

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of

Cimarron Corporation

Docket No. 70-0925

Oklahoma City, OK

License No. SNM-928

ORDER TRANSFERRING LICENSE NO. SNM-928

FOR THE CIMARRON SITE

I

Cimarron Corporation is the holder of License SNM-928, which authorizes the possession of Byproduct, Source, and/or Special Nuclear Material at the Cimarron Site in Crescent, Oklahoma. In accordance with Amendment No. 20 of the license, the license will not expire until the United States Nuclear Regulatory Commission ("NRC") terminates it.

II

The Kerr-McGee Corporation (KMC) operated two plants at the Cimarron Site between 1965 and 1975, each under its own separate Atomic Energy Commission license. Radioactive Materials License SNM-928 (Docket No. 70-0925) was issued under 10 CFR Part 70 for the Uranium Fuel Fabrication Facility, and Radioactive Materials License SNM-1174 (Docket No. 70-1193) was issued under 10 CFR Part 70 for the Mixed Oxide Fuel Fabrication (MOFF) Facility.

Subsequently, on October 26, 1988, Cimarron Corporation, a wholly-owned subsidiary of KMC, became responsible for the Cimarron Site (License SNM-928, Amendment 6). After Cimarron Corporation ceased operations, NRC terminated Radioactive Materials License SNM-1174 by letter dated February 5, 1993. Although Radioactive Materials License SNM-1174 was terminated, the MOFF plant building exterior surfaces and grounds were retained under Radioactive Materials License SNM-928.

Cimarron Corporation began decommissioning in 1977. As part of its decommissioning program, Cimarron Corporation divided the site into 3 major areas (Areas I-III) which were subdivided into 15 discrete subareas (Subareas A-O). To date, most of the decommissioning activities needed for release of the Cimarron Site for unrestricted use and to terminate Radioactive Materials License SNM-928 have been completed. The remaining activities to be completed include the release of Subareas F, G, and N as well as groundwater remediation. Groundwater contamination has been identified in Subareas F and C, as well as in the western upland and the western alluvial areas of the site.

Final status surveys and confirmatory surveys have confirmed that Subareas G and N are releasable for unrestricted use, but NRC has determined that these areas should not be released until groundwater remediation is complete. Because groundwater exceeds license criteria in Subarea F, this area cannot be released for unrestricted use until groundwater remediation is complete.

In November 2005, KMC transferred ownership of Cimarron Corporation to Tronox Incorporated. Cimarron Corporation considered several alternatives for groundwater remediation including natural attenuation, excavation, bioremediation, and the use of institutional controls. On December 11, 2006, Cimarron Corporation submitted its proposal to use bioremediation.

The NRC staff conducted an expanded acceptance review of the December 11, 2006, bioremediation proposal. By letter dated March 28, 2007, the NRC rejected the proposal because deficiencies in the information provided precluded the staff from conducting a detailed technical review. On June 2, 2008, Cimarron Corporation submitted a revised license amendment request for the use of bioremediation and supplemented the request with additional information on September 5, 2008. The staff had several interactions with Cimarron Corporation which resulted in Cimarron Corporation submitting a revised Groundwater

Decommissioning Plan on March 31, 2009. The staff completed its acceptance review of the Groundwater Decommissioning Plan on May 19, 2009.

The NRC has determined that the Cimarron facility poses no immediate threat to public health and safety.

### III

On January 12, 2009, Tronox Incorporated and 14 of its affiliates (collectively “Debtors”) filed voluntary petitions for reorganization under Chapter 11, Title 11 of the United States Code, 11 U.S.C § 1101 *et seq.*, as amended, in the United States Bankruptcy Court, Southern District of New York. Cimarron Corporation, a wholly owned subsidiary of Tronox Incorporated, an NRC licensee, is a debtor in that case. On January 12, 2009, Debtors also informed the NRC by letter of the bankruptcy filing. By letter dated February 11, 2009, the NRC notified Cimarron Corporation of its continuing obligations under its NRC license to comply with NRC requirements. On January 26, 2009, the NRC advised the United States Department of Justice (DOJ) of its interest in the bankruptcy proceeding and on June 22, 2009, at DOJ’s request, the NRC submitted a Proof of Claim Referral.

