



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

CHIEF FINANCIAL  
OFFICER

June 23, 2023

Bill Halliburton, Trust Administrator  
Environmental Properties Management, LLC  
9400 Ward Parkway  
Kansas City, MO 64114

SUBJECT: LETTER TO BILL HALLIBURTON IN RESPONSE TO REQUEST FROM ENVIRONMENTAL PROPERTIES MANAGEMENT LLC FOR A FEE EXEMPTION FOR CIMARRON ENVIRONMENTAL RESPONSE TRUST OVERSIGHT ACTIVITIES

Dear Bill Halliburton:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am responding to your letter dated April 18, 2023 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML23109A143), in which Environmental Properties Management, LLC (EPM) as Trustee for the Cimarron Environmental Response Trust (CERT) requested an exemption of oversight fees from the NRC pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) 170.12. You requested this exemption on behalf of CERT pursuant to the criteria set forth in 10 CFR 170.11(b).

The NRC has established regulations for the granting of fee exemptions under 10 CFR 170.11 "Exemptions." An interested person may apply for an exemption under 10 CFR 170.11 in accordance with 10 CFR 170.5, "Communications."<sup>1</sup> The NRC staff reviewed your request based on the regulations in 10 CFR 170.11(b) and 10 CFR 170.11(d). Section 170.11(b) states:

The Commission may, upon application by an interested person, or upon its own initiative, grant such exemptions from the requirements of this part as it determines are authorized by law and are otherwise in the public interest. Applications for exemption under this paragraph may include activities such as, but not limited to, the use of licensed materials for educational or noncommercial public displays or scientific collections.

Section 170.11(d) states:

All fee exemption requests must be submitted in writing to the Chief Financial Officer in accordance with § 170.5, and the Chief Financial Officer will grant or deny such requests in writing.

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<sup>1</sup> 10 CFR 170.5 provides that "All communications concerning the regulations in this part should be addressed to the NRC's Chief Financial Officer, either by mail to the U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; by hand delivery to the NRC's offices at 11555 Rockville Pike, Rockville, Maryland; or, where practicable, by electronic submission, for example, via Electronic Information Exchange, or CD-ROM."

As you state in your letter, EPM (license SMB-911) is the Trustee for CERT, which originally filed for bankruptcy pursuant to Chapter 11 of the U.S. Bankruptcy Code in January 2009 in the U.S. Bankruptcy Court for the Southern District of New York. Approximately two years later, on February 14, 2011, Tronox and its subsidiaries, numerous federal and state agencies, and the Navajo Nation executed a Consent Decree and Environmental Settlement Agreement (the Agreement). The Agreement created six Trusts, including the CERT. The NRC (on behalf of the United States) and the Oklahoma Department of Environmental Quality (DEQ) (on behalf of the State of Oklahoma) are the primary beneficiaries of the CERT. The Agreement established the following three Trust accounts for which the NRC and the DEQ are both beneficiaries:

- Cimarron Trust Administrative Account
- Cimarron Trust Federal Environmental Cost Account
- Cimarron Trust State Environmental Cost Account

In addition, you state that a letter of credit held by the previous licensee was called in to create a Cimarron Standby Trust Fund, for which the NRC is the sole beneficiary. Decommissioning and remediation costs are funded by the Federal Account and the State Account. NRC fees for that period exceed \$6,200,000, or 23-percent of the total decommissioning costs. Although EPM does not assume that NRC fees will continue to represent such a significant portion of decommissioning costs, projected NRC fees represent the greatest single factor that jeopardizes the likelihood of completing the decommissioning of the site.

EPM submitted a decommissioning plan for the Cimarron site in November 2022. The decommissioning plan included a decommissioning cost estimate in accordance with NUREG-1757, "Consolidated Decommissioning Guidance." EPM believes the decommissioning plan can be approved by the end of 2024 and construction of a building to house the groundwater pumping and filtration, as well as store waste resins from the filtration systems prior to offsite shipment and can be completed by the end of 2025. All that remains to achieve license termination is the removal of uranium from groundwater, however, it would not be possible to achieve this goal if the NRC continues to recover oversight fees, which have constituted nearly one fourth of all decommissioning expenditures since 2011. Based on current remediation cost estimates, the CERT accounts do not provide sufficient funding to achieve compliance with all federal and state requirements.

You believe it is clearly in the public interest to reduce the concentration of enriched uranium in groundwater at the Cimarron site to concentrations that are less than the NRC Criterion stipulated in NRC license SNM-928, and to the extent achievable if not less than the NRC Criterion.

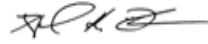
Under 10 CFR 170.11(b), the NRC may grant an exemption from the requirements of 10 CFR Part 170 if the exemption is authorized by law and otherwise in the public interest. Based on the information you provided, I conclude that it is in the public interest to approve this exemption. Given the financial situation and limited resources of CERT, an exemption will permit the CERT to preferentially utilize available funds to assure public health and safety at the Cimarron site and to advance remediation of the site. However, NRC staff has also determined that the agency reserves the right to bill and collect on any current or future charges incurred should CERT's financial situation change in the future.

B. Halliburton

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If you have any questions regarding this matter, please contact Mr. William Blaney, of my staff, at 301-415-5092.

Sincerely,

A handwritten signature in black ink, appearing to read 'H. Osborne', written in a cursive style.

Signed by Osborne, Howard  
on 06/23/23

Howard Osborne  
Chief Financial Officer

cc: Jeff Lux

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