

From: [John Mays](#)
To: [Burrows, Ronald](#)
Cc: [Yilma, Haimanot](#)
Subject: RE: Request concurrence: Need to add conforming language to License Condition 12.1
Date: Wednesday, March 05, 2014 9:19:37 AM

Ron,

Powertech concurs with the changes to the text in the license condition below.

Thanks.

John



John M. Mays

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From: Burrows, Ronald [mailto:Ronald.Burrows@nrc.gov]
Sent: Tuesday, March 04, 2014 2:29 PM
To: John M. Mays
Cc: Yilma, Haimanot
Subject: Request concurrence: Need to add conforming language to License Condition 12.1

Good afternoon, John.

In NRC's response to EPA's comments on the draft SEIS regarding 40 CFR Part 61, Subpart W, NRC responded with the text below (see p. E-71 of ML14024A478). The highlighted text (see background information below) is a revised standard license condition, but I don't see communication between NRC and Powertech discussing this and following up with Powertech's concurrence. Therefore, NRC is seeking your concurrence for adding the highlighted conforming text below ("and approvals") to draft license condition 12.1.

Here is the current language from the fourth draft license condition 12.1:

12.1 Prior to commencement of operations in any production area, the licensee shall obtain all necessary permits and licenses from the appropriate regulatory authorities. The licensee shall also submit a copy of all permits for its Class III and Class V underground injection wells to the NRC.

The highlighted text is the conforming language we need to add to draft license condition 12.1:

12.1 Prior to commencement of operations in any production area, the licensee shall obtain all necessary Permits, licenses, and approvals from the appropriate regulatory authorities. The licensee shall also submit a copy of all permits for its Class III and Class V underground injection wells to the NRC.

Please let me know if you have any questions.

Regards,

Ronald A. Burrows

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Background Information

E5.10.3 Clarification of Other Federal/State Regulations and Practices

Comment: 049-000001

The commenter stated that as presented in the draft EIS, the three waste disposal options will not meet the current regulatory requirements of 40 CFR Part 61, Subpart W, National Emission Standards for Radon Emissions From Operating Mill Tailings. This regulation allows for two impoundments (i.e., ponds) each one no more than 16 ha [40 ac]. No new impoundment can be built unless it meets the work practice standards in Subpart W. The commenter stated further an application for the construction of any new source or the modification of an existing source must be submitted to EPA for approval, in accordance with 40 CFR 61.07. Each pond must meet the requirements of 40 CFR 192.32(a), as referenced in 40 CFR 61.252(b)(1)

(e.g., double liner, leak detection). The commenter noted NRC should ensure the facility design meet the regulatory requirements of 40 CFR Part 61, Subpart W, and document this in the final EIS. The commenter pointed out that EPA is currently considering revisions to 40 CFR Part 61, Subpart W that may result in changes to this requirement (<http://www.epa.gov/rpdweb/OO/neshaps/subpartw/rulemaking-activity.html>).

Response: *The NRC staff acknowledges 40 CFR Part 61, Subpart W requirements associated with the use of ponds as part of wastewater disposal systems. As described in NRC Regulatory Guide 3.11 (NRC, 2008), siting and design of retention ponds at ISR facilities should consider the requirements of EPA's national emission regulations under 40 CFR Part 61, Subpart W. To ensure compliance with 40 CFR Part 61, Subpart W, the applicant may need to acquire an approval from EPA prior to commencing operations in any wellfield. NRC does not have a similar requirement for ISR facilities. However, if NRC were to grant Powertech a license based on the satisfactory compliance of NRC's regulatory requirements, Powertech is still responsible for obtaining other federal, state, and local permits or approvals, as necessary before commencing operations. **The NRC staff has included a license condition which prohibits the licensee from commencing operations until the licensee obtains all necessary permits, licenses, or approvals from the appropriate regulatory authorities (NRC, 2013, License Condition 12.1).***

Text was added to SEIS Sections 2.1.1.1.2.4.1 and 2.1.1.1.2.4.2 to (i) indicate that siting and design of retention ponds at ISR facilities should consider the requirements of EPA's national emission regulations under 40 CFR Part 61, Subpart W, and (ii) document that, by license condition, the applicant may need to acquire an approval from EPA prior to commencing operations in any wellfield to ensure compliance with 40 CFR Part 61, Subpart W.