Maryland facility (Division #050)'' is ineligible for the award of any Government contracts or subcontracts.

23. The debarment shall be lifted at the conclusion of the one-hundred and eighty (180) day period if Defendant satisfies the Director of OFCCP that it is in compliance with Executive Order 11246.

24. OFCCP shall review each of Defendant's reports and shall determine whether Defendant has complied with the terms of this Consent Decree and the terms of Executive Order 11246 and its implementing regulations. OFCCP shall notify Defendant in writing, within 30 days of receipt of the report, if there is a deficiency. Defendant shall have 30 days from its receipt of the deficiency notice to correct such deficiency.

25. If OFCCP finds that Defendant has complied with the terms of this Consent Decree and with the terms of Executive Order 11246, the debarment shall be lifted and Defendant shall be free to enter into future Government contracts and subcontracts. Beginning 30 days before the conclusion of the 180-day period, Defendant may request reinstatement pursuant to 41 CFR § 60–1.31. Reinstatement proceedings shall be in accordance with 41 CFR § 60–1.31. Notice of the reinstatement shall be printed in the **Federal Register** and shall be made to the Comptroller General of the General Accounting Office and all Federal Contracting Officers.

Part D. Implementation and Enforcement of the Decree

26. Jurisdiction, including the authority to issue any additional orders or decrees necessary to effectuate the implementation of the provisions of this Consent Decree, is retained by the Office of Administrative Law Judges for a period of two years from the date this Consent Decree becomes final. If any motion is pending before the Office of Administrative Law Judges two years from the date this Consent Decree becomes final, jurisdiction shall continue beyond two years and until such time as the pending motion is finally resolved.

27. If at any time during the two years OFCCP believes that Defendant has violated any portion of this Consent Decree, Defendant will be promptly notified of that fact in writing. This notification will include a statement of the facts and circumstances relied upon in forming that belief. In addition, the notification will provide Defendant with 15 days to respond in writing except where OFCCP alleges that such a delay would result in irreparable injury.

28. Enforcement proceedings for violation of this Consent Decree may be initiated at any time after the 15-day period referred to in Paragraph 24 has elapsed (or sooner, if irreparable injury is alleged) upon filing with the Court a motion for an order of enforcement and/or sanctions. The issues in a hearing on the motion shall relate solely to the issues of the factual and legal claims made in the motion.

29. Liability for violation of this Consent Decree shall subject Defendant to sanctions set forth in the Executive Order and its implementing regulations, as well as other appropriate relief, including contract cancellation.

30. If an application or motion for an order of enforcement or clarification indicates by signature of counsel that the application or motion is unopposed by the plaintiff or Defendant, as appropriate, the application or motion may be presented to the Court without hearing and the proposed Order may be implemented immediately. If an application or motion is opposed by any party, the party in opposition shall file a written response within twenty (20) days of service. The Office of Administrative Law Judges may, if it deems it appropriate, schedule an oral hearing on the application or motion.

31. The Consent Decree herein set forth is hereby approved and shall constitute the final Administrative Order in this case.

32. It is so ordered adjudged and decreed.

Agreed and Consented to:

On Behalf of BFI Waste Services, LLC:

Dated: December 19, 2002.

Jo Lynn White,
Officer, BFI Waste Services, LLC.

On Behalf of the Office of Federal Contract Compliance Programs:

Eugene Scalia, *Solicitor of Labor.*
Gary M. Buff,
Associate Solicitor.
Richard L. Gilman,
Counsel for Litigation.

Dated: December 27, 2002

Sarah C. Crawford,
Attorney, U.S. Department of Labor, Room N–2464, 200 Constitution Ave., NW., Washington, DC 20210, (202) 693–5287.

Thomas M. Burke,
Administrative Law Judge.

Notice to Readers

Attachments A & B are available from the U.S. Department of Labor's Wirtz Labor Library, 200 Constitution Avenue, NW., Room N2439, Washington, DC 20210. It is open to the public from 8:15 am to 4:45 pm. For further information call (202) 693–6613.

[FR Doc. 03–3560 Filed 2–12–03; 8:45 am]
BILLING CODE 4510–CM–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 40–8989 SMC–1559]

Envirocare of Utah, Inc.; Order Modifying Exemption From Requirements Relative to Possession of Special Nuclear Material

Envirocare of Utah, Inc. (Envirocare) operates a low-level waste (LLW) disposal facility in Clive, Utah. This facility is licensed by the State of Utah, an Agreement State. Envirocare is also licensed by Utah to dispose of mixed radioactive and hazardous wastes. In addition, Envirocare has a U.S. Nuclear Regulatory Commission (NRC) license to dispose of by product material as defined in 10 CFR part 40.

