



Rio Algom

William Paul Goranson, P.E.
Manager, Radiation Safety
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March 1, 2002

CERTIFIED MAIL 70001670001340348134
RETURN RECEIPT REQUESTED

Melvyn Leach
Chief, Fuel Cycle Licensing Branch
Division of Fuel Cycle Safety and Safeguards
U.S. Nuclear Regulatory Commission
Mail Stop T-8A33
Washington, DC 20555

**Subject: Request for Delay to Initiation of Decommissioning Process,
10 CFR§40.42(e)
Ambrosia Lake Facility
License No.: SUA-1473 Docket No.: 40-8905**

Dear Mr. Leach:

In a letter dated August 9, 1996, Quivira Mining Co. (QMC), a wholly owned subsidiary of Rio Algom Mining Corp., requested a five (5) year delay to the initiation of the decommissioning process at the Ambrosia Lake facility after documenting 24 months of inactivity. In a letter from Joe Holonich, NRC, to Marvin Freeman (QMC), dated May 7, 1997, that delay was authorized with the finding that the delay is not detrimental to the public health and safety and is otherwise in the public interest. The conditions that supported that finding remain in place.

Therefore, with this letter, Rio Algom Mining LLC is requesting a further extension of the delay period for an additional three (3) years. This allows Rio Algom to maintain the mill for future operations while market conditions are improving. Since the authorization of the five (5) year delay of decommissioning, Rio Algom has maintained conditions and operations consistent with the reasons specified in the May 7, 1997 NRC letter. Rio Algom believes that a three (3) year postponement, to allow the mill to maintained for future operations, should be granted for the following reasons:

- The Ambrosia Lake Facility has a record of safe operations to both employees and the general public during the standby period.
- The Ambrosia Lake Facility has a record of regulatory compliance during the standby period to all Federal and State regulations, including NRC, EPA, MSHA, and NMED.
- The Ambrosia Lake Facility maintains an approved reclamation surety of \$11.736 million as of February 28, 2002.

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March 1, 2002

- Improving uranium market, including price increases from \$7.10 per pound on January 22, 2001, to \$9.90 per pound as of February 25, 2002 (Uranium Exchange (Ux) prices).
- The renewal of Mining Permit MK009RE with the New Mexico Energy, Mining, and Natural Resources Dept. as well as the renewal of DP-362 with the New Mexico Environment Dept.
- Maintenance of the facility conditions.
- No detriment to public health and safety or the environment.
- History of maintaining occupational exposures As Low As Reasonably Achievable with exposures less than 10% of the allowable occupational limits.
- Continued existence of the mill is in the public interest as it is one of only six (6) uranium mills remaining in the United States and the only one remaining in New Mexico.
- There is renewed interest in the United States and other nations in nuclear power. The renewed interest in nuclear power in the United States is clearly expressed in the National Energy Policy dated May 2001.

To support the above listed reasons, a copy of the original submittal by QMC dated August 9, 1996, requesting the postponement of decommissioning, as well as the May 7, 1997 letter from NRC authorizing that postponement. 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

Enclosures

CC: Jill Caverly, NRC
Marvin Freeman, RAM
Terry Fletcher, RAM
Peter Luthiger, RAM



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

May 7, 1997

Orig - N.M. - NRC File -

cc: T. Fletcher / P. Withigo

cc: N.M. NRC Correspondence

cc: Ren

Desk

Mr. Marvin Freeman
Quivira Mining Company
6305 Waterford Boulevard
Suite 325
Oklahoma City, Oklahoma 73118

SUBJECT: REQUEST FOR DELAY IN INITIATION OF THE DECOMMISSIONING PROCESS,
10 CFR 40.42(f)

Dear Mr. Freeman:

The U.S. Nuclear Regulatory Commission staff has completed its review of Quivira Mining Company's (QMC's) request dated August 9, 1996, concerning the Timeliness in Decommissioning requirements of 10 CFR Part 40, as applied to its Ambrosia Lake facility. Pursuant to 10 CFR 40.42(f), QMC requested a five-year postponement in the required initiation of the decommissioning process for the Ambrosia Lake mill. Under the provisions of 10 CFR 40.42(f), the NRC may grant a request to delay or postpone initiation of the decommissioning process if it determines that such relief is not detrimental to the public health and safety and is otherwise in the public interest.

Based on its review, the NRC staff considers QMC's request for a five (5) year postponement to be acceptable. Pursuant to 10 CFR 40.42(f), for the reasons given below, the staff determines that the relief requested is not detrimental to the public health and safety and is otherwise in the public interest.

