

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 040-8964; NRC-2014-0092]

Power Resources, Inc.

AGENCY: Nuclear Regulatory Commission.

ACTION: Temporary exemption; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing a temporary exemption from certain NRC financial assurance requirements to Power Resources, Inc., doing business as Cameco Resources (Cameco), in response to its annual financial assurance updates for its Smith Ranch-Highland *In-Situ* Recovery (ISR) project and the associated remote satellite facilities at Ruth and Gas Hills. Issuance of this temporary exemption will not remove the requirement for Cameco to provide adequate financial assurance through an approved mechanism but will allow the NRC staff to further evaluate whether the State of Wyoming's separate account provision for financial assurance instruments Cameco holds is consistent with the NRC's requirement for a standby trust agreement.

ADDRESSES: Please refer to Docket ID **NRC-2014-0092** when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- **Federal Rulemaking Web Site:** Go to <http://www.regulations.gov> and search for Docket ID **NRC-2014-0092**. Address questions about NRC dockets to Carol Gallagher;

telephone: 301-415-3463; e-mail: Carol.Gallagher@nrc.gov. For technical questions, contact the individual listed in the FOR FURTHER INFORMATION CONTACT section of this document.

- **NRC's Agencywide Documents Access and Management System (ADAMS):**

You may obtain publicly-available documents online in the ADAMS Public Documents collection at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "[ADAMS Public Documents](#)" and then select "[Begin Web-based ADAMS Search](#)." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr.resource@nrc.gov. The ADAMS accession number for each document referenced (if that document is available in ADAMS) is provided the first time that a document is referenced.

- **NRC's PDR:** You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Douglas T. Mandeville, Office of Nuclear Material Safety and Safeguards; U.S. Nuclear Regulatory Commission, Washington DC 20555-0001; telephone: 301-415-0724; e-mail: Douglas.Mandeville@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to part 40 of title 10 of the *Code of Federal Regulations* (10 CFR), appendix A, Criterion 9 and NRC Materials License SUA-1601, License Condition 9.5, Cameco is required to

submit to the NRC for review and approval an annual update of the financial surety to cover third-party costs for decommissioning and decontamination of the Smith Ranch-Highland ISR facility and its associated remote satellites located in Converse, Johnson, Campbell, and Fremont Counties, Wyoming. By letter dated December 4, 2014, Cameco submitted its annual financial surety update to the NRC staff for the Ruth remote satellite facility (Cameco 2014). Additionally, Cameco submitted its annual surety updates for the Smith Ranch-Highland facility and the Gas Hills remote satellite facility on July 7, 2015, and August 7, 2015 respectively (Cameco 2015a and Cameco 2015b). The NRC staff reviewed the annual financial surety update and found the values reasonable for the required reclamation activities (ADAMS Accession No. ML15348A074). Cameco maintains approved financial assurance instruments in favor of the State of Wyoming; however, it does not have a standby trust agreement (STA) in place, as required by 10 CFR part 40, appendix A, Criterion 9.

II. Description of Action

As of December 17, 2012, NRC's uranium milling licensees, which are regulated, in part, under 10 CFR part 40, appendix A, Criterion 9, are required to have an STA in place. Criterion 9 provides that if a licensee does not use a trust as its financial assurance mechanism, then the licensee is required to establish a standby trust fund to receive funds in the event the Commission or State regulatory agency exercises its right to collect the funds provided for by surety bond or letter of credit. The purpose of an STA is to provide a separate account to hold the decommissioning funds in the event of a default.

Consistent with the provisions of 10 CFR part 40, appendix A, Criterion 9(d), Cameco has consolidated its NRC financial assurance sureties with those Cameco is required to obtain

by the State of Wyoming, and the financial instrument is held by the State of Wyoming.

Cameco has not established an STA, nor has it requested an exemption from the requirement to do so.

Wyoming law requires that a separate account be set up to receive forfeited decommissioning funds but does not specifically require an STA. Section 35-11-424(a) of the Code of Wyoming states that “[a]ll forfeitures collected under the provisions of this act shall be deposited with the State treasurer in a separate account for reclamation purposes.” Under Wyoming Department of Environmental Quality (WDEQ) financial assurance requirements, WDEQ holds permit bonds in a fiduciary fund called an agency fund. If a bond is forfeited, the forfeited funds are moved to a special revenue account. Although the Wyoming special revenue account is not an STA, the special revenue account serves a similar purpose in that forfeited funds are not deposited into the State treasury for general fund use but instead are set aside in the special revenue account to be used exclusively for reclamation (i.e., decommissioning purposes).

