



UNITED STATES
NUCLEAR REGULATORY COMMISSION

REGION IV
URANIUM RECOVERY FIELD OFFICE
BOX 25325
DENVER, COLORADO 80225

MAY 25 1994

Docket No. 40-8681
SUA-1358, Amendment No. 35

Umetco Minerals Corporation
ATTN: Richard A. Van Horn
Director of Operations
P.O. Box 1029
Grand Junction, Colorado 81502

Dear Mr. Van Horn:

We have completed our review of your amendment request dated March 29, 1994, for the transfer of license and change of ownership from Umetco Minerals Corporation to Energy Fuels Nuclear, Inc. for the White Mesa Uranium Mill located near Blanding, Utah. From the review of your amendment request, along with the additional information you supplied by letters dated April 11 and May 17, 1994, we have determined that Umetco Minerals Corporation has fulfilled all the requirements for transfer of Source Material License SUA-1358 to Energy Fuels Nuclear, Inc. We also have determined that Energy Fuels Nuclear, Inc. is qualified by reason of training and experience, and that the equipment, facilities, and procedures are adequate to protect the health and safety of the public.

We have determined under exclusions contained in 10 CFR 51.22(c)(11) that further environmental documentation is not required for this amendment request. The proposed amendment is administrative only, transferring the license to new ownership. Therefore, an environmental assessment by this office for the proposed action is not required since this action is categorically excluded under 10 CFR 51.22(c)(11), and is not required by 10 CFR 51.60(b)(2).

Therefore, pursuant to Title 10 of the Code of Federal Regulations, Section 40.46, the NRC finds that the subject license transfer is in accordance with the provisions of the Atomic Energy Act of 1954, as amended, and hereby gives its consent to the transfer. Source Material License SUA-1358 has accordingly been amended to change the designation of the license and modify the surety instrument. All other conditions of this license shall remain the same. The license is being reissued to incorporate this amendment.

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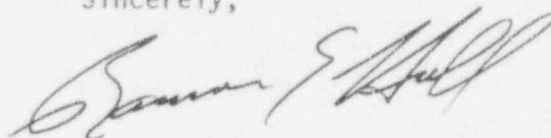
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MAY 25 1994

The issuance of this amendment was discussed and agreed to in a conversation by telephone between Dana Ward of my staff and you on May 25, 1994.

Sincerely,



Ramon E. Hall
Director

Enclosures:

1. Technical Evaluation Report
2. Source Material License SUA-1358

cc:

H. Roberts, EFNI
W. W. Brice, Umetco
W. Sinclair, RCPD, UT

TECHNICAL EVALUATION REPORT

DOCKET NO. 40-8681 LICENSE NO. SUA-1358

LICENSEE: Umetco Minerals Corporation

FACILITY: Umetco White Mesa

PROJECT MANAGER: Dana C. Ward

TECHNICAL REVIEWER: Dana C. Ward

SUMMARY AND CONCLUSIONS:

Umetco requested an amendment to Source Material License SUA-1358 for the transfer of the license for the White Mesa Uranium Mill from Umetco Minerals Corporation (Umetco) to Energy Fuels Nuclear, Inc. (EFNI). Umetco and EFNI have satisfied all requirements for license transfer, including appropriate continuation of the surety up to and after January 1, 2000, by which date EFNI is required by the Acquisition Agreement dated May 17, 1994, to have in place its own surety instrument with the NRC. The staff has therefore determined that Source Material License SUA-1358 can be amended to change the licensee from Umetco Minerals Corporation to Energy Fuels Nuclear, Inc.

DESCRIPTION OF LICENSEE'S AMENDMENT REQUEST:

By letter dated March 29, 1994, Umetco Minerals Corporation submitted a license amendment request to initiate transfer of Source Material License SUA-1358 to Energy Fuels Nuclear, Inc. Umetco owns 70 percent of the facility with EFNI owning the remaining 30 percent. EFNI through the Acquisition Agreement would acquire Umetco's total interest in the White Mesa Mill with the exception that the surety arrangement under written agreement by both parties will be maintained by Umetco until January 1, 2000, or until EFNI provides a replacement surety instrument acceptable to the NRC.

