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Signed at Washington, DC this 22nd day of December 1999.

**Carl J. Poleskey,**

*Chief, Branch of Construction Wage Determinations.*

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## NUCLEAR REGULATORY COMMISSION

[Docket No. 40-3453]

### Moab Mill Reclamation Trust; Notice of Order and an Opportunity for a Hearing

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of Order transferring License No. SUA-917 for the Moab, Utah facility and site from Atlas Corporation to the Moab Mill Reclamation Trust; notice of opportunity for a hearing.

**SUMMARY:** Notice is hereby given that the U.S. Nuclear Regulatory Commission (NRC) has signed an Order (copy attached) dated December 27, 1999, transferring Source Material License SUA-917 for the Moab, Utah, facility and site from Atlas Corporation (Atlas) to the Moab Mill Reclamation Trust (Trust). On September 22, 1998, Atlas filed a petition for relief under Chapter 11 of the U.S. Bankruptcy Code. After filing for relief, Atlas entered into settlement discussions with NRC, the State of Utah, and other parties to the bankruptcy proceeding regarding the reclamation and disposition of the Moab Mill Site. Those discussions resulted in the development of the Moab Uranium Millsite Transfer Agreement (Settlement Agreement) which provides for transfer of the Moab Mill Site and the NRC license to a trust, the trustee of which would carry out remediation of the site pursuant to the terms and conditions of NRC License SUA-917, as amended on June 24, 1999. The terms and conditions of NRC License SUA-917 include the reasonable and prudent alternatives (RPAs) and reasonable and prudent measures (RPMs) in the U.S. Fish and Wildlife Service's final biological opinion (FBO) dated July 29, 1998 (included in the NRC's "Final Environmental Impact Statement Related to Reclamation of the Uranium Mill Tailings at the Atlas Site, Moab, Utah," (FEIS) NUREG-1531, published in March 1999), as well as mitigative measures developed by the NRC staff. The Settlement Agreement was submitted to the United States Bankruptcy Court for the District of Colorado for approval on April 29, 1999. On December 1, 1999, the Court issued an Order confirming the second amended plan of reorganization of the Atlas Corporation, which includes the Settlement Agreement.

#### FOR FURTHER INFORMATION CONTACT:

Myron Fliegel, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555-0001, telephone (301) 415-6629, e-mail mhf1@nrc.gov.

Dated at Rockville, Maryland, this 27th day of December 1999.

For the Nuclear Regulatory Commission.

**Michael C. Layton,**

*Acting Chief, Uranium Recovery and Low-Level Waste Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.*

### Order Transferring License No. SUA-917 for The Moab Mill Site

I.

Atlas Corporation (Atlas) is the holder of License No. SUA-917, which authorized the milling of uranium ore at

Atlas' Moab Mill Site located in Moab, Utah. In accordance with Amendment No. 31 of the license, the license will not expire until the NRC terminates it.

II.

Atlas acquired the Moab Mill Site in 1962 from the Uranium Reduction Company (URC) which built milling facilities and began operations at the site in October 1956. The site is located in Grand County, Utah, on the northwest shore of the Colorado River, 5 km (3 miles) from the center of Moab, and can be accessed from U.S. Highway 191 north of Moab. The site encompasses 162 hectares (400 acres) on the outside bend of the Colorado River, at the southern terminus of the Moab Canyon. The site is surrounded on the north and west sides by high sandstone cliffs; to the north and east is Moab Wash; to the east and south is the flood plain of the Colorado River; and, across the river, is Moab Marsh. The site generally slopes toward the Colorado River and Moab Wash. The uranium tailings from the Moab milling operations occupy about 53 hectares (130 acres) of land about 230 m (750 ft) from the Colorado River. Mill operations ceased in 1984. Decommissioning of the mill began in 1988. Construction of an interim cover for placement over the tailing disposal area began in 1989 and was completed in 1995.

III.

