



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

FEB 24 2009

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

IN THE MATTER OF:

Highland Uranium and Smith Ranch Mines
Power Resources Inc.
Highland Uranium Project P.O.Box 1210
Glenrock, Wyoming 82637

ATTENTION: Krista Wenzel
Manager, Environmental Health and safety

Request to Provide Information Pursuant to the Clean Air Act

The United States Environmental Protection Agency (EPA) is requiring Highland Uranium and Smith Ranch Mines (Highland or you) to submit certain information about your operations in the United States of America. Appendix B specifies the information you must submit. You must send this information to us within thirty (30) days of receipt of this request.

We are issuing this information request under section 114(a) of the Clean Air Act (the Act), 42 U.S.C. § 7414(a). Section 114(a) authorizes the Administrator of EPA to require the submission of information within your possession, custody or control. The Administrator has delegated this authority to the Director of the Air Enforcement Division.

Highland owns and operates facilities that are, or may be, subject to the National Emission Standards for Hazardous Air Pollutants (NESHAP). We are requesting this information to determine whether your company is complying with the National Emission Standard for Radon Emissions from Operating Mill Tailings found at 40 C.F.R. Part 61, Subpart W.

You must send all required information to:

Attn: Charles Garlow, Attorney-Advisor
OECA, Air Enforcement Division
U.S. Environmental Protection Agency
1200 Pennsylvania Ave, N.W. – MC 2242A
Washington, DC 20460

with a copy to:

Andrew M. Gaydosh
Assistant Regional Administrator
Office of Enforcement, Compliance and Environmental Justice
United States Environmental Protection Agency
Region 8 (8-ENF)
1595 Wynkoop Street
Denver, CO 80202-1129

Under 40 C.F.R. Part 2, Subpart B, you may assert a claim of business confidentiality for any portion of the submitted information. You must specify the page, paragraph, and sentence when identifying the information subject to your claim. Appendix A specifies the assertion and substantiation requirements for business confidentiality claims. Highland must submit all requested information under an authorized signature with the following certification:

I certify under penalty of law that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to section 113(c)(2) of the Act, and 18 U.S.C. §§ 1001 and 1341.

We may use any information submitted in response to this request in an administrative, civil, or criminal action.

This request is not subject to the Paperwork Reduction Act, 44 U.S.C. §§ 3501 et seq.,

because it seeks collection of information from specific individuals or entities as part of an administrative action or investigation. To aid in our electronic record keeping efforts, please provide your response to this request for information without staples. Paper clips, binder clips, and 3-ring binders are acceptable.

Failure to comply fully with this request for information may subject Highland to an enforcement action under section 113 of the Act, 42 U.S.C. § 7413.

You should direct any questions about this request for information to Charles Garlow at (202) 564-1088.

2/20/09
Date


Matthew W. Morrison, Acting Director
Air Enforcement Division

cc: Robert Gill
Air Quality Division
Department of Environmental Quality
122 West 25th Street – Herschler Bldg, 4-W
Cheyenne, WY 82002

Cindy Reynolds
US EPA, Region 8

Appendix A

Confidential Business Information

You may assert a business confidentiality claim covering all or part of the information you provide in response to this information request for any business information entitled to confidential treatment under Section 114(c) of the Clean Air Act (the Act), 42 U.S.C. § 7414, and 40 C.F.R. Part 2, subpart B. Under Section 114(c) of the Act, you are entitled to confidential treatment of information that would divulge methods or processes entitled to protection as trade secrets. Under 40 C.F.R. Part 2, subpart B, business confidentiality means “the concept of trade secrecy and other related legal concepts which give (or may give) a business the right to preserve the confidentiality of business information and to limit its use or disclosure by others in order that the business may obtain or retain business advantages it derives from its rights in the information.” See 40 C.F.R. § 2.201(e).

Information covered by a claim of business confidentiality will be disclosed by EPA only to the extent, and by means of the procedures, set forth in Section 114(c) of the Act and 40 C.F.R. Part 2, subpart B. EPA will construe your failure to furnish a business confidentiality claim with your response to this information request as a waiver of that claim, and the information may be made available to the public without further notice to you.

To assert a business confidentiality claim, you must place on (or attach to) all information you desire to assert as business confidential either a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as “trade secret,” “proprietary,” or “company confidential” at the time you submit your response to this information request. Allegedly confidential portions of otherwise non-confidential documents should be clearly identified, and may be submitted separately to facilitate identification and handling by EPA. You should indicate if you desire confidential treatment only until a certain date or until the occurrence of a certain event.

