

Cimarron Monthly Status Teleconference Notes
June 29, 2022

Attendees:

<u>NRC - HQ</u>	<u>DEQ</u>	<u>EPM (or Contractors to the Trust)</u>
James Smith	Paul Davis	Bill Halliburton
Ian Irvin	Pam Dizikes	Jeff Lux
Robert Evans	Mike Broderick	
Christine Pineda	Jon Reid	
	Kelly Dixon	

Red font indicates action items resulting from the discussion.

Trust Agreement Section 3.2.4

Section 3.2.4 of the Environmental Response Trust Agreement (Cimarron), herein referred to as the “Trust Agreement”, stipulates notification requirements based on the anticipated expenditure of 25%, 50%, and 75% of the Federal Environmental Cost Account (the Federal Account).

Section 3.2.4 requires that remediation work cease upon notification that 75% of the Federal Account has been exhausted. EPM had already obtained concurrence that the “initial value” of the Federal Account for the purposes of Section 3.2.4 notification be the combined value of the Federal Account and the Standby Trust at the time the decommissioning plan is approved.

On March 15, 2022, EPM submitted a letter to the NRC and the DEQ explaining that if remediation must cease upon expenditure of 75% of the Federal Account, it will not be possible to achieve license termination. The letter explains that the decommissioning cost estimate will be updated and included in *Facility Decommissioning Plan – Rev 3* (the D-Plan), and requested a meeting with the NRC and the DEQ regarding the issues presented by the anticipated inadequacy of funding to complete decommissioning.

During a recent conversation with Rob Yalen (DOJ), the subject was brought up, and Mr. Yalen said that he and other DOJ personnel need to meet with us to discuss potential ways to address issues presented by Section 3.2.4, and that representatives of the NRC and the DEQ, as beneficiaries of the Trust, need to be included in those discussions.

The NRC and the DEQ will continue to communicate with the DOJ. The NRC or DEQ will notify EPM when it is appropriate to include EPM in discussions, as the Trustee will be responsible to provide notifications specified in Section 3.2.4.

License Amendment Request for Redefinition of the Licensed Area

The redefinition of the licensed area had originally been addressed in the 2015 *Facility Decommissioning Plan* and the 2018 *Facility Decommissioning Plan – Rev 1*. The NRC requested EPM to remove that request from the decommissioning plan and submit a separate license amendment request (LAR) for the redefinition of the licensed area.

EPM submitted the LAR in November 2019, with two subsequent addenda in February and March 2020. A cultural resources survey was needed for the Environmental Assessment; that survey was performed in 2020, and reported in June 2020. It was then determined that the requirement to dispose of biomass as LLRW required the removal of treatment for nitrate, and

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the groundwater remediation infrastructure changed enough that the LAR was retracted, and a new LAR to redefine the licensed area was submitted in May 2021, based on the anticipated revised infrastructure.

Now the scope of remediation has been further reduced, and the May 2021 LAR no longer reflects the planned groundwater remediation infrastructure. EPM would prefer to retract the May 2021 LAR and add the definition of the licensed area to D-Plan Section 6, "Revisions to the License". This would enable both the decommissioning plan and the redefinition of the licensed area to be addressed together, and two separate submittals would not need to be revised should adjustments to the D-Plan based on RAIs be required.

RPM will retract the May 2021 license amendment request to redefine the licensed area and will include this in Section 6 of the D-Plan.

Annual Environmental Sampling and NRC Inspection

The annual environmental monitoring sampling event is scheduled for July 11 – 15. The NRC inspection is scheduled for July 13 – 14. Jay Maisler (RSO), Chuck Beatty (QAC), and Dane Watson (Enercon PM for the CERT) plan to attend the inspection. Jeff Lux emailed Robert Evans the applicable procedures related to groundwater sampling.

No further action is required.

Alternate Schedule Clarification

In the NRC's May 18, 2022, clarification of NRC's comments from the pre-application audit, the NRC reads, "...one may argue that it is in the public's best interest to excavate the contaminated transition material with offsite disposal which could be accomplished within the 2-year timeframe."

There are two problems with this statement. First, although excavation of the contaminated transition material would decrease the concentration of uranium in groundwater to less than the DCGL in those areas, it would not address the contaminated groundwater in the WAA U> DCGL, WU-BA3, or BA1-B remediation areas, or within that portion of the BA1-A remediation area in which uranium exceeds the DCGL in Sandstone B. It does not seem to be in public interest to address only a small portion of the area within which uranium exceeds the DCGL.

Second, prior to the formation of the Trust, a Contractor was engaged to evaluate excavation of the aquifer. Even the transition zone material is sufficiently unstable that dewatering would be required to excavate the soil; this would generate significant quantities of groundwater requiring treatment for uranium. The design and construction of groundwater treatment and spent resin processing systems and all the associated ancillary buildings and equipment would be needed. The construction of these facilities and systems, followed by the excavation, packaging, transportation, and disposal of the transition zone material, and the subsequent final status surveys could not possibly be completed in two years.