Subsequently, Debtors and DOJ, on behalf of and together with certain federal and state entities including the NRC, entered into settlement discussions with regard to certain sites owned by Debtors including sites with known or potential environmental contamination that are the subject of clean-up obligations under federal, tribal, and state environmental laws. Those discussions resulted in the development of a global environmental settlement agreement (Settlement Agreement). On November 23, 2010, the proposed Settlement Agreement was filed with the Bankruptcy Court. On January 26, 2011, the Bankruptcy Court entered an order approving the Settlement Agreement.

The NRC, which had filed claims in bankruptcy against Cimarron Corporation, entered into the Settlement Agreement rather than involve the NRC in a protracted legal dispute over

the limited funds that would be available for site remediation from Cimarron Corporation assets. The NRC believes that measures taken pursuant to the Settlement Agreement will permit remediation of the Cimarron Site to proceed in a timelier manner and will maximize the amount of funding available for the remediation of the Cimarron Site.

The Settlement Agreement provides that on the date that the Settlement Agreement becomes effective (“Effective Date”), Debtors will transfer all of their right, title and interest related to the Cimarron Site to the Cimarron Environmental Response Trust (“Cimarron Trust”). In accordance with the Settlement Agreement, the purpose of the Cimarron Trust shall be to: (i) act as successor to Debtors solely for the purpose of performing, managing, and funding implementation of all decommissioning and/or site control and maintenance activities pursuant to the terms and conditions of the Cimarron License and an NRC-approved decommissioning plan, and all environmental actions required under federal or state law; (ii) own the Cimarron Site; (iii) carry out administrative functions related to the performance of work by or on behalf of the Cimarron Site; (iv) fulfill other obligations as set forth in the Settlement Agreement; (v) pay certain regulatory fees and oversight costs; and (vi) ultimately sell, transfer or otherwise dispose or facilitate the reuse of all or part of the Cimarron Trust assets, if possible. In conjunction with the development of the Settlement Agreement, DOJ, the NRC, and the State of Oklahoma undertook to identify a Trustee to administer the Cimarron Trust. Environmental Properties Management, LLC, not individually but solely in its representative capacity as Cimarron Trustee, has been appointed as the Cimarron Trustee to administer the Cimarron Trust and the Cimarron Trust Accounts, in accordance with the Settlement Agreement and a Cimarron Environmental Response Trust Agreement (“Cimarron Trust Agreement”), materially consistent with the Settlement Agreement to be separately executed by the parties.

The Settlement Agreement further provides that on or before the Effective Date, with the approval of the NRC and in accordance with the Atomic Energy Act of 1954, as amended (42USC § 2011 et seq.) and applicable regulations in 10 CFR Part 70, the Radioactive Materials License SNM-928 held by Cimarron Corporation shall either be transferred to the Cimarron Trust; be transferred to Environmental Properties Management, LLC, or be transferred to a person or entity retained by the Cimarron Trustee and approved by NRC to hold the Cimarron License pursuant to an Order Transferring License issued by the NRC. NRC has been informed that the effective date of the settlement agreement is February 14, 2011.

#### IV

Remediation of the Cimarron Site is to be conducted in accordance with the terms and conditions of License SNM-928, the Settlement Agreement, and the Cimarron Trust Agreement. The Trustee has agreed to these terms and conditions.

The Trustee's maintenance of the site and administration of the site in accordance with License SNM-928, the terms of the Settlement Agreement, the Cimarron Trust Agreement, and the terms of this Order, will provide adequate protection of the public health and safety and reasonable assurance of compliance with the Commission's regulations.

Pursuant to the terms of the Settlement Agreement, DOJ in coordination with the NRC, and the State of Oklahoma, selected Environmental Properties Management, LLC, as Trustee. Environmental Properties Management, LLC, is qualified to perform the duties enumerated in this Order.

