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William Paul Goranson, P.E.
Manager, Radiation Safety, Regulatory
Compliance and Licensing
Rio Algom Mining Corp.
6305 Waterford Blvd.
Suite 325
Oklahoma City, OK 73118
USA
tel 405.858.4807
fax 405.810.2860



Rio Algom

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OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

Secretary
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
ATTN: Rulemakings and Adjudication Staff

Subject: NRC's Proposed FY 2001 Fee Rule

Dear Sir or Madam:

Rio Algom Mining Corp. is providing comments to the proposed NRC Fee Rule for FY 2001. Rio Algom currently holds three source material licenses for uranium recovery facilities that fall under the proposed fee rule. In the calendar year, 2000, the cumulative fees paid by Rio Algom total \$567,674, and relative to the current state of the uranium recovery industry, these fees have become a significant burden to the cost of operating these facilities. Additionally, given the relatively low risk of the nature of operations at these facilities, Rio Algom believes that these fees, including the current proposed fees, are unrealistic in their application.

Hourly Fees

Of the fees proposed in the new rule, the hourly (Part 170) charges are of greatest concern to Rio Algom. In 2000, hourly fees represented 61% of the annual and hourly fees assessed for all three facilities. As provided in the bills for these hourly fees, the charges are split into two general categories, (a) inspection and review costs and (b) project manager costs. The costs classified as inspection and review costs represent staff time spent directly on actions related to the facility license. Some of those review charges are initiated by Rio Algom's licensing actions, but NRC staff initiates many with Rio Algom having no input or control over the time charged for the actions. These hourly charges by their nature of review development, subsidizes NRC's other non-revenue operations.

However, the charges classified as project manager costs are the most alarming to Rio Algom. These charges represent generic administrative charges assessed to the licensee that may or may not be directly related to that licensee's operations. Examples of typical project manager costs include being charged for project manager training, rulemaking, work performed to other government agencies, etc. The proposed FY 2001 fee rule remains silent on the assessment of project manager charges, and Rio Algom is left to assume that the previous two class billing structure remains. For all three of Rio Algom's facilities, the Part 170 fees for 2000 were assessed at \$345,674, and \$159,741 or 46% of the hourly charges were assessed as project manager fees. The project manager fees are of particular concern to Rio Algom since there is no way to control the costs associated with them since these charges are simply allocated evenly amongst the licensees for that project manager.

NRC staff has been working with the uranium recovery industry to help control the project manager costs. This effort has yet to be manifested on any of the Part 170 bills to Rio Algom, and as a result, there is no means to determine if that effort has resulted in any cost reduction for the licensee. However, Rio Algom believes that the application of this method of using two categories of assessing fees for hourly charges is unfair and inappropriate, and, as a minimum, NRC should revert to the former method of billing strictly for review time. This approach would alleviate some

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of the concerns by the uranium recovery industry as a whole and make the bills more understandable by the licensees.

Annual Fees

Rio Algom's primary concern with the fee system continues to be the lack of a reasonable relationship between the cost to uranium recovery licensees of NRC's regulatory oversight program and the benefit derived from those services. Rio Algom believes and has commented in the past, that it is that there must be a reasonable relationship between the cost to licensees of a regulatory program and the benefit derived from regulatory services.

Rio Algom does acknowledge that the reduction in the annual fees for in-situ uranium recovery facilities from \$111,000 in FY 2000 fee rule to \$79,000 in the proposed FY 2001 fee rule is a welcome change. However, that reduction does not make up for the dramatic increases in the total actual charges to uranium recovery licensees over the last two years as the result in the restructuring of the assessment of the hourly charges. Using the total annual and hourly fees assessed in 2000 to Rio Algom's operations, the proposed annual fee reduction would result in only an 11% reduction in the total fees assessed for 2001. That assumes the hourly charges remain at 2000 levels. The total hourly and annual fees remain at levels that significantly impact the cost of doing business at Rio Algom's operations.

Too heavy a burden is falling on uranium recovery facilities, particularly those sites awaiting NRC approval of reclamation plans or those on "standby." Given the complex regulatory scheme and numerous license conditions imposed on these sites, it is rarely a matter of licensee discretion when to operate or finalize closure of a site. Indeed, the realities of the uranium market are a large determinant in whether a licensee ceases operations, goes on standby or begins decommissioning. Sites that are on standby or 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 the license. In addition, NRC needs to determine an equitable way of dealing with the scenario that could result in the last licensee having to pay for the entire program that is beginning to play out in the uranium recovery area.

Invoicing

Rio Algom requests that NRC continue its efforts to provide invoices that contain more meaningful descriptions of the work done by NRC staff and NRC Contractors. With hourly rates as high as \$144, 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. Rio Algom 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 NRC, licensees and the public well.

Rio Algom believes that the Commission must revise the project manager cost recovery system because that system is creating unexpected additional inequities and places the ability for a licensee to control or predict costs in jeopardy. Given the current state of the domestic uranium recovery industry, the new inequities posed by the project manager cost recovery system could be the deciding factor on the financial viability of a licensed operation. If you have any questions please call me at (405) 858-4807.

Sincerely,

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

Cc: Marvin Freeman, RAMC
Katie Sweeney, NMA