

**NUCLEAR REGULATORY COMMISSION**  
**DOCKET NO. 070-0925**  
**LICENSE TRANSFER ORDER FOR**  
**THE CIMARRON FACILITY AT CRESCENT, OKLAHOMA**  
**[NRC-2011-0042]**

**AGENCY:** U.S. Nuclear Regulatory Commission.

**ACTION:** Notice of transfer of License SNM-928 from Cimarron Corporation to the Cimarron Environmental Response Trust.

**DATES:** Requests for a hearing or leave to intervene must be filed by **[INSERT DATE: 20 DAYS FROM DATE OF PUBLICATION.]**

**ADDRESSES:** You may submit comments by any one of the following methods. Please include Docket ID **NRC-2011-0042** in the subject line of your comments. Comments submitted in writing or in electronic form will be posted on the NRC Web site and on the Federal rulemaking Web site *Regulations.gov*. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed.

The NRC requests that any party soliciting or aggregating comments received from other persons for submission to the NRC inform those persons that the NRC will not edit their comments to remove any identifying or contact information, and therefore, they should not include any information in their comments that they do not want publicly disclosed.

**Federal rulemaking Web site:** Go to <http://www.regulations.gov> and search for documents filed under Docket ID **NRC-2011-0042**. Address questions about NRC dockets to Carol Gallagher 301-492-3668; e-mail [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov).

**Mail comments to:** Cindy Bladey, Chief, Rules, Announcements, and Directives Branch (RADB), Office of Administration, Mail Stop: TWB-05-B01M, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, or by fax to RADB at 301-492-3446.

You can access publicly available documents related to this notice using the following methods:

**NRC's Public Document Room (PDR):** The public may examine, and have copied for fee, publicly available documents at the NRC's PDR, Room O1 F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

**NRC's Agencywide Documents Access and Management System (ADAMS):** Publicly available documents created or received at the NRC are available electronically at the NRC's Electronic Reading Room at <http://www.nrc.gov/reading-rm/adams.html>. From this page, the public can gain entry into ADAMS, which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's PDR reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov). The Transfer Order is provided at the end of this notice and is available electronically under ADAMS Accession Number ML110280485.

**Federal rulemaking Web site:** Public comments and supporting materials related to this notice can be found at <http://www.regulations.gov> by searching on Docket ID: **NRC-2011-0042**.

**FOR FURTHER INFORMATION CONTACT:** Ken Kalman, Project Manager, Decommissioning and Uranium Recovery Licensing Directorate, Division of Waste Management and Environmental Protection, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; Telephone: 301-415-6664; fax number 301-415-5369; e-mail: [kenneth.kalman@nrc.gov](mailto:kenneth.kalman@nrc.gov).

## **SUPPLEMENTARY INFORMATION:**

### **I. Introduction**

The NRC has signed an Order (copy included) dated February 14, 2011, transferring Source Material License SNM-928 for the Cimarron Facility in Crescent, Oklahoma to the Cimarron Environmental Response Trust (Trust). The Trust will be administered by Environmental Properties Management, LLC.

### **II. Summary**

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 (42 USC § 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.

### **III. NRC Review**

The NRC staff reviewed the settlement agreement and the Cimarron Trust Agreement and determined that the Trustee has agreed to take the necessary steps to undertake remediation of the site to the extent permitted by the funds available to the Trust in accordance with this order.

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.

### **IV. Further Information**

Documents related to this action, including the application for amendment and

supporting documentation, are available electronically at the NRC's Electronic Reading Room at <http://www.nrc.gov/reading-rm/adams.html>. From this site, you can access the NRC's Agency-wide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The ADAMS accession numbers for the documents related to this notice are: Settlement Agreement dated January 26, 2011, ML110320603; and the Environmental Response Trust Agreement dated February 14, 2011, ML110450212. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1-800-397-4209, 301-415-4737, or by email to [PDR.Resource@nrc.gov](mailto:PDR.Resource@nrc.gov).

#### **V. Opportunity to Request a Hearing**

Requirements for hearing requests and petitions for leave to intervene are found in 10 CFR 2.309, "Hearing Requests, Petitions to Intervene, Requirements for Standing, and Contentions." Interested persons should consult 10 CFR Part 2, Section 2.309, which is available at the NRC's Public Document Room (PDR), located at O1 F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852 (or call the PDR at 800-397-4209 or 301-415-4737). NRC regulations are also accessible electronically from the NRC's Electronic Reading Room on the NRC Web site at <http://www.nrc.gov>.

