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PRM-40-21

RECEIVED

COLORADO DEPARTMENT OF HEALTH

4210 EAST 11TH AVENUE DENVER, COLORADO 80220 PHONE 320-8333

December 20, 1978

Hub Miller
Nuclear Materials Safety Branch
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

THIS DOCUMENT CONTAINS
POOR QUALITY PAGES

Dear Mr. Miller:

At your request we are submitting at this time our preliminary comments based upon an incomplete review of the G.E.I.S. on Uranium Milling. We have major concerns with the following areas:

- I. Hazards from solution mining and milling.
- II. Hazards from conventional mines and mine wastes.
- III. Criteria for Reclamation and Maintenance Sureties.
- IV. Elimination of the YellowCake dryer circuit.
- V. Evaluation of Ore Haulage costs to avoid proliferation of many small mills.
- VI. Need for clarification of the "depositional proposal."
- VII. Need to emphasize long term monitoring requirements.

- I. In terms of environmental impact to groundwaters, the rapid increase of solution mining projects may portend a greater hazard than conventional mining. Large areas of Colorado, Wyoming and Texas may be involved with this. The area in Colorado that may become involved may be larger than some New England states. The G.E.I.S. should give it equal treatment. Current projections of production by conventional versus non conventional processes should be provided.
- II. The Radon Hazard from mines and waste piles may be worse than from mills and tailings piles. Ground water contamination from mining operations also needs to be evaluated.
- III. It is a mistake to pose a set figure for the amount of long term reclamation and monitoring sureties. It would be much better to establish criteria by which to tailor a surety agreement for each specific situation. An evaluation should be made of the need for catastrophic insurance for tailings piles.
- IV. Consideration must be given to action at the Federal level to phase out YellowCake dryer operations which are one of the worst sources of environmental and occupational hazard. This problem can only be dealt with by the Federal government through its licensing control of the

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uranium conversion plants.

- V. There needs to be an evaluation of the total impact of ore transportation versus the impact of mill proliferation. Regulatory agencies would then have a basis for deciding whether or not to encourage the construction of a few large mills versus a multitude of smaller ones.
- VI. There are contradictions in the concept of espousing a depositional environment for tailings. First it should be made clear whether one means depositional with respect to water or air, or both. Secondly, in order to avoid contact with a water table or with flood forces, one would attempt to place the tailings on as high a ground as possible, with a minimum of drainage area above them. This however, minimizes one's chances for a water depositional situation.
- VII. Long term maintenance and monitoring must be clearly distinguished and identified. So called 'walk away' designs requiring minimum maintenance may still require extensive monitoring to identify or forewarn both expected and unforeseen contingencies.

If we may be of further assistance, please contact this Division.

Sincerely,

Richard Gamewell

Richard Gamewell, Senior Health Physicist
Radiation and Hazardous
Wastes Control Division

RG:er

Enclosure: Cotter Corp. Whitewater Colorado Bonding Agreement
Ranchers Corp. To follow

FINANCIAL ASSURANCE AGREEMENT

THIS AGREEMENT, made this 8th day of September, 1978, by and between the State of Colorado (called the "State") for the use and benefit of the Department of Health, (Radiation and Hazardous Wastes Control Division) hereinafter referred to as the "Department", and COTTER CORPORATION (hereinafter called "Cotter"), a New Mexico corporation duly qualified to do and doing business in the State with principal offices in Lakewood, Colorado.

WITNESSETH:

WHEREAS, Cotter, a wholly owned subsidiary of Commonwealth Edison Company, owns and operates a uranium milling facility located in Canon City, Colorado and has been engaged in that activity since 1956 and proposes to continue uranium milling in an expanded facility at Canon City for an additional period of at lease fifteen (15) years, and

WHEREAS, the Department, on February 10, 1978, issued to Cotter radioactive materials license No. Colo. 369-02S for the operation of an ore buying and sampling station located at White-water, Mesa County, Colorado, hereinafter called the "project" (legal description annexed hereto as Exhibit "A" and made a part hereof), which authorizes Cotter to engage in crushing, sampling and analysis of uranium ore to be shipped primarily to said Canon City, Colorado mill, and

WHEREAS, Condition No. 17 of license No. Colo. 369-02S requires that Cotter establish a financial surety or assurance arrangement relating to the operation and undertakings to be conducted pursuant to said license, and

WHEREAS, Cotter wishes, by these presents, to furnish the financial assurances required by condition No. 17 in license Colo. 369-02S, and

WHEREAS, the Department deems the undertakings of Cotter hereinafter set forth or referenced in this agreement to be acceptable and consonant with the protection of the health and safety of the public, and

WHEREAS, required approval, clearance and coordination has been accomplished from and with appropriate agencies.