1. Public health and safety/maintenance of facility.

The Ambrosia Lake mill began operation in 1958. Milling operations were suspended in 1986, and the mill has been on standby status since that date. Based on NRC staff observations during site visits and inspections, the site and facility equipment have been and continue to be maintained in good condition. Radiological and monitoring requirements have been met as prescribed by the license, and reporting by the licensee has been timely. No detrimental impacts to the public health and safety or the environment have been identified.

2. Record of regulatory compliance.

Since 1986, QMC has been authorized to conduct activities at the Ambrosia Lake facility under NRC Source Material License SUA-1473. From June 1986 to the present, the facility has maintained a good inspection record, with only four Notices of Violation (NOV) of Severity Level IV having been issued, and none since 1992. The licensee promptly addressed, to the satisfaction of the NRC staff, the concerns raised by these notices.

3. Surety in place.

As required under Criterion 9 of Appendix A to 10 CFR Part 40, decommissioning and reclamation costs for the site are covered by a surety instrument that is reviewed annually by the NRC. This annual review is a basis by which the NRC staff ensures that the licensee's surety is adequate. If the licensee submits a revised reclamation plan, at such time as it receives approval to resume operation and/or construct additional facilities at the site, the licensee will be required to increase its surety accordingly.

4. "...in the public interest."

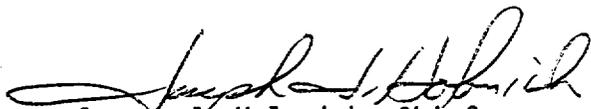
The site is covered by an adequate surety (See 3, above); therefore, the public interest in continued health and safety is protected from a financial default that could preclude decommissioning of the site. In addition, existing statutes oblige the Secretary of Energy to have a "continuing responsibility" for the domestic uranium mining industry, "to encourage use of domestic uranium." See 42 U.S.C. §§ 2201b and 2296b-3. The NRC recognizes that the viability of the industry is a Federal concern, that there is a public interest in uranium supply, and that this factor may be meaningful where the licensee has actively maintained the mill in a condition to operate, evidencing an honest expectation to operate and support industry viability. Because each mill's status will be judged on its own merits, the number of mills in such a condition is not relevant. Neither, as was mentioned in my letter of June 3, 1996, to Anthony J. Thompson (enclosed), is the price of uranium, nor the economic business decisions of the licensee.

5. Planned resumption of operations.

QMC requests in its August 9, 1996, letter that the NRC approve delay of the decommissioning process for 5 years since it is QMC's intent to resume operation at the Ambrosia Lake mill should market conditions warrant.

If you have any questions regarding this letter, you may contact the NRC Project Manager for the Ambrosia Lake facility, Ken Hooks, at (301) 415-7777.

Sincerely,



Joseph J. Holonich, Chief
Uranium Recovery Branch
Division of Waste Management
Office of Nuclear Material Safety
and Safeguards

Docket No. 40-8905
Source Material License SUA-1473
Enclosure: As stated



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D. C. 20555-0001

June 3, 1996

Anthony J. Thompson, Esq.
Shaw, Pittman, Potts & Trowbridge
2300 N Street, N.W.
Washington, D.C. 20037-1128

SUBJECT: TIMELINESS IN DECOMMISSIONING RULE

Dear Mr. Thompson:

I am responding to your March 25, 1996, letter on behalf of the National Mining Association (NMA). I hope that, by clarifying the U.S. Nuclear Regulatory Commission's position on one matter, I can move us closer to resolution of what appears to be the only issue remaining between us.

In your letter you ask us to clarify what we mean by "otherwise in the public interest." You are particularly concerned that paragraph 3.b of my response to comment 2 in my February 16, 1996, letter to you may mean that the NRC intends to judge the best economic interests of licensees.

We have no such intention. Paragraph 3 was meant to make two chief points, both of which are ultimately tied to the agency's safety mission, and not to any desire by the NRC to exercise judgement about private economic interests. First, compliance with safety standards is necessary for a time extension, but not sufficient. Second, the time extension must also be "otherwise in the public interest," and while adequate surety, of the sort discussed in the attachment to my February letter, is an important part of being "otherwise in the public interest," it is not the whole. Our chief concern here remains, as always, health and safety. We want to know that there are good reasons for believing that it is in the public interest to allow an inactive facility to remain undecommissioned.

In reaching a determination about the public interest, the NRC does not intend to judge whether continuation of standby status is in the applicant's best economic interests. Those interests might, or might not, coincide with the public interest. A public interest argument might be based, for example, on Federal concern for the domestic uranium mining industry. Existing statutes oblige the Secretary of Energy to gather information on the uranium mining industry and to have a "continuing responsibility" for the domestic industry, "to encourage use of domestic uranium." See 42 U.S.C. §§ 2201b and 2296b-3. Although this responsibility is not the NRC's, the NRC recognizes that the viability of the industry is a Federal concern. Paragraph 3.b in the enclosure to my February letter permits an applicant to argue that the policies behind the cited provisions support the application for time extension.

