

**Cimarron Monthly Status Teleconference Notes
July 20, 2022**

Attendees:

<u>NRC - HQ</u>	<u>DEQ</u>	<u>EPM</u>
James Smith	Paul Davis	Bill Halliburton
Christine Pineda	Pam Dizikes	Jeff Lux
	Mike Broderick	

Red font indicates action items resulting from the discussion.

Note: Italicized text in the following notes represents information that was not discussed during the teleconference. This information was added to the notes in response to two of the DEQ's comments on the draft notes. Revisions to the draft notes based on DEQ review are not italicized.

New Owner of 24-Acre Property with Buildings

In 2012, EPM proposed to the NRC and the DEQ to sell approximately 24 acres of property containing two of the former processing buildings. The DEQ required that the Purchase and Sale Agreement reference a possible Notice of Remediation (NOR) that may need to be filed in the Logan County records. The DEQ provided EPM a draft Deed Notice containing the NOR in September 2012.

On January 15, 2015, EPM and Cimarron Holdings LLC (CH) executed the Purchase and Sale Agreement dated August 18, 2014, and then sold the property on January 28, 2015. Section 5.4 of the Purchase and Sale Agreement stated, "... the Oklahoma Department of Environmental Quality (DEQ) will place a "Notice of Remediation" on the Property." No Notice of Remediation was filed; however, EPM and CH executed a Remediation Easement Agreement (for access to the CERT Property) in December 2020 and filed it with Logan County Records on December 8, 2020.

Cimarron Holdings sold the 24-acre property to Kalidy LLC (Kalidy) on June 13, 2022. Kalidy then contracted with Redbud Environmental (Redbud) to conduct a Phase I assessment for the property. The assessor contacted the DEQ, who referred her to EPM. EPM met with Kalidy and Redbud on July 19, 2022; they were unaware of any restrictions on the use of the property or the easement granting unrestricted access to EPM.

EPM provided copies of the Purchase and Sale Agreement and the easement to Kalidy and Redbud. It appears that no Deed Notice containing a NOR has been filed in the Logan County records. There is some uncertainty regarding whether the use restrictions listed in the Purchase and Sale Agreement are enforceable, or necessary. Unless a NOR is required by statute, it would probably not run with the land.

EPM and the DEQ will discuss the need for use restrictions and an NOR.

License Amendment Request for Redefinition of the Licensed Area

NRC had expressed concern that construction activities as part of the DP would nullify release surveys previously performed. In addition, revision of the decommissioning plan has resulted in changes to the locations of groundwater remediation infrastructure and associated site features. EPM had submitted a license amendment request which requested redefinition of the licensed

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area. With current design changes, it no longer references the proper area to be licensed. EPM and NRC have agreed to withdraw the License Amendment Request submitted, and instead include an updated request as part of the DP Revision 3.

The decommissioning plan will also include a commitment to scan and sample for analysis subsurface soil, (>1 foot below grade) whenever brought to the surface anywhere on CERT property. Consequently, decommissioning activities will not change the radiological status of those Subareas that the NRC has confirmed are releasable for unrestricted use. If the NRC amends the license in accordance with the license amendment request, portions of Subareas that have been released will be brought back under license, and portions of Subareas F, G, and N will no longer be under license.

EPM will retract the May 2021 license amendment request to redefine the licensed area and will include a request to redefine the licensed area in Section 6, "Revisions to the License" of the D-Plan.

Annual Environmental Sampling and NRC Inspection

The annual environmental monitoring sampling event took place July 11 – 15. The NRC conducted an inspection on July 13 – 14. Jay Maisler (RSO), Chuck Beatty (QAC), and Dane Watson (Enercon PM for the CERT), and Jeff Lux (EPM) were in attendance. No violations were identified during the closeout briefing. Several observations regarding the sampling procedures were identified.

Robert Evans (lead inspector) notified EPM that the NRC is establishing a policy regarding the disposition of purge water. Pouring purge water on the ground may be considered a discharge that must comply with NRC effluent limits. Simply revising groundwater sampling procedures to contain purge water from all monitor wells being sampled may provide compliance with effluent limits if this policy is established.

NRC Region IV will issue an inspection report. EPM will revise several procedures to address the observations made during the sampling event. The NRC will check on the status of the potential policy regarding the disposition of purge water. EPM will review records from previous sampling events and may revise groundwater sampling procedures to address the disposition of purge water.

Letter on Divested Property

In Enclosure 2, page 2 in a May 18, 2022, letter the NRC stated, "... the NRC staff would still require actions on the part of CERT to maintain isolation and control of any former or current area associated with the license until such time as the license is terminated. ... Part of the reason for ensuring isolation and control of land areas associated with the license is the requirement for the NRC staff to perform a dose assessment before recommending license termination. This dose assessment will reflect contributions from the entire original site, including subareas previously released ...".

If NRC required surveys of divested properties, the Licensee would need to secure a Right of Re-entry to the properties already divested with NRC approval, to perform dose assessment survey

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at License Termination. Securing such Right of Re-entry after the authorized property sale rather than before it may cause additional effort and drain on the Trust not otherwise required.

Mr. Lux discussed Article 2.8 of the Trust Agreement, that states that the NRC and the DEQ specify any “institutional controls or deed restrictions” required for Trust property. The NRC required no institutional controls or deed restrictions when they approved the sale of divested properties. Requiring the Trustee to maintain “isolation or control” of the divested properties runs counter to the provisions of the Trust Agreement that the NRC executed.

