

February 03, 2023

Mr. James Smith
U.S. Nuclear Regulatory Commission
11555 Rockville Pike
Rockville, MD 20852-2738

Mr. Paul Davis
Oklahoma Department of Environmental Quality
707 North Robinson
Oklahoma City, OK 73101

Mr. Robert Evans
U.S. Nuclear Regulatory Commission
1600 East Lamar Blvd; Suite 400
Arlington, TX 76011-4511

Re: Docket No. 07000925; License No. SNM-928
Cimarron Environmental Response Trust
Addressing 10 CFR Part 74 in the CERT Decommissioning Plan

Dear Sirs:

In an email dated January 13, 2023, U. S. Nuclear Regulatory Commission (NRC) advised the Environmental Properties Management LLC (EPM), as Trustee for the Cimarron Environmental Response Trust (CERT), that *Facility Decommissioning Plan – Rev 3* (the D-Plan) did not state that the recordkeeping and reporting of special nuclear material (SNM) would comply with the requirements of 10 CFR Part 74, specifically Subpart B.

10 CFR 74 contains 6 Subparts:

- Subpart A – General Provisions
- Subpart B – General Reporting and Recordkeeping Requirements
- Subpart C – Special Nuclear Material of Low Strategic Significance
- Subpart D – Special Nuclear Material of Moderate Strategic Significance
- Subpart E – Formula Quantities of Strategic Special Nuclear Material
- Subpart F – Enforcement

Subpart A contains no requirements, but it does state that the reporting and recordkeeping requirements of Subpart B apply “to each person licensed under this chapter who possesses special nuclear material in a quantity of one gram or more of contained uranium-235, ...”. Figure 8-6 of the D-Plan shows that hundreds of grams of U-235 will be accumulated in the ion exchange resin, so Subpart B will be applicable.

Subparts C, D, and E do not apply at the Cimarron site. Licensed activities associated with the cleanup of contaminated groundwater does not involve any operations capable of generating

formula quantities of strategic nuclear material, SNM of low or moderate significance, or source material and equipment capable of producing enriched uranium. The resin containing low-enriched uranium will not fall under any of these categories.

Subpart F pertains to enforcement action.

Subpart B contains 5 sections:

- 74.11 – Reports of loss or theft of SNM
- 74.13 – Material Status Reports
- 74.15 – Nuclear Material Transaction Reports
- 74.17 – SNM Physical Inventory Summary Report
- 74.19 – Recordkeeping

The D-Plan states that nuclear material control is addressed in Section 11.2 of the Radiation Protection Plan (RPP), which was appended to the D-Plan as Appendix M. As appended to the D-Plan, Section 11 of the RPP explains how uranium and U-235 will be tracked in:

- The water treatment system,
- The ion exchange resin that accumulates uranium, and
- Packaged resin/absorbent mixture awaiting shipment for disposal.

Section 11 of the RPP does not currently contain information related to the reporting requirements of 10 CFR 74.13. Although it does indicate that the quantity of uranium and U-235 will be recorded in a *Mass Inventory Log* and a *Container Inventory Log*, it does not address the specific recordkeeping requirements of 10 CFR 74.19.

Attachment 1 contains the text that EPM proposes to incorporate into the RPP. Sections 11.2.3, “Reporting”, and 11.2.4, “Recordkeeping” will be added to the RPP, addressing compliance to 10 CFR 74. EPM is providing this to the NRC in lieu of incorporating this text into the RPP and re-submitting it as part of the D-Plan submittal. Your review and feedback on the appropriateness of this approach to demonstrating compliance with 10 CFR Part 74 is requested.

If you have any questions or desire clarification, please call me at (405) 641-5152.

Sincerely,



Jeff Lux
Project Manager

cc: Michael Broderick, Oklahoma Department of Environmental Quality
NRC Public Document Room

ATTACHMENT 1
SECTIONS 11.2.3 AND 11.2.4 OF
RADIATION PROTECTION PLAN – REV 5

11.2.3 Reporting

MC&A procedures provide instructions related to the applicable reporting and recordkeeping requirements provided in 10 CFR 74, Subpart B, as discussed below.

11.2.3.1 Pursuant to 10 CFR 74.11, the NRC Operations Center will be notified within 1 hour of discovery of any loss or theft or other unlawful diversion of special nuclear material which the Trust (licensee) is licensed to possess, or any incident in which an attempt has been made to commit a theft or unlawful diversion of special nuclear material. Instructions regarding this notification requirement are provided in procedure RP-05, *Radiation Protection Reports and Notifications*.

11.2.3.2 Pursuant to 10 CFR 74.13, the Trust (licensee) shall complete and submit, in computer-readable format, "Material Balance Reports" concerning special nuclear material that the Trust has received, produced, possessed, transferred, consumed, disposed, or lost. A "Physical Inventory Listing Report" must be submitted with each "Material Balance Report." MC&A procedures for preparing and submitting these reports are based on the instructions in NUREG/BR-0007 and NMSS Report D-24 "Personal Computer Data Input for NRC Licensees." The reports shall be submitted no later than March 31 of each year.

11.2.3.3 10 CFR 74.15 requires the Trust (licensee) to complete and submit, in computer-readable format, a "Nuclear Material Transaction Report." In addition, if the Trust adjusts the inventory in any manner, other than for transfers and receipts (which are not anticipated at the Cimarron Site), the Trust must submit a "Nuclear Material Transaction Report" to coincide with the submittal with the "Material Balance Report." MC&A procedures provide instructions that are based on NUREG/BR-0006 and NMSS Report D-24. When special nuclear material is transferred (i.e., shipped for disposal), a "Nuclear Material Transaction Report" must be submitted to the NRC no later than the close of business the next working day.

11.2.3.4 Special nuclear material physical inventory summary reports specified in 10 CFR 74.17 are not applicable to the Cimarron Site license.

11.2.4 Recordkeeping

11.2.4.1 Records showing receipt, inventory (including location and unique identity), acquisition, transfer, and disposal of all special nuclear material (as applicable to the Cimarron Site), in the Trust's possession shall be maintained as required by 10 CFR 74.19(a)(1)

11.2.4.2 MC&A records shall be retained until the NRC terminates the Cimarron Site license as required by 10 CFR 74.19(a)(2).

11.2.4.3 Although 10 CFR 74.19(a)(3) requires retention of physical inventory (receipt and acquisition are not anticipated) for three years after the transfer or disposal of the material, the Trust will maintain all MC&A records until license termination.

11.2.4.4 Records of transfer of special nuclear material (i.e. disposal shipment records) shall be maintained until license termination as required by 10 CFR 74.19(a)(4).

11.2.4.5 MC&A procedures, described in section 11.2.2, are records that shall be maintained until license termination, including superseded portions of the procedures consistent with the requirements set forth in 10 CFR 74.19(b).

11.2.4.6 10 CFR 74,19(c) discusses records related to "physical inventories." To satisfy this requirement, a physical inventory of special nuclear material in possession at the Cimarron Site shall be conducted at intervals not to exceed 12 months. Records associated with these inventories shall be retained until license termination.