There may be other, similar, arguments that could be made, e.g., a public interest argument based on possible future needs of the electric utility industry or on national defense. Some of these arguments may depend on

A. Thompson

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circumstances unique to a given applicant. Therefore, we have avoided attempting to define exhaustively "the public interest." The NRC's rule permits each applicant for a time extension to make the arguments most relevant to its circumstances.

I hope that this clarification removes NMA's remaining concern, and that this letter, together with your March 25, 1996, letter, my February 16, 1996, letter, and your August 25, 1995, letter, constitute a sufficient record to guide members of the NMA who want to file for time extensions. I would hope also that the same letters can serve as the basis for filing a motion for voluntary dismissal in the D.C. Circuit. I look forward to your response.

Sincerely,



Joseph J. Holonich, Chief
Uranium Recovery Branch
Division of Waste Management
Office of Nuclear Material
Safety and Safeguards

Quivira Mining Company

August 9, 1996

Certified Mail
Return Receipt Requested P 144 785 032

Mr. Joe Holonich
Uranium Recovery Branch
Division of Low Level Waste Management & Decommissioning
Mail Stop T7J9
11555 Rockville Pike
Rockville, MD 20850

Re: Ambrosia Lake Facility
License SUA-1473, Docket No. 40-8905
Notification of 24 Month Inactivity &
Request For Delay To Initiation of Decommissioning Process, 10 CFR §40.42(e)

Dear Mr. Holonich:

Please find Quivira Mining Company's notification of an upcoming period of 24 month inactivity pursuant to 10 CFR §40.42(d) and Quivira's request pursuant to 10 CFR §40.42(e), to delay the initiation of the decommissioning process for the Company's Ambrosia Lake uranium ore mill processing facility. As detailed within the attached submittal, approval of this request is not detrimental to the public health and safety and is otherwise in the public interest. If you have any questions regarding this submittal, please contact me at (405) 842-1773.

Sincerely



Bill Ferdinand, Manager
Radiation Safety, Licensing &
Regulatory Compliance

Attachments: As Stated

xc: T. Fletcher (QMC-Ambrosia Lake)
M. Freeman (QMC-OKC)
R. Luke (QMC-OKC)
P. Luthiger (QMC-Ambrosia Lake)
NRC - (Division of Radiation Safety and Safeguards) Arlington, Texas
file

**QUIVIRA MINING COMPANY
AMBROSIA LAKE FACILITY**

**NOTIFICATION OF AN UPCOMING PERIOD OF 24 MONTH INACTIVITY
and
REQUEST TO DELAY INITIATION OF THE DECOMMISSIONING PROCESS**

Quivira Mining Company provides herein, notification of an upcoming period in which no principal activities have been conducted in several separate buildings and outdoor areas at the Ambrosia Lake facility that contain residual radioactivity for a period of 24 months. This notice is provided pursuant to 10 CFR 40.42(d)(4).

Quivira requests herein, NRC's approval to delay initiation of the decommissioning process pursuant to 10 CFR §40.42(e) for the subject Ambrosia Lake processing mill facilities. In support of this request, Quivira presents the following information which demonstrate that approval to delay initiation of the decommissioning process is not detrimental to the public health and safety and is otherwise in the public interest.

I. Notification of 24 Month Period of Inactivity

The NRC published in the Federal Register on January 13, 1993, a proposed rule notice which would govern the timeliness of decommissioning for source material licensed sites.⁽¹⁾ On July 15, 1994, NRC promulgated the final regulations governing the timeliness in decommissioning at source material facilities. These rules established notification and decommissioning timing requirements. The effective date of these regulations was established as August 15, 1994.⁽²⁾

As part of these rules, notification to NRC is required if:

"No principal activities for a period of 24 months in any separate building or outdoor area that contains residual radioactivity such that the building or outdoor area is unsuitable for release in accordance with NRC requirements."⁽³⁾

⁽¹⁾ U.S. Nuclear Regulatory Commission, Federal Register, "Timeliness in Decommissioning of Materials Facilities", Volume 58, No. 8, January 13, 1993, pages 4099-4110.

⁽²⁾ U.S. Nuclear Regulatory Commission, "Timeliness in Decommissioning of Material Facilities", Federal Register, Volume 59, No. 135, July 15, 1994, pages 36026-36040.

