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RETURN RECEIPT REQUESTED

Secretary
U.S. Nuclear Regulatory Commission
11555 Rockville Pike
Rockville, MD 20852

DOCKET NUMBER
PROPOSED RULE 170+171
(65FR16250)

Subject: NRC's Proposed FY 2000 Fee Rule

Dear Sir:

The Rio Algom Mining Corp. (RAMC) submits these comments in response to the Nuclear Regulatory Commission's (NRC) proposed revisions to the licensing, inspection and annual fees for Fiscal Year (FY) 2000. 65 Fed. Reg. 16249 (March 27, 2000). RAMC is in the business of uranium recovery, and that industry is continuing to shrink as a result of a long-term depression of the uranium market. A result of these low prices is that US uranium production currently supplies only about 15% of the total US annual uranium requirement, and production continues to decline. RAMC currently holds three source material licenses, and the company pays annual and hourly fees that amount to a substantial portion of the cost to operate those licensed facilities.

RAMC notes that the annual fees for uranium recovery licensees will increase somewhat for FY 2000. Yet RAMC remains concerned that the fee structure, in particular, the serious inequities caused by the Omnibus Budget Reconciliation Act of 1990 (OBRA) mandate that NRC recover approximately 100 percent of its budget each year. Although the increase in fees is not extreme, in light of the current circumstances facing the uranium recovery industry, RAMC is very concerned by the proposal's potential impact on the uranium recovery industry. In FY1999, NRC conducted a rebaselining of its fee structure that placed a significant burden on the individual NRC licensees in the uranium recovery industry. NRC must pay careful attention to the potential impact that these new fees will have on the financial health of the uranium recovery industry as it proceeds with this rulemaking process.

Annual Fees

RAMC's primary concern with the fee system continues to be the lack of relationship between the cost to uranium recovery licensees of NRC's regulatory program and the benefit derived from such services. Too heavy a burden is falling on uranium recovery facilities, particularly those sites on awaiting NRC approval of reclamation plans. Given the complex regulatory scheme and numerous license conditions imposed on these sites, it is rarely a matter of licensee discretion when to finalize closure of a site. Indeed, the realities of the uranium market are a more significant factor in determining whether a licensee ceases operations, goes on

standby or begins decommissioning. Sites that are awaiting approval of reclamation plans require minimal oversight yet must continue to pay an annual fee that is clearly not commensurate with the benefit of holding a license.

This problem of the lack of reasonable relationship between annual fees and services rendered by NRC is exacerbated as more states become Agreement States, leaving fewer NRC licensees to bear an even greater share of the burden. For example, for FY 2000, the annual fee for uranium recovery licensees would increase from \$131,109 in FY 1999 to \$132,000 for Class I facilities and from \$109,000 in FY 1999 to \$111,000 for Class II facilities. These increased annual fees are not due to an increase in the amount to be recovered in FY 2000. In fact, the total amount to be recovered for FY 2000, is less than the amount estimated for recovery in FY 1999. The increase is due mostly to the State of Ohio becoming an Agreement State in August 1999. The current system, in effect, gives preferential treatment to licensees in Agreement States.

This problem of the lack of reasonable relationship between annual fees and services rendered by NRC is made worse as more states become Agreement States and more sites are decommissioned, and thus leaving fewer NRC licensees to bear an even greater share of the burden. Despite awareness that NRC's fees system sets up a scenario that the last licensee will be saddled with paying for the entire program, NRC appears to have no plan to deal with this situation. NRC needs to determine an equitable way of dealing with this scenario that is already playing out in the uranium recovery area. For example, there are only three conventional mills remaining as NRC licensees and while the number of in-situ leach facilities had increased in FY 1999 from six to seven, but that trend is unlikely to continue due to the low price of uranium and the costs associated with NRC licensing fees.

Professional Hourly Rate

Under the proposed rule, the hourly rate applicable to the uranium recovery category of licensees will increase from \$140 in FY 1999 to \$143 for FY 2000. (65 Fed. Reg.16252). RAMC believes the hourly rate is unjustifiably high and does not reflect the cost of providing regulatory service to licensees. A \$143 hourly rate equals or exceeds the hourly charges of senior consultants or principals at major consulting firms, and exceeds the generally accepted rate for similar work in private industry.

RAMC requests that NRC continue its efforts to provide bills that contain more meaningful descriptions of the work done. With hourly rates as high as \$143, NRC should be held to at least the same standard of accountability to its licensees as the private sector is to its clients. In the private sector, adequate explanations and dates are provided to clients in order for clients to fully understand what was done and when it was done. This type of billing system allows costs to be specifically identified. RAMC recognizes that implementing such a system would require major revisions to NRC's entire computer billing program, but it is a change that would serve well NRC, its licensees and the public.

April 24, 2000

RAMC urges the Commission to continue to pursue legislative efforts with Congress to modify OBRA to make the assessment of fees by NRC more equitable across the board. If you have any questions, please contact me at (405) 858-4807.

Sincerely,

A handwritten signature in black ink, appearing to read "William Paul Goranson", with a long horizontal flourish extending to the right.

William Paul Goranson, P.E.
Manager, Radiation Safety, Regulatory
Compliance and Licensing

CC: Katie Sweeney, National Mining Association
Marion Loomis, Wyoming Mining Association
Marvin Freeman, Rio Algom Mining Corp.