

December 16, 2008

Mr. Christopher S. Pugsley, Esq.
Partner
Thompson & Simmons, PLLC
1225 19th Street, NW, Suite 300
Washington, DC 20036

SUBJECT: MINUTES OF NOVEMBER 18, 2008 MEETING REGARDING PRE-LICENSING
CONSTRUCTION

Dear Mr. Pugsley:

Thompson & Simmons, PLLC requested a meeting with U.S. Nuclear Regulatory Commission (NRC) staff to discuss the types of pre-licensing construction that are permissible at the site of a future uranium recovery facility. This meeting was requested on behalf of Ur-Energy USA, Inc., Uranium One Americas, Uranerz Energy Corporation, and Powertech Uranium Company. Enclosed with this letter is the report of this meeting along with any distributed documents. If you have any questions regarding this report, please contact me at 301-415-7182 or, by email, at stephen.cohen@nrc.gov.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice for Domestic Licensing Proceedings and Issuance of Orders," a copy of this letter will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>.

Sincerely,

/RA/

Stephen J. Cohen, Team Leader
Uranium Recovery Licensing Branch
Decommissioning and Uranium Recovery
Licensing Directorate
Division of Waste Management
and Environmental Protection
Office of Federal and State Materials
and Environmental Management Programs

Enclosure: Meeting Report

cc: A. Thompson, Thompson & Simmons, PLLC
J. Cash, Ur-Energy USA, Inc.
W. Heili, Ur-Energy USA, Inc.
R. Clement, Powertech Uranium Company
G. Catchpole, Uranerz Energy Corporation

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cc: A. Thompson, Thompson & Simmons, PLLC
John Cash, Ur-Energy USA, Inc.
W. Heili, Ur-Energy USA, Inc.
Richard Clement, Powertech Uranium Company
Glen Catchpole, Uranerz Energy Corporation

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PRE-LICENSING CONSTRUCTION MEETING REPORT

DATE: November 18, 2008

TIME: 11:30 a.m. to 1:00 p.m.

PLACE: U.S. Nuclear Regulatory Commission
Room T8C5
Two White Flint North
Rockville, Maryland

PURPOSE: To discuss the types of pre-licensing construction activities that applicants may conduct.

ATTENDEES: Refer to Attachment A

DISCUSSION:

Representatives of the uranium industry met with U.S. Nuclear Regulatory Commission (NRC) staff to discuss potential pre-licensing construction at proposed *in situ* recovery (ISR) facilities. NRC staff started the meeting by reading the opening statement, followed by introductions of all attendees. Attachment B to this report is the agenda.

At issue is the requirement specified in 10 CFR Part 40.32(e) that prohibits the commencement of construction at uranium milling facilities prior to receiving a license. Failure to comply with this regulation could be grounds for license denial; however, this regulation includes a short list of activities that is exempt from this regulation. Industry representatives presented slides that document their position regarding pre-licensing construction (Attachment C), which is that 10 CFR Part 40.32(e) does not apply to ISR facilities.

Industry representatives stated that the history of 10 CFR Part 40.32(e) indicates that this particular regulation applies only to conventional mills. They base this opinion on various regulatory cites and references to the Generic Environmental Impact Statement for conventional mills (NUREG-0706). Because industry does not believe 10CFR Part 40.32(e) applies to ISR facilities, NRC should use its discretion to allow a variety of preconstruction activities.

Industry presented a three-tiered approach to pre-licensing construction. Tier 1 includes activities for which NRC would have no jurisdiction, such as:

- laying foundations and construction of all support structures
- laying of foundations for processing facilities
- construction of ancillary facilities (i.e., roads, parking lots, access controls, power lines)
- installation of water and sanitary systems
- drilling of disposal wells

Tier 2 activities would include those requiring NRC approval, but not a license, such as the following:

- construction of processing facilities
- drilling of injection and production wells
- installation of wellfield pipelines

Tier 3 activities would not occur until a license is issued and would include construction of the evaporation ponds and actual operations.

NRC staff responded that it does not agree with industry's position regarding 10 CFR Part 40.32(e). The staff's position is that 10 CFR Part 40.32(e) applies to both ISR, as well as conventional facilities. However, the staff stated that it could entertain exemption requests if applicants sought to perform pre-licensing activities other than those currently allowed under 10 CFR Part 40.32(e). The staff also stated that it would review the documents provided by industry and would distribute its approach to this issue in a Regulatory Information Summary (RIS). This RIS would be issued for public comment.

ACTIONS:

1. Review industry presentation materials and white paper – NRC Staff
2. Issue RIS – NRC Staff

ATTACHMENTS

Attachment A – Attendance Sheet
Attachment B – Agenda
Attachment C – Presentation Slides
Attachment D – White Paper

MEETING AGENDA
November 18, 2008
Room T8C5

MEETING PURPOSE: To Discuss the Types of Preconstruction Activities That Applicants May Engage in Prior to Receiving a License.

MEETING PROCESS:

<u>Time</u>	<u>Topic</u>	<u>Lead</u>
11:30 a.m.	Introductions	All
	NRC Staff Discussion on 40.32(e)	NRC
	Meeting Attendees' Position on 40.32(e) Attendees' White Paper and Research	Attendees
	Additional Questions on 40.32(e)	All
	Summary of Action Items	Moderator
	Public Comment/Questions	Moderator
	Adjourn	
1:00 p.m.		