



State of Utah

GARY R. HERBERT  
Governor

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Lieutenant Governor

Department of  
Environmental Quality

Alan Matheson  
Executive Director

DIVISION OF WASTE MANAGEMENT  
AND RADIATION CONTROL  
Scott T. Anderson  
Director

February 23, 2017

Kathy Weinel, Quality Assurance Manager  
Energy Fuels Resources (USA) Inc.  
225 Union Blvd., Suite 600  
Lakewood, CO 80228

CERTIFIED MAIL  
RETURN RECEIPT REQUEST  
7003 2260 0003 2353 6347

RE: Executed Stipulation and Consent Agreement  
White Mesa Uranium Mill  
Radioactive Materials License Number UT 1900479

Dear Ms. Weinel:

Please find enclosed a copy of the duly executed Stipulation and Consent Agreement regarding the Cell 2 cover. If you have any questions, please call Tom Rushing at (801) 536-0080.

Sincerely,

Scott T. Anderson, Director  
Division of Waste Management and Radiation Control

STA/TR/ka

Enclosure: Stipulation and Consent Agreement

c: Kirk Bengé, Executive Director and Health Officer, San Juan County Public Health  
Rick Meyer, Environmental Health Director, San Juan County Public Health

DRC-2017-001268

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**UTAH DEPARTMENT OF ENVIRONMENTAL QUALITY**

IN THE MATTER OF ENERGY FUELS RESOURCES (USA) INC. 225 UNION BLVD., SUITE 600 LAKEWOOD, CO 80228	STIPULATION AND CONSENT AGREEMENT
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**A. STATUTORY AUTHORITY**

This STIPULATION AND CONSENT AGREEMENT (“Agreement”) is hereby made between Energy Fuels Resources (USA) Inc. (“EFR”) and the Director (“Director”) of the Utah Division of Waste Management and Radiation Control (“Division”) pursuant to the Utah Solid and Hazardous Waste Act, Utah Code Ann. (UCA) §§ 19-6-101 to 125, the Utah Water Quality Act, UCA §§ 19-4-101 to 124, the Utah Radiation Control Act, UCA §§ 19-3-101 to 320 and the Utah Administrative Procedures Act, UCA §§ 63G-4-101 to 601.

**B. APPLICABLE STATUTORY AND REGULATORY PROVISIONS**

1. The Director is authorized to review and approve plans and issue administrative authorizations and orders in accordance with UCA §19-6-107.
2. Utah Administrative Code (“UAC”) R313-24-4, incorporating by reference 10 Code of Federal Regulations (“CFR”) Part 40 Appendix A Criterion 6—(1), provides in part: “In disposing of waste byproduct material, licensees shall place an earthen cover (or approved alternative) over tailings or wastes at the end of milling operations and shall close the waste disposal area in accordance with a design which provides reasonable assurance of control of radiological hazards to (i) be effective for 1,000 years, to the extent reasonably achievable, and, in any case, for at least 200 years, and (ii) limit releases of radon-222 from uranium byproduct materials, and radon-220 from thorium byproduct materials, to the atmosphere so as not to exceed an average release rate of 20 picocuries per square meter per second (pCi/m<sup>2</sup>s) to the extent practicable throughout the effective design life . . . .”
3. UAC R313-24-4, incorporating by reference 10 CFR Part 40 Appendix A Criterion 6A—(1), provides in part: “For impoundments containing uranium byproduct materials, the final radon barrier must be completed *as expeditiously as practicable considering technological feasibility* after the pile or impoundment ceases operation in accordance with a written, Commission-approved reclamation plan” (emphasis added).
4. EFR’s White Mesa Mill (as defined below) is subject to a Groundwater Discharge Permit No. UGW370004 (the “GWDP”). Part I.D.8 of the GWDP (the “Closed Cell Performance Requirements”) requires: “Before reclamation and closure of any tailings disposal cell, the Permittee shall ensure that the final design, construction, and operation of the cover system at each tailings cell will comply with all requirements of an approved Reclamation Plan, and will for a period of not less than 200 years meet the following minimum performance requirements:
  - (a) Minimize infiltration of precipitation or other surface water into the tailings, including, but not limited to the radon barrier,
  - (b) Prevent the accumulation of leachate head within the tailings waste layer that could rise above or over-top the maximum [flexible membrane liner] elevation internal to any disposal cell, i.e. create a “bathtub” effect, and,
  - (c) Ensure that groundwater quality at the compliance monitoring wells does not exceed the Ground Water Quality Standards or Ground Water Compliance Limits specified in Part I.C.1 and Table 2

of [the GWDP].”