The criteria EPA will use in determining whether material you claim as business confidential is entitled to confidential treatment are set forth at 40 C.F.R. §§ 2.208 and 2.301. These regulations provide, among other things, that you must satisfactorily show that: (1) the information is within the scope of business confidentiality as defined at 40 C.F.R. § 2.201(e), (2) that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so, (3) the information is not and has not been reasonably obtainable by legitimate means without your consent, and (4) the disclosure of the information is likely to cause substantial harm to your business’s competitive edge. See 40 C.F.R. § 2.208 (a)-(d). Emission data, as defined at 40 C.F.R. § 2.301(a)(2), is expressly not entitled to confidential treatment under 40 C.F.R. Part 2, subpart B. See 42 U.S.C. § 7414(c); 40 C.F.R. § 2.301(e).

If you assert a claim of business confidentiality in connection with information and documents forwarded in response to this request for information, in accordance with 40 C.F.R.

§ 2.204(e)(4), EPA is requesting that you answer the following questions with respect to any information or document for which you assert a claim of business confidentiality:

1. What specific portions of the information are alleged to be entitled to confidential treatment? Specify by page, paragraph, and sentence when identifying the information subject to your claim.
2. For what period of time do you request that the information be maintained as confidential, e.g., until a certain date, until the occurrence of a specified event, or permanently? If the occurrence of a specific event will eliminate the need for confidentiality, specify that event. Additionally, explain why the information should be protected for the time period you've specified.
3. What measures have you taken to protect the information claimed as confidential from undesired disclosure? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information still be considered confidential?
4. Is the information contained in any publicly available material such as the Internet, publicly available databases, promotional publications, annual reports, or articles? Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?
5. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.
6. For each category of information claimed as confidential, explain with specificity whether disclosure of the information is likely to result in substantial harm to your competitive position. Explain the specific nature of those harmful effects, why they should be viewed as substantial, and the causal relationship between disclosure and such harmful effects. How could your competitors make use of this information to your detriment?
7. Is there any other explanation you deem relevant to EPA's determination of your business confidentiality claim that is not covered in the preceding questions? If so, you may provide such additional explanation.

You must furnish comments to the above questions concurrent with your response to this information request if you have claimed any information as business confidential. See 40 C.F.R. § 2.204(e)(2). Pursuant to 40 C.F.R. § 2.205(b)(2), you may request an extension of this deadline. EPA will construe your failure to furnish timely comments as a waiver of your confidentiality claim, consistent with 40 C.F.R. § 2.204(e)(1). Please submit your comments to Charles Garlow at the address given above.

Appendix B

INSTRUCTIONS

1. Please identify the individual(s), including title, responsible for responding to this request.
2. Provide a separate narrative response to each question and subpart of a question set forth in the request.
3. Precede each answer with the number of the question to which it corresponds and at the end of each answer identify the person(s) that provided the information used or considered in responding to that question, as well as each person consulted in the preparation of that response.
4. Indicate on each document produced in response to this Information Request, or in some other reasonable manner, the number of the question to which it corresponds.
5. When a response is provided in the form of a number, specify the units of measure of the number in a precise manner.
6. Where documents or information necessary for a response are neither in your possession nor available to you, indicate in your response why such documents or information is not available or in your possession and identify any source that either possesses or is likely to possess such information.

DEFINITIONS

1. All terms used in this Request for Information will have their ordinary meaning unless such terms are defined in the Act, 42 U.S.C. §§ 7401, et seq., 40 C.F.R. Part 61 or other Clean Air Act implementing regulations.
2. The terms "person" or "persons" shall have the meaning set forth in Section 302(e) of the Act, 42 U.S.C. § 7602(e), and include an individual, corporation, partnership, association, State, municipality, political subdivision of a State, and any agency, department, or instrumentality of the United States and any officer, agent or employee thereof.
3. The terms "relate to" or "pertain to" (or any form thereof) shall mean constituting, reflecting, representing, supporting, contradicting, referring to, stating, describing, recording, noting, embodying, containing, mentioning, studying, analyzing, discussing, evaluating or relevant to.
4. The term "uranium in-situ leaching facility" means a facility at which uranium is extracted using a leaching agent.

QUESTIONS

Within thirty (30) calendar days of receipt of this information request, Highland must submit the following information regarding its facilities in the United States:

