UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

March 21, 2018

Chairman Boyd I. Gourneau
Lower Brule Sioux Tribe
187 Oyate Circle
Lower Brule, SD 57548

SUBJECT: STATE OF WYOMING FINAL APPLICATION TO ASSUME REGULATORY AUTHORITY CURRENTLY HELD BY THE U.S. NUCLEAR REGULATORY COMMISSION

Dear Chairman Gourneau:

On April 25, 2017, the U.S. Nuclear Regulatory Commission (NRC) sent a letter informing you that the State of Wyoming submitted a draft application on October 26, 2016, to assume regulatory authority for activities related to uranium and thorium milling (also known as uranium recovery) under the NRC's Agreement State program. This letter is to inform you that the NRC has received, and is reviewing, the final application submitted by the State of Wyoming on November 14, 2017.

On April 20, 2017, the NRC provided comments to Wyoming on its draft application. Since that time, the State of Wyoming has been working to address comments on the draft application. The NRC is currently reviewing the final application to determine whether the State of Wyoming has resolved the NRC's comments. Additional information on the Wyoming Agreement process and links to the documents mentioned in this letter can be found on our Web site at https://www.nrc.gov/about-nrc/state-tribal/agreement-states/wyoming.html. We periodically update this Web site at each milestone in the Agreement process and provide links to documents related to the Agreement.

The NRC's Agreement State Program allows the NRC to discontinue, and a State to assume regulatory authority over radioactive materials and activities specified in an Agreement. The NRC approves an Agreement after finding the State's radiation control program is adequate to protect public health and safety and compatible with the NRC's nuclear materials program. Under the proposed Wyoming Agreement, the NRC would retain regulatory authority over source and byproduct material not related to milling activities, and special nuclear material in the State. The NRC would continue to consult with Lower Brule Sioux, as appropriate, on these regulatory activities. However, the NRC would no longer consult on activities related to uranium and thorium milling in Wyoming.

The NRC will require the State of Wyoming to have a program that is adequate to protect public health and safety and compatible with the NRC's regulatory program. This includes requiring the State to have procedures for licensing actions that have a significant impact on the environment to provide: 1) a written environmental analysis of radiological and non-radiological

impacts to public health and any impacts on surface or ground water; 2) an opportunity for public comment; and 3) hearings during the license review process. The NRC cannot require a State to include tribal consultation as part of its licensing reviews. However, the State can provide additional environmental and historic and cultural review requirements. The Wyoming Department of Environmental Quality has also indicated that tribal consultation is important, and the Department is currently deliberating on how that process would work most efficiently within existing Wyoming law.

Once the review of the final application is complete, the NRC staff will conduct an analysis of the State's final application for compliance with Commission policy, and anticipates publishing the analysis and draft Agreement in the *Federal Register* for 30 days for public comment in the early spring of 2018. We will inform you when the *Federal Register* notice is published to afford you the opportunity to provide comments. If an Agreement is finalized, the NRC will then discontinue its regulatory authority for uranium and thorium milling activities and transfer regulatory authority and related licenses to the State of Wyoming.

If you or other government officials would like additional opportunities to discuss the Agreement State Program and Wyoming's proposed program, please contact Mr. Paul Michalak, Branch Chief, Agreement State Programs Branch at (301) 415-5804, or by e-mail at Paul.Michalak@nrc.gov.

Sincerely,

/RA/
CEinberg for KWilliams

Kevin Williams, Acting Director
Division of Materials Safety, Security, State,
and Tribal Programs
Office of Nuclear Material Safety
and Safeguards

cc: Clair Green THPO
Tribal Historic Preservation Office
187 Oyate Circle
Lower Brule, SD 57548
Ryan Schierman,
Wyoming Department of Environmental Quality

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