### **C. RELEVANT FACTS**

1. EFR receives and processes natural uranium-bearing ores including certain specified alternate feed materials, and possesses byproduct material in the form of uranium waste tailings and other uranium byproduct waste generated by EFR’s White Mesa Mill milling operations (the “White Mesa Mill”), pursuant to State of Utah Radioactive Materials License UT1900479 (the “License”) and the GWDP. The White Mesa Mill is located approximately 6 miles south of Blanding, Utah on White Mesa in Sections 28, 29, 32, and 33, Township 37 South, Range 22 East, Salt Lake Baseline and Meridian, San Juan County, Utah.
2. In accordance with License condition 9.11, the Director approved Reclamation Plan, version 3.2 (the “Reclamation Plan Version 3.2”) on January 26, 2011.
3. EFR submitted an application to the Director for renewal of the License on February 27, 2007 and for renewal of the GWDP on September 2, 2009. Updated GWDP renewal applications were submitted by EFR in 2012 and 2014. Recent EFR documents reviewed by the Director for the License and Permit renewals include EFR’s proposed Reclamation Plan, White Mesa Mill, Revision 5.0 dated September 2011 (“Reclamation Plan, Revision 5.0”).
4. The proposed Reclamation Plan, Revision 5.0 presents a proposed evapotranspiration (“ET”) cover (the “Proposed Cover Design”) as a component of the reclamation plan for the tailings cells, to replace the rock armor cover design (the “Existing Cover Design”) set out in Appendix D of the Reclamation Plan Version 3.2. The Proposed Cover Design will have a minimum thickness of 10.5 feet for Cell 2, and will consist of the following layers listed below from top to bottom:
  - “Layer 4” - 0.5 ft (15 cm) thick Erosion Protection Layer (topsoil-gravel admixture or topsoil)
  - “Layer 3” - 3.5 ft (107 cm) thick Water Storage/Biointrusion/Frost Protection/Secondary Radon Attenuation Layer (loam to sandy clay)
  - “Layer 2” - 4.0 ft (122 cm) thick Primary Radon Attenuation Layer (highly compacted loam to sandy clay)
  - “Layer 1” - 2.5 ft (76 cm) thick (minimum) Secondary Radon Attenuation and Grading Layer (loam to sandy clay)

All the layers combined comprise the monolithic ET cover system. Layer 1 was placed in stages on Cell 2 as interim cover from 1991 through 2008 and is approximately 3 feet thick. Additional minor volumes of Layer 1 interim cover (less than 1 foot in thickness) were placed in select areas of Cell 2 after 2008.

5. The Director provided interrogatories from review of the proposed Reclamation Plan, Revision 5.0 in March 2012. EFR provided responses to those interrogatories in May and September 2012. The Director provided review comments on EFR’s responses in February 2013. EFR completed supplemental investigations in 2013 and 2014 in response to the Director’s February 2013 review comments. EFR submitted responses to the Director’s February 2013 review comments in August 2015.
6. Infiltration modeling was conducted for the monolithic ET cover and a complete description of the analyses were provided in EFR’s March 2010 Revised Infiltration and Contaminant Transport Modeling (ICTM) Report. The modeling was updated to address the Director’s March 2012 and February 2013 comments on the ICTM Report and to incorporate supplemental field investigations

conducted in 2010 and 2012 for cover borrow material and in 2013 for in situ tailings. The updated infiltration modeling results were presented in EFR's submitted responses to the Director's March 2012 and February 2013 review comments in August 2012 and August 2015.