TECHNICAL EVALUATION:

The March 29 request contained a draft Letter of Intent between Umetco, and its parent corporation, Union Carbide Chemicals and Plastics Company Inc. to transfer all interests to Hanksville-Blanding Limited Partnership (HB), an affiliate of Energy Fuels Nuclear, Inc. The draft Letter of Intent contained 26 different terms and conditions pertaining to the agreement of ownership and license transfer. Umetco and EFNI by letter dated April 11, 1994, submitted additional information specifically addressing requirements of change of ownership and license transfer as contained in Policy and Guidance Directive FC 86-2, Revision 1, dated June 21, 1989. By letter dated May 17, 1994, Umetco submitted a copy of the Acquisition Agreement for the change of ownership from Umetco to EFNI. The staff reviewed these submittals for any inconsistencies to current NRC policy for transfer of license.

There were no areas of concern noted in the review of the April 11, 1994, submittal pertaining to ownership change. EFNI agreed to abide by all commitments and representations made to the NRC by Umetco. EFNI also agreed

to abide by all commitments made in the existing Source Materials License SUA-1358. EFNI stated that there would be no substantive changes in the equipment, operation, managerial organization, and critical personnel at the facility. Therefore, the staff concluded that the transfer would not result in a change in the operation of the mill, and that all license conditions would be maintained.

During the review of the draft Letter of Intent, dated March 29, 1994, one major concern regarding the surety was noted. In the draft Letter of Intent, Umetco committed to maintaining the surety for the White Mesa Mill after giving up all interest in the facility. According to the agreement, it appeared that if EFNI had not made appropriate arrangements by January 1, 2000, that neither EFNI nor Umetco would be responsible for maintaining the surety for the White Mesa Mill. The URFO, in consultation with Region IV Counsel, requested specific information on this concern, in a May 5, 1994, letter to Umetco.

On May 17, 1994, Umetco and EFNI representatives hand delivered to the URFO the document for ownership change entitled, "Acquisition Agreement between Umetco Minerals Corporation and Hanksville-Blanding Limited Partnership, Energy Fuels, LTD. and Energy Fuels Nuclear, Inc." This document contains detailed information on ownership change along with specific information concerning the surety arrangement between Umetco and EFNI. Section 5.4 of that document addressed the concerns with the surety arrangement. The Acquisition Agreement had been modified to make it clear that funds will be available for reclamation from the operator of the mill or from the Mill Bond as required up to and after January 1, 2000.

The staff was also concerned about the surety instrument, in that it was not conditioned so that proof of forfeiture was not necessary for the NRC to collect the surety. This action was necessary so that the NRC can collect on the surety prior to its expiration if the licensee fails to decommission and reclaim the White Mesa Mill site. In the May 17, 1994, letter, Umetco submitted a modified Irrevocable Standby Letter of Credit No. S00017012 in favor of the NRC, that specifies that it will remain in effect until the NRC either exercises its right to draw the surety or returns the surety to Umetco. The Irrevocable Standby Letter of Credit was also modified by providing the funds to a Standby Trust Agreement in favor of the NRC for reclamation and decommissioning of the site. This action will allow the NRC to collect the surety if necessary prior to expiration.

One additional concern was noted during the review of the draft Letter of Intent. The affiliation of EFNI with HB was somewhat ambiguous. By letter dated May 17, 1994, Umetco provided information that clarified this relationship. HB and EFNI are affiliated through common control by First Concord Mining Corporation of Colorado. According to the information provided, EFNI will be the licensee and will operate the Mill for the benefit of HB.

The information and documentation supplied by both Umetco and EFNI appears to fully address the concerns the staff had for ownership change and license transfer. It should be noted that Umetco requested by letter dated May 17, 1994, that all terms, conditions, and payment amounts contained in the Acquisition Agreement remain confidential under 10 CFR 2.790.

