effectiveness of antitrust enforcement by consent decree.[5]

The proposed Final Judgment, therefore, should not be reviewed under a standard of whether it is certain to eliminate every anticompetitive effect of a particular practice or whether it mandates certainty of free competition in the future. Court approval of a final judgment requires a standard more flexible and less strict than the standard required for a finding of liability. ''[A] proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is 'within the reaches of public interest.' ''.[6]

Moreover, the Court's role under the Tunney Act is limited to reviewing the remedy in relationship to the violations that the United States has alleged in its complaint, and the Act does not authorize the Court to ''construct [its] own hypothetical case and then evaluate the decree against that case.'' *Microsoft*, 56 F.3d at 1459. Since ''[t]he court's authority to review the decree depends entirely on the government's exercising its prosecutorial discretion by bringing a case in the first place,'' it follows that the court ''is only authorized to review the decree itself,'' and not to ''effectively redraft the complaint'' to inquire into other matters that the United States might have but did not pursue. *Id.*

VIII. Determinative Documents

There are no determinative materials or documents within the meaning of the APPA that were considered by the United States in formulating the proposed Final Judgment.

For Plaintiff United States of America

Dated: July 23, 1999.

Respectfully submitted,

Robert L. McGeorge, D.C. Bar No. 91900,

Trial Attorney, U.S. Department of Justice, Antitrust Division, 325 Seventh Street, N.W.; Suite 500, Washington, DC 20530, Telephone: (202) 307–6361 or (202) 307–6351, Facsimile: (202) 307–2784.

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[5] *United States* v. *Bechtel*, 648 F.2d at 666 (internal citations omitted) (emphasis added); *see United States* v. *BNS Inc.*, 858 F.2d at 463; *United States* v. *National Broadcasting Co.*, 449 F. Supp. 1127, 1143 (C.D. Cal. 1978); *Gillette*, 406 F. Supp. at 716. *See also United States* v. *American Cyanamid Co.*, 719 F. 2d 558, 565 (2d Cir. 1983).

[6] *United States* v. *American Tel. & Tel. Co.*, 552 F. Supp. 131, 150 (D.D.C. 1982) (citations omitted), *aff'd sub nom. Maryland* v. *United States*, 460 U.S. 1001 (1983), *quoting Gillette*, 406 F. Supp. at 716; *United States* v. *Alcan Aluminum, Ltd.*, 605 F. Supp. 619, 622 (W.D. Ky. 1985).

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–289]

GPU Nuclear, Inc.; Notice of Partial Denial of Amendment to Facility Operating License and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) has partially denied a request by GPU Nuclear, Inc., (licensee) for an amendment to Facility Operating License No. DPR–50 issued to the licensee for operation of the Three Mile Island Nuclear Station, Unit 1, located in Dauphin County, PA.

The purpose of the portion of the licensee's amendment request that is denied was to seek approval from the Commission to allow the licensee to ignore the low temperature overpressure protection provisions related to high pressure injection pumps start and running restrictions during an emergency cooldown without having to invoke 10 CFR 50.54(x).

The NRC staff has concluded that the licensee's request cannot be granted. The licensee was notified of the Commission's denial of the proposed change by a letter dated August 6, 1999.

By September 13, 1999, the licensee may demand a hearing with respect to the denial described above. Any person whose interest may be affected by this proceeding may file a written petition for leave to intervene.

A request for hearing or petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date.

A copy of any petitions should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Ernest L. Blake, Jr., Esquire, Shaw, Pittman, Potts, & Trowbridge, 2300 N Street, NW., Washington, DC 20037, attorney for the licensee.

For further details with respect to this action, see (1) the application for amendment dated March 31, 1997, as supplemented June 3, 1998, and July 13, 1998, and (2) the Commission's letter to the licensee dated August 6, 1999.

These documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Law/Government Publications Section, State Library of Pennsylvania, (Regional Depository) Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, PA 17105.

Dated at Rockville, Maryland, this 6th day of August 1999.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Director, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–20908 Filed 8–11–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 40–8584]

Kennecott Uranium Company

AGENCY: Nuclear Regulatory Commission.

