

May 1, 2002

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Chief, Rules and Directives Branch
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Subject: Comments on Draft Standard Review Plan (NUREG-1569) for Staff Reviews for in Situ Leach Uranium Extraction License Applications Federal Register, Vol. 67, No. 24, Tuesday, February 5, 2002, page 5347

Dear Sir or Madam:

Rio Algom Mining LLC maintains three uranium recovery operations, all are licensees of the U.S. Nuclear Regulatory Commission. One of those licensed operations is an in-situ leach uranium recovery facility located in Wyoming. Rio Algom would like to take the opportunity to provide comments on the draft NUREG-1569, "Standard Review Plan for In Situ Leach Uranium Extraction License Applications".

In general, the Draft SRP, NUREG-1569, provides a good basis for describing the general approach by NRC to the review and acceptance of new and amended licenses for in situ leach uranium recovery facilities. Revision 1, dated January 2002, incorporates most of the comments provided by Rio Algom and other commentators to the initial draft version issued in October 1997. Regarding specific comments, Rio Algom has limited those to the ones shown below:

COMMENT 1 - Section 3.1.3 (2)(b) - In Situ Process and Equipment: Acceptance Criteria

"At the surface, the well is pressurized with either air or water to 25 percent above the expected operating pressure. A well is satisfactory if a pressure drop of less than 10 percent occurs over 1 hour. A procedure that uses a 5 percent pressure drop in 30 minutes is also acceptable. Operating pressure varies with the depth of the well and should be less than formation fracture pressure."

This section places a performance standard on Mechanical Integrity Tests that is inconsistent with currently approved procedures at operating licensees. For most licensees, the performance standards for Mechanical Integrity Tests are set on a site-specific basis, often with input from the State Administered UIC program as well as the licensee. These site-specific performance standards are often considerably different than those proposed in the SRP. The standards in the SRP should be more generalized to allow flexibility to account for the State UIC standards in addition to site-specific requirements.

COMMENT 2 - Section 6.1.3 (4)(b) - Plans and Schedules for Ground-Water Quality Restoration: Acceptance Criteria - Secondary Restoration Standards

"The applicant must first attempt to return ground-water quality to primary goals before falling back on secondary standards. License conditions should be set up such that a license amendment is necessary before the applicant can revert to secondary goals. The applicant must demonstrate that a good faith effort was given to reach primary goals."

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J. Muskiewicz

Secondary standards for restoration are often proposed in the License application for an ISL wellfield, and these are most likely State Groundwater Standards and/or Class of Use designations. As part of the application, these secondary standards represent a restoration target that provides some flexibility for restoration performance that at a minimum often meets State health based drinking water standards for groundwater or at least the original use standards prior to injection. In effect, restoring the groundwater to a secondary standard, recognizes those health-based and use standards approved by the State. As a result, the approval of the license application that already includes secondary standards based on State health and use based standards should not require a second license amendment for secondary restoration standards since they have been included as part of an approved license application.

COMMENT 3 - Section 6.1.3 (4)(b) - Plans and Schedules for Ground-Water Quality Restoration: Acceptance Criteria - Secondary Restoration Standards

"It is acceptable to establish secondary restoration standards on a constituent-by-constituent basis, with the numerical limits determined by applying the lower of the state or EPA primary or secondary drinking water standards."

It is inappropriate to use EPA primary and secondary drinking water standards for secondary restoration standards. As stated in 40 CFR§141.1, these primary MCL's are applicable to water systems only, and by inference do not apply to groundwater. The secondary drinking water standards, as stated 40 CFR§143.1, are not Federally enforceable and are intended solely as guidelines for the States. In fact, the States, especially those with NRC Uranium Recovery Licensees, had developed and promulgated groundwater drinking water standards that are health and use based. Secondly, these standards are much more appropriate for setting secondary restoration standards than the EPA primary and secondary drinking water standards which are promulgated for a different standard and assume treatment is required to meet their standards. Rio Algom strongly urges the NRC to revise this section of the SRP to acknowledge the State groundwater drinking water standards rather than EPA primary and secondary drinking water standards. Rio Algom believes that the use of the later, Federal, standards essentially sets those standards as de facto "national" groundwater drinking water standards, far in excess of their stated intent in the regulations.

COMMENT 4 - Section 6.5.3 (14) - Financial Assessment for Ground-Water Restoration, Decommissioning, Reclamation, Waste Disposal, and Associated Monitoring

"Any long-term surveillance costs are provided for consistent with Criterion 10 of 10 CFR Part 40, Appendix A."

It is Rio Algom's understanding that Criterion 10 is intended for uranium mills and not ISL Uranium Recovery Facilities. ISL UR facilities produce no tailings, and all 11(e)2 byproduct material is disposed off-site at an approved byproduct material disposal site. Secondly, the underground ore bodies depleted by uranium solution extraction processes are excluded from the definition of byproduct material, as per 10 CFR§40.4. The question becomes, why is there a need to assure that the conditions for Criterion 10 are met, when there is nothing remaining at the facility that would require long-term surveillance upon license termination.

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As stated earlier, Revision 1 of NUREG-1569 is a significant improvement over the October 1997 release. The revised SRP incorporates the current NRC licensing practices, including performance based licensing, as well as more risk aware acceptance criteria. Rio Algom believes that in the areas related groundwater, and specifically UIC program areas, NRC should defer to the State Administered programs and the appropriate State regulations and policies rather than specifying prescriptive performance standards and inappropriate Federal drinking water standards.

If you have any questions, please call me at (405) 858-4807.

Sincerely,

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