

December 16, 2011

Mr. Gerald J. Rood
Acting Director, Hematite Decommissioning Project
Westinghouse Electric Company
3300 State Road P
Festus, MO 63028

SUBJECT: CLARIFICATION OF ITEMS ASSOCIATED WITH WESTINGHOUSE HEMATITE
10 CFR 20.2002 ALTERNATE DISPOSAL SAFETY EVALUATION REPORT
ASSOCIATED WITH HEMATITE AMENDMENT NO. 58 ISSUED ON OCTOBER
27, 2011 (SNM-33)

Dear Mr. Rood:

On October 27, 2011, the U.S. Nuclear Regulatory Commission (NRC) issued Amendment No. 58 to the Westinghouse Electric Company, LLC (Westinghouse or WEC) Hematite License. Amendment No. 58 approved the disposal of source, byproduct, and special nuclear materials at a burial facility that is not licensed by the NRC or an NRC Agreement State. Enclosed with the amended license was the NRC staff's Safety Evaluation Report (SER).

A discussion with members of your staff has identified the need to clarify certain aspects of the NRC's SER. In particular, the following aspects require clarification:

- Planned disposal of diffuse but not discrete items of Highly Enriched Uranium (HEU) at the U.S. Ecology, Inc. (USEI) facility located at Grand View, ID
- Tc-99 limits for disposal at an NRC-licensed facility
- Section 7.4 Summary - correction of error in shipment limits

Disposal of HEU

This issue centers on HEU-related disposal statements contained in the NRC's October 28, 2011, SER "Request for Alternate Disposal Approval and Exemptions for Specific Hematite Decommissioning Project Waste at US Ecology's Idaho Facility" (ML111441087). In Section 2 of the SER, the NRC staff stated that "Highly Enriched Uranium (HEU) will not be shipped to the USEI facility." In Section 7.1 of the SER, NRC staff stated that ". . . [i]n WEC's December 29, 2009, response (ML100320540) to staff's RAI, WEC indicated that no HEU material would be shipped to USEI." These SER statements were made in relation to discrete HEU. It is NRC staff's understanding that WEC's license amendment requests involved the shipment of diffuse HEU to USEI. This understanding is based on WEC's December 29, 2009, response to NRC Requests for Additional Information (RAIs) which indicated that discrete HEU would be segregated and not shipped to USEI. It is further supported by WEC's response to the NRC's January 29, 2011, RAIs on the Fundamental Nuclear Material Control Plan (FNMCP) which indicated that ". . . [s]torage of recoverable special nuclear material," is specified in the FNMCP

and that “. . . specific details of secure storage of the material discussed,” (i.e., discrete HEU) are contained within the Physical Security Plan (PSP) and Security Contingencies. In addition, both the Hematite FNMCP and the PSP made the point of defining diffuse material containing special nuclear material (SNM) (i.e., diffuse HEU). Specifically, diffuse material was defined as segregated material that contains sufficiently low amounts of SNM such that when the segregated material is commingled with bulk material (e.g., contaminated soil), the amount of SNM in the commingled material is sufficiently low to meet the fissile exempt criteria (10 CFR 71.15) when packaged for shipment. Consequently, to clarify the issue, the prohibition of shipping HEU to USEI contained in the NRC’s October 28, 2011 SER refers to discrete HEU and not bulk material containing diffuse HEU.

Tc-99 limits at an NRC-licensed facility

In Section 4.4 of the October 27, 2011, SER, the staff stated that “. . . the 1 Ci and 1.6 Ci Tc-99 limits must be met, regardless of whether this material is disposed of at USEI or at an NRC licensed facility.” The latter portion of that statement is incorrect. There is no requirement for an NRC-licensed facility to meet the 1 Ci or the 1.6 Ci Tc-99 limits as those limits were established only for the material being shipped to the USEI facility. Any limitations on materials received at NRC-licensed facilities are based upon the burial facility’s specific application and the NRC’s associated SER.

