



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

January 7, 1998

JAN 12 1998

Jack Tillman, Manager  
Grand Junction Office  
U.S. Department of Energy  
2597 3/4 Road  
Grand Junction, Colorado 81503

SUBJECT: WORKING PROTOCOL FOR LONG-TERM LICENSING OF COMMERCIAL  
URANIUM MILLS

Dear Mr. Tillman:

Enclosed please find two signed copies of the "License Termination/Site Transfer Protocol Between the U.S. Department of Energy and the U.S. Nuclear Regulatory Commission." This protocol has been under development for the past couple of years by staff from the U.S. Nuclear Regulatory Commission and the U.S. Department of Energy (DOE). It formalizes the successful approach currently being implemented by the NRC and the DOE. Drafts of the protocol were provided to the DOE, and, on November 14, 1997, Mr. Virgona, formerly of your staff, informed me that the DOE was in agreement with the enclosed protocol. On January 6, 1998, Mr. Russel Edge, who replaced Mr. Virgona, confirmed DOE's agreement with the protocol. Please sign both copies and return one to me.

If you have any questions, please feel free to contact the NRC Project Manager for the protocol, Mr. James Park. Mr. Park can be reached at (301) 415-6699.

Sincerely,

A handwritten signature in cursive script, appearing to read "Joseph J. Holovich".

Joseph J. Holovich, Chief  
Uranium Recovery Branch  
Division of Waste Management  
Office of Nuclear Material Safety  
and Safeguards

Enclosures: As stated

cc: R. Lightner, DOE  
G. Real, DOE/AL  
R. Edge, DOE/GJO

LICENSE TERMINATION/SITE TRANSFER PROTOCOL  
BETWEEN  
THE U.S. DEPARTMENT OF ENERGY  
AND  
THE U.S. NUCLEAR REGULATORY COMMISSION

Background

Under Title II of the Uranium Mill Tailings Radiation Control Act of 1978 (UMTRCA), the U.S. Department of Energy (DOE) has a statutory obligation to accept title to uranium and thorium byproduct material disposal sites for long-term surveillance and maintenance if the state in which the site is located does not become the long-term custodian. After termination of the specific license for a Title II site and the acceptance by the U.S. Nuclear Regulatory Commission (NRC) of the site's Long-Term Surveillance Plan (LTSP), the site will come under the DOE's general license for custody and long-term care pursuant to 10 CFR 40.28, entitled "General license for custody and long-term care of uranium or thorium byproduct materials disposal sites."

For the DOE to be able to assume its responsibilities as long-term custodian, a series of activities must be accomplished. The accomplishment of these activities in a timely manner will require close cooperation between the DOE and the NRC. The DOE will also be dependent on the current site licensee for information to facilitate the DOE's preparation of the LTSP. Since the DOE has no direct authority over the current licensees, the DOE must look to the NRC for assistance with gaining the cooperation of the licensees, if necessary. Additionally, the DOE requires assistance from the NRC in ensuring that any Title II site deemed ready for transfer to the DOE for long-term custody, does not have any outstanding administrative or technical issues, particularly regulatory jurisdictional issues.

Purpose

The purpose of this License Termination/Site Transfer Protocol is to identify areas of mutual cooperation, necessary for both the DOE and the NRC to assure a smooth transition of Title II sites licensed by NRC from the licensee to the DOE. This Protocol will formalize the understandings that have been developed between the DOE and the NRC for the transfer of the Title II sites to the DOE for long-term custody. This Protocol can be viewed as a "safety net" that has been established to assure that potentially troublesome or time-consuming issues are not overlooked accidentally during the site transition process.

This Protocol also provides the opportunity for the DOE to present issues to the NRC for the NRC to consider and help resolve in the process. It provides the NRC with an opportunity to identify concerns related to long-term licensing early. This will help ensure that the DOE will be able to develop an acceptable response to NRC concerns early in the licensing process.

Enclosure

## Policy

The NRC and the DOE will work together to identify, as early as practicable, all issues that may impact the smooth transfer of Title II sites to the DOE for long-term custody. The agencies will work together to resolve those issues in keeping with the cooperative spirit that has been established in developing this Protocol.

### Specific Items Covered by License Termination/Site Transfer Protocol

1. The NRC's role as a regulator of current licensees is to ensure that licensees who hold NRC specific licenses have demonstrated that all applicable NRC requirements have been met and that a suitable Long-Term Surveillance Plan has been submitted by the DOE before the NRC will terminate that specific license. The DOE's role as the general licensee is to provide long-term surveillance and maintenance.
2. The NRC will use the Final Standard Review Plan (SRP) (NRC, 1993), to the extent possible, as the standard for review of the Title II site reclamation plans. This action will assure the DOE that Title II sites which become the responsibility of the DOE for long-term custody will be reviewed using the same methods that have been applied to Title I sites. The DOE and the NRC recognize that there are some sites where the evaluation of the reclamation design was completed prior to the development of the SRP.
3. The NRC and the DOE will work together with the U.S. Environmental Protection Agency (EPA) to develop an interagency policy on closure and post-closure issues that will meet the statutory and regulatory missions and requirements of all three agencies for the two NRC-licensed uranium mill sites being remediated under UMTRCA which are also under the National Priority List: Homestake/Grants; UNC/Churchrock. For two additional sites, Cotter/Canon City and UMETCO/Uravan, the State of Colorado is the primary regulatory authority. As to these two sites, NRC has a more limited role. The DOE and the NRC also recognize that once all applicable NRC requirements are met, the NRC will not have a basis for denying a request to terminate any specific license. However, the NRC agrees that before it terminates any license for a site on the National Priority List or subject to continuing regulation by the EPA, the NRC will inform the DOE of the pending action, and will, where possible, provide additional time for the DOE to resolve the issue with the EPA.
4. The NRC and the DOE will work cooperatively with State regulatory authorities and licensees in an attempt to resolve all appropriate groundwater issues prior to termination of the site-specific license and transfer of the site to the DOE. The process outlined in the protocol has been implemented in the license termination and long-term licensing of the Tennessee Valley Authority Edgemont mill, and the Atlantic Richfield Corporation Bluewater mill. The NRC agrees that it will not terminate any site-specific license until the site licensee has demonstrated that all issues with state regulatory authorities have been resolved.