NOW THEREFORE, in consideration of the premises, of license No. Colo. 369-02S and of the authorizations and undertakings of the parties specified in said license and herein, it is agreed as follows:

1. WARRANTIES:

- a) Cotter warrants that it is a corporation in good standing and duly qualified to do business in the State of Colorado; that it is duly authorized by resolution of its Board of Directors and by its parent company, the Commonwealth Edison Company, to enter into this Agreement.
- b) The Department warrants that it is duly empowered to approve and execute this Agreement on behalf of the State and to administer the terms and provisions hereof.

2. UNDERTAKINGS:

- a) Cotter shall conduct all activities authorized by license No. Colo. 369-02S strictly in accordance with the provisions and conditions thereof, in a manner consonant with the protection of the health and safety of the public.

b) To ensure completion of the objectives stated in this paragraph "b", the clean-up procedures set forth in Exhibit "B", attached hereto and by reference made a part hereof, shall be performed by Cotter. If Cotter fails or refuses to perform the prescribed clean-up in a timely manner the funds deposited by Cotter under condition 17 will be used by the Department to complete the prescribed clean-up. The objectives to be achieved are as follows:

- (i) Decommissioning and decontamination of the plant site and off-site loading and unloading areas, to be accomplished upon termination of the activities pursuant to the license or extension thereof. Decommissioning and decontamination shall include removal of stockpiled ore and contaminated soil to comply with applicable standards in force at the time of such termination or cancellation of license or upon refusal of Cotter to do so as provided herein. Disposition of ore and contaminated soil shall, at the discretion of the State and upon failure of performance by Cotter, include a "commercially feasible sale," in accord with provisions of the UCC, of such materials by the State and payment of the proceeds thereof, less all costs and expenses associated with such removal, disposition and sale, to Cotter.
- (ii) Elimination of radioactive contamination resulting from offsite spillage in the transportation of ore or crushed ore.

- (iii) Elimination of any contamination to property adjacent to the sampling and crushing site which may have been caused by airborne emissions or deposits thereon or from effluent discharge and seepage.
- (iv) Elimination of radioactive contamination from exposure caused by abnormal occurrences in the Cotter operation or from catastrophic occurrences.

Nothing herein shall preclude the parties from renegotiation or amendment of this Agreement to provide for modification of existing undertakings or to add other undertakings, with consequent funding adjustments, as may be required by (a) the nature of operations of Cotter pursuant to license No. Colo. 369-02S; (b) change in applicable laws or regulations during the term of the license.

- (c) Pursuant to the requirements of condition 17 of license Colo. 369-02S, Cotter hereby tenders to the Department its cashier's check in the amount of \$50,000.00, which amount represents the first payment toward the required total sum of \$250,000.00, which sum has been initially determined by the parties to be reasonably adequate to provide to the State a sufficient escrow fund to insure completion of the undertakings set forth in "Exhibit B". The terms of payment by Cotter of the entire sum are as follows: \$50,000.00 upon issuance of license No. Colo. 369-02S, and \$50,000.00 upon each anniversary date of issuance of said license, including

the final effective date of said license, for a total of \$250,000.00. The Department requires, and Cotter agrees, that no new or renewal license for the subject facility shall be issued until Cotter has paid the entire sum of \$250,000.00 into the escrow fund. It is understood and agreed that the funds hereby deposited by Cotter, receipt of which is acknowledged by the Department, are committed by Cotter and authorized to be expended in whole or in part by the Department to assure and effect performance of the aforesaid undertakings whenever the same are not performed by Cotter in a manner consonant with applicable regulations of the Department, the applicable license for the subject facility, and this Agreement. To the extent that there are monies remaining in this escrow fund which have not been expended for completion of all undertakings and upon completion of all such undertakings, whether by Cotter or otherwise, or to the extent monies remain in the fund for satisfactory completion of all undertakings, the balance of the escrow fund remaining, together with accrued interest thereon, shall be returned to Cotter and the obligation of Cotter pursuant to condition 17 of license No. Colo. 369-02S and this Agreement shall be ended. Additionally, monies deposited to the escrow fund by reason of modification of undertakings shall be administered in the same manner as the initial deposit of monies. Monies deposited pursuant to this Agreement shall be in a special account under the name of the licensee and shall be credited with such

interest thereon at a rate as is customarily and routinely earned by the investment of such special funds through the office of the State Treasurer, it being understood that interest earned on said escrowed funds shall not be credited to the general fund of the State of Colorado. Said interest shall be paid to Cotter at intervals no more frequently than quarter-annually.

3. TERM

The term of this Agreement shall be fifteen (15) years after its effective date but may be earlier terminated as provided in Section 2(c), above, or by full performance by Cotter of the undertakings set forth in Section 2(b), above; this Agreement may be extended for such periods of time as agreed upon by the parties.

