ENERGY FUELS RESOURCES CORPORATION

February 2, 2010

Mr. Steve Tarlton, Program Manager
Radiation Control Program
Hazardous Materials and Waste Management Division
Colorado Department of Public Health and Environment
HMWM-B2
4300 Cherry Creek Drive South
Denver, CO 80246-1530

Re: Response to December 15, 2009 Letter from the Sheep Mountain Alliance and the Paradox Valley Sustainability Association Concerning the Piñon Ridge Mill Radioactive Material License Application

Dear Mr. Tarlton:

Energy Fuels Resources Corporation (Energy Fuels) is submitting this letter in response to some of the statements made in the Sheep Mountain Alliance's and Paradox Valley Sustainability Association's (SMA/PVSA's) December 15, 2009 letter to Warren Smith of your department. We strongly disagree with some of the assertions made in that letter and are submitting this response to set the record straight. In the discussion that follows, we have summarized statements from the December 15 letter that we believe to be incorrect or misleading in italics and have provided our response in regular font. Where practical, we have directly quoted the SMA/PVSA letter. We are also attaching a document prepared by Edge Environmental Inc. (see Attachment A) that provides a more detailed response to some of the technical issues raised in the SMA/PVSA letter.

1. SMA/PVSA Letter (Paragraphs 1 and 3, Page 2): "Energy Fuels dismissed many of their contractors midway through preparation of the application in favor of "in house" preparation of the application. " In-house preparation of portions of the license application "without benefit of the necessary expertise in the required areas of inquiry" resulted in systematic deficiencies in the application.

Up until the fall of 2008, the Piñon Ridge Mill Radioactive Material License Application was on a fast-track schedule with a proposed submittal date of April 2009. Because of the short time frame involved, we had to contract out most of the work that we would have normally done in-house. The following events occurred during the fall of 2008 that caused us to change our permitting approach.

- The nation and world fell into a deep recession that made it practically impossible to secure financing for new projects in all sectors of the economy including mining and milling. This made it necessary for Energy Fuels to preserve its existing capital until such time that economic conditions improved.

- Energy Fuels' environmental staff completed the majority of the permitting for its two key mine operations (i.e., the Whirlwind and Energy Queen mines), which allowed the staff to fully focus on the mill license application and associated baseline studies.

- Energy Fuels was not able to secure a toll milling agreement with the White Mesa Mill for the Whirlwind Mine ore production. Most of the Whirlwind miners were subsequently laid off; however, Energy Fuels decided to retain its professional staff (i.e., engineers, geologists, and health professionals) as they had the necessary technical background to perform the baseline monitoring work at the mill and mine sites.

In response to these events, I was tasked with managing all aspects of the license application and our environmental engineer, Zach Rogers, was delegated responsibility for ensuring that baseline date was collected and reported properly. Mr. Rogers and I have considerable education and experience in environmental characterization, remediation, and design. Our resumes are included in the license application. Mr. Rogers, with the assistance of our consultants, trained our technical staff in Nucla to take over most of the field monitoring and data collection activities. We believe that our staff performed at a high professional level in collecting field data. This work included:

- Monitoring of the air sampling and meteorological stations;
- Inspecting surface water monitoring stations and collecting surface water samples after precipitation and snow melt events;
- Monitoring of on-site groundwater monitoring wells and off-site wells and springs;
- Calibrating and maintaining monitoring systems in accordance with standard protocols.
- Coordinating with local emergency service providers in the development of the emergency response plan and other health and safety plans;
- Conducting well and population surveys within east Paradox Valley;
- Collecting baseline socioeconomic data (infrastructure, housing, schools) through local interviews based on questions prepared by our socioeconomic consultants;
- Facilitating field inspections by CDPHE personnel, consultants, and other interested parties; and,
- Conducting geologic reconnaissance.

We believe that the changes made in the fall of 2008 resulted in a higher quality submittal. Extending the submittal date from April 2009 to November 2009 allowed us to collect an additional six months of baseline data and allowed us the time to carefully review each document and obtain a final review by a second subject-matter expert where warranted. Contrary to the statement made by SMA/PVSA, Energy Fuels did not dismiss

any of its consultants, but rather, modified their scope to focus primarily on engineering design, data evaluation and interpretation, report preparation, and technical review of reports prepared by other consultants. Only about 20 percent of the documents included in the license application were prepared by Energy Fuels. These included documents typically prepared by the mill operator such as the Facility Operating Plan, the Mill Health and Safety Plan, the Emergency Response Plan, the Decommissioning and Reclamation Cost Estimate, and the Security Plan, among others. Where appropriate, these plans were reviewed by outside consultants prior to finalization.

