



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

June 18, 2020

Lance Hauer, Legacy Site Team Leader
Environmental Remediation Global
Operations, Environment, Health & Safety
General Electric Company
412 Creamery Way
Exton, PA 19341

SUBJECT: GENERAL ELECTRIC-UNITED NUCLEAR CORPORATION, CHURCH ROCK MINING AND MILLING, REQUEST FOR TEMPORARY EXEMPTION OF MONTHLY GROUNDWATER MONITORING DUE TO COVID-19 DISEASE GLOBAL PANDEMIC, SOURCE MATERIAL LICENSE SUA-1475, DOCKET 04008907

Dear Mr. Hauer:

This letter is in response to your email request dated June 8, 2020 (Agencywide Documents Access and Management System [ADAMS] Accession No. ML20161A367) for temporary relief from the groundwater monitoring requirements in your license. Based upon the analysis below, the U.S. Nuclear Regulatory Commission (NRC) grants a temporary exemption from Title 10 of the *Code of Federal Regulations* (10 CFR) Section 40.41(c). Specifically, the exemption is from a portion of the requirements in the General Electric-United Nuclear Corporation Mining and Milling, Church Rock (UNC-CR) Site license SUA-1475, License Condition (LC) 30A, ADAMS Accession No. (ML19143A149), regarding quarterly groundwater monitoring.

UNC-CR provided the following information to support the request:

- Due to the COVID epidemic restrictions and previous public health orders issued in New Mexico, UNC has not been able to collect the second quarter groundwater samples required under its license condition 30A. Normally, this sampling would have taken place in April or May 2020, however, previous New Mexico Public Health Orders (PHO) restrictions on activities in New Mexico prevented sampling by restricting business activities to essential businesses, which previously did not include mineral mining and extraction. The New Mexico PHO dated June 1, 2020, ADAMS Accession No. (ML20161A368), revised the list of essential activities in New Mexico to now include mineral mining and extraction as essential businesses.
- While, per the referenced June 1, 2020 New Mexico PHO, the licensee could resume activities and conduct sampling in June, the licensee routinely conducts the third quarter sampling event in July. Based on its understanding of the groundwater conditions gained from collecting quarterly sample over about the last two decades, UNC-CR does not think that it makes practical sense to conduct sampling events in consecutive months, June and July, nor would skipping a quarterly event likely impact the protectiveness of the remedy.
- Based on the slow movement of groundwater at the site and twenty years of previous quarterly data to account for seasonal variations, the absence of a quarter of data would not present a risk to human health, common defense and security, or the environment.

- For these reasons, UNC-CR requested that it be granted a temporary exemption from quarterly groundwater monitoring required under LC 30A, which is the deferral of collecting groundwater samples for monitoring wells at the site in 2nd quarter of 2020, ending June 30, 2020, resuming quarterly sampling in July 2020.

Exemption Analysis

Section 40.41(c) requires that “[e]ach person licensed by the Commission pursuant to the regulations in [10 CFR Part 40] shall confine his possession and use of source or byproduct material to the locations and purposes authorized in the license.” 10 CFR 40.14, “Specific Exemptions,” allows the NRC, upon application of any interested person or upon its own initiative, to grant such exemptions from the requirements of Part 40 as it determines are authorized by law and will not endanger life or property or the common defense and security and are otherwise in the public interest. The NRC staff’s evaluation of the requested exemption follows.

Authorized by Law

The subject requirement concerns groundwater monitoring. NRC regulations specifically provide for exemptions in certain circumstances, and no other statutory provision would prevent the issuance of a temporary exemption from this quarterly groundwater sample collection requirement.

Will not Endanger Life or Property or the Common Defense and Security

The purpose of quarterly groundwater monitoring required by LC 30A of the UNC-CR license is to maintain safety at the Site by protecting adjacent groundwater through periodic monitoring of the affected groundwater plume.

UNC-CR’s request consists of not taking quarterly samples of groundwater in the second quarter of 2020 at monitoring wells at the site. In effect, this lack of groundwater data for one quarter will not impede the licensee’s ability to protect adjacent aquifers due to the slow movement of groundwater and a technical understanding of historical trends for twenty years of quarterly groundwater monitoring data collected for LC 30A.

The requested exemption does not involve changes to security at the Site. Therefore, the NRC finds that there is no impact on common defense and security from granting the requested temporary exemption.

In the Public Interest

On January 31, 2020, the U.S. Department of Health and Human Services declared a public health emergency (PHE) for the United States to aid the nation’s healthcare community in responding to the COVID-19 pandemic. Due to the impacts that the PHE previously had on the licensee’s ability to comply with the LC 30A in its license (i.e., performing groundwater sampling while complying with restrictions in New Mexico Public Health Orders) and the low impact of not obtaining the 2nd quarter of 2020 groundwater monitoring sampling required by LC 30A, the NRC finds that granting the requested exemption is in the public interest. The NRC, in approving this temporary exemption, considered other alternatives but concluded that granting the temporary exemption from quarterly groundwater sampling is in the public interest while ensuring the long-term protection of adjacent aquifers.

Exemption Scope and Restrictions

The NRC staff finds that a temporary exemption of quarterly groundwater monitoring for LC 30A is supported by UNC-CR submittal. This temporary exemption will remain in effect through the end of June 2020.

Environmental Considerations

NRC approval of this exemption request is categorically excluded under 10 CFR 51.22(c)(25)(vi), and there are no extraordinary circumstances present that would preclude reliance on this exclusion. The NRC staff has determined that approval of this requested exemption involves no significant hazards consideration; no significant change in the types or significant increase in the amounts of any effluents that may be released offsite; no significant increase in individual or cumulative public or occupational radiation exposure; no significant construction impact; and no significant increase in the potential for or consequences from radiological accidents. In addition, the NRC staff has determined that there would be no significant impacts to biota, water resources, historic properties, cultural resources, or socioeconomic conditions in the region. As such, there are no extraordinary circumstances present that would preclude reliance on this categorical exclusion. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared in connection with the approval of this requested exemption.

Based on the above, the NRC staff finds that (1) the exemption is authorized by law, (2) the exemption will not endanger life or property or the common defense and security, and (3) the exemption is otherwise in the public interest.

In accordance with 10 CFR 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>.

This exemption is effective per the conditions described above or until July 1, 2020. If you have any questions, please contact James Smith of my staff at 301-415-6103 or at james.smith@nrc.gov.

Sincerely,

Patricia K. Holahan, Director
Division of Decommissioning, Uranium Recovery
and Waste Programs
Office of Nuclear Material Safety
and Safeguards

Docket No. 040-08907
License No. SUA-1475

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M.Poston-Brown (RIV)

R.Evans (RIV)

ADAMS Accession No.: ML20162A199

***via e-mail**

OFFICE	DUWP	DUWP	OGC
NAME	JSmith	BvonTill*	Ilvin*NLO
DATE	06/10/2020	06/11/2020	06/17/2020
OFFICE	RIV*	DUWP	
NAME	H.Gepford	PHolahan	
DATE	06/11/2020	06/18/2020	

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