



Department of Energy
Washington, DC 20585

May 30, 2017

Maureen E. Wylie
Chief Financial Officer
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Ms. Wylie:

On various dates in 2016, staff representatives of the Nuclear Regulatory Commission (NRC) informally suggested to representatives of the Department of Energy (DOE) that DOE apply to be exempted from annual fees assessed under 10 C.F.R. Part 171.11(c) and user fees, or service fees, assessed under 10 C.F.R. Part 170.11(b) under DOE's general licenses covering both Title I and II sites under the Uranium Mill Tailings Radiation Control Act (UMTRCA). Pursuant to that suggestion, the Office of Legacy Management (LM) hereby requests an exemption from NRC-assessed UMTRCA-related user and/or annual fees.

DOE understands that NRC "may . . . grant an exemption from the requirements of this part that it determines is authorized by law or otherwise in the public interest." 10 C.F.R. §§ 170.11(b) (addressing user fees); 171.11(c) (addressing annual fees). Such an exemption is not available to DOE as a right, and is only available at NRC's discretion. Here, DOE believes that its maintenance, monitoring, and undertaking of emergency measures for UMTRCA sites is not inconsistent with other instances, where licensees were have granted an exemption from annual and user fees. Therefore, DOE suggests that NRC consider the following grounds for granting a full or partial exemption regarding the above mentioned UMTRCA sites: 1) the lack of a benefit to DOE from the licenses; 2) the licensed work's effect on public health and safety, including the purposes of UMTRCA; and 3) the added benefit to the taxpayer resulting from DOE process improvements.

1. Lack of a Benefit to DOE from the Licenses

DOE is statutorily required to obtain a general license from NRC pursuant to its UMTRCA obligations. 42 U.S.C. § 7914(f)(2) (requiring licenses for Title I sites); 42 U.S.C. § 2113(b)(1)(A)(2) (requiring licenses for Title II sites). DOE derives no corresponding benefits from its activities on the land. Thus, DOE acquires no benefit from its licenses either. Rather, these licenses merely enable DOE to complete its statutory obligations.

2. The Licensed Work's Effect on Public Health and Safety, Including Reducing Safety Risks

DOE's work on UMTRCA sites is in the public interest, as it minimizes or eliminates the potential public health risk these sites may present. In identifying its purpose, UMTRCA states

'...uranium mill tailings located at active and inactive mill operations may pose a potential and significant radiation health hazard to the public, and that the protection of the public



health, safety, and welfare . . . require that every reasonable effort be made to provide for the stabilization, disposal, and control . . . of such tailings The purposes of this Act are to . . . stabilize and control such tailings in a safe and environmentally sound manner and to minimize or eliminate radiation health hazards to the public.' PL 95-604, § 2(a-b).

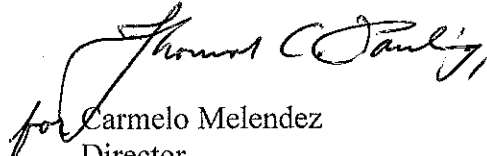
Thus, DOE acts in the public interest, where it maintains and monitors UMTRCA sites, in order to protect public health, safety, and the environment. Additionally, granting a full or partial exemption may free up future financial resources of DOE, which can then be used to maintain, monitor, or take any emergency measures at other Title I or Title II disposal sites LM manages.

3. DOE Process Improvements that Result in an Added Benefit to the Taxpayer, while yielding no monetary gain for DO

DOE engages in extensive process improvements including optimization of resources and other work, resulting in benefits to the taxpayer because DOE's future costs and any necessary appropriations are reduced. LM's process improvements are based on "lessons learned" from maintenance, monitoring, and any emergency measures at UMTRCA sites. These improvements are shared with NRC, and are available to the public. They benefit the taxpayer, while yielding no monetary gain for DOE.

If you have any questions, please do not hesitate to contact me or my Deputy Director, Mr. Thomas C. Pauling at 202-586-1782.

Sincerely,


for Carmelo Melendez
Director
Office of Legacy Management

cc:

D. Orlando, NRC
J. Tappert, NRC
D. Barr, DOE-LM (e)
R. Bush, DOE-LM (e)
A. Gil, DOE-LM (e)
D. Shafer, DOE-LM (e)
T. Smith-Taylor, DOE-LM (e)
T. Pauling, DOE-LM (e)
C. Pennal, DOE-LM (e)
B. Cook, Navarro (e)
D. Johnson, Navarro (e)
S. Marutzky, Navarro (e)
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