

OCT 31 2018

*VRC-2018-011751*

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**BEFORE THE WASTE MANAGEMENT AND RADIATION CONTROL BOARD**

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**In the Matter of:**

EnergySolutions Petition for Exemption  
from Mass and Concentration Limits under  
Utah Admin. Code R313-25-9(5)(a) and (c)

**ORDER DENYING PETITION FOR  
EXEMPTION**

October 30, 2018

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EnergySolutions' petition for an exemption from the mass and concentration limitations set out in Utah Admin. Code R313-25-9(5)(a) and R313-25-9(5)(c) is denied.

**Background**

On August 24, 2018, EnergySolutions submitted to Scott T. Anderson, Director of the Division of Waste Management and Radiation Control and Executive Secretary to the Waste Management and Radiation Control Board, a petition to the Board for an exemption from the concentrated depleted uranium mass concentration limitation in Utah Admin. Code R313-25-9(5)(a) and from the depleted uranium concentration limitation in Utah Admin. Code R313-25-9(5)(c). EnergySolutions sought this relief under the authority of Utah Admin. Code R313-12-55(1), which allows a person to request an exemption or exception from the Rules when the person persuades the Board that the exemption or exception is authorized by law and will not result in undue hazard to public health and safety or the environment.

The Director gave public notice of a public comment period on EnergySolutions' petition. This period was to run from September 6, 2018 through October 9, 2018, but in response to a request from HEAL Utah, the period was extended to October 22,

2018. Numerous comments were submitted. The Director's staff presented a summary of those comments at the Board's October 25, 2018 meeting.

EnergySolutions made presentations to the Board concerning its petition at the Board's September 13, 2018 and October 25, 2018 meetings. The Director's staff made presentations concerning the petition at the Board's October 11, 2018 and October 25, 2018 meetings. Members of the public, including HEAL Utah and the Sierra Club, made comments at the Board's September 13, 2018 and October 25, 2018 meetings.

The Director provided a number of background documents relevant to EnergySolutions' petition to Board members and members of the public on the Department of Environmental Quality web site. The "Depleted Uranium Exemption Background Information" web page was first published on October 2, 2018, and updated on October 3, 15, and 16, 2018.

The Director recommended that the Board deny EnergySolutions' petition.

### **BOARD ACTION**

The Board heard the presentations of EnergySolutions and the Director, along with comments from members of the public, at its meetings on the above dates. Board members had the opportunity to consider the documents provided by the Director on the Department's web site.

By motion, after considering the information provided to them, the Board members determined, by unanimous roll call vote, to deny EnergySolutions' petition.


## ORDER

Therefore, EnergySolutions' petition for an exemption from the mass and concentration limitations set out in Utah Admin. Code R313-25-9(5(a) and R313-25-9(5(c) is denied. This is a final order in this matter.

### NOTICE OF RIGHT TO PETITION FOR JUDICIAL REVIEW

Under Utah Code Ann. 63G-4-403, a party may seek judicial review of this Order in the Utah Court of Appeals or the Utah Supreme Court within thirty days of the date of the Order.

DATED this 30th day of October 2018.

  
BRETT D. MICKELSON  
Chair,  
Waste Management and Radiation  
Control Board

CERTIFICATE OF SERVICE

I certify that on this 31<sup>st</sup> day of October, 2018, a true and correct copy of the foregoing ORDER DENYING PETITION FOR EXEMPTION was sent by electronic mail and by US Postal Service, as indicated, to:

Administrative Proceedings Records Officer  
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Service via US Postal Service and email

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