2. *SMA/PVSA Letter (Paragraph1, Page 5): "The Applicant's promises of future air quality modeling and data collection do not satisfy the completeness requirement."*

This comment is referring to information that will be submitted to the Colorado Air Pollution Control Division (APCD) as part of the mill's air quality permitting. The Construction Permits issued by APCD are separate permits from the Radioactive Material License. The Radiation Control Program requires mill operators to have the environmental permits required by other agencies in place prior to licensing a facility but does not require that the permits be in place prior to submitting the license application.

3. *SMA/PVSA Letter (Paragraph 7, Page 5): "Energy Fuels did not conduct any protocol surveys, which is the accepted methodology to determine if certain species are present and therefore is crucial to any analysis of a project's impact on T&E Species."*

The baseline ecological work for the site was conducted by Kleinfelder West, Inc. (Kleinfelder) under the supervision of Dr. Louis J. Bridges. The Kleinfelder reports on vegetation and wildlife were reviewed by Dr. Archie F. Reeve of Edge Environmental, Inc. (Edge). Dr. Reeve summarized and, where appropriate, augmented the findings of Kleinfelder in the Environmental Report. Dr. Bridges, Dr. Reeve and their respective companies have substantial experience in performing ecological studies and assessments. As explained in Attachment A, protocol surveys were conducted where appropriate.

4. *SMA/PVSA Letter (Paragraph 1, Page 8): "Despite some sensitive species having been recognized as occurring in the vicinity and/or having the potential to occur on Site, there were still no mitigation or monitoring programs proposed ..."*

Energy Fuels met with the Colorado Division of Wildlife (CDOW) and the Radiation Control Program of CDPHE in June 2009. During that meeting, we provided a summary of the project while CDOW identified ecological concerns and proposed potential mitigation measures. In that meeting, we agreed to fully explore mitigation alternatives during the licensing process, as part of an integrated review of the facility design by both CDPHE and CDOW. In the Environmental Report, Edge described the monitoring and mitigation measures that had been incorporated into the facility's plans and designs to date and made a commitment on the behalf of Energy Fuels to coordinate with CDOW to develop an off-site Habitat Improvement Plan. Energy Fuels looks forward to working closely with CDOW and CDPHE in this effort during the review process. Additional response on this topic is provided by Edge in Attachment A.

4. *SMA/PVSA Letter (Paragraph 2, Page 9 and Paragraph 1, Page 10): "The Application contains many analyses which are based on the design, construction, and operation of a 1000 ton per day facility. Other portions address the operation of a facility at a 500 ton per day processing rate, while acknowledging that the facility is designed to process 1000 tons per day." "It would be arbitrary and capricious to certify as complete an Application which fails to delineate a specific proposed activity."*

The facility was permitted with Montrose County for 500 tons per day (tpd) and the license application to CDPHE is also for 500 tpd. The mill has been designed to allow for expansion up to 1,000 tpd should market conditions allow. To design and build a mill that does not allow for future expansion would, in our estimation, constitute poor planning on our part. Energy Fuels would be required to obtain permit amendments from both Montrose County and the CDPHE Radiation Control Program prior to any future expansion or increase in production above 500 tpd. We believe that the proposed 500 tpd processing rate is clearly spelled out in the license application.

Although we have applied for two permits based on the 1,000 tpd processing rate, there were good reasons for doing so. The access permit with the Colorado Department of Transportation was based on the projected traffic loads for 1,000 tpd because construction of the approved highway access is expected to cost approximately one million dollars and we would not want to be put in position where we had to tear it out and rebuild it to accommodate a possible future expansion. The air quality permit was also filed for 1,000 tpd because the APCD recommended that we permit for potential future buildout of the facility to avoid any appearance of circumventing stricter permitting requirements for larger emission sources. This is a concern specific to air permitting and is not germane to the Radioactive Material License, the County Special Use Permit, or any of the other permits that we are required to obtain.

5. *SMA/PVSA Letter (Paragraph 2, Page 10 and Paragraph 4, Page 11): "The Environmental Report failed to consider cumulative impacts to fish and wildlife resulting from the increased release of toxic materials from existing and renewed uranium mining in the region." The mill "feedstocks will come from the nearby federal mines which are licensed, managed, and/or regulated by the Bureau of Land Management and the Department of Energy."*

The Piñon Ridge Mill is not directly connected to the uranium mines in the region, as they may ship to other existing mills in the area, as well as other proposed mills. These mines, many of which are fully permitted, constitute separate actions that may proceed independently of the mill. Although some of the mines would be located on public lands managed by federal agencies, some would also be on private and state lands and would not involve federal permits. The mine and reclamation permits required by the state mined-land reclamation programs in both Colorado and Utah are designed to minimize impacts to the environment from mining activities regardless of land ownership.

