

PUBLIC NOTICE

Amendment 09 Radioactive Material License UT1900479

The Utah Department of Environmental Quality (DEQ), Division of Waste Management and Radiation Control (DWMRC) is requesting public comment regarding a proposed Licensing Action to the proposed changes to License Condition 9.7 the Energy Fuels Resources (USA) Inc. (Licensee) Radioactive Material License (RML UT1900479) for the White Mesa Uranium Mill site near Blanding, San Juan County, Utah.

Licensee Information:

NAME: Energy Fuels Resources (USA) Inc.
MAILING ADDRESS: 225 Union Boulevard, Suite 600
Lakewood, Colorado 80228
TELEPHONE NUMBER: (303) 389-4160
FACILITY LOCATION: Five Miles South of Blanding, San Juan County, Utah along U.S. Highway 191

The License Amendment Modification proposes to:

- 1) Remove reference to the Memorandum of Understanding (MOU) between the Nuclear Regulatory Commission (NRC), State of Utah's State Historical preservation Office (SHPO), Energy Resource Nuclear Inc. (former owner of the White Mesa Uranium Mill); and
- 2) Replace the MOU with the appropriate State of Utah Rules found in Utah Administrative Code .

The following replacement language is proposed for License Condition 9.7:

9.7. Before engaging in any activity not previously assessed, the licensee shall ensure that all disturbances associated with the proposed development undertaken by the licensee, are completed in compliance with the following: (a) Utah's antiquities law in Utah Code Section 9-8-301 et seq. and its implementing regulations; (b) Utah's historic sites law in Utah Code Section 9-8-401 et seq. and its implementing regulations; and (c) the Utah Native American Grave Protection and Repatriation Act in Utah Code Section 9-9-401 et seq. and its implementing regulations, in accordance with the following specific conditions.

Before engaging in any activity not previously assessed, the licensee shall comply with the following specific requirements relating to operations and activities within the boundaries of the Mill facility defined in License Condition 9.1 that will result in a surface disturbance:

- Contract to complete a survey, as defined in Utah Code Section 9-8-302(21), if an acceptable survey does not already exist for the given area. This work shall be carried out by a person holding a principal investigator survey or excavation permit from the State of Utah's Public Lands Policy Coordinating Office.
- Report in writing the discovery of any archaeological resources as defined in Utah Code Section 9-8-302(4), which shall be deemed to include historical artifacts, ancient human remains and historic properties, to the Director ("Director") of the Utah Division of State History ("Division") within 30 days of completion of the survey for review and submittal to the Utah State Historic Preservation Office ("SHPO") in accordance with Utah Code Section

9-8-404(1)(a)(ii).

- In the event of the discovery of possible, previously unknown or unidentified historical artifacts as defined in Utah Code Section 9-8-102(5), immediately cease any activity in the area of the discovery, at which point the newly discovered historical artifacts shall be collected, preserved and inventoried in a repository or curation facility with assistance from the SHPO in accordance with Utah Code Section 9-8-304(2)(c). No further disturbance shall occur until the licensee has received authorization from the Director to proceed.
- In the event the licensee knows or has reason to know that it has discovered ancient human remains, immediately cease any activity in the area of the discovery, make a reasonable effort to protect the remains discovered, and notify the Director and SHPO in accordance with Utah Code Section 9-9-403(4). Activity in the area may not resume until the licensee has fulfilled the requirements of Utah Code Sections 76-9-704 and 9-8-309 or has otherwise received authorization from the Director to proceed.
- If historic properties, as defined by Utah Code Section 9-8-402(1)(b) and as further defined below, will be adversely affected by any proposed activity not previously assessed, the licensee shall avoid by project design, where reasonably feasible, any historic properties. For purposes of the License, “historic properties” shall include all archaeological sites designated as “contributing” in any previous archeological survey conducted and documented at the Mill site starting from 1978 Environmental Report for the White Mesa Uranium Project to the present time. Where it is not reasonably feasible to avoid an historic property, the licensee shall institute a data recovery program for it that is based on a research design that takes into account current U.S. Advisory Council on Historic Preservation’s Archaeology Guidance. It is understood and agreed that it is not feasible to avoid any historic properties located in or within 100 feet of borrow areas, stockpile areas, construction areas, or the perimeter of the reclaimed tailings impoundments. Therefore, disturbance of such historic properties is deemed unavoidable. Where disturbance of historic properties is unavoidable, such historic properties shall be recovered through archaeological excavation. Data recovery fieldwork shall be completed prior to the start of any project-related disturbance, but analysis and report preparation need not be complete prior to the time of disturbance.

This licensing action does not qualify as a major amendment under UAC R313-17-2(1)(a)(i) and is considered a minor amendment. This is because the substance of the requirements regarding cultural resources on the Mill’s property does not change. The change is in regard to the legal basis for the cultural resource requirements is under state, not federal, law. This change is considered to be a minor amendment because, in substance, federal and state laws governing cultural resources are the same. However, as stated in UAC R313-17-2(2) *The Director may elect to give public notice of and provide an opportunity to comment on licensing actions that do not include the actions in Subsection R313-17-2(1)(a)(i),* Because of public and tribal interest in this subject matter, the Director has decided to provide a 30-day public comment period. However, there will not be any public meetings or hearings associated with this proposed license amendment. The Notice will be published on the DWMRC webpage in accordance with UAC R313-17-2(5).

This Notice is available for review and/or copying between 8:00 a.m. and 5:00 p.m., Monday through Friday, at the address listed below. In addition, the draft License and all other documents associated with this licensing action are available on the DWMRC website at:

<https://deq.utah.gov/NewsNotices/notices/waste/index.htm>

Public Comment Information:

- A thirty day public comment period for the proposed Licensing Action.
- Begins on February 21, 2020 by publication of this notice on the DWMRC's webpage.
- Ends at the close of business on March 23, 2020.

Written comments should be directed either by correspondence to the DWMRC mailing address at P.O. Box 144880, Salt Lake City, UT 84114-4850, street address at 195 North 1950 West, Salt Lake City, UT 84116, or by email to dwmrcpublic@utah.gov. Comments sent via email should be identified by putting the following in the subject line: Public Comment on License Condition 9.7 for RML UT1900479. All comments received within the comment period will be considered for inclusion in the final modified RML and Permit.

Under Utah Code Ann. Section 19-1-301.5, a person who wishes to challenge a Licensing Action (permit/license amendment approval) must do so in an adjudicatory proceeding and may only raise an issue or argument that he or she has previously raised during the public comment period. Further, the issue or argument must be one that is supported by sufficient information or documentation to enable the Director to fully consider the substance and significance of the issue.

After (i) the completion of the 30-day public comment period, and a DWMRC analysis of the information received from the public during the comment period, the DWMRC will finalize its review of the proposed minor License Amendment.

In compliance with the Americans with Disabilities Act, individuals with special needs (including auxiliary communicative aids and services) should contact Larene Wyss, Office of Human Resources at (801) 536-4284, Telecommunications Relay Service 711, or by email at "lwyss@utah.gov".