In view of the foregoing, I have authorized the transfer of License SNM-928 to the Cimarron Trust, such license to be amended to reflect the change in the named licensee and an effective date coinciding with the effective date of the Settlement Agreement. The Trustee accedes to this Order voluntarily, and has agreed to take the necessary steps to undertake

remediation of the site to the extent permitted by the funds available to the Trust, according to the requirements in Part V of this Order.

V

Accordingly, pursuant to Sections 53, 62, 161(b), 161(i), 161(o), and 184 of the Atomic Energy Act of 19154, as amended (42 USC et seq.), and the Commission's regulations in 10 CFR Part 70, IT IS HEREBY ORDERED that, effective February 14, 2011, License SNM-928 is transferred to the Cimarron Trust and the Trustee is authorized to possess Byproduct, Source, and Special Nuclear Material at the Cimarron Site pursuant to the terms and conditions of License SNM-928. IT IS FURTHER ORDERED that:

(1) The Trustee shall comply with all conditions set forth in the Settlement Agreement and any amendments thereto, and the Cimarron Trust Agreement and any amendments thereto.

(2) Within 60 days of the date of this Order, and every 180 days thereafter, the Trustee shall submit a report to the Deputy Director, Division of Waste Management and Environmental Protection, Mailstop T8-F5, U.S. Nuclear Regulatory Commission, 11545 Rockville Pike, Rockville, MD 20852, detailing all actions and associated actual expenditures for the previous period and a projection of actions and expenses for the subsequent period.

(3) Upon completion of the groundwater remediation and in conformance with the requirements in 10 CFR Part 70 and the conditions set forth in License SNM-928, the Cimarron Trustee shall, within 30 days, conduct a radiation survey of the site, and within 90 days of completion of the radiation survey, submit a final status survey report to the Deputy Director, Mailstop T8-F5, U.S. Nuclear Regulatory Commission, 11545 Rockville Pike, Rockville, MD 20852 for NRC review, to demonstrate that the site meets the criteria for unrestricted release.

(4) The Trustee's responsibilities, liabilities and authority under License SNM-928 shall terminate only upon Order of the NRC.

(5) No more than 5 percent of the remaining funds in the Cimarron Federal Environmental Cost Account shall be spent in any 6-month period without NRC approval.

(6) Pursuant to Paragraph 56(c)(ii) of the Settlement Agreement, the assets of the Cimarron Standby Trust Fund shall not be accessed until further Order issued by the NRC.

(7) The requirements in this Order may only be modified in writing by the Director, Office of Federal and State Materials and Environmental Management Programs.

## VI

Any person adversely affected by this Order, other than Cimarron or the Trustee, may request a hearing within 20 days of its issuance. Any request for a hearing shall be submitted to Charles L. Miller, Director, Office of Federal and State Materials and Environmental Management Programs, Mailstop T8-A23, U.S. Nuclear Regulatory Commission, 11545 Rockville Pike, Rockville, MD 20852, and to the Trustee, Environmental Properties Management, LLC, Attn: Mr. Bill Halliburton, Administrator, Cimarron Environmental Response Trust, c/o Environmental Properties Management, LLC, 9400 Ward Parkway, Kansas City, MO 64114. If a hearing is requested, the requester shall set forth with particularity the manner in which his or her interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR § 2.309.

If a hearing is requested by a person whose interest is adversely affected by this Order, the Commission will consider the hearing request pursuant to 10 CFR Part 2, Subpart M, and

will issue an Order designating the time and place of any hearing. If a hearing is held, the procedures of Subpart M will be applied as provided by the Order designating the time and place of the hearing. The issue to be considered at such hearing shall be whether this Order transferring the license should be sustained. Any request for a hearing shall not stay the effectiveness of this Order.

FOR THE NUCLEAR REGULATORY COMMISSION

**/RA/**

Charles L. Miller, Director  
Office of Federal and State Materials  
and Environmental Management Programs

Dated at Rockville, Maryland,  
this 14<sup>th</sup> day of February, 2011