

UNITED STATES
NUCLEAR REGULATORY COMMISSION

In the Matter of

American Nuclear Corporation
Casper, Wyoming

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Docket No. 40-4492
License No. SUA-667

ORDER
AND
DEMAND FOR INFORMATION

I

American Nuclear Corporation (ANC or Licensee) holds material license No. SUA-667, issued by the Nuclear Regulatory Commission (NRC or Commission). The license authorizes the Licensee to possess byproduct material in the form of uranium waste tailings and other wastes generated by the Licensee's past milling operations in accordance with the conditions specified therein. The license was last amended on July 26, 1993, and will not terminate until NRC determines that all of the applicable requirements of 10 CFR 40.42 have been satisfied.

II

ANC, by letter dated May 9, 1994, informed NRC that it is discontinuing operations and going out of business by the end of May 1994. The press release attached to the letter stated that ANC is discharging its employees and discontinuing operations immediately. In telephone conversations on May 9, 1994, William Salisbury, President of ANC, stated that he would periodically visit the Licensee's Gas Hills site, but all environmental and safety monitoring activities would cease at the end of May 1994.

ANC's license requires it to conduct various activities at its site in the Gas Hills of Wyoming. These include, among others, requirements to conduct effluent and environmental monitoring programs, perform reclamation of tailings, employ a qualified Radiation Safety Officer, implement a groundwater corrective action plan, and provide periodic reports to NRC. ANC must continue to comply with all applicable license conditions. Discontinuance of those programs and functions in the manner described by the Licensee in its letter of May 9, 1994, would constitute a willful violation of ANC's license. In addition, Section 184 of the Atomic Energy Act of 1954, as amended, states that no license granted under the Atomic Energy Act of 1954, as amended, can be transferred, assigned, or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of any license to any person, unless the Commission shall find that the transfer is in accordance with the provisions of the Atomic Energy Act of 1954, as amended, and shall give its consent in writing. Section 40.41(b) of the Commission's regulations, in Title 10 of the Code of Federal Regulations, states that neither the license, nor any right under the license, can be assigned or otherwise transferred in violation of the provisions of the Atomic Energy Act of 1954, as amended. ANC must not abandon its Gas Hills site. ANC's abandonment of its site would constitute a deliberate violation of Section 184 of the Atomic Energy Act of 1954, as amended, and 10 CFR 40.41(b).

Furthermore, Section 40.42 of the Commission's regulations requires certain activities by the Licensee prior to termination of the license. The Commission will terminate a license by written notice to the Licensee only

upon determining that: the source material has been properly disposed of; reasonable effort has been made to eliminate residual radioactive contamination, if present; and a radiation survey has been performed which demonstrates that the premises are suitable for release for unrestricted use or, in the alternative to the above, other information is submitted by the Licensee to demonstrate that the premises are suitable for release for unrestricted use. ANC must comply with Section 40.42 prior to termination of its license. Thus, ANC's abandonment of the site would also constitute a deliberate violation of 10 CFR Section 40.42.

ANC's statement that it is discontinuing its operations and going out of business, and that all environmental and safety monitoring activities will cease by the end of May 1994, is of the utmost concern to the NRC and reflects that ANC may no longer be willing or able to comply with the Commission's applicable statutory and regulatory requirements including the Licensee's specific license conditions.

Accordingly, ANC is hereby notified that such a deliberate act of abandonment would be a serious violation of the Atomic Energy Act of 1954, as amended, NRC regulations, and ANC's license, and could subject ANC to further enforcement actions and potential criminal sanctions. In addition, individuals who deliberately cause the Licensee to be in violation of the Atomic Energy Act of 1954, as amended, NRC regulations, or the license, could also be subject to individual enforcement actions under 10 CFR Section 40.10, and potential criminal sanctions.

In addition, in light of the information provided by the Licensee in its letter of May 9, 1994, regarding its future plans for the Gas Hills site, further information is needed to determine whether the Commission can have reasonable assurance that the Licensee will conduct its activities in accordance with the Commission's requirements or whether the Commission must pursue further enforcement action.

Accordingly, pursuant to Sections 161c, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.204 and 10 CFR Sections 40.31(b) and 40.41(e), in order for the Commission to determine whether enforcement action should be taken to ensure compliance with NRC statutory and regulatory requirements, the Licensee is required to submit to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, with a copy to the Chief, High Level Waste and Uranium Recovery Projects Branch, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, by May 27, 1994, the following information, in writing and under oath or affirmation:

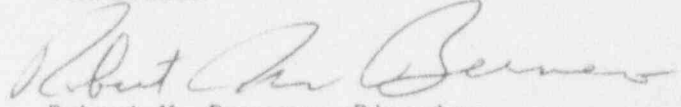
- A. How the Licensee intends to comply with NRC requirements, and its license, including but not limited to:
1. how it intends to control access to the Gas Hills site;
 2. how it intends to maintain the monitoring programs required by its license;
 3. how it intends to complete site reclamation and ground-water corrective action plans; and

4. how it intends to comply with the requirement for a qualified Radiation Safety Officer.
- B. The names, addresses, and telephone numbers of those persons on whom the Licensee will rely for continued compliance with all NRC statutory provisions, regulations, and license conditions applicable to the Gas Hills site, including but not limited to, the names, telephone numbers, and addresses of all officers of the Licensee and all members of the Licensee's Board of Directors.
- C. Copies of the following Licensee's financial data for the past five years:
1. all records and reports filed with the Securities and Exchange Commission or any similar state agency;
 2. all federal and state corporate income tax returns filed;
 3. all bank statements and other financial accounts information, including interest earned, and interest and dividends paid;
 4. all records reflecting all remunerations to corporate officers and other members of the Board of Directors; and
 5. all other balance sheets and cash flow statements normally kept by the Licensee, including information on corporate assets and liabilities.

If you wish any of the information submitted to be withheld from public disclosure because of confidential financial or personal information, you must specifically identify that information and pursuant to 10 CFR 2.790(b), provide an affidavit stating the basis for your request.

After reviewing your response, the NRC will determine whether further action is necessary to ensure compliance with statutory and regulatory requirements.

FOR THE NUCLEAR REGULATORY
COMMISSION

A handwritten signature in cursive script, appearing to read "Robert M. Bernero".

Robert M. Bernero, Director
Office of Nuclear Material Safety
and Safeguards