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WYOMING MINING ASSOCIATION

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Secretary
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
Attention: Rulemakings and Adjudications Staff

Gentlemen:

Subject: Comments of the Wyoming Mining Association (WMA) on the National Mining Association's (NMA) Petition for Rulemaking to Exempt Uranium Recovery Licensee's from Nuclear Regulatory Commission Part 170 and 171 fees - Federal Register Volume 66, Number 213, Friday, November 2, 2001 pages 55604 to 55607

The Wyoming Mining Association (WMA) is an organization of mining companies and mining related vendors, suppliers, and contractors in the State of Wyoming. Among the association's members are a number of uranium recovery (UR) licensees, including two of the three producing in-situ leach uranium recovery facilities remaining in the U.S. WMA also represents uranium in-situ leach operations in restoration, several conventional uranium mill tailings sites in reclamation, and a single conventional uranium mill currently in standby. The WMA is writing in support of the NMA's Petition to exempt UR licensees from NRC Part 170 and 171 fees.

The domestic uranium recovery industry is vital to the energy security and national security of the United States. The industry retains the ability to produce uranium domestically. In this time of increased international uncertainty regarding energy supplies, the United States needs to be able to domestically produce its valuable nuclear energy resources and to continue to utilize them for our energy independence.

Wyoming's uranium deposits are currently mined using in situ (ISL) methods. Low spot market prices for uranium (below eight (8) dollars per pound in 2000) have had a devastating effect on Wyoming's ISL production, which is the primary source of all U.S. uranium production. Two of three producing ISL uranium recovery facilities remaining in the U.S. are located in Wyoming. The third is located in Nebraska.

With the depressed market price for uranium, conventional mining and milling methods are not currently economical. However, the conventional mill tailings sites provide the necessary disposal sites for ISL 11(e).2 byproduct material. The conventional mill can also offer recycling/disposal options to other generators whose wastes contain recoverable uranium. In fact, in a letter dated July 17, 2001, to the licensee of the state's remaining conventional uranium mill regarding postponement of the requirements of timeliness in decommissioning, the Nuclear Regulatory Commission (NRC) stated, "... *The continued existence of the mill is in the public interest...*" and "... *maintaining the domestic capacity to provide the raw material for nuclear power is in the public interest.*"

Part of our nation's energy security portfolio is nuclear power, and necessarily a viable domestic uranium industry. Relief from fees charged by the Nuclear Regulatory Commission (NRC) will help to insure this viability. The NRC has previously demonstrated that acting "in the public interest" is a valid justification for reducing and/or waiving fee obligations. For example, non-profit educational institutions are fully exempt from fees. In addition, the Commissioners issued a staff requirements memorandum dated May

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29, 2001 in which they approved the discontinuance of the 10 CFR Part 41 (source material recovery) rulemaking effort, choosing instead to update existing guidance documents, because the depressed domestic uranium recovery industry could not shoulder the costs of the rulemaking effort. Thus the Commission has established precedents of granting relief, both to non-profit educational institutions and to the uranium recovery industry.

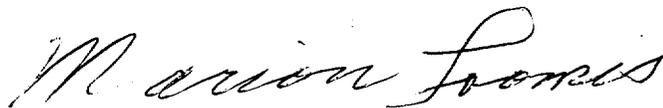
There is also precedent at the state level for granting of relief to the uranium recovery industry. In 1991 the Wyoming legislature granted the industry an exemption from severance tax as long as the spot market price remains below fourteen (14) dollars per pound. The legislature has continued to grant this exemption due to the depressed nature of uranium, most recently in 1998.

The Wyoming Mining Association (WMA) recently completed a survey of the uranium recovery licensees it represents. A total of five (5) licensees representing eight (8) source material licenses and one (1) license application responded. This group paid a total of \$6.5 million in license fees and hourly charges since the inception of fee recovery. It should be noted that this group does not represent all of the Wyoming uranium recovery licensees and source material licenses. These charges represent a tremendous and stifling burden to the uranium recovery industry in the State of Wyoming, especially since the State of Wyoming has an extensive permitting, monitoring, bonding and reclamation program in place that in many cases duplicates the requirements of the NRC.

In summary, WMA believes that the uranium recovery industry should be granted relief from the burden of NRC fees given the depressed state of the industry and the fact that the preservation of the industry is clearly in the public interest. Failure to act now and for the relatively short period necessary for the industry to stabilize would be a grave error since it carries with it the substantial chance that it would lead to the loss of valuable resources vital to this nation's national and energy security.

The Wyoming Mining Association (WMA) appreciates the opportunity to comment on this petition for rulemaking. If you have any questions please do not hesitate to contact me.

Sincerely yours,
WYOMING MINING ASSOCIATION



Marion Loomis
Executive Director

Cc: Katie Sweeney - National Mining Association (NMA)