7. According to the EFR August 15, 2015 response to the Director's Review Comments, P. 10, *"Conceptually, the model simulation results are in agreement with the general consensus that the establishment of vegetation is the most critical factor in reducing long-term infiltration rates through an ET cover system. For this reason, among other factors mentioned below, infiltration rates are only presented for a 40 percent vegetative cover scenario. Forty percent vegetative cover is the targeted reclamation goal success criterion, and is supported by vegetation reconnaissance near the site and studies published in the literature."*
8. On November 11, 2015, the Director held a conference call with EFR and recommended submittal of this Agreement outlining a plan to complete reclamation of tailings Cell 2. This plan would consist of completing placement of the Proposed Cover Design on Cell 2 and demonstrating acceptable cover performance via a performance monitoring program.
9. On August 11, 2016, EFR submitted Reclamation Plan, Revision 5.1, with an Updated Tailings Cover Design Report (the "Updated Cover Design Report") attached thereto as Appendix A which details the Proposed Cover Design and incorporated current comments received from the Director.
10. On December 5, 2016, EFR submitted the final version of Reclamation Plan, Revision 5.1, which incorporated additional comments received from the Director.
11. The Director will approve Reclamation Plan 5.1 (the "Approved Reclamation Plan") upon completion of a public notice and comment period, and in conjunction with and conditional upon the execution and delivery of this Agreement by EFR and the Director. This Agreement sets out the commitments and time frames for completing placement of reclamation cover on Cell 2 and performance assessment of the cover system, in accordance with the Approved Reclamation Plan.

#### **D. AGREEMENT**

The Director and EFR agree as follows:

##### **1. Phase 1 Cover Construction**

EFR will complete Phase 1 cover construction in accordance with Sections L.1, L.2 and L.3 of Appendix L ("Appendix L") to the Updated Cover Design Report, which will include placement of: (1) additional interim cover (Layer 1) to achieve design grades prior to placement of cover Layer 2; and (2) the entirety of Layer 2.

Instrumentation for monitoring Cell 2 after Phase 1 cover placement is described in Sections L.4.2 and L.4.4 of Appendix L, and will include the existing settlement monuments and newly installed piezometers.

Cell 2 Phase 1 cover placement commenced in April 2016, and will be completed on or before August 31, 2017, or such later date as may be approved by the Director.

An as-built report for Cell 2 Phase 1 cover placement will be provided to the Director within 90 days after completion of construction, or such later date as may be approved by the Director.

## **2. Test Section Design and Construction**

### *(a) Primary Test Section*

EFR constructed a performance monitoring test section within the Cell 2 cover (the “Primary Test Section”) concurrently with the Phase 1 cover placement. The Primary Test Section was constructed as a design-build project in accordance with Section L.4 of Appendix L and the Installation Instructions set out in Attachment L.2 of Appendix L.

A weather station was installed adjacent to the Primary Test Section, in accordance with Section L.4 of Appendix L.

The Primary Test Section, including the weather station, will be completed as of the date of this Agreement.

The properties of the soil used to construct the Primary Test Section will be tested in accordance with Section L.4.2 of Appendix L to determine whether the soil properties are characteristic of base case, upper, or lower bound conditions.

An as-built report for the Primary Test Section construction, as well as the test results for the soil properties, will be provided to the Director within 90 days after completion of construction of the Primary Test Section and receipt of the laboratory test results, or such later date as may be approved by the Director.

### *(b) Supplemental Test Section*

EFR will construct a supplemental vegetation/erosion monitoring test section (the “Supplemental Test Section”) concurrently with the Phase 1 cover placement. The Supplemental Test Section will be constructed at the location specified in and in accordance with Section L.4.3 of Appendix L. Work on the Supplemental Test Section is scheduled for the fall of 2017 after an adequate amount of composted biosolids can be produced for soil amendment prior to seeding.

The Supplemental Test Section will be completed on or before November 30, 2017, or such later date as may be approved by the Director.

A construction report summarizing the Supplemental Test Section construction will be provided to the Director within 90 days after completion of construction of the Supplemental Test Section, or such later date as may be approved by the Director.

## **3. Test Section Monitoring**

### *(a) Monitoring of Percolation Performance*

EFR will assess the performance of the cover system design by monitoring the Primary Test Section in accordance with the provisions of Section L.4.2 of Appendix L.