ACTION: Final finding of no significant impact; notice of opportunity for hearing.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) proposes to renew NRC Source Material License SUA–1350 to authorize the licensee, Kennecott Uranium Company (KUC), to resume commercial milling operations at the Sweetwater facility, and to approve the plan for future reclamation of the mill facility, existing and proposed new tailings impoundment, and the proposed evaporation ponds, according to the 1997 Reclamation Plan, as amended. The Sweetwater uranium mill site is located in Sweetwater County, approximately 40 miles (64 kilometers) northwest of the town of Rawlins, Wyoming. An Environmental Assessment (EA) was performed by the NRC staff in support of its review of KUC's license renewal for operation and the amendment request, in accordance with the requirements of 10 CFR Part 51. The conclusion of the EA is a Finding of No Significant Impact (FONSI) for the proposed licensing action.

FOR FURTHER INFORMATION CONTACT: Ms. Elaine Brummett, Uranium Recovery and Low-Level Waste Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Mail Stop T7–J9, Washington, D.C. 20555. Telephone 301/415–6606.

SUPPLEMENTARY INFORMATION:

Background

The Sweetwater uranium mill site presently is licensed by the NRC under Materials License SUA–1350 to possess

byproduct material in the form of uranium waste tailings, as well as other radioactive wastes generated by past milling operations. The mill operated from 1981 to 1983, but is currently in standby status. KUC has requested renewal of the license to allow operation of the mill (includes construction of one new impoundment and up to eight evaporation ponds), and the evaluation of that request has been completed. KUC also has requested approval of the reclamation plan to stabilize the existing tailings impoundment. In addition, the plan provides for the future stabilization of proposed new tailings impoundments, reclamation of land, and decommissioning of the mill facility.

Construction of an additional five new impoundments and two evaporation ponds may be requested if the mill operates for 20 years, and the impact of this was considered in the EA. The additional impoundments would be reclaimed according to the NRC-approved plan and any change in design would require review and approval by the NRC staff.

KUC submitted the operations plan, reclamation plan, and associated information by letters dated June 11, July 3, July 23, August 1, August 20, September 18, and October 7, 1997. The mill and land decommissioning plan portion of the reclamation plan was submitted May 28, 1998. Page changes to various submitted documents and responses to NRC staff comments were provided June 10, July 1, and July 20, 1998, as well as February 3, February 25, March 25, April 21, and June 21, 1999.

Summary of the Environmental Assessment

The NRC staff performed an assessment of the environmental impacts associated with the operations plan and reclamation plan, in accordance with 10 CFR Part 51, Licensing and Regulatory Policy Procedures for Environmental Protection. The license renewal would authorize KUC to resume operation of the mill at a maximum production rate of 4,100,000 pounds (1,859,748 kg) of yellowcake per year, and to possess byproduct material in the form of uranium waste tailings and other uranium byproduct wastes generated by the authorized milling operations. The actual resumption of operations will be conditional on: (1) The NRC review of standard operating procedures for mill operation; (2) a 90-day pre-startup notification to NRC; and (3) the completion of a pre-startup NRC inspection and resolution of any safety issues identified by the inspection. The renewed license also would approve KUC's proposed plan to stabilize and cover the tailings impoundments, and decommission the mill facility (including land and evaporation ponds). All conditions in the renewed license and commitments presented in the licensee's renewal documents are subject to NRC inspection.

In conducting its appraisal, the NRC staff considered the following: (1) Information contained in KUC's 1997 license renewal and amendment requests, as revised; (2) previous environmental and safety evaluations of the facility; (3) data contained in land use and environmental monitoring reports; (4) existing license conditions; (5) results of NRC staff site visits and inspections of the Sweetwater facility; and (6) consultations with the U.S. Fish and Wildlife Service, the U.S. Bureau of Land Management, the Wyoming State Historic Preservation Office, and the Wyoming Department of Environmental Quality. The staff evaluation of the Sweetwater operation plan and associated documents is being evaluated in a Safety Evaluation Report, and the technical aspects of the reclamation plan are discussed separately in a Technical Evaluation Report that will accompany the final agency licensing action.

The results of the staff environmental review are documented in an EA placed in the docket file. Based on its review, the NRC staff has concluded that there are no significant environmental impacts associated with the proposed action.

