

# **TECHNICAL EVALUATION REPORT: FINANCIAL ASSURANCE UPDATE FOR WESTERN NUCLEAR INC'S, SPLIT ROCK SITE, IN JEFFREY CITY, WYOMING, SOURCE MATERIALS LICENSE SUA-56, DOCKET 040-1162**

## **BACKGROUND**

Western Nuclear, Inc. (WNI) is the holder of U.S. Nuclear Regulatory Commission (NRC) License No. SUA-56 for its former Split Rock conventional uranium mill site near Jeffrey City, Wyoming. WNI has been an NRC licensee since 1958. The Split Rock site ceased active uranium recovery operations in 1987 and has been engaging in final site reclamation activities since then.

By letter dated September 28, 2015, WNI submitted its annual 2015 surety update (ML15280A107). The update included costs associated with water monitoring, site transfer, and long-term care fee. The update also included a contingency factor of 15 percent.

## **REGULATORY FRAMEWORK**

WNI's license, SUA-56, was issued under 10 CFR Part 40, Domestic Licensing of Source Material. 10 CFR 40, Appendix A, Criteria 9, "Financial Criteria" and License Condition 29 require WNI to maintain an NRC-approved financial surety arrangement to cover estimated costs for its decommissioning and decontamination activities. It also requires them to provide annual updates to its surety amount.

10 CFR 40, Appendix A, Criterion 9 of Title 10 of the Code of Federal Regulations states:

Financial surety arrangements must be established by each mill operator before the commencement of operations to assure that sufficient funds will be available to carry out the decontamination and decommissioning of the mill and site and for the reclamation of any tailings or waste disposal areas. The amount of funds to be ensured by such surety arrangements must be based on Commission-approved cost estimates in a Commission-approved plan, or a proposed revision to the plan submitted to the Commission for approval.

## **NRC STAFF REVIEW**

The NRC staff reviewed WNI's financial assurance update using the guidance in NUREG 1620, Revision 1, "Standard Review Plan for the Review of a Reclamation Plan for Mill Tailings Sites Under Title II of the Uranium Mill Tailings Radiation Control Act of 1978," dated June 2003 (NUREG 1620, Rev. 1). The NRC staff finds the information submitted by WNI is consistent with the relevant guidance in Appendix C, "Outline Recommended by the U.S. Nuclear Regulatory Commission Staff for Preparing Site-Specific Facility Reclamation and Stabilization Cost Estimates for Review" in NUREG 1620, Rev. 1, including describing the adjustments to surety amounts made by WNI and Freeport as follows:

(1) Adjustments for Inflation - WNI's submittal includes a request for an amendment to its license's current surety amount based upon an adjustment for inflation between August

2014 and August 2015. The result is an increase to the surety amount of \$4,219 for a new total amount of \$1,132,374.

(2) Changes in Plans - WNI's submittal does not include any changes in size or method of operation; licensee-initiated changes in reclamation plans or reclamation decommissioning activities; or any NRC required adjustments to its reclamation plans.

## **CONCLUSIONS**

Based on the above, the NRC staff finds that the annual surety update is acceptable. WNI's submission meets the requirements of 10 CFR Appendix A, Criterion 9, and 10 CFR 40.36(e)(2). The licensee has provided an updated surety update that reasonably covers the remaining decommissioning activities.

## **REVISED LICENSE CONDITION 29**

The licensee shall maintain an NRC-approved financial surety arrangement adequate to cover the estimated decommissioning and reclamation costs consistent with 10 CFR 40, Appendix A, Criteria 9 and 10. Costs will include work undertaken by a third party for the decommissioning and decontamination of the mill and mill site, for the reclamation of any tailings or waste disposal areas, for groundwater restoration as warranted, and for the long-term surveillance fee.

When the NRC approves a revised decommissioning and reclamation plan, the licensee shall submit for NRC review and approval, a proposed revision to the financial surety arrangement if estimated costs of the new plan exceed the amount of the existing surety. The licensee shall have a revised surety approved by the NRC in effect, not later than three (3) months after the NRC approves a revised plan.

10 CFR Part 40, Appendix A, Criteria 9 and 10 require that annual updates to the surety amount be submitted to the NRC at least 3 months prior to December 30 of each year. In case NRC's approval of a proposed revision to the surety is not completed thirty (30) days prior to the expiration date of the existing surety arrangement, the licensee shall extend the existing surety arrangement for one (1) year.

Annual updates or revisions shall include a breakdown of the cost estimates with adjustments for inflation and the basis for the cost estimates. The basis for the cost estimate is the NRC approved reclamation/decommissioning plan or NRC-approved revisions to the plan. The licensee shall maintain a contingency fee of at least fifteen (15) percent of the total cost estimate and the licensee must identify any changes in the engineering plans, or to activities performed at the site, and to any conditions that affect estimated costs for site closure.

The licensee shall provide the NRC with all surety-related correspondence submitted to the State of Wyoming, a copy of the Wyoming's surety review, and the final Wyoming-approved surety arrangement. The licensee shall also ensure that the surety expressly identifies the NRC's portion of the surety, when it is authorized to be held by the State of Wyoming.

Western Nuclear's NRC-approved financial assurance arrangement includes a surety, the PCG issued by Freeport-McMoRan Copper and Gold Inc., and a standby trust agreement that is accessible to the NRC. The total NRC portion of the financial assurance amount shall be no less than \$ 1,132,374.00. The financial assurance shall be continuously maintained in accordance with the recitals of the PCG unless and until a replacement is authorized by both the NRC and the State of Wyoming, to ensure compliance with 10 CFR Part 40, Appendix A, Criterion 9 and 10.

[Applicable Amendments: 24, 45, 53, 64, 66, 70, 72, 76, 85P, 93, 94, 95, 97, 100, 101, 102, 103, 104, 105, 106]