Three issues need to be addressed related to the NRC’s May 18, 2022, letter as it relates to divested property:

- The need for radiological surveys of subsurface material brought to the surface.
- The need to maintain “isolation and control”
- The need to include divested property in the dose assessment performed prior to license termination

EPM will submit a letter to NRC addressing these concerns and requesting formal concurrence that the three issues listed above will not apply to divested properties which the NRC released from the license and for which the NRC approved divestiture with no controls over the future use of the properties.

Abandonment of Select Monitor Wells

Monitor Wells T-99 and T-100 (in the Western Alluvial Area) and Monitor Wells 1371 and 1372 (in Burial Area #1) were installed in 2014 as the monitor well network was expanded to define the extent of contaminants of concern (COCs) in groundwater to the maximum contaminant level (MCL, the drinking water standard). Flood events that have occurred since those wells were installed have reconfigured the topography in the area surrounding those wells.

Cimarron River floods have resulted in the accumulation of sand around both of these wells. The pictures below show that all but 10-12 inches of the protector pipe for Monitor Well T-99 and all but 18-20 inches of the protector pipe for Monitor Well T-100 has been buried in sand.



Monitor Well T-99



Monitor Well T-100

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Monitor Well T-99 has yielded groundwater averaging 47 milligrams per liter (mg/L) nitrate and 36 micrograms per liter (ug/L) uranium. Monitor Well T-100 has yielded groundwater averaging 52 mg/L nitrate and 29 ug/L uranium. Fluoride concentrations are less than 1 mg/L for groundwater in both wells. The concentration of uranium is far below the DCGL, but the concentrations of both uranium and nitrate exceed their State Criteria.

The situation for Monitor Wells 1371 and 1372 is similar in that flooding has changed the topography, but while only approximately six inches of sand has been deposited near those wells, the deposition of gullies and ridges of sand makes it difficult to access those wells.

Monitor Well 1371 has yielded groundwater averaging approximately 25 ug/L uranium. Monitor Well 1372 has yielded groundwater averaging approximately 10 ug/L uranium. Both nitrate and fluoride concentrations were less than 1 mg/L for groundwater in both wells. No COCs have exceeded either NRC or State Criteria since they were installed.

EPM will submit a letter providing the analytical data for these wells and will propose to abandon the wells in accordance with Oklahoma Water Resources Board regulations.

Schedule for Submission of the Decommissioning Plan

EPM has provided estimated activity durations for pre-construction EPM and Agency actions to Burns & McDonnell personnel who are preparing cost and schedule information:

- NRC – issue request for information based on acceptance review – 3 months
- EPM – respond to request for information – 3 months
- NRC – conduct technical review and issue request for additional information (RAI) – 5 months
- EPM – respond to RAI – 3 months
- NRC – review responses to RAI, prepare draft Environmental Assessment (EA) and Safety Evaluation Report (SER), and send a draft amended license to the CERT – 11 months
- EPM – comment on draft EA, SER and amended license – 2 months
- NRC – issue amended license – 5 months

These assumed durations would result in a longer schedule for approval of the decommissioning plan than the NRC has provided for in complying with the Nuclear Energy Innovation and Modernization Act (NEIMA). In addition, the NRC believes that sufficient attention has been paid to previous revisions of the decommissioning plan that some of these activities may not require as much time as would be required for “new” decommissioning plans. EPM requested that the NRC provide feedback regarding reducing the assumed duration of some of these activities.

The DEQ commented on the draft teleconference notes, stating that it is not clear which of the listed steps have time limits or other limitations imposed by the Nuclear Energy Innovation and Modernization Act (NEIMA). The DEQ noted that acceptance of the DP was discussed during

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the teleconference, but that was not listed above. Regarding milestone schedules established by NEIMA, the NRC website explains ...

“Section 102(c) of the Nuclear Energy Innovation and Modernization Act (NEIMA) requires the NRC to develop performance metrics and milestone schedules for “requested activities of the Commission.” Section 3(10) of NEIMA defines “requested activities of the Commission” to include:

- (A) “the processing of applications for—*
- (i) design certifications or approvals; (ii) licenses; (iii) permits; (iv) license amendments; (v) license renewals; (vi) certificates of compliance; and (vii) power uprates;” and*
- (B) “any other activity requested by a licensee or applicant.”*

NEIMA also establishes certain reporting requirements for the NRC in the event the NRC issues a final safety evaluation for a requested activity of the Commission later than the NRC established milestone schedule date. NEIMA required the NRC to develop the performance metrics and milestone schedules by July 13, 2019. The table below provides the NRC's generic milestone schedules for requested activities of the Commission that involve the issuance of a final safety evaluation.

Please note that the milestones appearing here are generic. The NRC staff will work with each licensee or applicant to establish a specific schedule for each request, which may be shorter or longer than the generic milestone schedule based on the specific needs of the licensee or applicant and the staff's resources.”

The decommissioning plan is being submitted as a license amendment request; it contains numerous recommended amendments to the license, the most significant of which is the incorporation of the decommissioning plan into the license. It is EPM's understanding that upon receipt of the response to supplemental information (the 2nd bullet list item above), the NRC will accept the decommissioning plan for review. That acceptance triggers the detailed technical review of the decommissioning plan. It is also our understanding that the NRC considers the acceptance of the submittal to be the trigger that represents time zero of the generic schedule per NEIMA.

The NRC will provide feedback on the above schedule information.

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Next Monthly Status Teleconference

The DEQ commented on the draft teleconference notes, recommending that a draft agenda be sent out a couple of weeks in advance of the meeting so potential attendees can determine if their attendance is needed for the meeting.

EPM will send agenda for future meetings two weeks in advance of the meeting.

The next Cimarron monthly project status teleconference will be conducted at 2:30 Eastern Time, 1:30 Central Time, on Wednesday, August 17, 2022.