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EPM believes it is in the public's interest to reduce the concentration of uranium in groundwater in all areas where it exceeds the DCGL. In the western areas, it is believed that the concentration of uranium can be reduced to less than the DCGL with the available funding. In Burial Area #1, although funding may not provide for achieving the DCGL, it is sufficient to significantly reduce the concentration of uranium in the BA1-A and BA1-B remediation areas. And if additional funding was received, the decommissioning of the site may be completed, although not within 2 years.

The NRC will review the May 18 letter, and will provide feedback to EPM on how best to address the public interest in the request for an alternate schedule in the Decommissioning Plan.

Groundwater Elevation Data

At the beginning of each groundwater sampling event, Enercon Services measures depth to water (DTW) in all wells within a single day. For some sampling events, "all wells" means all well on site, and for some events, it means all wells that will be sampled during that sampling event. The well gauging spreadsheet provides QC controls, flagging DTW measurements that are not within the "mean $\pm 2\sigma$ " range for previous DTW measurements at that location; at which time the DTW measurement is repeated and imported only if it is demonstrated that the value is correct.

Enercon Services has performed a detailed review of the well gauging spreadsheet and identified some cells containing an erroneous formula, or an incorrect top of casing elevation. A technical memorandum identifying the corrections is being prepared. There are instances in which groundwater elevations that can be generated from the well gauging spreadsheet may not seem correct for some locations at some specific dates.

The technical memorandum will be submitted to the NRC and the DEQ, along with an updated spreadsheet that includes DTW data through the July 2022 annual environmental sampling event. This should be submitted by the end of July. Enercon personnel involved in the preparation of the technical memorandum are not involved in the preparation of the decommissioning plan, so this will not impact the schedule for submission of the decommissioning plan.

Additional Information on the Releasability of Subareas G and N

In the NRC's May 18 letter, the NRC says, "... The NRC staff acknowledges the statement referenced by the CERT in the Order. However, this statement taken on its own does not provide evidence of the NRC staff's evaluation and documentation necessary to release Subareas G and N from CERT's license. If CERT has such documentation of the NRC staff's analysis, it is encouraged to provide it to the NRC staff."

For Subarea G, the NRC conducted a confirmatory survey during inspections conducted in 2001, reporting the results in NRC Inspection Report 70-925/01-01. The report stated, "The confirmatory exposure-rate measurements, soil sample analysis results, and alpha and beta building measurements were all below the applicable NRC release criteria. These confirmatory

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measurements were consistent with the licensee's determination that Sub-Areas K and G of the Cimarron Site meets the criteria established in NRC License SNM-928, License Condition 27 for unrestricted use.”

NRC performed a confirmatory survey for Subarea N in June 2002. NRC inspection report 70-925/02-01, dated September 18, 2002, stated, “These confirmatory measurements were consistent with the licensee’s determination that Subarea N of the Site meets the criteria established in NRC License SNM-928, License Condition 27 for unrestricted use.”

That information provided the basis for the NRC’s statement in the license transfer order that, “Final status surveys and confirmatory surveys have confirmed that Subareas G and N are releasable for unrestricted use ...”.

If NRC’s 1) acceptance of the final status survey reports, 2) verification of the survey results via NRC confirmatory surveys, and 3) statement that those surveys have confirmed that Subareas G and N are releasable for unrestricted use don’t demonstrate that these Subareas are in fact releasable for unrestricted use, what additional information would be needed?

The NRC will review the basis for the referenced statement in the May 18 letter. EPM will submit a letter to the NRC clarifying that EPM’s concern is the LAR to redefine the licensed area assumes that large portions of Subareas G and N will no longer be licensed. EPM believes that the multiple statements by the NRC that those areas are releasable justifies the release of those portions of Subarea G and N which decommissioning construction and operations will not disturb.

Isolation and Control of Formerly Licensed Areas

Enclosure 2 to the NRC’s letter states that the NRC will require the CERT “to maintain isolation and control of any former area associated with the license, and that the final dose assessment reflect contributions from the entire original site, including subareas previously released. The NRC referenced two letters dated 2002 and 2004, during which time Cimarron Corporation committed to retain ownership of and maintain control over the entire site.

The Trust Agreement directs the CERT to provide for the disposition of property that complies with Federal and State remediation criteria. Parcels containing approximately 300 acres of the former 800-acre site have been sold, and are not owned by four separate entities. The CERT no longer maintains control over those areas and has no control over the use of those properties.

EPM will submit a letter to the NRC addressing the exclusion of those portions of the formerly-licensed area which have been divested from ongoing controls, and justifying the separation of those areas from the final evaluation of residual dose upon license termination.

Schedule for Submission of the Decommissioning Plan

EPM met with representatives from Burns & McDonnell, Enercon, and VNS-Federal Services to discuss the sequence of activities needed to complete the revision of the D-Plan. The schedule

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developed by Burns & McDonnell indicates that the D-Plan should be submitted in September 2022.

EPM will proceed with the revision of the decommissioning plan.

Next Monthly Status Teleconference

The next Cimarron monthly project status teleconference will be conducted at 2:30 Eastern Time, 1:30 Central Time, on Wednesday, July 20, 2022.