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## lost creek isr, llc

May 22, 2009

United States Nuclear Regulatory Commission  
Attn: Mr. Keith McConnell, Deputy Director  
Division of Waste Management and Environmental Protection  
Office of Federal and State Materials and Environmental  
Management Programs  
Mail Stop T-8F5  
Washington, DC 20555-0001

**Re: Proposed Lost Creek In Situ Leach Uranium Recovery Project**  
**Docket No. 40-9068**  
**TAC No. LU0142**

Dear Mr. McConnell,

By this letter, Lost Creek ISR, LLC (LCI) is providing information to the United States Nuclear Regulatory Commission (NRC) regarding a monitor well system installed for the first wellfield at the proposed Lost Creek *in situ* leach uranium recovery (ISL) site. During the 2008 field season, LCI installed a monitor well system intended to form the basic structure of a monitor well ring along with the associated overlying, underlying and ore zone baseline wells. However, based on the April 9, 2009 NRC letter to Donald McKenzie of the Wyoming Department of Environmental Quality – Land Quality Division (WDEQ-LQD) the installation of these wells now appears to be in conflict with NRC Staff's position. The following information provides details on the timing and nature of events.

On April 3, 2008 LCI formally submitted Update 3 for Drill Notification (DN) 334 to the WDEQ-LQD Lander Field Office and the Bureau of Land Management (BLM) Rawlins Field Office. Update 3 for DN334 included a request to drill numerous delineation and exploration holes at the proposed Lost Creek ISL project site as well as a request to install the monitor well system for the first proposed wellfield. WDEQ-LQD approved the request and associated bond amount by letter on May 14, 2008. BLM concurred with WDEQ-LQD's decision and further determined that the proposed level of disturbance did not require an Environmental Assessment under its NEPA regulations. Installation of these approved and bonded monitor wells commenced on July 21, 2008 and was completed on October 20, 2008. Thus far, the monitor well system for Wellfield I includes a total of 67 wells (28 wells in the ring, 13 overlying, 13 underlying, and 13 production zone baseline). Twenty-one of the thirty-nine monitor wells were originally installed in 2007 and were designated (renamed) or converted (recompleted and renamed) for this specific purpose in 2008. The wells were constructed in compliance with methods described in Chapter 11 of the WDEQ-LQD Regulations. Additional monitor and/or monitor wells may be required after review by the WDEQ and/or NRC. It is currently LCI's plan to submit the Wellfield I Data Package, including hydrologic pumping tests and geochemistry, to both WDEQ-LQD and NRC for review and approval as required before commencement of recovery operations.

LCI did not request NRC approval in 2008 to install this monitor well system because, at that time LCI's understanding was that 10 CFR § 40.32(e) allowed for the installation of all necessary baseline monitoring wells. Specifically, 10 CFR § 40.32(e) allows for "other preconstruction monitoring or testing to establish background information related to the suitability of the site or the protection of environmental values" and does not discern a difference between individual wells and "networks" of wells. The monitor well system was installed merely to collect pre-operational/baseline hydrologic and site suitability data in support of developing a site-specific water quality monitoring program.

On April 9, 2009, NRC issued a letter in response to a request for clarification from Donald McKenzie of the WDEQ-LQD, which indirectly raised questions about LCI's aforementioned assumptions. At first glance, paragraph one of this letter appears to approve of the installation of monitor wells while paragraph two appears to indicate that installation of a complete monitor well network for any wellfield will not be permitted without an NRC license. After receiving a copy of the April 9, 2009 letter, and in order to obtain a correct interpretation of the letter, LCI requested that our legal counsel, Thompson and Simmons PLLC, contact NRC Staff to seek clarification on this issue. On May 5, 2009, Mr. Anthony Thompson of Thompson and Simmons, PLLC spoke with NRC Staff and was informed that installation of a complete monitor well network for the first wellfield would not be allowed until after issuance of an NRC license. Mr. Thompson immediately notified LCI of NRC Staff's interpretation.

In an effort to provide NRC with all relevant information, LCI requested that Mr. Thompson verbally notify NRC Staff that LCI had completed the aforementioned monitor well system for the first wellfield. Mr. Thompson did so via telephone on May 15, 2009. It is our understanding that NRC Staff recognizes that there is, and has been, a substantial "gray area" with respect to the application of 10 CFR Part 40 regulations to ISL operations, and LCI was immediately forthcoming upon receiving clarification of NRC Staff's interpretation from our counsel. NRC is welcome to tour the Lost Creek site to inspect the monitor well system that LCI described above.

Thank you for your time and consideration in this matter, and LCI looks forward to continued open dialogue with NRC Staff. If you have any questions regarding this submittal, please feel free to contact me at Lost Creek's Wyoming Office.

Regards,

Lost Creek ISR, LLC  
By its Manager, Ur-Energy USA Inc.

By: \_\_\_\_\_  
John W. Cash, Manager EHS and Regulatory Affairs

Cc: Ronald Burrows, USNRC  
Larry Camper, USNRC  
William Von Till, USNRC  
Stephen Cohen, USNRC