

Statement of Basis

RADIOACTIVE MATERIAL LICENSE (RML) NO. UT 1900479

SUMMARY OF LICENSE CHANGES

February 19, 2020

The following is a list of additional changes being made to the RML.

License Change Summary

License Condition ⁽¹⁾	Change Type ⁽²⁾	Description of Changes
9.7	Minor	References applicable State of Utah Rules instead of 1980s memorandum of agreement

Explanation of Changes:

License Condition 9.7: On July 31, 2017, the Ute Mountain Ute Tribe (UMUT) provided comments during the public comment period of the White Mesa Uranium Mill's (Mill) Radioactive Material License (RML) Renewal. Included as part of the UMUT's comments were two comments (comments I-III-D and I-III-E) that related to cultural resources on the Mill's property and License Condition 9.7. License Condition 9.7 of the Mill's RML references the Memorandum of Understanding (MOU) between the Nuclear Regulatory Commission (NRC), Utah State Historic Preservation Office (SHPO), and the former owner of the Mill, Energy Fuel Nuclear. The MOU outlined how the owner of the Mill would comply with cultural resource regulations on the Mill property.

On November 15, 2017, the Utah Division of Waste Management and Radiation Control (DWMRC) sent the UMUT a letter (DRC-2017-008785) indicating the Division's willingness to work with the UMUT, SHPO, and the current owner of the Mill (Energy Fuels Resources Inc. (EFRI)) to review the MOU referenced in License Condition 9.7 and determine if changes needed to be made. This letter was mailed to the UMUT's Chairman. The letter was also hand delivered to representatives of the UMUT during a meeting with the UMUT, the Division, and the Governor's office on December 15, 2017.

On January 24, 2019, a representative of the UMUT with the UMUT's Tribal Historic Preservation Office contacted the DWMRC to "engage" the Division, SHPO and EFRI to "review and reevaluate" the MOU in License Condition 9.7.

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- 1 License conditions not listed in the table are those that remain unchanged from the last License amendment.
 - 2 The Director deems minor changes as those that are insignificant in nature, or result in more protection of human health, safety, and/or the environment. Major changes are those found otherwise, and are only made after exposure of the License to public comment and resolution thereof.

On March 7, 2019, the DWMRC, SHPO and the Utah's Attorney General's office had a meeting to discuss License Condition 9.7. After that meeting, it was determined that License Condition 9.7 needed to be modified to reference the appropriate State of Utah Rules. SHPO consulted with the United States National Advisory Council on Historic Preservation and determined that when the State of Utah became an Agreement State for uranium recovery in August 2004, the MOU that was referenced in License Condition 9.7 was no longer valid. In addition, SHPO informed the DWMRC that the Utah Code and the Utah Administrative Code have requirements for the protection of cultural resources. These requirements are substantially the same as Federal requirements. SHPO also informed the DWMRC that since the Mill has a Radioactive Material License that has been issued by the State of Utah, the Mill is already required to follow Utah State Law for cultural resource protection. Therefore, a license condition that references Utah State Law for cultural resource protection may not be needed because the requirements are already found in Utah State Law. However, it was agreed that the License Condition 9.7 would be helpful for a variety of reasons, including defining the roles of the DWMRC, SHPO, and the Mill, recognizing past cultural survey work, recognizing that state regulation of the Mill under the License is a triggering state action, and a good reminder that the Mill is required to comply with State law in regards to cultural resources.

On July 31, 2019, the DWMRC, in the cooperation with the UMUT, organized a meeting to discuss License Condition 9.7. In attendance were representatives from the DWMRC, the UMUT, SHPO, the State of Utah's Attorneys Generals Office, the State of Utah's Utah Division of Indian Affairs, and EFRI. In addition to License Condition 9.7, the UMUT also used this time to discuss other concerns that the UMUT regarding the Mill.

A new proposed License Condition 9.7 was created with assistance from SHPO, the Utah Attorney General's Office, and EFRI. On January 21, 2020, the UMUT were provided an advance copy of the proposed language to allow them to provide comment for the DWMRC to consider prior to this notice.