Conclusions

The NRC staff has examined actual and potential impacts associated with the operation of the mill, site decommissioning, and reclamation of the tailings impoundments, and has determined that the requested renewal of Source Material License SUA–1350 will: (1) be consistent with requirements of 10 CFR Part 40, Appendix A; (2) not be inimical to public health and safety; and (3) not have long-term detrimental impacts on the environment. The following statements summarize the conclusions resulting from the staff's environmental assessment, and support the FONSI:

1. An acceptable environmental and effluent monitoring program is in place to monitor effluent releases and to detect if applicable regulatory limits are exceeded. Radiological effluents from facility operations have been and are expected to remain below the regulatory limits;

2. Mill tailings and process liquid effluents from the mill circuit will be discharged to a multi-lined impoundment with a leak detection system;

3. The licensee will conduct site decommissioning and reclamation activities in accordance with NRC-approved plans; and

4. Present and potential health risks to the public and risks of environmental damage from the proposed mill operation, decommissioning, and reclamation were assessed. Given the remote location, requirements in place, licensee's inspection and radiation safety programs, area of impact, and past activities on the site, the staff determined that the risk factors for health and environmental hazards are insignificant.

Because the staff has determined that there will be no significant impacts associated with approval of the license renewal (and associated amendments), there can be no disproportionally high and adverse effects or impacts on minority and low-income populations. Consequently, further evaluation of Environmental Justice concerns, as outlined in Executive Order 12898 and NRC's Office of Nuclear Material Safety and Safeguards Policy and Procedures Letter 1–50, Revision 1, is not warranted.

Alternatives to the Proposed Action

The proposed action is to renew NRC Source Material License SUA–1350, for operation of the mill, subsequent decommissioning of the facility, and reclamation of the tailings impoundments, as requested by KUC. Therefore, the principal alternatives available to NRC are to:

1. Approve the license renewal request as submitted; or

2. Renew the license with such additional conditions as are considered necessary or appropriate to protect public health and safety and the environment; or

3. Deny the renewal request.

Based on its review, the NRC staff has concluded that the environmental impacts associated with the proposed action do not warrant either the limiting of KUC's future operations or the denial of the license amendment. Additionally, in the TER prepared for this action, the staff has reviewed the licensee's proposed action with respect to the criteria for reclamation, specified in 10 CFR Part 40, Appendix A, and has no basis for denial of the proposed action. Therefore, the staff considers that Alternative 1 is the appropriate alternative for selection.

Finding of No Significant Impact

The NRC staff has prepared an EA for the proposed renewal of NRC Source Material License SUA–1350. On the basis of this assessment, the NRC staff has concluded that the environmental impacts that may result from the proposed action would not be significant, and therefore, preparation of an Environmental Impact Statement is not warranted.

The EA and other documents related to this proposed action are available for public inspection and copying at the NRC Public Document Room, in the Gelman Building, 2120 L Street N.W., Washington, DC 20555.

Notice of Opportunity for Hearing

The Commission hereby provides notice that this is a proceeding on an application for a licensing action falling within the scope of Subpart L, ''Informal Hearing Procedures for Adjudications in Materials and Operators Licensing Proceedings,'' of the Commission's Rules of Practice for Domestic Licensing Proceedings and Issuance of Orders in 10 CFR Part 2 (54 FR 8269). Pursuant to § 2.1205(a), any person whose interest may be affected by this proceeding may file a request for a hearing. In accordance with § 2.1205(c), a request for a hearing must be filed within thirty (30) days from the date of publication of this **Federal Register** notice. The request for a hearing must be filed with the Office of the Secretary either:

(1) By delivery to the Rulemakings and Adjudications Staff of the Office of the Secretary at One White Flint North, 11555 Rockville Pike, Rockville, MD 20852; or

(2) By mail or telegram addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Rulemakings and Adjudications Staff.

