



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

November 8, 2018

Mr. Michael Drozd  
Vice President Operation  
Vanadium Gibellini Co. and  
Prophecy Development Corp.  
51S Buehl St.  
Eureka, NV 89316

SUBJECT: PROPHECY DEVELOPMENT GIBELLINI HILL RADIOACTIVE MATERIALS  
LICENSING REGULATORY ANALYSIS

Dear Mr. Drozd:

The U.S. Nuclear Regulatory Commission (NRC) staff has received your letter dated September 24, 2018 (NRC's Agencywide Documents Access and Management System (ADAMS) Accession Number ML18285A065), which contains information about the Gibellini Hill project. The letter was submitted following a September 13, 2018 conference call with Prophecy Development (Prophecy), the NRC staff, and staff from the Nevada Department of Health and Human Services to discuss the Federal and State regulations that would apply to the Gibellini Hill project. The NRC staff appreciates Prophecy's input and position on the regulatory setting for this project. The remainder of this letter summarizes the NRC staff's understanding of the project and provides clarification on which group would be the appropriate regulator for radioactive materials present at the Gibellini Hill project.

The NRC staff agrees that the Gibellini Hill project ore is not producing byproduct material because the ore is not being processed primarily for its source material content. The project is intended for the production of vanadium as the primary product, and the sale of the extracted source material is secondary by a significant margin. Therefore, byproduct material as defined by Section 11.e.(2) of the Atomic Energy Act of 1954, as amended (AEA) will not be produced.

After reviewing the information provided in your letter, the NRC staff agrees that the uranium removal tank, drumming operation, and intermediate and associated equipment at the Gibellini plant contain source material concentrations of uranium as defined in Section 11.z of the AEA. In your letter, you state that the portion of the Gibellini process plant that contains source material concentrations of uranium is the uranium removal tank, drumming operation, and intermediate and associated equipment. Further, you indicate that the uranium concentration will exceed 0.05 percent by weight in the uranium removal tank and subsequent filter press and drumming operation.

Source material is subject to NRC licensing under 10 CFR Part 40, "Domestic Licensing of Source Material." The NRC staff understands that the uranium circuit present at Gibellini Hill is anticipated to recover approximately 50,000 pounds of such licensable source material per year. The NRC staff also understands that during the vanadium extraction process that Prophecy intends to remove and concentrate uranium at a level above the 0.05 percent exemption

threshold in 10 CFR 40.13(a), which means that a specific license to possess this material must be obtained from the NRC or an Agreement State. As discussed above, the NRC staff agrees that the Gibellini ore is not processed primarily for its source material content; therefore, the NRC staff further agrees that the Gibellini plant is not a uranium mill as defined in 10 CFR 40.4 and 10 CFR 40 Appendix A does not apply.

As you indicated in your letter, the State of Nevada is an Agreement State and would regulate the type and quantity of material to be generated at the Project. Therefore, the NRC staff recognizes Prophecy's position, as stated in its September 24, 2018 letter, that the State of Nevada would be the appropriate licensing authority for the Gibellini Hill project. Note that if Prophecy's plans for the Gibellini Hill project are altered and differ significantly from what was described in the September 24, 2018 letter, the NRC staff's position may need to be reevaluated.

In accordance with Title 10 of the *Code of Federal Regulations (10 CFR)*, Part 2.390 of the NRC's "Agency Rules of Practice and Procedure," a copy of this letter will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records component of NRC's ADAMS. ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>.

If you have any questions concerning the above, please contact Douglas Mandeville at (301) 415-0724 or via email at [Douglas.Mandeville@nrc.gov](mailto:Douglas.Mandeville@nrc.gov).

Sincerely,

*/RA/*

Douglas Mandeville  
Division of Decommissioning, Uranium Recovery  
and Waste Programs  
Office of Nuclear Material Safety  
and Safeguards

cc: K. Beckley (State of Nevada)  
A. Howe (State of Nevada)  
T. Tangen (Newfields)

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LICENSING REGULATORY ANALYSIS **DATE November 8, 2018**

**ADAMS Accession No. ML18283A071**

**\*via email**

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DATE	10/15/18	11/8/18	11/7/18	10/20/18	11/8/18

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