⁽³⁾ Id. at page 36035.

Pursuant to this requirement and in acknowledgement that the 24 month period from the effective date of the timeliness of decommissioning regulations is August 15, 1996, Quivira provides advanced notice that in several separate buildings and outdoors areas at the Ambrosia Lake facility, commencing on that date, will have had no principal activities during the preceding 24 month period. These areas are shown on Figure 1.

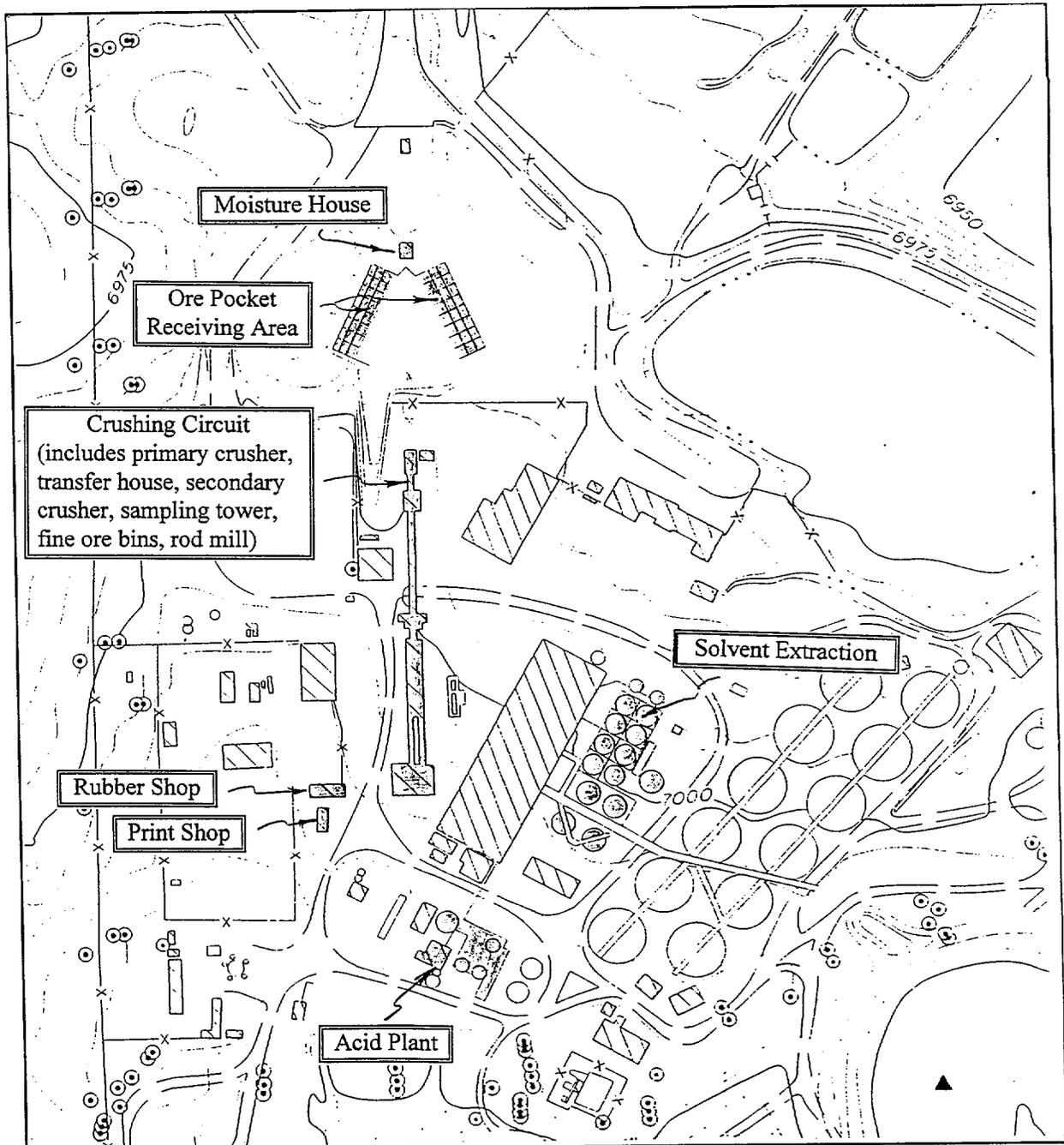


Figure 1 - Inactive Mill Areas

As presented in Figure 1, these areas are primarily associated with the facility's ore crushing circuit. Due to cyclic nature of mining and the depressed market conditions for natural uranium, the milling of conventionally mined ores has not occurred during the past 24 month period thereby resulting in the idling the facility's ore crushing circuit. The other areas within the mill facility are active and being utilized to process natural mine waters, old stope leaching waters, and raffinate materials, for the processing, extraction, storage, and precipitation of natural uranium pursuant to license conditions #13, #33, and #31 respectively.