6. *SMA/PVSA Letter (Paragraphs 2, 3, 4, and5, Page 11): This section of the SMA/PVSA letter references the need for compliance with federal laws including the: National Environmental Policy Act (NEPA), National Emission Standards for Hazardous Air Pollutants (NESHAPs), the Endangered Species Act (ESA), and the National Historic Preservation Act (NHPA).*

A NEPA analysis is not required for the Piñon Ridge Project because there are no federal actions involved that trigger compliance with NEPA. The radioactive material licensing process is a state permitting process in which the Environmental Report is utilized much like a federal Environmental Assessment or Environmental Impact Statement to evaluate the impacts of the project. Energy Fuels' compliance status with the other referenced federal laws follows.

NESHAPs: The APCD and Radiation Control Programs of CDPHE will have to get EPA's review and comment on applicable NESHAPs including the radon emissions as part of their permitting efforts. Section 7(c) of the Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 793(c)(1)) exempts actions under the Clean Air Act from the requirements of NEPA.

ESA: Attachment B to this letter provides a Record of Conversation between Edge personnel and the U.S. Fish and Wildlife Service documenting that the project does not have to consult with the U.S. Fish and Wildlife Service under the ESA. Energy Fuels will work closely with CDOW to mitigate impacts to vegetation and wildlife and maintain compliance with the provisions of the ESA.

NHPA: The mill property and adjacent well field area have been surveyed by archeologists and the reports have been forwarded to the Colorado Office of Archeology and Historic Preservation. Several cultural sites have been identified on the property as being eligible for the National Register of Historic Places. Compliance with the NHPA will be maintained by avoiding disturbance to these sites as discussed in the Environmental Report.

6. *SMA/PVSA Letter (Paragraphs 6, Page 11, all of Page 12, and Paragraphs 1-5, Page 13): This section of the SMA/PVSA letter discusses processing of water treatment residuals from mine water treatment plants. The letter refers to them as Alternate Feeds and indicates that the application does not provide sufficient information regarding these materials. The SMA/PVSA letter also states that the proposed processing of these materials does not comply with Montrose County's Condition of Approval 10 that only raw uranium/vanadium ore may be processed.*

Chemical data for water treatment residuals from the Whirlwind Water Treatment Plant are included in Appendix B of the Material Containment Plan (refer to Volume 12 of the Radioactive Material License Application). This material is similar in chemical composition to the ore but has higher concentrations of barium and iron due to the addition of barium chloride and ferric sulfate during treatment. Physically, this material is moist and fine grained and will either be mixed with the ore at the mine or transported to

the mill in synthetic fabric bladders and mixed with the ore at the grizzly. We would be happy to provide additional information upon request.

We believe it is inappropriate for SMA/PVSA to refer to this material as "alternate feed", especially since CDPHE personnel stated clearly at a meeting attended by the SMA/PVSA that the correct technical term for the water treatment residuals was "uranium source materials." In our September 16, 2009 letter to Montrose County we stated the following.

> We plan to include the water treatment residuals from our mines in the material license application to CDPHE. CDPHE personnel have expressed support in the past for recovering uranium from this material, as it would allow for recovery of uranium rather than have it disposed of at a landfill. They have even suggested that we look at taking similar small-volume residuals from municipal water treatment plants in Colorado that have recently added secondary treatment systems to remove uranium from their water supply. These uranium removal systems were added to comply with more stringent state water quality standards for uranium in drinking water. <u>However, Energy Fuels will not accept any of these materials (from our mines or other sources) unless they are approved by both CDPHE and Montrose County.</u>

If CDPHE approves processing of mine water treatment residuals, we would apply for an amendment to our Special Use Permit with Montrose County to obtain the county's approval to do the same.

7. *SMA/PVSA Letter (Paragraphs 3 and 4, Page 14): "Standby Procedures are Not Addressed"*

Health and safety and environmental monitoring, protective controls, and security measures during temporary closures would be similar to those employed during operating periods. We can provide more information specific to temporary closure upon request.

Hopefully, this letter and attachments resolve some of the concerns raised in the SMA/PVCA letter of December 15, 2009. As mentioned above, Edge's detailed response to many of the technical concerns expressed by SMA/PVCA, especially those concerning ecological and socioeconomic assessments, are provided in Attachment A.

Sincerely,

Frank Filas, P.E.
Environmental Manager

Attachments

Cc: P. Egidi (CDPHE)
R. DelPiccolo (CDOW)
S. White (Montrose County)
M. Bloomstran (Edge)
R. McKinney (Kleinfelder)
K. Morrison (Golder)
G. Glasier, S. Antony, B. Monok, D. White, Z. Rogers (Energy Fuels)