

April 15, 2014

Mr. Mark Kautsky
U.S. Department of Energy
Office of Legacy Management
2597 Legacy Way
Grand Junction, CO 81503

SUBJECT: U.S. DEPARTMENT OF ENERGY'S PROPOSAL TO TERMINATE GROUND WATER MONITORING AT THE NATURITA, COLORADO TITLE I SITE (Docket Number WM-00066)

Dear Mr. Kautsky:

I am writing in response to your letter, dated October 31, 2013, in which the U.S. Department of Energy (DOE) requested the U.S. Nuclear Regulatory Commission's (NRC's) concurrence on DOE's decision to terminate ground water monitoring at the Naturita Colorado Uranium Mill Tailings Radiation Control Act (UMTRCA) disposal site (Agencywide Document Access and Management System (ADAMS) Accession Number ML13316B561). In your letter, which was received by the NRC on November 12, 2013, you stated that, if you did not receive a response from NRC within 45 days of the receipt of the letter, DOE will assume that NRC has concurred with DOE's decision. On December 16, 2013, NRC staff informed you via email that DOE should not make any changes to the groundwater monitoring at the Naturita disposal site without NRC authorization. You acknowledged the NRC staff's email on that same day.

Before we comment on your request to cease ground water monitoring, the NRC staff feel it is important to point out that both DOE and NRC have important long-term site maintenance and oversight responsibilities at UMTRCA Title I and Title II sites. Executing these responsibilities requires that both Agencies ensure clear communication about our activities at the sites. NRC's role as the regulatory authority at UMTRCA Title I and Title II sites requires that we concur on DOE's proposed actions. To ensure that NRC's concurrence on DOE's proposed actions is clear and appropriately documented, the NRC will only provide our concurrence on DOE's proposed actions in writing, once the NRC has concluded its review and has determined that DOE's proposed action will be protective of the public health and safety and the environment. Therefore, in the future and, absent a written response from NRC, DOE should not assume that DOE has NRC's concurrence on DOE's proposed actions at UMTRCA sites.

NRC staff has completed its review of your letter and request to cease ground water monitoring at the Naturita disposal site. Based on our review, we have concluded that leakage from the disposal cell is not impacting the uppermost aquifer, and it would be unlikely for future impacts to occur since the tailings do not contain a significant driving force to allow vertical drainage of constituents of concern from the cell into the underlying Salt Wash Member, which overlies the Summerville Formation aquitard. Although uranium levels in monitoring wells BR95-1, BR95-2, and BR95-3 have been moderately increasing since approximately 2001, water levels have not indicated any mounding or fluctuations that would be indicative of seepage from the disposal cell. In addition, arsenic, molybdenum, vanadium, and additional water quality parameters measured during the ground water sampling events have remained stable. The lack of a

significant driving force, stable water levels, and stable water quality measurements all indicate that the disposal cell has not impacted ground water at the site. Therefore, we do not object to your proposed action to cease monitoring ground water in monitoring wells BR95-1, BR95-2, BR95-3, CM93-1 and CM93-2.

NRC regulations at 10 CFR 40.27(b)(2) state that “[i]f the disposal site has continuing aquifer restoration requirements, then the licensing process will be completed in two steps. The first step includes all items other than ground water restoration. Ground water monitoring, which would be addressed in the LTSP, may still be required in this first step to assess performance of the tailings disposal units. When the Commission concurs with the completion of ground water restoration, the licensee shall assess the need to modify the LTSP and report results to the Commission. If the proposed modifications meet the requirements of this section, the LTSP will be considered suitable to accommodate the second step.”

Section 2.6 of the LTSP for the Naturita site describes the ground water monitoring plan for the site. Because the monitoring of ground water from the disposal cell is described in the LTSP, DOE should revise the LTSP to remove the discussion of ground water monitoring and submit the revised LTSP to NRC in accordance with 10 CFR 40.27(c). In addition, NRC staff suggest that NRC and DOE discuss, and agree on, whether ongoing ground water monitoring may still be appropriate at the Naturita site prior to DOE’s submission of the revised LTSP. We also suggest that this discussion include staff from the Colorado Department of Public Health and Environment.

In accordance with 10 CFR 2.390 of the NRC’s “Agency Rules of Practice and Procedure,” 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 ADAMS. ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>.

Sincerely,

/RA/

Dominick A. Orlando, Senior Project Manager
Materials Decommissioning Branch
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.: WM-00066

cc:

W. Naugle, CDPHE

A. Gill, DOE/LM

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