The areas specifically included as not having been active for its principle activity include the moisture house, ore pocket receiving area, primary crusher, transfer house, secondary crusher, sampling tower, fine ore bins, rod mill, solvent extraction area, and several associated support buildings/areas.

II. Request To Delay Initiation of the Decommissioning Process

Pursuant to 10 CFR §40.42(e), Quivira requests NRC's approval to delay the initiation of the decommissioning process for the separate buildings and outdoors areas at the Ambrosia Lake facility which will have had no principal activities during the preceding 24 month period from August 15, 1996. Quivira requests that this delay be approved for a minimum period of five (5) years.

This minimum 5 year extension period request is appropriate and consistent with past NRC discussions which indicate longer extension periods exceeding two (2) years could be granted. During the timeliness of decommissioning rulemaking, discussions were held on this subject with Chairman Ivan Selin during a meeting with source material licensees in Denver, Colorado, on May 12, 1993. Chairman Selin stated that given the already existing regulatory requirements for source material licensees that govern decommissioning and reclamation, that a blanket exemption from the proposed rule made good sense⁽⁴⁾. This indicates that other extension periods should be acceptable to NRC given the already existing regulatory program established for source material licensees.

Additional supportive discussions that longer extension periods are acceptable to NRC is provided in the discussions and presentations in the source material licensees/NRC meeting held on July 25, 1995, in Arlington, Texas. In an NRC presentation regarding the timeliness

⁽⁴⁾ Correspondence from Mr. Jim Gilchrist, Vice President, American Mining Congress, to Chairman Ivan Selin, U.S. Nuclear Regulatory Commission, September 15, 1993.

in decommissioning rule, it was noted that NRC considered waiver extensions with longer than a 2 year period acceptable with a probable maximum extension period of 5 years.⁽⁵⁾

Therefore, Quivira requests that NRC approve the delay of the decommissioning process for a 5 year period because as indicated by the following supportive information, it is Quivira intent to resume operation at the Ambrosia Lake mill should market conditions warrant. This period would allow such market conditions to potentially develop. NRC's approval of this request would be protective of public health and safety and would be otherwise in the public interest.

III. Approval To Delay Decommissioning Process Will Not Be Detrimental To Public Health and Safety

NRC approval of Quivira's request to delay the decommissioning process at the Ambrosia Lake facility will not be detrimental to public health and safety. NRC has stated that this can be demonstrated by examining the safety requirements contained within the facility's license and NRC inspections of the facility to assure that it is maintaining an adequate level of protection of public health and safety.⁽⁶⁾

Presented in Table 1, are the conditions within the Ambrosia Lake source material license which address public health and safety matters. As indicated by the table, almost all the conditions within the license are associated with assuring continued public health and safety matters, regardless whether the facility is in operation or on standby for future operation.

TABLE 1
HEALTH AND SAFETY LICENSE CONDITIONS WITHIN LICENSE

Condition #	Description
10	Contains the facility's environmental, health physics, emergency response programs and the authorized processing for uranium recovery.

⁽⁵⁾ U.S. Nuclear Regulatory Commission, presentation by Mr. Joe Holonich, Division of Waste Management, Office of Nuclear Material Safety and Safeguards, July 25, 1995, Overhead #3.

⁽⁶⁾ U.S. Nuclear Regulatory Commission letters on "Timeliness of Decommissioning" requirements, from Mr. Joe Holonich (NRC) to Mr. Jim Gilchrist (AMC) dated February 2, 1995; and Mr. Joe Holonich (NRC) to Mr. Anthony Thompson (Shaw, Pittman, Potts & Trowbridge) dated February 16, 1996. These letters described the items to be addressed by the licensee to support a request for a delay in the decommissioning process.

