

August 12, 2013

Mr. Mark A. Zuschek, Counsel
Exxon Mobil Corporation
3225 Gallows Road, Room 3D0215
Fairfax, Virginia 22037

SUBJECT: RESPONSE TO REQUEST FOR U.S. NUCLEAR REGULATORY
COMMISSION STAFF LEGAL DETERMINATION REGARDING PRESENCE
OF 11e.(2) BYPRODUCT MATERIAL IN THE HIGHLAND PIT LAKE

Dear Mr. Zuschek:

By letter dated February 11, 2013 (ML13105A059), ExxonMobil requested that the U.S. Nuclear Regulatory Commission (NRC) staff make a final legal determination that the Pit Lake at the Highland uranium mill tailings facility, in the State of Wyoming, contains 11e.(2) byproduct material as defined under Section 11(e) of the Atomic Energy Act of 1954, as amended.

The NRC staff has reviewed your request and determined that it is duplicative of a license amendment request (ML11136A199), dated May 12, 2011, that is currently being reviewed by the NRC staff. As part of its 2011 license amendment request, ExxonMobil proposed that the Pit Lake be included within the long-term surveillance and monitoring boundary for the site as ExxonMobil believes that the Lake contains 11e.(2) byproduct material. The staff anticipates that it will make the necessary determination as to the appropriate classification of the radioactive material in the Pit Lake and its disposition within the context of the license amendment request currently under consideration.

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>.

M. Zuschek

2

If you have any questions regarding this letter or the enclosure, please contact Ted Carter, NRC Project Manager for the Highland Reclamation Project, at (301) 415-5543 or via e-mail to Ted.Carter@nrc.gov.

Sincerely,

/RA/

Michael A. Norato, PhD., Chief
Materials Decommissioning Branch
Division of Waste Management
and Environmental Protection
Office of Federal and State Materials
and Environmental Management Programs

Docket No.: 40-8102
License No.: SUA-1139

cc: S. Ingle, WDEQ
T. King, WDEQ

M. Zuschek

2

If you have any questions regarding this letter or the enclosure, please contact Ted Carter, NRC Project Manager for the Highland Reclamation Project, at (301) 415-5543 or via e-mail to Ted.Carter@nrc.gov.

Sincerely,

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Michael A. Norato, PhD., Chief
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