4. GENERAL PROVISIONS:

- a) For the purposes of the Department effecting any completion of those undertakings not adequately performed by Cotter, Cotter hereby grants to the Department, consistent with rights and authority as lessee of the lands described in Exhibit A, a perpetual easement and right-of-way over subject property and any additionally acquired land used for the project for the purpose of ingress and egress thereto and therefrom.
- b) Cotter agrees to permit the Department to inspect the subject property and take such samples as the Department deems essential to determine compliance with the existing regulation and conditions of licensure.

- c) Cotter indemnifies and agrees to hold harmless the State and Department from any liens occasioned by its operation of the project incurred prior to or exclusive from any action by the State or any agent or representative thereof to complete the undertakings described herein, and to defend or pay said claims.
- d) Cotter shall promptly notify the Department of any substantial, adverse changes in its financial condition, including notification of any alteration of the contractual relationship between Cotter and Commonwealth Edison Company or of any other circumstance which impairs or may impair the ability of Cotter to perform its undertakings under this Agreement.
- e) Cotter shall furnish the Department with such additional, subsequent, non-proprietary information with respect to its financial condition in such form and at such intervals as the Department may reasonably request for the purpose of determining the continuing financial ability of Cotter to perform its undertakings under this Agreement.
- f) Cotter shall promptly notify the Department of any event or condition known to Cotter which is or may be subject to the undertakings to which it has agreed hereunder.
- g) The Department shall promptly notify Cotter of any event or condition which is determined by the Department to have occurred and which requires remedial action by Cotter in order to fulfill the performance obligations set forth in License

No. Colo. 369-02S and with respect to any undertaking contained in this Agreement, including any Department determination of abandonment or failure to complete any of the aforesaid undertakings by Cotter. The notice shall state the reasons for the Department's determinations and shall prescribe a time period within which Cotter may respond to the determination with reasons why it believes the event or condition has not occurred or reasons why Cotter should not be required to take remedial action regarding the aforesaid event or condition or statement regarding what remedial action is proposed by Cotter. After review of the response by Cotter, or in the event of failure by Cotter to respond, the Department shall establish a compliance plan with scheduled increments of progress for that remedial action determined by the Department to be most appropriate, or in the event of failure by Cotter to respond to the initial Department notice or failure by Cotter to meet any required element or increment of progress of the Department compliance plan, the Department is authorized to expend monies from the escrow fund created by this Agreement. The Department is further authorized to contract with any person, as it deems appropriate, to assure and effect performance of any undertaking not satisfactorily performed or completed by Cotter, and to pay the costs of said contractor from the fund created by this Agreement. In the event expenditures of escrow funds is required, Cotter shall be entitled

to a full accounting of expenditures of escrow fund monies upon request.

5. FORCE MAJEURE

Neither party shall be in default of any provisions of this Agreement nor be liable for any delays arising from: Any act, delay or failure to act on the part of any Governmental authority (other than the enforcement action of the State concerning the violation of any applicable regulation or of a condition of licensure); acts of God; accidents or disruptions such as fire, explosion, equipment breakdown; labor difficulties such as strikes or work stoppage; delays in transportation or car shortage or any other cause beyond the reasonable control or without the fault or negligence of the parties.

6. BINDING EFFECT

Subject to the licensing requirements of the Department, this contract shall inure to the benefit of and be binding upon any successors in interest to the parties and pertains exclusively to the rights and obligations of the parties and any such successors in interest. This contract shall not give rise to any right or interest which inures to the benefit of any person or entity other than the parties hereto and their respective successors in interest.

7. NOTICES

All notices required or permitted hereby shall be sent by telegram, registered or certified mail.

Notices to the State shall be addressed as follows:

Albert J. Hazle, Director
Radiation and Hazardous Wastes Control Division
Colorado Department of Health
4210 East 11th Avenue
Denver, Colorado 80220

Notices to Cotter shall be addressed as follows:

Cotter Corporation
P. O. Box 352
Golden, Colorado 80401

8. WAIVERS

Waivers by either party of any default hereunder by the other shall not be deemed a waiver by such party of any other default.

9. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between the parties hereto in respect to the subject matter hereof and supercedes all prior representations, negotiations, writings, memoranda and agreements. This Agreement may be amended, altered or modified only by written instrument duly executed by the parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day first above written.

COTTER CORPORATION,
a New Mexico corporation

STATE OF COLORADO

Richard D. Lamm, Governor

By [Signature]
Officer of Cotter
Corporation

By Arthur Robbins
Executive Director
Department of Health

Date: June 26, 1978

Date: 8 Sept 1978

(SEAL)