
- 3.) There is already concern about adequate characterization of pre-mining background or baseline groundwater quality being done with sites complying with a normal licensing process. Will these issues be further relegated to the back of the licensing process due to allowing pre-licensing construction?
- 4.) There is no need for "fast-tracking" by the uranium recovery industry. There is no emergency due to a lack of world uranium reserves that would justify compromising the licensing process required to insure safety to U.S. citizens or our environment. World supplies of known uranium reserves have been reported to be adequate for the next two decades, if not more. The U.S. imports 90% of yellowcake needed to make fuel for reactors, with the majority acquired from Canada.

5.) Allowing pre-licensing construction will surely place an added regulatory burden on the NRC and Agreement States. Additional staff or man hours will be needed if normal licensing activities are proceeding at the same time inspections will be needed to oversee pre-licensing construction. This will result in an increase in cost for the taxpayer and unnecessary pressure on the NRC and State staff. If not, pre-licensing construction will proceed without adequate oversight. Neither option is acceptable when there is no reasonable need for haste.

There is more than enough time for the NRC and Agreement States to do thorough and proper licensing before a facility is constructed. The uranium recovery industry has not proven a valid need for "pre-licensing construction" of facilities. Please deny this request. Thank you for the opportunity to comment.

Sincerely,

**Colorado Citizens Against ToxicWaste, Inc.**  
For the Board of Directors



Sharyn Cunningham, Co-Chair