Condition #	Description
11	Contains the qualification requirements for the facility Radiation Safety Officer to assure the implementation of the appropriate safety and environmental programs.
12	Contains requirements which restrict the release of byproduct material from the licensed site to unrestricted areas.
13	Contains the requirements that the facility's mill radiological safety, monitoring and operation programs be employed in uranium recovery water treatment facilities.
14	Contains the requirements to establish and implement standard operating procedures for all operational process areas including the appropriate radiation safety practices to be followed to assure proper management of the licensed material.
15	Contains requirements to establish and use a Radiation Work Permit system for all work not covered under standard operating procedures when significant exposure to radioactive materials exist.
16	Contains the requirements to establish procedures for all surveillance activities including environmental and radiation monitoring.
17	Contains requirements that all routine airborne monitoring be performed in a timely manner and that radiation work permit samples be analyzed within 2 working days to assure radiation control systems are effective and operating properly.
19	Contains the reporting requirements for all effluent and environmental monitoring required by the license.
20	Contains the requirements for the assurance that all sampling analysis, monitoring, calibration, audit, inspections, meetings, and training are properly documented and filed.
21	Contains the requirements for safely operating the tailings retention systems including its inspection to assure its continued safety.
22	Contains the requirements for maintaining an NRC approved financial surety, if accomplished by a third party, to complete decommissioning and reclamation at the facility. Quivira's surety is current and contains the NRC approved reclamation/decommissioning costs to complete site closure.
23	Contains the provisions that the land and byproduct material will be transferred to the United States or the State of New Mexico upon license termination to ensure long term stability and safety of the disposal site.
24	Contains the requirements that the facility implement and maintain contingency emergency plans for unexpected transportation and effluent releases into the environment.
25	Contains the release requirements for materials from the licensed area to meet NRC guidelines for unrestricted use to assure protection of the public.
26	Contains the requirements that the licensee shall evaluate before engaging in any activity not previous evaluated or that is greater than that previously evaluated, an environmental evaluation to assure that its activity will not result in a significant adverse environmental impact.
27	Contains the requirements that the facility will implement a tailings stabilization plan to minimize dispersal of tailings.

Condition #	Description
29	Contains the requirements that the licensee shall submit 6 months prior to planned decommissioning of the facility a detailed decommissioning plan to assure appropriate radiation safety measures are implemented to protect the public and the workforce.
30	Contains the requirements for the appropriate disposal of damaged yellowcake drums to minimize adverse environmental affects to assure continued public health and safety.
31	Contains the requirements on the processing, storage, and monitoring the processing of alternate feed materials to assure continued public health and safety.
32	Contains authorization to dispose of contaminated waste materials resulting from past milling operations into approved disposal areas including provisions which continue to provide for public health and safety.
33	Contains the authorization for old stope leaching and its associated environmental monitoring program to assure continued compliance with environmental standards.
34	Contains the requirements to implement a groundwater compliance program for monitoring and remediation to meet groundwater protection standards.
36	Contains the authorization to dispose of ISL waste including procedures necessary for assuring continued public health and safety.
37	Contains requirement to implement the NRC approved tailings reclamation plan.
38	Contains requirements to safely conduct and monitor yellowcake drying to assure continued public health and safety.
39	Contains the requirement to perform land use surveys in the area surrounding the mill facility.
40	Contains the requirements to complete site reclamation in accordance with the approved reclamation and groundwater corrective plan within the condition's established time schedule.

Quivira's continued compliance with these license conditions along with the other NRC regulations including the provisions at 10 CFR §19, §20, and §40, are supported through the examination of past NRC inspections at the facility. During the preceding 24 month period of inactivity, there have been no violations during the NRC facility inspections.⁽⁷⁾

A further review of inspection results for the past seven (7) years, also continues to indicate a good compliance record. During this period, there has been a total of ten (10) NRC inspections with only three minor (3) minor Severity Level IV violations issued. None of these minor violations were associated with public health and safety issues. The issued violations included: (1) moving a high volume air sampler to a new location without having prior NRC

⁽⁷⁾ U.S. Nuclear Regulatory Commission Inspection Report, 40-8905/96-01, dated April 25, 1996 and U.S. Nuclear Regulatory Commission Inspection Report, 40-8905/95-01, dated May 12, 1995.

approval; (2) using a nuclear density meter in lieu of sand cone measurements; and (3) documentation relating to lung function tests for respirator use. Please note that Quivira disagreed with NRC findings on two (2) of these violations.⁽⁸⁾

Quivira's believes that the Ambrosia Lake facility's overall continued compliance record with its license and NRC regulations clearly demonstrates that the facility is maintaining an adequate level of protection of public health and safety. This is also demonstrated by Quivira's continued compliance with its radiological and environmental monitoring programs as required by license condition and other regulations. The results presented in various NRC monitoring reports including the semi-annual effluent and annual ALARA reports show that the public health and safety continue to be adequately protected.

Quivira also has an excellent compliance record with other agencies as it has maintained continuous compliance with EPA's regulations at 40 CFR §61, Subpart I (National Emission Standards for Radionuclide Emission From Facilities Licensed by the Nuclear Regulatory Commission) and Subpart W (National Emission Standards for Radon Emissions From Operating Mill Tailings), 40 CFR §190.10, Subpart B (Environmental Standards for the Uranium Fuel Cycle), and 40 CFR §122 (National Pollution Discharge Elimination System). In fact, because of the minimal radiological doses to the public in regards to the requirements in Subpart I and W, reporting has not been required.