EFR will monitor the Primary Test Section in two stages: (i) calibration monitoring and (ii) performance monitoring, in accordance with the provisions of Section L.4.2 of Appendix L, as follows:

*i) Calibration Monitoring*

Calibration monitoring will be conducted for two full calendar years (the “Calibration Period”) after construction is complete to confirm monitoring systems are functioning properly, vegetative cover has had time to establish itself, and the cover has equilibrated prior to entering the performance monitoring period. The first calendar year of calibration monitoring will begin on January 1 after construction of the Test Section has been completed.

*ii) Performance Monitoring*

Official performance monitoring of the Primary Test Section will commence on January 1 after the two calendar years of calibration monitoring are complete. Performance monitoring will be conducted for five years (the “Performance Period”).

*(b) Monitoring of Vegetation Properties*

Vegetation properties will be measured on the Primary Test Section, in accordance with Section L.4.2 of Appendix L. Vegetation properties will be measured on the Supplemental Test Section, in accordance with Section L.4.3 of Appendix L. Such monitoring on the Primary Test Section and Supplemental Test Section will commence one year after seeding and continue for a minimum of five years after calibration monitoring is complete. The Supplemental Test Section will not include evaluation of the entire cover profile but will demonstrate that vegetation can be established and that erosional influences will not be detrimental to long-term establishment according to the acceptance criteria set out in Section L.4.3 of Appendix L.

*(c) Monitoring of Meteorology*

EFRI will monitor on-site meteorological conditions during the seven-year test period, in accordance with Section L.4.2 of Appendix L.

*(d) Determination of Soil Properties*

Soil properties of the Primary Test Section will be tested during Primary Test Section construction, in accordance with Section L.4.2 of Appendix L. In-service soil properties of the Primary Test Section cover system will be determined during the last year of the Performance Period via sampling and testing in the buffer area of the Primary Test Section outside the lysimeter, in accordance with Section L.4.2 of Appendix L.

*(e) Monitoring Plans*

EFR will submit for Director approval sampling plans for the monitoring contemplated by Items D.3(a)-(d) above, within 90 days after the date of this Agreement.

**4. Performance Criteria**

The cover design will be tested by monitoring as set out in Item 3 above and comparison of the results to the performance criteria set out below.

*(a) Percolation Performance Criteria*

The percolation rate from the base of the lysimeter in the Primary Test Section will be used as the



percolation performance parameter for the cover system, in accordance with Section L.4.2 of Appendix L. The cover design will be considered to have performed adequately if the average annual percolation rate is 2.3 mm/yr or less.

The performance evaluation will be based on data collected during the Performance Period. After Director review of the data supporting percolation performance conclusions of the proposed cover system, the percolation performance criteria will be used to determine subsequent required actions per Item D.7. below.

*(b) Vegetation Performance Criteria*

The vegetation component of the Primary Test Section and Supplemental Test Section will be evaluated for applicable acceptance criteria as presented in Section L.4.2 and L.4.3 of Appendix L, respectively. The cover design will be considered to be successful if a minimum vegetation live cover of 40 percent and acceptable vegetation diversity (relative cover) per Appendix D of the Updated Tailings Cover Design Report (perennial grasses and forbs) is met for both the Primary Test Section and Supplemental Test Section by the end of the Performance Period. The revegetation acceptance goal of 40 percent live cover assumes average annual precipitation during the Performance Period (based on long-term on-site averages). If precipitation during the Performance Period is dryer than average conditions or if the performance criteria set out in Item 4(b) above are met notwithstanding that the vegetation performance criteria are not met, or if it appears that more time is needed to satisfy the vegetation performance criteria, the Director may set a new acceptance goal based on such factors, including EFR discussion of the lysimeter findings, findings of revised ground water modeling, consideration of the magnitude of change in annual precipitation and the rate of growth of vegetation over time.

**5. Settlement Monitoring and Performance Criteria**

After Phase 1 cover construction is complete, settlement monuments and piezometers will be monitored in accordance with Section L.4.4 of Appendix L.