5. The DOE will make every effort to obtain directly from the licensees, site reclamation documentation, at an early enough date to allow for the DOE to develop the Long-Term Surveillance Plan (LTSP) in a timely manner that does not delay termination of the current site license. In the event that a current licensee is not forthcoming in providing the DOE with the necessary information for timely development of the LTSP, the DOE requests that the NRC exert its influence to assist the DOE in obtaining the necessary information. In the event of a nonexistent licensee, the NRC will provide the DOE with information from NRC files in order to write an LTSP.
6. The DOE will develop an LTSP of comparable scope and level of detail for Title II sites as the DOE provides for its own Title I sites.
7. The DOE and the NRC will work together to eliminate redundant efforts with respect to satisfying any National Environmental Policy Act (NEPA) requirements that may be associated with the Federal action of transferring a Title II site to the DOE.
8. The DOE and site licensees will work together in developing an appropriate index of Title II site records that should reside in the DOE permanent site file. The NRC will provide any information requested by the DOE that the NRC has readily available. In addition, as agreed upon in paragraph 5 above, the NRC will work with the DOE to help obtain any information from licensees.
9. Where appropriate, the NRC will work with the DOE and the licensees on the determinations regarding site boundary identification, including boundary decisions for Alternative Concentration Limits, site access using roads currently available, site security, monumentation, signs, etc., on a site-by-site basis, as appropriate, to yield final site conditions that enhance the DOE's ability to institutionally control the sites. The NRC and the DOE will work cooperatively with site licensees prior to termination to ensure the acceptability of the site for transfer. If the licensee is unwilling to complete the necessary work, the NRC and the DOE will work together to determine what additional increase will be needed in the long-term care fund to cover the one-time cost of work needed to bring the site to an acceptable condition.
10. The NRC and the DOE will work with licensees to assure that all monitor wells that are not required by the license for long-term custody are abandoned in accordance with state law and that all monitor wells that are required for monitoring are equipped with an appropriate cap-locking system, prior to license termination and transfer of the site to the DOE. The NRC and the DOE will work cooperatively with site licensees prior to termination to ensure these final site conditions.
11. The NRC will notify the DOE of any inspections of Title II sites. The DOE can participate if it so chooses. The NRC is not responsible for any injuries incurred by DOE or DOE contractor personnel while these personnel are participating in or observing an NRC inspection or site visit. Likewise, the DOE will inform the NRC of any site visits. The NRC can participate if it so chooses. The DOE will report to the NRC any circumstances the DOE identifies during a DOE site visit that the DOE believes may be of concern to the NRC.

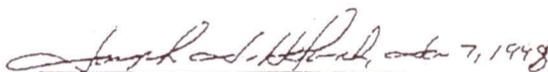
12. The DOE will provide the NRC with documentation of title transfer.
13. The receipt of 10 CFR Part 40, Appendix A, Criterion 10 payment by the NRC will be copied to the DOE. The DOE will notify the NRC in writing of any Criterion 10 payments that the DOE receives.
14. The NRC and the DOE will work with the current licensees to assure that sites are free of any unwanted buildings, derelict equipment, or trash that would otherwise not be covered by the site decommissioning plan, prior to site transfer to the DOE. The NRC and the DOE will work cooperatively with site licensees prior to termination to ensure these final site conditions.
15. The NRC will consider the DOE's input regarding anticipated site surveillance and maintenance costs when negotiating the Criterion 10 fee with the current licensees.

#### Review

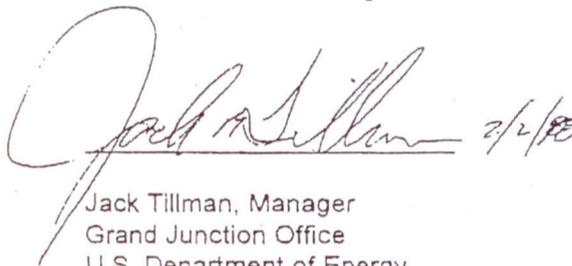
This Protocol shall be reviewed periodically by the NRC and the DOE to assure the continued usefulness and relevance of the document. The review period is every two years. Periodic review of this Protocol shall be conducted concurrently by the DOE Grand Junction Office and the NRC Uranium Recovery Branch.

#### References

NRC (U.S. Nuclear Regulatory Commission), 1993. "Final Standard Review Plan for the Review and Remedial Action of Inactive Mill Tailings Sites under Title I of the Uranium Mill Tailings Radiation Control Act," Revision 1, U.S. Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Division of Low-Level Waste Management and Decommissioning.

 7/1/98

Joseph J. Holonich, Chief  
Uranium Recovery Branch  
Division of Waste Management  
Office of Nuclear Material Safety  
and Safeguards  
U.S. Nuclear Regulatory Commission

 2/2/98

Jack Tillman, Manager  
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