



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

July 15, 2022

Lawrence J. Corte, President
Western Nuclear, Inc.
333 North Central Avenue
Phoenix, AZ 85004

SUBJECT: LONG-TERM CARE FEE FOR THE WESTERN NUCLEAR INCORPORATED
SPLIT ROCK URANIUM MILL TAILINGS DISPOSAL SITE, WYOMING

Dear Lawrence Corte:

This letter is to inform you of the U.S. Nuclear Regulatory Commission's (NRC) determination of the Long-Term Care Fee (LTCF) for the Split Rock site, a Uranium Mill Tailings Radiation Control Act of 1978 (UMTRCA), Title II site near Jeffrey City, WY. Based on the NRC Staff's review and consideration of LTCF estimates from the U.S. Department of Energy (DOE) and of input from Western Nuclear, Inc. (WNI), the NRC Staff has determined that \$4.2 Million (M) is appropriate for the Split Rock site LTCF. The NRC plans to offer a public meeting to discuss the LTCF determination and basis for the decision on or about July 21, 2022.

Title 10 of the *Code of Federal Regulations* (10 CFR) Part 40, Appendix A, "Criteria Relating to the Operation of Uranium Mills and the Disposition of Tailings or Wastes Produced by the Extraction or Concentration of Source Material From Ores Processed Primarily for Their Source Material Content," Criterion 10, establishes the minimum charge that a licensee must pay to cover the costs of long-term surveillance and maintenance. This minimum charge is \$250,000 in 1978 dollars or \$1.2 M dollars in April 2022 dollars, when adjusted for inflation by using the "CPI [Consumer Price Index] Inflation Calculator" website of the U.S. Department of Labor, Bureau of Labor Statistics. However, a variance in funding may be specified if the site surveillance or control requirements at a particular site are determined to be significantly greater than the requirements specified in Criterion 12 of Appendix A of Part 40. In essence, the LTCF provides resources to allow the DOE to carry out the long-term surveillance and maintenance (LTS&M) requirements of Sections 202 and 203 of UMTRCA.

In determining the LTCF, the NRC Staff reviewed and consider the following information from DOE and WNI:

- DOE, Office of Legacy Management's preliminary final long-term surveillance plan (LTSP)¹ and commitments received by the NRC on May 6, 2022, for the final LTSP to be received by the NRC at the end of August 2022,²

¹ Agencywide Documents Access and Management System (ADAMS) Accession No. [ML21323A184](#).

² [ML22147A049](#).

- DOE's LTCF estimate³ and their estimate for Long-Term Care of Deep-Rooted Vegetation on the Tailings Impoundment,⁴
- DOE's responses to the NRC Staff's requests for clarification of the LTCF that was received by the NRC on April 20, 2022, April 21, 2022, and May 6, 2022,⁵ and other earlier clarification of the LTCF provided by DOE as cited in the NRC's technical evaluation report for the LTCF determination,
- WNI's comments and views received by the NRC on January 25, 2022, April 1, 2022, April 20, 2022, and April 28, 2022,⁶ provided their view of the LTSP, NRC guidance, and regulations in determining the LTCF, activities for long-term care that should not be included in the LTCF determination, and the calculation method that should be used for the LTCF determination to account for long-term care activities that do not occur annually.

The NRC Staff determined that the appropriate LTCF for Split Rock is \$4.2 M. The NRC Staff increased the LTCF from the minimum amount in Criterion 10 for those direct costs related to activities that are significantly greater than those specified in 10 CFR Part 40, Appendix A, Criterion 12, and that have a nexus to radiological health and safety as specified by the approach in Regulatory Issues Summary 2011-11, "Regarding Long-term Surveillance Charge for Conventional or Heap Leach Uranium Recovery Facilities Licensed under 10 CFR Part 40." These activities include:

- Site Management,
- Site Inspection,
- Groundwater and Surface Water Monitoring and Evaluation,
- Minor Maintenance (e.g., bladder pump replacement, maintaining a fence at the perimeter of the tailings impoundment area, sign replacement, well maintenance),
- Monitoring Well Replacement, and
- Vegetation Monitoring and Deep-Rooted Vegetation Control at the Tailings Impoundment.

In reviewing DOE's estimate and WNI's views, the NRC Staff excluded or adjusted items such as:

- the DOE's indirect costs that either did not have a clear nexus to radiological health and safety or appeared to be, in part, duplicative with other included DOE LTS&M activities,
- rangeland maintenance cost, which includes control of invasive and noxious weeds throughout the site, and

³ [ML21292A228](#) (Official Use Only (OUO)), [ML21279A295](#) (OUO), [ML21277A128](#), and [ML21326A001](#).

⁴ [ML22147A054](#) (OUO).

⁵ [ML22117A136](#) (OUO), [ML22118A018](#) (OUO), [ML22147A054](#) (OUO) and [ML22147A049](#).

⁶ [ML22119A251](#), [ML22111A133](#), [ML22095A156](#), and [ML22026A092](#).

- an adjustment of the NRC inspection interval from 5 years to 10 years, which alters the DOE's calculated amount for "NRC Annual Oversight." in the LTCF.

In addition, the NRC Staff used the time-phased expenditure of costs approach suggested by WNI, which is a generally accepted accounting practice for activities that do not occur annually. This also resulted in a reduction of the LTCF.

Based on the NRC Staff's review and consideration of LTCF estimates from DOE, input from WNI, and the NRC's regulations and guidance, the NRC Staff has determined that \$4.2 M is appropriate for the Split Rock site LTCF.

In accordance with Criterion 10 of 10 CFR Part 40, Appendix A, the LTCF of \$4.2 M to cover the costs of LTS&M of the Split Rock site is to be paid by WNI to the general treasury of the United States. Confirmation of the LTCF payment to the U.S. Treasury must be received by the NRC by August 19, 2022, in order to maintain the current schedule for transitioning the Split Rock site to long-term care.⁷

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 website at <https://www.nrc.gov/reading-rm/adams.html>.

If you have any questions, please contact the WNI Split Rock Project Manager, Thomas Lancaster at 301-415-6563, or via email to Thomas.Lancaster@nrc.gov.

Sincerely,



Signed by Von Till, Randolph
on 07/15/22

Bill Von Till, Branch Chief
Uranium Recovery and Materials
Decommissioning Branch
Division of Decommissioning, Uranium Recovery,
and Waste Program
Office of Nuclear Material Safety
and Safeguards

Docket No.: 40-1162

Enclosure:
Technical Evaluation Report
for NRC's LTCF Determination

cc: Nicole Keller, DOE
Mark Kautsky, DOE
Jay Glascock, DOE
Brandi O'Brien, WYDEQ

⁷ [ML22146A390](#).

Cover Letter and Technical Evaluation Report for U.S. Nuclear Regulatory Commission's Determination of the Long-Term Care Fee for the Split Rock Materials Decommissioning Site DATE July 15, 2022

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ADAMS Accession No.: ML22157A449; Ltr ML22157A450

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NAME	TLancaster	TLRVon	RVIrvin	RVon
DATE	Jun 10, 2022	Jun 10, 2022	Jun 15, 2022	Jul 15, 2022

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