On September 22, 1998, Atlas filed a petition for relief under Chapter 11 of the U.S. Bankruptcy Code and since that date has been operating as a Debtor in Possession. After filing for relief, Atlas entered into settlement discussions with the U.S. Nuclear Regulatory Commission (NRC), the State of Utah, and other parties to the bankruptcy proceeding regarding the reclamation and disposition of the Moab Mill Site. Those discussions resulted in the development of the Moab Uranium Millsite Transfer Agreement (Settlement Agreement) which provides for transfer of the Moab Mill Site and the NRC license to a trust, the trustee of which would carry out remediation of the site pursuant to the terms and conditions of NRC License SUA-917, as amended on June 24, 1999. The terms and conditions of NRC License SUA-917 include the reasonable and prudent alternatives (RPAs) and reasonable and prudent measures (RPMs) in the U.S. Fish and Wildlife Service's final biological opinion (FBO) dated July 29, 1998 (included in the NRC's "Final Environmental Impact Statement Related to Reclamation of the Uranium Mill Tailings at the Atlas Site, Moab,

Utah," (FEIS) NUREG-1531, published in March 1999), as well as mitigative measures developed by the NRC staff.

The NRC, which had filed claims in bankruptcy against Atlas totaling about \$44 million, entered into the Settlement Agreement described in the preceding paragraph rather than involve the NRC in a protracted legal dispute over the limited funds that would be available for site remediation from the liquidation of the Atlas Corporation. The NRC believes that measures taken pursuant to the Settlement Agreement will permit remediation of the Moab Mill Site to proceed in a more timely manner and will maximize the amount of private funding available for remediation of the Moab Mill Site. The Settlement Agreement was submitted to the United States Bankruptcy Court for the District of Colorado for approval on April 29, 1999. On December 1, 1999, the Court issued an Order confirming the second amended plan of reorganization of the Atlas Corporation, which includes the Settlement Agreement.

Consistent with the terms of the Settlement Agreement, the NRC and the State of Utah undertook to identify a Trustee to administer the Moab Mill Reclamation Trust (Trust). PricewaterhouseCoopers LLP (Trustee) has agreed to undertake remediation of the Moab Mill Site, pursuant to 10 CFR Part 40 under License SUA-917 and in accordance with the Trust established for such purposes. The NRC has agreed to accept the Settlement Agreement in satisfaction of Atlas' regulatory responsibilities under 10 CFR Part 40 for remediation of the Moab Mill Site, to transfer License SUA-917 to the Trust, and to limit the Trustee's liability for remediation and maintenance of the site to the amount of funding available to the Trust from Atlas' assets, receivables and future receivables transferred to the Trust under the Settlement Agreement, and any other assets which may become available to the Trust. The NRC is aware that because of the time involved in concluding the bankruptcy proceeding, some dates in the license conditions have already passed while others are imminent and therefore, might be impractical for the Trustee to meet. These dates will be considered in future actions.

Current assets and receivables include the following:

(1) \$5.25 million in cash from Atlas/ACSTAR (the entity which holds the reclamation bond issued for the benefit of the NRC to be used for reclamation of the Moab Mill Site.

This entity has agreed to transfer the sum to the Trust in full and complete

satisfaction of its obligations under Bond #5652);

(2) The assignment of funds from the Department of Energy pursuant to the Energy Policy Act of 1992 (Pub. L. 102-486, Title X, Section 1001, Oct. 24, 1992, 106 Stat. 2946, codified at 42 U.S.C. 2296(a)), [hereinafter "Title X funds"] for past claims. This amount is estimated to be approximately \$1,082,000;

(3) Fifty (50) percent of any net recovery from collection of the disputed Title X claim for dismantling performed by American Reclamation and Dismantling Inc. (ARD claim);

(4) Any and all of Atlas' rights as a licensee to future Title X funds;

(5) Atlas' water rights located at the Moab Land, listed as 6.3 cubic feet per second (cfs) from the Colorado River, Grand County, Utah, Water Right Number 01-40, Application 30032, Certificate No. 60111;

(6) Atlas' possible Water Rights in the following:

A. Water Right Number 01-1121 for 31 acre-feet, a segregation application from Water Right Number 01-40;

B. Water Right Number 09-199 for 3.33 cfs in the San Juan River;

C. Water Right Number 05-982 for .015 cfs for a well in the Monticello Mining District;

D. Water Right Number 99-32 for .004 cfs from Seep Springs (approximately 4 miles from Fry Canyon);

(7) Atlas' interest in the certain real property owned by Atlas and consisting of approximately 430 acres, located in Grand County, Utah, together with all buildings, structures, improvements, appurtenances, fixtures, and easements; and

(8) Two and a half (2.5) percent of the stock in a reorganized Atlas Corporation which would be issued to the Reclamation Trust.