Settlement and dewatering data will be evaluated after the cover performance monitoring is complete. The evaluation will determine if sufficient settlement has occurred to facilitate Phase 2 cover placement and minimize maintenance of the final cover surface. Decreasing trends in settlement followed by a maximum of 0.1 feet (30 mm) of cumulative settlement over 12 months (for at least 90 percent of the settlement monuments), will be considered acceptable to proceed with placement of the Phase 2 Cell 2 cover.

**6. Reporting**

A data quality report will be provided to the Director within 60 days after the end of each calendar quarter, and a comprehensive performance monitoring report will be submitted annually to the Director, within 120 days after the end of the last calendar year and within 60 days after the end of each other calendar year, in accordance with Section L.4.4 of Appendix L. The annual performance monitoring report (the "Final Report") will be submitted within 120 days after the last year of the Performance Period will also include the monitoring results for the Primary Test Section and Supplemental Test Section Monitoring required under Item D.3 above and compare such results to the Performance Criteria set out in Item D.4 above, and set out EFR's determinations as to the performance of the Cover Design as contemplated by Item D.7 below.



## 7. Determination of Performance of Cover Design

### *(a) Satisfaction of all Performance Criteria*

If the average measured percolation rate for the Primary Test Section during the Performance Period is equal to or lower than 2.3 mm/yr, as verified by Test Section data collection, and the vegetation and erosion monitoring for the Primary Test Section and Supplemental Test Section during the Performance Period in accordance with Item D.3(b) above, meets the performance criteria set out in Item D.4(b) above, as verified by Test Section and Supplemental Test Section data collection, then the proposed Cover Design will have been verified, subject to review and approval by the Director. Upon Director Approval, EFR will complete Phase 2 of the Cover placement in accordance with the Proposed Cover Design and Item D.8 below.

### *(b) Failure to Satisfy all Performance Criteria*

If the average measured percolation rate for the Primary Test Section during the Performance Period exceeds 2.3 mm/yr, or the Primary Test Section or Supplemental Test Section fails to meet the Vegetation Performance Criteria set out in Item 4(b) above, then:

- i) Within 120 days after submittal of the Final Report to the Director, or such later date as may be approved by the Director, EFR may submit a revised model that demonstrates to the satisfaction of the Director that the Proposed Cover Design is acceptable notwithstanding such exceedance or failure, and if the Director accepts such demonstration, then the Proposed Cover Design will have been verified and, EFR will complete Phase 2 of the Cover placement in accordance with the Proposed Cover Design, Section 5.0 of the Approved Reclamation Plan and Item D.8 below;
- ii) Within 180 days after submittal of the Final Report to the Director, or if EFR submits a revised model under paragraph i) above, within 180 days after the Director advises that he does not accept such demonstration, or within such later date as may be approved by the Director, EFR may submit a revised Cover Design (the "Revised Cover Design"), with supporting modeling, and if the Director accepts such Revised Cover Design, then EFR will complete Phase 2 of the Cover placement in accordance with the Revised Cover Design, Section 5.0 of Approved Reclamation Plan and Item D.8 below; and,
- iii) If, EFR does not submit a revised model in accordance with paragraph i) or if the Director rejects such revised model, and EFR does not submit a Revised Cover Design in accordance with paragraph ii) or the Director does not accept such Revised Cover Design, then, unless otherwise determined by the Director, EFR will complete Phase 2 of the Cover placement for Cell 2 in accordance with the design specifications in the Existing Cover Design pursuant to Section 5.0 of the Approved Reclamation Plan and Item D.8 below.

It is acknowledged that precipitation events during the Performance Period may be wetter than average conditions or the soils used to construct the Primary Test Section may be typical of upper bound conditions, which in either case could result in higher cover percolation rates during the Performance Period than 2.3 mm/yr, but which are not expected under base case conditions. The revised modeling required under Item D.7(b)(i) must demonstrate that notwithstanding increased percolation in the Primary Test Section measured during the Performance Period the cover design will under base case conditions be expected to meet the minimum performance criteria set out in Part I.D.8 of the GWDP. It is also acknowledged that it may take longer than the Performance Period for vegetation to reach the 40% cover requirement, even under average meteorological conditions. If the 2.3 mm/yr performance criteria in Item 4(a) above is satisfied, or if the Director is satisfied that the vegetation cover will meet the performance criteria within a reasonable period of time after the Performance Period, the Director may approve the cover design even though the vegetation performance criteria have not been satisfied during



the Performance Period. It is further acknowledged that the 2.3mm/yr performance criteria may not be satisfied during the early portions of the Performance Period if the vegetation cover has not yet met the 40% cover requirement, but may achieve the 2.3 mm/yr performance criteria for later portions of the Performance Period after the vegetation cover approaches or meets the 40% cover requirement, in which case the Director may approve the cover design or extend the Performance Period.