NRC states as a prime consideration for its promulgation of the "Timeliness of Decommissioning" regulations were concerns:

"that safety practices at the inactive facility or the inactive portion of the operating facility may become lax as key personnel relocate and management interest wanes."⁽⁹⁾

⁽⁸⁾ Quivira contested the violation within report 40-8905/91-01 issued for moving a high volume air sampler from a rancher's property to a new location without having first obtained prior NRC approval. Quivira contested this violation as the sampler was on land not owned by the Company and its owner, who was moving, had turn off electricity and requested that Quivira immediately remove the high volume air sampler from his premises. Quivira also contested a documentation violation associated with the lung function tests for respiratory use (40-8905/92-01). NRC issued a violation noting that lung function tests had not been performed in the preceding 12 months. Quivira provided documentation that it was in compliance with its respiratory protection program and that lung function tests had indeed been performed with the submittal of doctor certification that such tests had been performed during the preceding 12 month period.

⁽⁹⁾ Id. at 1, page 4100; and Id. at 2, page 36027.

Such is not the case at the Ambrosia Lake facility as safety is continually stressed and is an everyday priority. This is evident by the fact that the facility has not had a lost time injury in the last twelve (12) years. The last such occurrence was in September 1984. This safety achievement is further buttressed when recognizing that although conventional milling operations in portions of the mill were on standby during part of this period, the facility continues to operate in most other areas with activities associated with its old stope leaching production, raffinate processing, and yellowcake precipitation operations. This safety record also includes the immense reclamation activities associated with the facility's tailings impoundments.

The facility continually augments its support of the safety program with regular bi-weekly safety meetings, Mine Safety and Health Administration (MSHA) annual refresher training, NRC annual radiation safety refresher training, health and safety fairs, and periodic specialized training such as heavy equipment safety and maintenance procedures. These activities along with their safety results, demonstrate that safety and health issues have not become lax at the Ambrosia Lake facility. Rather, it highlights the commitment by the facility to assure that safety is a continual priority.

Additionally, a review of the management personnel at the facility indicates a very stable staff at the facility as the key five (5) management members have a combined aggregate employment at the Ambrosia Lake facility in excess of 89 years with a total experience associated with uranium activities in excess of over 99 years.

In conjunction with its excellent safety and compliance record, the facility has been maintained for future milling operation. The facility receives regular care and maintenance work by facility staff and contract personnel as necessary, to assure protection of public health and safety to enable the possible future restart for milling of conventional ores. The facility is in excellent position to restart and perform such operations.

IV. Delaying Decommissioning Is Otherwise in the Public Interest

It is in the public's interest for NRC to approve the delay to initiate decommissioning activities for portions of Quivira's mill which have been inactive during the preceding 24 month period.

The Ambrosia Lake mill is the last licensed uranium ore processing facility remaining in New Mexico and is strategically located in the heart of the Grants Mineral Belt which

stretches from just west of Albuquerque to near the Arizona/New Mexico border. The Grants Mineral Belt continues to remain as one of this nation's leading uranium resource centers containing approximately 37% of all reasonably assured uranium resources within the United States.⁽¹⁰⁾ Within a 18 mile radius of the Ambrosia Lake mill facility, it is estimated that in excess of approximately 170 million pounds of uranium reserves are available for extraction and milling.

As late as the early 1980's, the conventional mining and milling in the area provided an estimated 8,000 direct and indirect jobs to the local and New Mexico economy with an estimated payroll of near \$240 million (1980\$). Although Quivira does not anticipate production activity equal to the rates of the late 1970s and early 1980s, these figures do provide a basis of the beneficial economic impact that uranium milling and mining has on the local communities and the State of New Mexico. Additionally, when including the generated taxes such as payroll, sales, property, severance, and similar taxes paid by the employees and companies because of the extraction and milling by the uranium industry, Quivira believes that the public interest is best served by delaying decommissioning activities for an asset which can be utilized in the future to provide similar beneficial economic impacts to the citizens of New Mexico.