The land and water rights, herein described, have stand-alone value and may be sold by the Trustee independent of, and prior to or during, any reclamation work being performed at the site by the Trustee. As to items 5, 6, and 7 above, Atlas will transfer all said assets to the Trust by way of quit claim deed or similar document, without representations, warranties, or indemnification rights of any kind.

#### IV.

Remediation of the Moab Mill Site is to be conducted in accordance with the terms and conditions of License SUA-917. These include the RPAs and RPMs in the U.S. Fish and Wildlife Service's FBO, dated July 29, 1998. The Trustee has agreed to these terms and conditions. The NRC, as the lead

Federal Agency regarding the consultation required under Section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*), has included these RPAs and RPMs in the NRC's NUREG-1531 published in March 1999.

The Trustee's maintenance of the site and administration of the remediation of the site in accordance with the terms of license SUA-917 and the terms of this Order, will provide adequate protection of the public health and safety and reasonable assurance of compliance with the Commission's regulations.

Pursuant to the terms of the Settlement Agreement described in the preceding sections of this Order, the NRC, with concurrence from the State of Utah, selected PricewaterhouseCoopers LLP as Trustee. PricewaterhouseCoopers LLP is qualified to perform the duties enumerated in this Order.

In view of the foregoing, I have authorized the transfer of License SUA-917 which will be amended to reflect the change in the named licensee. The Trustee accedes to this Order voluntarily, and has agreed to take the necessary steps to undertake remediation of the site to the extent permitted by the funds available to the Trust, according to the requirements in Part V of this Order.

#### V.

Accordingly, pursuant to Sections 62, 63, 81, 84, 161b, 161i, 161o and 184 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 *et seq.*), and the Commission's regulations in 10 CFR Part 40, *it is hereby ordered* That, effective December 30, 1999, License SUA-917 is transferred to the Trust and the Trustee is authorized to possess byproduct material in the form of uranium waste tailings and other uranium waste generated by Atlas' milling operations at the Moab Mill Site pursuant to the terms and conditions of License SUA-917. *It is further ordered* that:

A. The Trustee shall:

1. Perform remediation of the site pursuant to the terms and conditions of NRC License SUA-917.

2. Notify and request relief from the Chief, Uranium Recovery and Low-Level Waste Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards, NRC, Washington, DC 20555-0001, if the Trustee believes it should be relieved of any requirements in the license because the Trustee believes that these requirements are impracticable given the parameters of the Trust Agreement or that they have either been satisfactorily completed or are unnecessary. The Trustee will continue

to comply with all requirements in this license pending NRC action on the Trustee's request for relief from specified requirements under this subsection.

3. Cooperate with the NRC (or its contractor) in NRC's site inspections.

4. Cooperate with the U.S.

Department of Energy (DOE) in matters relating to the transfer of the site to DOE, including preparation by DOE of the site Long-Term Surveillance Plan required by 10 C.F.R. 40.28.

5. Use reasonable efforts to secure all Title X funds from the Department of Energy pursuant to section 1001 of the Energy Policy Act of 1992 (42 U.S.C. 13201 et seq.) to which it is legally entitled, including requests for additional Title X funds from DOE based on remediation work at the site performed by or on behalf of the Trust.

6. Notify the Director, Office of Nuclear Material Safety and Safeguards, NRC, Washington, DC 20555-0001, and the Regional Administrator, NRC Region IV, NRC Region IV, 611 Ryan Plaza Drive, Suite 400, Arlington, TX 76011-8064, by certified registered mail, no later than 180 days prior to the anticipated date, that all contractual and other projected obligations will have reasonably exhausted the Trust Fund.

7. Upon notification required by paragraph 6 of this Part, cease remediation work as set forth in this Order, and commence passive maintenance and monitoring only of the site in order to provide for the protection of the public health and safety using the remaining assets in the Reclamation Trust to fund monitoring and maintenance until further order of the NRC.