Section 70.3 of 10 CFR part 70 requires persons who own, acquire, deliver, receive, possess, use, or transfer special nuclear material (SNM) to obtain a license pursuant to the requirements in 10 CFR part 70. The licensing requirements in 10 CFR part 70 apply to persons in Agreement States possessing greater than critical mass quantities as defined in 10 CFR 150.11.

Pursuant to 10 CFR 70.14, ''the Commission may * * * grant such exemptions from the requirements of the regulations in this part as it determines are authorized by law and will not endanger life or property or the common defense and security and are otherwise in the public interest.''

On May 24, 1999, NRC transmitted an Order to Envirocare of Utah, Inc. The Order was published in the **Federal Register** on May 21, 1999, (64 FR 27826). The Order exempted Envirocare from certain NRC regulations and permitted Envirocare, under specified conditions, to possess waste containing SNM, in greater quantities than specified in 10 CFR part 150, at Envirocare's low-level waste (LLW) disposal facility located in Clive, Utah, without obtaining an NRC license pursuant to 10 CFR part 70. The methodology used to establish these limits is discussed in the 1999 Safety Evaluation Report (SER) that supported the 1999 Order.

Envirocare, in a letter dated July 3, and 29, 2002, proposes that NRC issue further exemptions by amending the 1999 Order as follows: (1) Include stabilization of liquid waste streams containing SNM; (2) include the thermal

desorption process; (3) change the homogenous contiguous mass limit from 145 kg to 600 kg; (4) change the language and SNM limit associated with footnotes ''c'' and ''d'' of Condition 1 to reflect all materials in Conditions 2 and 3; and (5) omit the confirmatory testing requirements for debris waste.

A principal emphasis of 10 CFR part 70 is criticality safety and safeguarding SNM against diversion or sabotage. The staff considers that criticality safety can be maintained by relying on concentration limits, under the conditions specified. Safeguarding SNM against diversion or sabotage is not considered a significant issue because of the diffuse form of the SNM in waste meeting the conditions specified. These conditions are considered an acceptable alternative to the criticality definition provided in 10 CFR 150.11, thereby assuring the same level of protection. The staff reviewed safety aspects of the proposed action (*i.e.*, granting Envirocare's request) in the Safety Evaluation Report, dated January 14, 2003. The staff concluded that additional conditions were required to maintain sufficient protection of health, safety and the environment. The exemption conditions would be revised as follows:

1. Concentrations of SNM in individual waste containers must not exceed the following values at time of receipt:

Radionuclide	Maximum concentration (pCi/g)	Measurement uncertainty (pCi/g)
U–235[a]	1,900	285
U–235[b]	1,190	179 [1]
U–235[c]	26	10
U–235[d]	680	102
U–233	75,000	11,250
Pu–236	500	75
Pu–238	10,000	1,500
Pu–239	10,000	1,500
Pu–240	10,000	1,500
Pu–241	350,000	50,000
Pu–242	10,000	1,500
Pu–243	500	75
Pu–244	500	75

[a] For uranium below 10 percent enrichment and a maximum of 20 percent of the weight of the waste of materials listed in Condition 2.

[b] For uranium at or above 10 percent enrichment and a maximum of materials listed in Condition 2 of the weight of the waste of materials listed in Condition 2.

[c] For uranium at any enrichment with unlimited quantities of materials listed in Conditions 2 and 3.

[d] For uranium at any enrichment with sum of materials listed in Conditions 2 and 3 not exceeding 45 percent of the weight of the waste.

The measurement uncertainty values in column 3 above represent the maximum one-sigma uncertainty associated with the measurement of the concentration of the particular radionuclide.

The SNM must be homogeneously distributed throughout the waste. If the SNM is not homogeneously distributed, then the limiting concentrations must not be exceeded on average in any contiguous mass of 600 kilograms of waste.

2. Except as allowed by notes a, b, c, and d in Condition 1, waste must not contain ''pure forms'' of chemicals containing carbon, fluorine, magnesium, or bismuth in bulk quantities (*e.g.*, a pallet of drums, a B–25 box). By ''pure forms,'' it is meant that mixtures of the above elements such as magnesium oxide, magnesium carbonate, magnesium fluoride, bismuth oxide, etc. do not contain other elements. These chemicals would be added to the waste stream during processing, such as at fuel facilities or treatment such as at mixed waste treatment facilities. The presence of the above materials will be determined by the generator, based on process knowledge or testing.