1. Please list each uranium mill and uranium mill tailings impoundment located in the United States of America that has been, or is currently, owned or operated by Highland or affiliated corporations located in the United States of America. Include the exact location of each uranium mill by map and legal property description.
2. Please list each uranium in-situ leaching facility located in the United States of America that has been, or is currently, owned or operated by Highland or affiliated corporations. Please include the exact location of each uranium mill by map and legal property description.
3. Please provide the following information for each uranium mill and uranium in-situ leaching facility identified in questions 1 and 2:
 - a. A complete description of each uranium mill and uranium in-situ leaching facility's operational status (e.g., permanently shut down, temporarily shut down, standby status, in full or partial operation), method of operation (continuous disposal, phased disposal or other method) and methods by which compliance with the NESHAP standards, specified at 40 C.F.R. § 61.252, is ensured (meeting emission limit in Section 61.252(a) and work practices in (b) and (c)). Include a description of the type of facility (conventional, in-situ leach, heap leach or combination);
 - b. A history of operation since 1975, including:
 - i) the original date of construction of each uranium mill and uranium in-situ leaching facility;
 - ii) the plan of operation and plans to shut-in or close active operation;
 - iii) ownership changes; and
 - iv) whether the uranium mill and uranium in-situ leaching facility is existing, new, or has plans for reactivating any operations that have been curtailed.
 - c. The number and size (in acres), dimensions, locations within the facility or plant site, capacity in gallons and lining material of each "existing mill impoundment", as that term is used in 40 C.F.R. Subpart W, and any other waste holding areas such as evaporation or settling ponds.
 - d. For each existing mill impoundment, evaporation pond, and settling pond identified in response to request 3.c, identify the date(s) each was:
 - i) constructed;
 - ii) used for the continued placement of new tailings;
 - iii) placed on "standby status"; and
 - iv) closed, and during what periods they were operational.

4. For each existing mill impoundment, evaporation pond, and settling pond identified in response to request 3.d. above

a. identify whether the "continuous disposal" method, as defined in 40 C.F.R. Section 61.252(b)(2), is used;

b. describe the mechanical methods used to dewater tailings, the process used to dispose of tailings, the precise location of any and all disposal areas used for dewatered tailings, and the method used to cover such tailings;

c. provide *all* disposal records maintained by you, including any records that reflect the manner of disposal and the method of covering such tailings;

d. provide all emissions data collected by you, or anyone working on your behalf, that show that emissions from disposed materials comply with the requirements in 40 C.F.R. § 61.252(a);

e. provide information to demonstrate and describe the method of complying with the requirement that there be no more than 10 acres uncovered at any one time, as specified in 40 C.F.R. Section 61.252((b)(2);

f. provide proof that your activities comport with the requirements of EPA regulations found at 40 C.F.R. § 192.32(a), including all pertinent documents and correspondence to and from the Nuclear Regulatory Commission (NRC);

g. provide a copy of all construction and modification applications required by 40 C.F.R. § 61.07, a copy of all notifications of startup pursuant to § 61.09, and a copy of any approvals issued pursuant to § 61.08 or any state authority, including the identification of the persons or entities by whom these approvals were issued (state or federal officials);

h. provide copies of any permits that have been applied for and/or received under the Clean Air Act;

i. provide copies of any licences or license applications for construction or operation issued by or filed with the NRC;

j. provide copies of any licenses issued by states under state authority;

k. provide current license status, including an indication whether and when any license modifications are planned or have been agreed to;

l. indicate whether all facilities and ponds/impoundments were constructed and are being operated in accordance with all permits and federal regulations;

m. provide a description of any pollution control equipment and any pollution control methods utilized by you; and

n. state whether each of your uranium mills and uranium in-situ leaching facilities is subject to the requirements of the National Emissions Standard for Hazardous Air Pollutants (NESHAP) for Radon Emissions from Operating Mill Tailings as defined under 40 C.F.R. §§ 61.250 et seq. If not, explain why not.

5. Submit complete results of all air and radon emission tests, emissions characterizations, or emissions studies, conducted or attempted at each facility since January 1, 1980. Indicate whether these tests were conducted as specified in 40 C.F.R. §§ 61.253 and 61.255. Include with this information relevant operating parameters measured and all data recorded during these tests or studies, including the water level and moisture content, as well as how it was determined that the 'long term radon flux from the pile' was represented during time of measurement, pursuant to 40 C.F.R. Part 61, Appendix B, Method 115, 2.1.1

6. Provide copies of all monthly and annual compliance reports prepared and submitted to EPA, as specified in 40 C.F.R. § 61.254, or similar reports submitted to all other regulatory agencies since 1980. To the extent, that you have not submitted any such report(s) provide the reasons for not having done so, and reasons, if any, you claim as a basis for not submitting such reports.


CERTIFICATE OF MAILING

I, Tawanna Ragsdale, certify that I sent a Request to Provide Information

Pursuant to the Clean Air Act by Certified Mail, Return Receipt Requested, to:

Krista Wenzel, Manager, Environmental Health and Safety
Highland Uranium and Smith Ranch Mines
Power Resources Inc.
Highland Uranium Project
P.O.Box 1210
Glenrock, Wyoming 82637

on the 24th day of February 2008. 9



Tawanna Ragsdale, Secretary

Certified Mail Receipt Number: 70081140000091038420