



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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Certified Mail Return Receipt Requested

JAN 06 2011

Ref: 8P-AR

Mr. John W. Cash
Ur-Energy USA Inc., Director of Regulatory Affairs
5880 Enterprise Dr., STE. 200
Casper, WY 82609

Re: Lost Creek In-Situ Recovery Uranium Project
Application for Approval of Construction - *Intent to Deny
Approval*

Dear Mr. Cash:

This letter is in response to the letter and supporting document you submitted to EPA on November 3, 2010, for the Lost Creek In-Situ Recovery Uranium Project (ISR) in Sweetwater County, Wyoming. EPA considers the document, titled "Application by Lost Creek ISR, LLC to Construct Holding Ponds at the Lost Creek In-Situ Uranium Project," to be an "Application for approval of construction," pursuant to 40 CFR 61.07, for the two Lost Creek ISR holding ponds.

Section 61.07(b) requires that each application for approval of construction shall include the following information: (1) the name and address of the applicant; (2) the location or proposed location of the source; and (3) technical information describing the proposed nature, size, design, operating design capacity, and method of operation of the source, including a description of any equipment to be used for control of emissions. EPA will only approve your application if we determine that the Lost Creek ISR holding ponds are in full compliance with the applicable Radionuclide NESHAP standards when properly operated. (See 40 CFR 61.08(b)).

The requirements in 40 CFR Part 61 Subpart W, National Emissions Standards for Radon Emissions from Operating Mill Tailings ("Subpart W"), are applicable to the Lost Creek ISR and require that you appropriately manage uranium byproduct materials during and following the processing of uranium ores. Specifically, Subpart W requires that your new holding ponds meet the standards in 40 CFR 61.252(b) and 61.252(c). Under 40 CFR 61.252(b), the two ISR holding ponds at Lost Creek must comply with one of two work practice standards: (1) phased disposal in two lined tailings impoundments no more than 40 acres in area each that meet the requirements of 40 CFR 192.32(a) (40 CFR 61.252(b)(1)); or (2) continuous disposal of tailings such that tailings are dewatered and immediately disposed with no more than 10 acres uncovered at any time and

operated in accordance with 40 CFR 192.32(a) (40 CFR 61.252(b)(2)). Lost Creek must operate its two ISR holding ponds such that they comply with the provisions of 40 CFR 192.32(a). (See 40 CFR 60.252(c)).

This letter constitutes notification, under 40 CFR 61.08(e), of our intent to deny your application for approval of construction. The intended denial is based on the fact that the following information, required by 40 CFR 61.07(b), is not included in your November 3, 2010 application:

- (1) Method of operation of the source, including a description of any equipment to be used for the control of emissions (See 40 CFR 61.07(b)(3)); and
- (2) Sufficient information for EPA to determine that all mill owners and operators shall comply with the provisions of 40 CFR 192.32(a), as required by 40 CFR 61.252(c). While the documentation provided to EPA contains the necessary elements required by 40 CFR 264.221(a)(2) and 40 CFR 264.221(c)(1)(i), information for EPA to evaluate whether the surface impoundments meet the following regulations was not included: 40 CFR 264.92, 40 CFR 264.93, 40 CFR 264.94, 40 CFR 264.98, 40 CFR 264.111, 40 CFR 264.221(a)(1), 40 CFR 264.221(a)(3), 40 CFR 264.221(c)(1)(i)(B), 40 CFR 264.221(c)(2), 40 CFR 264.221(g), and 40 CFR 40 CFR 264.221(h).

Without this information, we are unable to determine whether the holding ponds at Lost Creek ISR will comply with Subpart W when properly operating.

In accordance with 40 CFR 61.08(e) this letter provides Ur-Energy with the opportunity to present additional information or arguments prior to our final action on the application. Please provide us with the information above within 60 days of receipt of this letter so that we may make a final determination on Ur-Energy's application for approval of construction.

If you have any questions, or for further discussion, please contact Dr. Angelique Diaz of my staff at (303) 312-6344 or diaz.angelique@epa.gov.

Sincerely,



Stephen S. Tuber
Assistant Regional Administrator
Office of Partnerships and Regulatory Assistance

cc: Steve Ingle, WYDEQ Land Quality Division
Bill von Tili, Chief – Uranium Recovery Licensing Branch, U.S. Nuclear Regulatory Commission