3. Except as allowed by notes c and d in Condition 1, waste accepted must not contain total quantities of beryllium, hydrogenous material enriched in deuterium, or graphite above one percent of the total weight of the waste. The presence of the above materials will be determined by the generator, based on process knowledge, physical observations, or testing.

4. Waste packages must not contain highly water soluble forms of uranium greater than 350 grams of uranium-235 or 200 grams of uranium-233. The sum of the fractions rule will apply for mixtures of U–233 and U–235. Highly soluble forms of uranium include, but are not limited to: uranium sulfate, uranyl acetate, uranyl chloride, uranyl formate, uranyl fluoride, uranyl nitrate, uranyl potassium carbonate, and uranyl sulfate. The presence of the above materials will be determined by the generator, based on process knowledge or testing.

5. Waste processing of waste containing SNM will be limited to stabilization (mixing waste with reagents), micro-encapsulation, macro-encapsulation using low-density and high-density polyethylene and thermal desorption.

When waste is processed using the thermal desorption process, Envirocare shall confirm the SNM concentration following processing and prior to returning the waste to temporary storage.

Liquid waste may be stabilized provided the SNM concentration does not exceed the SNM concentration limits in Condition 1. For containers of liquid waste with more than 600 kilograms of waste, the total activity (pCi) of SNM shall not exceed the SNM concentration in Condition 1 times 600 kilograms of waste. Waste containing free liquids and solids shall be mixed prior to treatment. Any solids shall be maintained in a suspended state during transfer and treatment.

6. Envirocare shall require generators to provide the following information for each waste stream:

Pre-Shipment

1. Waste Description. The description must detail how the waste was generated, list the physical forms in the waste, and identify uranium chemical composition.

2. Waste Characterization Summary. The data must include a general description of how the waste was characterized (including the volumetric extent of the waste, and the number, location, type, and results of any analytical testing), the range of SNM concentrations, and the analytical results with error values used to develop the concentration ranges.

3. Uniformity Description. A description of the process by which the waste was generated showing that the spatial distribution of SNM must be uniform, or other information supporting spatial distribution.

4. Manifest Concentration. The generator must describe the methods to be used to determine the concentrations on the manifests. These methods could include direct measurement and the use of scaling factors. The generator must describe the uncertainty associated with sampling and testing used to obtain the manifest concentrations.

Envirocare shall review the above information and, if adequate, approve in writing this pre-shipment waste characterization and assurance plan before permitting the shipment of a waste stream. This will include statements that Envirocare has a written copy of all the information required above, that the characterization information is adequate and consistent with the waste description, and that the information is sufficient to demonstrate compliance with Conditions 1 through 4. Where generator process knowledge is used to demonstrate compliance with Conditions 1, 2, 3, or 4, Envirocare shall review this information and determine when testing is required to provide additional information in assuring compliance with the Conditions. Envirocare shall retain this information as required by the State of Utah to permit independent review.

At Receipt

Envirocare shall require generators of SNM waste to provide a written certification with each waste manifest that states that the SNM concentrations reported on the manifest do not exceed the limits in Condition 1, that the measurement uncertainty does not exceed the uncertainty value in Condition 1, and that the waste meets Conditions 2 through 4.

7. Sampling and radiological testing of waste containing SNM must be performed in accordance with the following: one sample for each of the first ten shipments of a waste stream; or one sample for each of the first 100 cubic yards of waste up to 1,000 cubic yards of a waste stream, and one sample for each additional 500 cubic yards of waste following the first ten shipments or the following the first 1,000 cubic yards of a waste stream. Sampling and radiological testing of debris waste containing SNM (that is exempted from sampling by the State of Utah) can be eliminated if the SNM concentration is lower than one tenth of the limits in Condition 1.

8. Envirocare shall notify the NRC, Region IV office within 24 hours if any of the above conditions are not met, including if a batch during a treatment process exceeds the SNM

concentrations of Condition 1. A written notification of the event must be provided within 7 days.

9. Envirocare shall obtain NRC approval prior to changing any activities associated with the above conditions.

Based on the staff's evaluation, the Commission has determined, pursuant to 10 CFR 70.14, that the exemption of above activities at the Envirocare disposal facility is authorized by law, and will not endanger life or property or the common defense and security and is otherwise in the public interest. Accordingly, by this Order, the Commission grants an exemption subject to the stated conditions. The exemption will become effective after the State of Utah has incorporated the above conditions into Envirocare's radioactive materials license. In addition, at that time, the Order transmitted on May 24, 1999, will no longer be effective.