Each request for a hearing must also be served, by delivering it personally or by mail to:

(1) The applicant, Kennecott Uranium Company, P.O. Box 1500, Rawlins, WY 82301;

(2) The NRC staff, by delivery to the Executive Director of Operations, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852; or

(3) By mail addressed to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

In addition to meeting other applicable requirements of 10 CFR Part 2 of the Commission's regulations, a request for a hearing filed by a person other than an applicant must describe in detail:

(1) The interest of the requestor in the proceeding;

(2) How that interest may be affected by the results of the proceeding, including the reasons why the requestor should be permitted a hearing, with particular reference to the factors set out in § 2.1205(g);

(3) The requestor's areas of concern about the licensing activity that is the subject matter of the proceeding; and

(4) The circumstances establishing that the request for a hearing is timely in accordance with § 2.1205(c).

Any hearing that is requested and granted will be held in accordance with the Commission's ''Informal Hearing Procedures for Adjudications in Materials and Operator Licensing Proceedings'' in 10 CFR Part 2, Subpart L.

Dated at Rockville, Maryland, this 6th day of August 1999.

For the Nuclear Regulatory Commission.

John J. Surmeier,

Chief, Uranium Recovery and Low-Level Waste Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

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NUCLEAR REGULATORY COMMISSION

[Docket No. 070–0925]

Finding of No Significant Impact Related to Amendment of Materials License No. SNM–928, Kerr-McGee Corporation, Cimarron Fuel Fabrication Site, Crescent, Oklahoma

The U.S. Nuclear Regulatory Commission (hereafter referred to as NRC) is considering issuing a license amendment to Materials License No. SNM–923, held by the Kerr-McGee Cimarron Corporation (Cimarron or the licensee), to incorporate the licensee's proposed decommissioning plan (DP) for its Cimarron Fuel Fabrication Site (Cimarron site) located in Crescent, Oklahoma. Other proposals being considered include: (1) Establishment of a cleanup standard for the site; (2) revision of Cimarron's Radiation Protection Plan (RPP) that summarizes the overall radiation protection program for the Cimarron facility; and (3) revision of Cimarron's organizational structure.

Summary of Environmental Assessment

Background

Cimarron has environmental responsibility for a fuel fabrication facility site near the city of Crescent, Oklahoma. The Kerr-McGee Corporation (KMC) operated two plants at the Cimarron facility between 1965 and 1975, each under its own separate Atomic Energy Commission license. Radioactive Materials License SNM–928 was issued under 10 CFR Part 70 for the Uranium Fuel Fabrication Facility and Radioactive Materials License SNM–1174 was issued for the Mixed Oxide Fuel Fabrication Facility. In 1983, when KMC was divided into Sequoyah Fuels Corporation (SFC) and Quivera Mining Corporation, SFC became the owner of the Cimarron facility. Subsequently, in 1988, Cimarron Corporation, a subsidiary of KMC, became responsible for the Cimarron facility. Although the Cimarron facility poses no immediate threat to public health and safety, it is listed in the Site Decommissioning Management Plan to ensure timely decommissioning.

Proposed Action

The objectives of the proposed actions are to decontaminate and decommission the Cimarron site to permit release for unrestricted use and to terminate the Radioactive Materials License SNM–928. In accordance with 10 CFR 70.38(g), Cimarron submitted a proposed DP. In conjunction with this proposal, Cimarron has also proposed revisions to the Radioactive Materials License SNM–928, changes to its RPP, and changes to its organizational structure.

Decommissioning activities have been ongoing since 1976 when production activities were terminated. Many of the decommissioning activities at the site have been completed under existing license conditions. Decommissioning activities remaining to be performed at the Cimarron facility include: decontamination and decommissioning of facility structures; onsite disposal of contaminated soil meeting the Option 2 criteria of NRC's 1981 Branch Technical Position (BTP)[1], ''Disposal or Onsite Storage of Thorium or Uranium Wastes from Past Operations;'' offsite disposal of soil or material exceeding the BTP Option 2 criteria; and groundwater remediation.

As previously noted, Cimarron proposed other related revisions to its license:

(1) Amending its license to add a new license condition specifically establishing the BTP Option 1 unrestricted-use, residual-contamination criteria as the cleanup standard for the Cimarron site;

[1] ''Disposal or Onsite Storage of Thorium or Uranium Waste from Past Operations'' (46 FR 52061, October 23, 1981).