



May 29, 2009

United States Environmental Protection Agency  
Attn: Charles Garlow, Attorney-Advisor  
OECA, Air Enforcement Division  
1200 Pennsylvania Avenue, NW-MC 2242A  
Washington, D.C. 20460

Re: Response to Request to Test and Provide Information Pursuant to the Clean Air Act

Dear Mr. Garlow:

Cotter Corporation (Cotter) is in receipt of a request from the United States Environmental Protection Agency (EPA) dated May 5, 2009 entitled *Request to Test and Provide Information Pursuant to the Clean Air Act* (hereinafter "Testing Request"). This Testing Request states that, "[w]e 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." More specifically regarding the scope of this Testing Request, EPA states "[t]he objective of this request is to collect data from *in-situ* leach and recovery (ISL&R) uranium facilities in order to determine the radon flux from solar evaporation ponds." As a result, it appears that the scope of EPA's Testing Request is to determine whether Cotter or any of its affiliates is currently: (1) operating any *in situ* leach uranium recovery (ISL) facilities that may or may not have solar evaporation ponds and (2) complying with 40 C.F.R. Part 61, Subpart W regulations, if applicable.

To the best of Cotter's knowledge, the uranium recovery process known as "ISL" is defined similarly by a number of regulatory agencies. For example, the Testing Request defines "uranium in-situ leaching," which Cotter takes to mean "ISL," as "a facility at which uranium is extracted using a leaching agent." (See Testing Request at 6, Appendix B.) In its recently released draft Generic Environmental Impact Statement for In-Situ Leach Uranium Milling Facilities (NUREG-1910), the United States Nuclear Regulatory Commission (NRC) defines "ISL" as:

"the ISL process is used to recover uranium from low-grade ores or deeper deposits that are not economically recoverable by conventional mining and milling techniques. In this process, a leaching agent, such as oxygen with sodium carbonate, is injected through wells into the subsurface ore body to dissolve the uranium. The leach solution is pumped from there to the surface processing plant and then ion exchange separates the uranium from the solution." (See, United States Nuclear Regulatory Commission, NUREG-1910, Draft Generic Environmental Impact Statement for In-Situ Leach Uranium Milling Facilities (July, 2008)).

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In summary, unlike conventional uranium milling which involves crushing and grinding of uranium ores, ISL facilities extract uranium from an identified underground ore body via pumping uranium-laden native groundwater using a leaching agent such as oxygen and/or carbon dioxide. Thus, as stated in Appendix B of EPA's February 24, 2009 Information Request to Cotter, conventional uranium milling and ISL are identified as two separate types of uranium recovery processes and facilities.

As discussed in its response to EPA's February 24, 2009 Request, Cotter operates a conventional uranium mill located in Cañon City, Colorado and does not have any ISL&R or uranium in-situ facilities in the United States. Accordingly, EPA's Testing Request does not apply to Cotter. Therefore, Cotter will not be providing any information or conducting any testing on its solar evaporation ponds pursuant to this Request. However, Cotter would like to note for the record that it has reviewed the testing procedures described by EPA in its Testing Request and that it believes that such procedures are technologically infeasible and need to be thoroughly reviewed prior to being imposed on owners/operators of facilities.

If you have any questions regarding any aspects of this response, please do not hesitate to contact me. Thank you for your time and consideration in this matter.

Respectfully Submitted,

/s/

Amory E. Quinn  
President

cc: Mr. Andrew Gaydosh, Region 8, United States Environmental Protection Agency