Pursuant to the requirements in 10 CFR part 51, the Commission has prepared an Environmental Assessment for the proposed action and has determined that the granting of this exemption will have no significant impacts on the quality of the human environment. This finding was noticed in the **Federal Register** on January 23, 2003; 68 FR 3281.

The requests for the modifying the Order are available for inspection at NRC's Public Electronic Reading Room at <*http://www.nrc.gov/NRC/ADAMS/index.html*> ML021900394 and ML022180270. The staff's Environmental Assessment and Safety Evaluation Report may be obtained at the above web site using ML023470617 and ML023470587. Any questions with respect to this action should be referred to Timothy Harris, Environmental and Performance Assessment Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Telephone: (301) 415–6613, Fax: (301) 415–5398.

Dated at Rockville, Maryland this 30th day of January 2003.

For the Nuclear Regulatory Commission.

Martin J. Virgilio,

Director, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 03–3571 Filed 2–12–03; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–25929; File No. 812–12576]

Great-West Life & Annuity Insurance Company et al.; Notice of Application

February 7, 2003.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of Application (the ''Application'') for an order under Sections 12(d)(1)(J), 17(b) and 6(c), of the Investment Company Act of 1940, as amended (the ''Act''), providing exemptions from the limitations of Sections 12(d)(1)(A) and (B) and 17(a) of the Act.

Applicants: Great-West Life & Annuity Insurance Company (''GWL&A''), GW Capital Management, LLC, doing business as Maxim Capital Management, LLC (the ''Adviser''), and Maxim Series Fund, Inc. (the ''Fund'') (collectively with GWL&A and the Adviser, the ''Applicants'').

Relevant 1940 Act Sections: Order requested under Sections 12(d)(1)(J), 17(b) and 6(c) of the Act for exemption from Sections 12(d)(1)(A) and (B) and 17(a) of the Act.

Summary of Application: Applicants seek an order of the Commission permitting any series of the Fund and any other registered open-end investment company that is part of the same ''group of investment companies,'' as defined in Section 12(d)(1)(G)(ii) of the Act, as the Fund and is, or will be, advised by the Adviser or any entity controlling, controlled by, or under common control with GWL&A, lawfully operating as a ''fund of funds'' (the ''Profile Portfolios''), to purchase guaranteed interest annuity contracts issued by GWL&A (''Fixed Contracts''), as well as contracts GWL&A may issue in the future that are substantially similar in all material respects to the Fixed Contracts (''Future Fixed Contracts''), and GWL&A to sell to any Profile Portfolio such Fixed Contracts or Future Fixed Contracts. Applicants request that the relief extend to any future series of the Fund and any other future investment company advised by the Adviser lawfully operating as a ''fund of funds'' (''Future Profile Portfolios'').

Filing Date: The Application was filed on July 16, 2001, and amended and restated on February 6, 2002.

Hearing or Notification of Hearing. An order granting the Application will be issued unless the Commission orders a hearing. Interested persons may request a hearing on this Application by writing to the Commission's Secretary and serving Applicants with a copy of the request personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on March 4, 2003, and should be accompanied by proof of service on the Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Commission's Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549; Applicants, c/o Great-West Life & Annuity Insurance Company, GW Capital Management, LLC, and Maxim Series Fund, Inc., 8515 East Orchard Road, Greenwood Village, Colorado 80111.

FOR FURTHER INFORMATION CONTACT: Patrick F. Scott, Attorney, or Lorna J. MacLeod, Branch Chief, Office of Insurance Products, Division of Investment Management, at (202) 942–0670.

SUPPLEMENTARY INFORMATION: The following is a summary of the Application. The complete Application is available for a fee from the Commission's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549–0102 ((202) 942–8090).

Applicants' Representations

1. GWL&A is a stock life insurance company organized and existing under the laws of the State of Colorado. GWL&A was originally organized udner the laws of the State of Kansas as National Interment Association, and later changed its name to Ranger National Life Insurance Company, and then to Insuramerica Corporation until 1982 when it was changed to GWL&A. In 1990, GWL&A was re-domesticated as a Colorado corporation.

2. GWL&A is an indirect, wholly owned subsidiary of Great-West Lifeco Inc., an insurance holding company. Great-West Lifeco Inc. is a subsidiary of Power Financial Corporation, a financial services holding company based in Montreal, Canada. Power Corporation of Canada, a holding and management company, has voting control of Power Financial Corporation. Mr. Paul Desmarais, through a group of private holding companies, which he controls, has voting control of Power Corporation of Canada.

3. GWL&A is authorized to write annuities and life insurance in forty-nine states, the District of Columbia, Puerto Rico, the U.S. Virgin Islands and Guam. As of December 31, 2001,