



Bill Richardson
GOVERNOR

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CERTIFIED MAIL – RETURN RECEIPT REQUESTED

January 3, 2003

William Paul Goranson,
Manager, Radiation Safety
Regulatory Compliance and Licensing
Rio Algom Mining LLC
6305 Waterford Boulevard
Suite 400
Oklahoma City, OK 73118

Re: DP-71 and DP-169 Permit Renewals and Site Access for Sampling

DOCKET: 04008905

Dear Mr. Goranson:

In response to your letter dated October 4, 2002, the New Mexico Environment Department (NMED) denies your request for postponement of sampling activities as well as implied deferral of permit renewal activities pending the outcome of the regulatory differences between the U.S. Nuclear Regulatory Commission (NRC) and the NMED.

As was discussed by telephone with you and Ground Water Bureau staff on October 4, 2002, Rio Algom's Ambrosia Lake Facility has several active ground water discharge permits with the NMED. Pursuant to the New Mexico Water Quality Control Commission (WQCC) Regulations 20.6.2.3107.D, any discharger of effluent or leachate shall allow any authorized representative of the secretary to sample any effluent before or after discharge and use the monitoring systems and wells to collect samples from the ground water or vadose zone.

NMSSo1

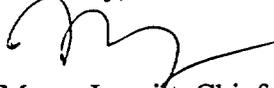
Specifically, ground water discharge permit DP-71 was approved in an NMED letter dated April 25, 1995 and permit DP-169 was approved in an NMED letter dated November 15, 1995. These permits remain in effect. Among other specific permit conditions, the general permit requirements include a section on Inspection and Entry, which cites the aforementioned WQCC Regulation 20.6.2.3107.D as well as the Water Quality Act (WQA) 74-6-9.B & E NMSA 1978. Furthermore, the permit section on enforcement describes the civil penalties that may be assessed for failure to allow an inspection or other violations, which may not exceed \$15,000 per day.

In NMED letters dated February 1, 2001 and November 13, 2000, the NMED previously expressed concerns regarding: 1) the proposed closure plan for pond 9 That would place its sediment in a trench that will be in contact with the alluvial aquifer; 2) the water quality of the alluvial aquifer down gradient of pond 9 and the Section 4 evaporation ponds which has not been adequately characterized with respect to nitrate as well as other non-radiological constituents of concern; and 3) the proposed closure plan for the Section 4 evaporation ponds, which would not adequately abate the ground water contamination. Other issues may arise during the permit renewal process.

During the next few months, the NMED will provide draft permits for DP-71 and DP-169 for your review. The NMED looks forward to working with you to renew these permits and to resolve reclamation issues. Within the framework of the WQA and WQCC Regulations, the NMED will continue to work cooperatively with you and other governmental agencies.

Please contact Kevin Myers at 505-476-3506 with any questions.

Sincerely,



Marcy Leavitt, Chief
Ground Water Quality Bureau

ML:MAM/kcm

cc: Mary Ann Menetrey, Program Manager
Peter Luthiger, Rio Algom
Jill S. Caverly, U.S. NRC
Mickey Jojola, MMD
DP-71, DP-169, DP-362, DP-67