## **8. Phase 2 Cover Construction**

### *(a) Final Approved Phase 2 Cover Design*

The final approved Phase 2 cover design and construction will be as determined in accordance with Item D.7 above.

### *(b) Commencement of Placement of Phase 2 Cover*

Commencement of placement of Cell 2 Phase 2 cover will commence after the following two milestones have been satisfied:

- Director approval of the final Phase 2 cover in accordance with Item D.7 above; and,
- Confirmation from the Director that the Settlement Monitoring and Performance Criteria set out in Item D.5 above have been satisfied.

### *(c) Completion of Placement of Phase 2 Cover*

If both of the milestones set out in paragraph (b) above are satisfied prior to April 1 in any given year, and the approved cover design is not a Revised Cover Design, then Phase 2 cover construction, other than any re-vegetation, will be completed on or prior to December 31 of the following year, or such later date as may be approved by the Director. If the approved cover design is a Revised Cover Design, then the time for completion of Phase 2 cover construction will be as specified in the Revised Cover Design.

### *(d) As-Built Report*

An as-built report for Cell 2 Phase 2 cover placement will be provided to the Director within 90 days after completion of construction, including verification of placement of all specified surface soil amendments (biosolids, etc), or such later date as may be approved by the Director.

## **9. Revegetation**

Revegetation of the Cell 2 cover will take place at the end of Phase 2 cover construction, in accordance with the revegetation plan set out in Appendix J to the Updated Cover Design Report. All required seeding for re-vegetation will commence in the first available growing season after completion of Phase 2, as determined by the Director, and will be completed before the end of such growing season, or such later date as may be approved by the Director.

## **10. Credit Against Reclamation Cost**

Work completed on the construction of Phase 1, in accordance with Item D.2 above, and the construction of Phase 2, in accordance with Item 8 above, and re-vegetation, in accordance with Item D.9 above, will be credited against the annual reclamation cost update submitted to the Director on March 4<sup>th</sup> of each year.

### **E. STIPULATED PENALTIES**

EFR agrees to pay, within thirty (30) calendar days of written demand by the Director, the following stipulated penalty amounts for non-compliance with this Agreement::

1. If EFR fails to complete Cell 2 Phase 1 cover placement as required by and in accordance with the deadline in Item D.1 above, EFR will pay stipulated penalties in the amount of \$500 per calendar day.
2. If EFR fails to complete the Primary Test Section and Supplemental Test Section including the weather station, as required by and in accordance with the deadline in Item D.2 above, EFR will pay stipulated penalties in the amount of \$500 per calendar day.
3. If EFR fails to submit the as-built report for Cell 2 Phase 1 cover placement for Director review and approval as required by and in accordance with the deadline specified in Item D.1 above, EFR will pay stipulated penalties in the amount of \$500 per calendar day.
4. If the Director determines that the as-built report for Cell 2 Phase 1 cover placement has omitted any information, content requirements, or failed to meet the performance standards or objectives mandated by Item D.1 above, the Director will so advise EFR by written notice and EFR will remedy such omission or failure within a deadline determined by the Director. If EFR fails to remedy such omission or failure by the deadline determined by the Director, EFR will pay stipulated penalties in the amount of \$500 per calendar day for every day after such period that the report remains incomplete.
5. If EFR fails to submit the as-built report for the Primary Test Section or the construction report for the Supplemental Test Section construction for Director review and approval as required by and in accordance with the deadline specified in Item D.2 above, EFR will pay stipulated penalties in the amount of \$500 per calendar day.
6. If the Director determines that the as-built report for the Primary Test Section construction or the construction report for the Supplemental Test Section has omitted any information, content requirements, or failed to meet the performance standards or objectives mandated by Item D.2 above, the Director will so advise EFR by written notice and EFR will remedy such omission or failure within a deadline determined by the Director. If EFR fails to remedy such omission or failure by the deadline determined by the Director, EFR will pay stipulated penalties in the amount of \$500 per calendar day for every day after such period that the report remains incomplete.
7. If EFR fails to submit the sampling plans as required by and in accordance with the deadlines set out in Item D.3(e) above, EFR will pay stipulated penalties in the amount of \$500 per calendar day.
8. If EFR fails to submit a quarterly data quality report or annual comprehensive performance monitoring report or Final Report for Director review and approval as required by and in accordance with the deadlines specified in Item D.6 above, EFR will pay stipulated penalties in the amount of \$500 per calendar day.
9. If the Director determines that any quarterly data quality report or annual comprehensive monitoring report or Final Report has omitted any information, content requirements, or failed to meet the performance standards or objectives mandated by Item D.6 above, the Director will so advise EFR by written notice and EFR will remedy such omission or failure within a deadline determined by the Director. If EFR fails to remedy such omission or failure by the deadline determined by the Director, EFR will pay stipulated penalties in the amount of \$500 per calendar day for every day after such period that the report remains incomplete.