#### **VI. Petitions for Leave to Intervene**

Any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition must provide the name, address, and telephone number of the petitioner and specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act

to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order that may be entered in the proceeding on the petitioner's interest.

A petition for leave to intervene must also include a specification of the contentions that the petitioner seeks to have litigated in the hearing. For each contention, the petitioner must provide a specific statement of the issue of law or fact to be raised or controverted, as well as a brief explanation of the basis for the contention. Additionally, the petitioner must demonstrate that the issue raised by each contention is within the scope of the proceeding and is material to the findings the NRC must make to support the granting of a license amendment in response to the application. The petition must also include a concise statement of the alleged facts or expert opinions which support the position of the petitioner and on which the petitioner intends to rely at hearing, together with references to the specific sources and documents on which the petitioner intends to rely. Finally, the petition must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact, including references to specific portions of the application for amendment that the petitioner disputes and the supporting reasons for each dispute, or, if the petitioner believes that the application for amendment fails to contain information on a relevant matter as required by law, the identification of each failure and the supporting reasons for the petitioner's belief. Each contention must be one that, if proven, would entitle the petitioner to relief.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that person's admitted contentions, including the opportunity to present evidence and to submit a cross-examination plan for cross-examination of witnesses, consistent with NRC regulations, policies, and procedures. The Atomic Safety and Licensing Board will set the time and place for any prehearing conferences

and evidentiary hearings, and the appropriate notices will be provided.

Non-timely petitions for leave to intervene and contentions, amended petitions, and supplemental petitions will not be entertained absent a determination by the Commission, the Atomic Safety and Licensing Board or a Presiding Officer that the petition should be granted and/or the contentions should be admitted based upon a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)-(viii).

A State, County, Municipality, Federally-recognized Indian Tribe, or agencies thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(d)(2). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission by **[INSERT DATE: 20 DAYS FROM THE DATE OF PUBLICATION OF THIS FEDERAL REGISTER NOTICE]**. The petition must be filed in accordance with the filing instructions in Section IV of this document, and should meet the requirements for petitions for leave to intervene set forth in this section, except that State and Federally-recognized Indian tribes do not need to address the standing requirements in 10 CFR 2.309(d)(1) if the facility is located within its boundaries. The entities listed above could also seek to participate in a hearing as a nonparty pursuant to 10 CFR 2.315(c).

Any person who does not wish, or is not qualified, to become a party to this proceeding may request permission to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of position on the issues, but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to such limits and conditions as may be imposed by the Atomic Safety and Licensing Board. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission by **[INSERT DATE: 20 DAYS FROM THE DATE OF PUBLICATION OF THIS FEDERAL REGISTER NOTICE]**.

## VII. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule (72 FR 49139, August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least ten (10) days prior to the filing deadline, the participant should contact the Office of the Secretary by e-mail at *hearing.docket@nrc.gov*, or by telephone at (301) 415-1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals/apply-certificates.html>. System requirements for accessing the E-Submittal server are detailed in NRC's "Guidance for Electronic Submission," which is available on the agency's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. Participants may attempt to use other software not listed on the Web site, but

should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through EIE, users will be required to install a Web browser plug-in from the NRC Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>.

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The E-Filing system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the "Contact Us" link located

on the NRC Web site at <http://www.nrc.gov/site-help/e-submittals.html>, by e-mail at [MSHD.Resource@nrc.gov](mailto:MSHD.Resource@nrc.gov), or by a toll-free call at 866-672-7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) first class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at <http://ehd1.nrc.gov/EHD>, unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Petitions for leave to intervene must be filed no later than 20 days from **[INSERT DATE OF PUBLICATION IN FEDERAL REGISTER]**. Non-timely filings will not be entertained absent a determination by the presiding officer that the petition or request should be granted or the contentions should be admitted, based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)-(viii).

Dated at Rockville, Maryland, this 16<sup>th</sup> day of February, 2011.

FOR THE NUCLEAR REGULATORY COMMISSION

**/RA/**

Keith I. McConnell, Deputy Director  
Decommissioning and Uranium Recovery  
Licensing Directorate  
Division of Waste Management  
and Environmental Protection  
Office of Federal and State Materials  
and Environmental Management Programs

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 1954, 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, Maryland 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, Maryland 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, Missouri 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