The NRC has the discretion, under 10 CFR 40.14(a), to grant an exemption from the requirements of a regulation in 10 CFR part 40 upon request or on its own initiative, if the NRC determines the exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest. The NRC is issuing an exemption to Cameco from the STA requirements in 10 CFR part 40, appendix A, Criterion 9, for the current surety arrangement until March 26, 2017, for Ruth, September 30, 2017, for Smith Ranch-Highland, and November 7, 2017, for Gas Hills to allow the NRC an opportunity to evaluate whether the State of Wyoming’s separate account requirements for financial assurance instruments it holds is consistent with the NRC’s STA requirements.

III. Discussion

A. The Exemption is Authorized by Law

The proposed exemption is authorized by law as 10 CFR 40.14(a) expressly allows for an exemption to the requirements in 10 CFR part 40, Appendix A, Criterion 9, and the proposed exemption would not be contrary to any provision of the Atomic Energy Act of 1954, as amended.

B. The Exemption Presents no Undue Risk to Public Health and Safety

The exemption is related to the financial surety. The requirement that the licensee provide adequate financial assurance through an approved mechanism (e.g., a surety bond or an irrevocable letter of credit) would remain unaffected by the exemption. Rather, the exemption would only pertain to the establishment of a dedicated trust in which funds could be deposited in the event that the financial assurance mechanism needed to be liquidated. The requirement in 10 CFR part 40, Appendix A, Criterion 9(d), allows for the financial or surety arrangements to be consolidated within a State's similar financial assurance instrument. The NRC has determined that while the State of Wyoming does not require an STA, the special revenue account may serve a similar purpose in that forfeited funds are not deposited into the State treasury for general fund use but, instead, are set aside in the special revenue account to be used exclusively for site-specific reclamation (i.e., decommissioning purposes). Because the licensee remains obligated to establish an adequate financial assurance mechanism for its licensed sites, and the NRC has approved such a mechanism, sufficient funds are available in the event that the site would need to be decommissioned. A temporary delay in establishing an STA does not impact the present availability and adequacy of the actual financial assurance

mechanism. Therefore, the limited exemption being issued by the NRC herein presents no undue risk to public health and safety.

C. The Exemption is Consistent with the Common Defense and Security

The proposed exemption would not involve or implicate the common defense or security. Therefore, granting the exemption will have no effect on the common defense and security.

D. The Exemption is in the Public Interest

The proposed exemption would enable the NRC staff to evaluate the State of Wyoming's separate account provision and the NRC's STA requirement to determine if they are comparable. The evaluation process will allow the NRC to determine whether the licensee's compliance with the state law provision will satisfy the NRC requirement as well. Therefore, granting the exemption is in the public interest.

E. Environmental Considerations

The NRC staff has determined that granting of an exemption from the requirements of 10 CFR part 40, Appendix A, Criterion 9 belongs to a category of regulatory actions that the NRC, by regulation, has determined do not individually or cumulatively have a significant effect on the environment and, as such, do not require an environmental assessment. The exemption from the requirement to have an STA in place is eligible for categorical exclusion under 10 CFR 51.22(c)(25)(vi)(H), which provides that exemptions from surety, insurance, or indemnification requirements are categorically excluded if the exemption would not result in any significant hazards consideration, change or increase in the amount of any offsite effluents, increase in individual or cumulative public or occupational radiation exposure, construction

impacts, or increase in the potential for or consequence from radiological accidents. The NRC staff finds that the STA exemption involves surety, insurance, and/or indemnity requirements and that granting Cameco this temporary exemption from the requirement of establishing a standby trust arrangement would not result in any significant hazards or increases in offsite effluents, radiation exposure, construction impacts, or potential radiological accidents. Therefore, an environmental assessment is not required.

IV. Conclusion

Accordingly, the NRC has determined that, pursuant to 10 CFR 40.14(a), the proposed temporary exemption is authorized by law, will not present an undue risk to the public health and safety, is consistent with the common defense and security, and is in the public interest. NRC hereby grants Power Resources, Inc., doing business as Cameco Resources, an exemption from the requirement in 10 CFR Part 40, Appendix A, Criterion 9 to set up a standby trust to receive funds in the event the NRC or the State regulatory agency exercises its right to collect the surety. This exemption will expire on March 26, 2017, for Ruth, on September 30, 2017, for Smith Ranch-Highland, and on November 7, 2017, for Gas Hills.

Dated at Rockville, Maryland, this 29 day of February 2016.

For the Nuclear Regulatory Commission.

/RA/

John R. Tappert, Director,
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and Environmental Programs,
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