10. If EFR fails to complete placement of Cell 2 Phase 2 cover as required by and in accordance with the deadlines set out in Item D.8(c) above, EFR will pay stipulated penalties in the amount of \$500 per calendar day.
11. If EFR fails to submit the as-built report for Cell 2 Phase 2 cover placement for Director review and approval as required by and in accordance with the deadline specified in Item D.8(d) above, EFR will pay stipulated penalties in the amount of \$500 per calendar day.
12. If the Director determines that the as-built report for Cell 2 Phase 2 cover placement construction has omitted any information, content requirements, or failed to meet the performance standards or objectives mandated by Item D.8(d) above, the Director will so advise EFR by written notice and EFR will remedy such omission or failure within a deadline determined by the Director. If EFR fails to remedy such omission or failure by the deadline determined by the Director, EFR will pay stipulated penalties in the amount of \$500 per calendar day for every day after such period that the report remains incomplete.
13. If EFR fails to complete all required seeding for re-vegetation as required by and in accordance with the deadlines set out in Item D.9 above, EFR will pay stipulated penalties in the amount of \$500 per calendar day.
14. Stipulated penalties will be paid in the form of a check made payable to the State of Utah, and delivered or mailed to:

Division of Waste Management and Radiation Control,  
Utah Department of Environmental Quality  
P.O. Box 144880  
195 North 1950 West  
Salt Lake City Utah, 84114-4880

#### **F. FORCE MAJEURE**

The Director and EFR agree to perform all requirements of this Agreement within the time established under this Agreement, unless the performance is delayed by a *force majeure*. For purposes of this Agreement with respect to EFR, a *force majeure* is defined as any event arising from causes beyond the control of EFR or of any entity controlled by EFR including but not limited to their contractors and subcontractors that delays or prevents performance of any obligation under this Agreement despite EFR's best efforts to fulfill the obligation.

EFR shall provide written notice to the Director of the occurrence of a *force majeure* that will cause or has caused a delay. The notice will include a description of the events leading to the *force majeure* and an estimate of the new timeline to perform the requirements.


#### **G. NOTICE**

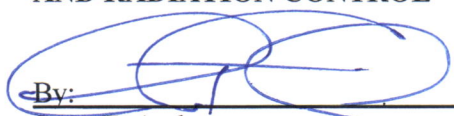
EFR shall comply with the provisions of this Agreement. Providing false information may subject EFR to additional civil penalties or criminal fines in excess of those stated by this Agreement up to the maximum allowable by law.

Signed this 23<sup>rd</sup> day of February, 2017.

**ENERGY FUELS RESOURCES (USA) INC.**

**UTAH DIVISION OF WASTE MANAGEMENT  
AND RADIATION CONTROL**

By:   
\_\_\_\_\_  
David C. Frydenlund  
Sr. Vice President, General Counsel and Corporate  
Secretary

By:   
\_\_\_\_\_  
Scott T. Anderson  
Director