

April 30, 2003

MEMORANDUM TO: Susan Frant, Chief
Fuel Cycle Facilities Branch
Division of Fuel Cycle Safety and Safeguards, NMSS

FROM: Dan Gillen, Chief **/RA/**
Decommissioning Branch
Division of Waste Management, NMSS

SUBJECT: REVIEW OF WHITE MESA URANIUM MILL FINANCIAL ASSURANCE
DOCUMENTS

In accordance with the Handbook for Management Directive 8.12, *Decommissioning Financial Assurance Instrument Security Program*, my staff conducted a review of a revised financial assurance instrument for the White Mesa Uranium Mill.

During this review, it was observed that the original trustee for the standby trust, Norwest Bank of Colorado, was succeeded by Wells Fargo Bank due to a merger. Also, since the financial assurance documents have not been updated in almost seven years, there are some provisions in them that should be updated. As a result, my staff has a few suggested changes that should be made to the financial assurance documents.

Detailed comments are attached in the form of a Request for Additional Information.

Docket: 40-8681
License No. SUA-1358

Attachment: Request for Additional Information

CONTACT: Derek Widmayer, NMSS/DWM/DCB
(301)415-6677

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Distribution: DCB R/F

ADAMS ACCESSION NUMBER:

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DATE	4/28/03		4/28/03		4/30/03	

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REQUEST FOR ADDITIONAL INFORMATION INTERNATIONAL URANIUM (IUSA) CORPORATION

On September 5, 2002, the U.S. Nuclear Regulatory (NRC) issued Amendment 21 to International Uranium (IUSA) Corporation's license for the White Mesa Uranium Mill. Amendment 21 revised license condition 9.5 to reflect NRC's approval of IUSA's requests of March 1, 2002, and August 5, 2002, that IUSA's surety be approved at a reduced level of \$10,336,238 to reflect changes in reclamation equipment pricing. Upon receiving NRC's approval, IUSA transmitted the appropriate financial assurance instrument (Rider to the Surety Bond) to the NRC.

In accordance with the Handbook for Management Directive 8.12, *Decommissioning Financial Assurance Instrument Security Program*, the changed financial assurance instrument was fully reviewed in order that the old instrument can be returned to the licensee. During this review, it was observed that the Surety Bond and the Standby Trust are inconsistent with current Office of Nuclear Material Safety and Safeguards (NMSS) guidance¹ for these documents and should be updated in the following ways:

- (1) The Surety Bond should have a provision added that addresses adjustments to the penal sum.
- (2) The Standby Trust should reflect the correct institution acting as the trustee and contain Schedules A, B, and C that reflect the correct amount of the standby trust, the correct institution acting as trustee, and the correct trustee's fee and schedules.

These updates to the financial assurance documents are discussed below:

SURETY BOND

(1) Include a Provision for Adjustments to the Penal Sum ***(Technical Position, Appendix A-1)***

The current Surety Bond does not have a provision for making adjustments to the penal sum.

The Surety Bond should include a provision for making adjustments to the penal sum, the schedule for making adjustments, and a statement that no decrease in the bond can take place without the written permission of the NRC.

¹ U.S.N.R.C., Technical Position on Financial Assurances for Reclamation, Decommissioning, and Long-Term Surveillance and Control of Uranium Recovery Facilities, Division of Low-Level Waste Management and Decommissioning, October 1988.

STANDBY TRUST

(2) Revise the Standby Trust to Identify the New Trustee ***(Technical Position, Appendix D)***

The institution listed in the Standby Trust documents as trustee, Norwest Bank of Colorado, was absorbed into Wells Fargo Bank in a merger in 1998. The Standby Trust contains a provision (Section 13. Successor Trustee) stating that the successor trustee is to specify the date on which it assumes administration of the trust in writing to the Grantor and the NRC before the change becomes effective. The NRC has no record that this notification was received from Wells Fargo Bank.

Therefore, the licensee should ensure that the trustee for the Standby Trust executes this notification specifying the date on which it assumed administration of the trust and sends it to the Grantor (IUSA) and the NRC to fully effectuate revised standby trust documents. Since there are other changes that are recommended for the Standby Trust documents (see below), it would be acceptable for a revised Standby Trust agreement to be submitted that includes this information rather than the notification discussed in Section 13.

(3) Revise the Standby Trust to Include Corrected Schedules A, B, and C ***(Technical Position, Appendix D)***

The current Standby Trust includes Schedules A, B, and C that contain outdated information about the trustee, the amount of the Standby Trust, and the fees charged by the trustee institution.

A new Schedule A should be included because the current amount is less than the amount of the Surety Bond. Schedule A needs to cite an amount that is at least as great as the current Surety Bond or else the Standby Trust would not be able to spend the entire amount of the bond if it were put in the trust.

New Schedules B and C should be prepared to reflect the new trustee, the amount of the surety bond, and the correct fees charged by the trustee and the schedule for those fees.