B. Upon completion of the NRC inspection to determine that the site has been remediated in conformance with the requirements in 10 C.F.R. Part 40 and the conditions set forth in the license to the extent practicable given the funding available to the Trustee, title to the real property and the remaining byproduct material at the Moab Mill Site will be transferred in accordance with section 83 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations, and this license shall be modified or terminated accordingly.

C. Notwithstanding any of the foregoing requirements, the NRC shall not require the Trustee to perform or pay for any reclamation, remediation, monitoring, or surveillance, the cost of which would exceed the amount of money available to the Trustee from the Trust assets and receivables. The Trustee's responsibilities, liabilities and authority under this license shall

terminate upon further order of the NRC.

D. The requirements identified in this Order may only be modified in writing by the Director, Office of Nuclear Material Safety and Safeguards.

VI.

Any person adversely affected by this Order, other than Atlas or the Trustee, may request a hearing within 20 days of its issuance. Any request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001. Copies of any hearing requests also shall be sent to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001; to the Assistant General Counsel for Materials Litigation and Enforcement, at the same address; to the Regional Administrator, NRC Region IV, 611 Ryan Plaza Drive, Suite 400, Arlington, TX 76011-8064 and to the Trustee, PricewaterhouseCoopers LLP, Attention: Mr. Keith E. Eastin, Director, 1201 Louisiana, Suite 2900, Houston, TX 77002-5678. If a hearing is requested, the requester shall set forth with particularity the manner in which his or her interest is adversely affected by this Order and shall address the criteria set forth in 10 C.F.R. 2.1306 and 2.1308.

If a hearing is requested by a person whose interest is adversely affected by this Order, the Commission will consider the hearing request pursuant to 10 C.F.R. Part 2, Subpart M, and will issue an Order designating the time and place of any hearing. If a hearing is held, the procedures of Subpart M will be applied as provided by the Order designating the time and place of the hearing. The issue to be considered at such hearing shall be whether this Order transferring the license should be sustained. Any request for a hearing shall not stay the effectiveness of this Order.

Dated at Rockville, Maryland, this 27th day of December 1999.

For the Nuclear Regulatory Commission.

**William F. Kane,**

*Director, Office of Nuclear Material Safety and Safeguards.*

[FR Doc. 99-34053 Filed 12-30-99; 8:45 am]

**BILLING CODE 7590-01-P**

## **NUCLEAR REGULATORY COMMISSION**

### **Risk-Informed Revisions to Technical Requirements; Workshop and Website**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of public workshop and NRC Part 50 (Option 3) website.

**SUMMARY:** The Nuclear Regulatory Commission has instructed its staff to explore changes to specific technical requirements of 10 CFR Part 50, to incorporate risk-informed attributes. The staff is studying the ensemble of technical requirements contained in 10 CFR Part 50 (and its associated implementing documents, such as regulatory guides and standard review plan sections) to (1) identify individual or sets of requirements potentially meriting change; (2) prioritize which of these requirements (or sets of requirements) should be changed; and (3) develop the technical bases to an extent that is sufficient to demonstrate the feasibility of changing the requirements. This work will result in recommendations to the Commission on any specific regulatory changes that should be pursued. Public participation in the development of these recommendations will be obtained via workshops and information on a website.

**SUPPLEMENTARY INFORMATION:** This notice serves as initial notification of a public workshop, and website, to provide for the exchange of information with all stakeholders regarding the staff's efforts to risk-inform the technical requirements of 10 CFR Part 50. The subject of the workshop will be to discuss the preliminary work being performed by the NRC staff on risk-informing the technical requirements of 10 CFR Part 50. The meeting will focus on the overall framework of the risk-informing process, the criteria used to identify and prioritize candidate regulations and design basis accidents (DBAs), the results of the staff's initial efforts in risk-informing the two trial implementation issues (i.e., 10 CFR 50.44 and special treatment rules), a list of some additional candidate requirements and DBAs to be examined, and discussion of preliminary issues associated with the development and implementation of the entire process.

This notice provides only the date, the location and a brief summary of the workshop; the workshop agenda and other details will be provided in a forthcoming notice. The address for the Part 50 (Option 3) website is as follows: <http://nrc-part50.sandia.gov>.

The Part 50 (Option 3) website can also be accessed from the NRC website (<http://www.nrc.gov>), by selecting "Nuclear Reactors," and then "Risk-Informed Part 50 (Option 3)."