RECOMMENDED LICENSE CHANGE:

The staff has completed its review of Umetco's March 29, 1994, amendment request and supporting documentation submitted by letters dated April 11 and May 17, 1994. The staff concludes, from the information provided, that the license transfer from Umetco Minerals Corporation to Energy Fuels Nuclear, Inc. will be conducted in accordance with applicable regulations and provide for an appropriate surety as required by Criterion 9 of Appendix A to 10 CFR 40. The staff therefore recommends that Source Material License SUA-1358 be amended to change License Condition Nos. 1, 2, 11, and 20 to read as follows:

1. Energy Fuels Nuclear, Inc.
2. 6425 S. Highway 191
P.O. Box 789
Blanding, Utah 84511
11. For use in accordance with statements, representations, and conditions contained in Sections 3.6.6, 5.1, 5.3, 5.4, 6.2, and 6.3, and Appendix E, Section 5, of the license renewal application dated January 1985, as revised May 1985, September 2, 1992, for the standby organizational structure, and May 10, 1994, for the Standby Trust Agreement. The licensee shall conduct operations, and statements referenced above, except where superseded by license conditions below.

Whenever the Word "will" is used in the above referenced sections, it shall denote a requirement.

[Applicable Amendments: 28, 31, 35]

20. The licensee shall maintain an NRC-approved financial surety arrangement, consistent with 10 CFR 40, Appendix A, Criteria 9 and 10, adequate to cover the estimated costs, if accomplished by a third party, for decommissioning and decontamination of the mill and mill site, for reclamation of any tailings or waste disposal areas, ground-water restoration as warranted and the long-term surveillance fee. Within three months of NRC approval of a revised reclamation/decommissioning plan, the licensee shall submit, for NRC review and approval, a proposed revision to the financial surety arrangement if estimated costs in the newly approved plan exceed the amount covered in the existing financial surety. The revised surety shall then be in effect within 3 months of written NRC approval.

Annual updates to the surety amount, required by 10 CFR 40, Appendix A, Criteria 9 and 10, shall be submitted to the NRC at least 3 months prior to the anniversary date which is designated as June 4 of each year. If the NRC has not approved a proposed revision to the surety coverage 30 days prior to the expiration date of the existing surety arrangement, the licensee shall extend the existing surety arrangement for 1 year. Along with each proposed revision or annual update, the licensee shall submit supporting documentation showing a breakdown of the costs and the basis for the cost estimates with adjustments for inflation, maintenance of a minimum 15 percent contingency fee, changes in engineering plans,

activities performed and any other conditions affecting estimated costs for site closure. The basis for the cost estimate is the NRC approved reclamation/decommissioning plan or NRC approved revisions to the plan. The attachment to this license, entitled "Recommended Outline for Site Specific Reclamation and Stabilization Cost Estimates" outlines the minimum considerations used by the NRC in the review of site closure estimates. Reclamation/decommissioning plans and annual updates should follow this outline.

Umetco's currently approved surety instrument, Irrevocable Letter of Credit No. S00017012, issued by The Bank of New York in favor of the NRC, as amended May 10, 1994, to include a Standby Trust Agreement, shall be continuously maintained in an amount no less than \$5,635,180 for the purpose of complying with 10 CFR 40, Appendix A, Criteria 9 and 10, until a replacement is authorized by the NRC.

[Applicable Amendments: 12, 21, 26, 29, 32, 35]

ENVIRONMENTAL IMPACT EVALUATION:

In accordance with the categorical exclusion contained in paragraph (c)(11) of 10 CFR 51.22, an environmental assessment is not required for this licensing action. That paragraph states that the categorical exclusion applies to the issuance of amendments to licenses for uranium mills provided that (1) there is no significant change in the types or significant increases in amounts of any effluent that may be released offsite, (2) there is no significant increase in individual or cumulative occupational radiation exposure, (3) there is no significant construction impact, and (4) there is no significant increase in the potential for or consequences from radiological accidents.

The licensing action discussed in this memorandum meets these criteria as the proposed amendment will not significantly change or increase the amounts of effluent, will not significantly increase exposures, will have no construction impacts, and will not increase the potential for radiological accidents. An environmental report is therefore not necessary from the licensee since the amendment does not meet the criteria of 10 CFR 51.60 (b)(2).