Section 7.4 Summary

In the Summary (SER Section 7.4), NRC staff stated that “[w]ith respect to transportation of the material from Hematite to the USEI site, the staff concluded that security aspects are appropriately covered in all cases except for the shipment of 1 kg or more of intermediate enriched uranium.” The value in the staff’s SER should have been 10 kg instead of 1 kg.

In accordance with 10 CFR 2.390 of the NRC’s “Rules of Practice for Domestic Licensing Proceedings and Issuance of Orders,” a copy of this letter will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records component of NRC’s Agencywide Documents Access and Management System (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>.

G. Rood

3

Please contact Mr. John Hayes if you have any questions concerning the above. He can be reached at (301) 415-5928 or via email at John.Hayes@nrc.gov.

Sincerely,

/RA/

Paul Michalak, Acting 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

Docket No.: 70-36

License No.: SNM-33

cc Westinghouse – Hematite Service List

Please contact Mr. John Hayes if you have any questions concerning the above. He can be reached at (301) 415-5928 or via email at John.Hayes@nrc.gov.

Sincerely,

/RA/

Paul Michalak, Acting 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

Docket No.: 70-36

License No.: SNM-33

cc Westinghouse – Hematite Service List

DISTRIBUTION: M. LaFranzo, RIII

OFC	DWMEP	DWMEP	NSIR	OGC	DWMEP	DWMEP
NAME	JHayes	SAchten	SWastler	MYoung	SAchten	PMichalak
DATE	11/21/11	11/21/11	11/22/11	12/09/11	12/12/11	1216/11

OFFICIAL RECORD COPY

Westinghouse - Hematite Service List
cc:

Alex S. Polonsky
Morgan Lewis, Esq.
Morgan, Lewis & Kocjus LLP
1111 Pennsylvania Avenue, NW
Washington, DC 20004

R. Budd Haemer
Shaw Pittman, LLP
2300 N Street, NW
Washington, DC 20037-1128

Eric Gilstrap
Environmental Engineer
Department of Natural Resources
Federal Facilities Section
State of Missouri
917 N. Highway 67, Suite 104
Florissant, MO 63031

Kathleen M. Waltz
The Honorable Russ Carnahan
517 Bailey Road
Crystal City, MO 63019

Ramona J. Huckstep
Community Relations Coordinator
Missouri Department of Natural Resources
Hazardous Waste Program
State of Missouri
P.O. Box 176
Jefferson City, MO 65103-0176

Aaron Schmidt, Chief
Federal Facilities Section
Missouri Department of Natural Resources
P.O. Box 176
Jefferson City, MO 65103-0176

Daniel Schuette, Director
Division of Environmental Quality
Missouri Department of Natural Resources
P.O. Box 176
Jefferson City, MO 65102

Sara Parker Pauley, Director
Missouri Department of Natural Resources
P.O. Box 176
Jefferson City, MO 65103-0176

Glenda Miller, Director
Division of Community and Public Health
Missouri Department of Health & Senior
Services
930 Wildwood
P.O. Box 570
Jefferson City, MO 65102-0570

Dennis Diehl
Jefferson County Department of Public
Health
405 Main Street
P.O. Box 437
Hillsboro, MO 63050

Cliff Lane
Jefferson County Council Board of
Executives
District 6
P.O. Box 100
Hillsboro, MO 63050

Branden Doster
Operating Facilities Unit Chief
Federal Facilities Section
Department of Natural Resources
State of Missouri
P.O. Box 176
Jefferson City, MO 65102-0176

Michele M. Gutman
Westinghouse Electric Company LLC
4350 Northern Pike
Monroeville, PA 15146-2886

Happy Welch, Festus City Administrator
Festus City Hall
711 West Main
Festus, MO 63028

The Honorable Mike Cage
Mayor, Festus City
Festus City Hall
711 West Main
Festus, MO 63028