The belief that uranium mining and extraction is a potentially viable industry in the area is supported by the fact that Quivira and General Atomics have recently permitted the Section 35 Mine (located 5 miles to the east) and Mt. Taylor Mine (located 12 miles to the east) respectively, with the New Mexico Mining and Mineral Division (MMD) for future uranium mining operation within the area.⁽¹¹⁾

Market conditions warrant such optimism as uranium prices have risen from their historic lows of \$6.90 per pound in 1993 to its present price of \$16.50 per pound.⁽¹²⁾ One of the primary factors leading to the recent price increase is the annual shortfall of global uranium production to meet reactor needs. At present, requirements are approximately 120 million pounds of natural uranium production while actual production levels are nearer to 60 million pounds per year with little inventory to cover the shortfall. Additionally, although near term nuclear generating capacity within the United States is not seen as increasing, it is expected to significantly increase in the far east countries along the Pacific Rim thereby creating added

⁽¹⁰⁾ Energy Information Administration, "Uranium Industry Annual 1995", Office of Coal, Nuclear, Electric and Alternate Fuels, U.S. Department of Energy, Washington, D.C., DOE/EIA-0478, May 1996.

⁽¹¹⁾ Quivira Mining Company, Permit No. MK002RE, Section 35 Mine issued on July 26, 1995; General Atomics, Permit No. CI002RE; Mt. Taylor Mine issued on July 28, 1995; both issued under the authority of the New Mexico Energy, Minerals and Natural Resources Department, Mining and Minerals Division.

⁽¹²⁾ NUEXCO, "The Nuclear Review", May 1996, page 33.

production pressures to meet demands. If the uranium market continues to strengthen then conventional milling in the Ambrosia Lake area may become economically viable.

The economic viability of these operations depend on the availability of a local ore processing mill to avoid significant transportation costs to other licensed mills. Without such a local mill to process the ores, these mining operations and the associated reserves in the Grants Mineral Belt become less viable which could result in their potential loss as an extractable resources to the detriment of the citizens of New Mexico and the nation.

Although the Ambrosia Lake mill is presently in standby to meet anticipated future production needs, the facility continues to maintain an NRC approved decommissioning and reclamation surety to assure proper reclamation for activities associated with its license. The decommissioning and reclamation plan surety is in place for the presently approved for \$11.91 million to cover the costs for a third party to implement NRC's approved reclamation plans. This surety is annually updated, reviewed and approved by NRC to assure that adequate financial assurance is available to implement the facility's NRC approved reclamation plans. Thus, the public interest is continuing to be protected with an adequate, in-place, and NRC approved surety.

We believe that approval of Quivira's request would be consistent with Congress' intent and in the public interest, to avoid the dependence of uranium imports. Congress recognized the inherent dangers associated with dependence of foreign uranium imports and thus to protect national security interest (thus in the public interest), it specifically addressed and included within the Energy Policy Act of 1992,⁽¹³⁾ appropriate language reflecting its intent to achieve these goals. The Section 1014 (a) of the Act states:

"The Secretary shall have a continuing responsibility for the domestic uranium industry to encourage the use of domestic uranium." [emphasis added]

Congress further reinforces its intent within Section 1071 (a) which reads:

"The Secretary shall encourage States and utility regulatory authorities to take into consideration the achievement of the objectives and purposes of this subtitle, including the national need to avoid dependence on imports, ..." [emphasis added]

⁽¹³⁾ Public Law 102-486, 102nd Congress, October 24, 1992.

Thus, Quivira believes it is clearly in the public interest to delay the initiation of the decommissioning process when recognizing that; (1) a major portion of this nation's uranium reserves are located within the Grants Mineral Belt; (2) the Ambrosia Lake mill is the only remaining licensed facility in the area able to process such ores; (3) the potential employment and revenue benefits derived from the potential operation of the Ambrosia Lake mill operation to the citizens of New Mexico; (4) Congress' intent to avoid the dependence of foreign imports; and (5) the fact that the facility decommissioning and reclamation costs for the site are covered under an NRC approved surety instrument which is reviewed annually for adequacy.

V. Conclusions

Quivira believes that NRC's approval to delay initiation of the decommissioning process for a 5 year period is appropriate as its approval will not be detrimental to the public health and safety and is otherwise in the public interest. The approval should be granted as:

- The facility license contains the necessary safety requirements to assure the continued protection of public health and safety whether in operation or on standby;
- The excellent record of safe operation to both employees and the general public during the facility's standby period demonstrates that safety precautions have not become lax;
- Management interest has not waned as key experienced personnel have not been relocated;
- The facility has continued to maintain continue compliance with all applicable regulations;
- The facility has an adequate, in-place and NRC approved surety of \$11.9 million to assure that decommissioning and reclamation are appropriately covered;
- The facility intends to resume milling operations should economic conditions warrant, providing economic benefits to the citizens and the State of New Mexico;

- Future uranium mining and milling in the Ambrosia Lake area will help to avoid the dependence on imports consistent with the intent of Congress to assure and protect a domestic source of natural uranium.