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April 22, 2005

Mr. Gary S. Janosko, Chief  
Fuel Cycle Facilities Branch – Division of Fuel Cycle Safety and Safeguards  
Office of Nuclear Material Safety and Safeguards  
U. S. Nuclear Regulatory Commission  
Mail Stop 8 F42  
Washington, DC 20555

Dear Mr. Janosko:

**RE: COMMENTS ON DRAFT ENVIRONMENTAL ASSESSMENT FOR THE CLOSURE PLAN  
- LINED EVAPORATION PONDS (RELOCATION PLAN) AT THE RIO ALGOM MINING  
CORPORATION LLC URANIUM MILL FACILITY, AMBROSIA LAKE, NEW MEXICO  
DOCKET NO. 40-8905 – LICENSE NO. SUA 1473**

This transmits New Mexico Environment Department (NMED) staff comments concerning the above-referenced Draft Environmental Assessment (DEA).

**Surface Water Quality**

The U.S. Environmental Protection Agency (USEPA) requires National Pollutant Discharge Elimination System (NPDES) Construction General Permit (CGP) coverage for storm water discharges from construction projects (common plans of development) that will result in the disturbance (or re-disturbance) of one or more acres, including expansions, of total land area. Because parts of this project appear to involve construction (e.g., haul road, overpass, etc.) and construction activities appear to exceed one acre (including staging areas, etc.), the project may require appropriate NPDES permit coverage prior to beginning construction (small, one - five acre, construction projects may be able to qualify for a waiver in lieu of permit coverage - see Appendix D). Other facets of the project may be covered under the facility's Multi-Sector General Storm Water and/or individual NPDES permits.

Among other things, this permit requires that a Storm Water Pollution Prevention Plan (SWPPP) be prepared for the site and that appropriate Best Management Practices (BMPs) be installed and maintained both during and after construction to prevent, to the extent practicable, pollutants (primarily sediment, oil & grease and construction materials from construction sites) in storm water runoff from entering waters of the U.S. This permit also requires that permanent stabilization measures (revegetation, paving, etc.), and permanent storm water management measures (storm water detention/retention structures, velocity dissipation devices, etc.) be implemented post construction to minimize, in the long term, pollutants in storm water runoff from entering these

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waters. In addition, permittees must ensure that there is no increase in sediment yield and flow velocity from the construction site (both during and after construction) compared to pre-construction, undisturbed conditions (see Subpart 9.C.1)

You should also be aware that EPA requires that all "operators" (see Appendix A) obtain NPDES permit coverage for construction projects. Generally, this means that at least two parties will require permit coverage. The owner/developer of this construction project who has operational control over project specifications (probably Rio Algom Mining LLC in this case), the general contractor who has day-to-day operational control of those activities at the site, which are necessary to ensure compliance with the storm water pollution plan and other permit conditions, and possibly other "operators" will require appropriate NPDES permit coverage for this project.

The CGP was re-issued effective July 1, 2003 (see **Federal Register/Vol. 68, No. 126/Tuesday, July 1, 2003** pg. 39087). The CGP, Notice of Intent (NOI), Fact Sheet, and Federal Register notice can be downloaded at: <http://cfpub.epa.gov/npdes/stormwater/cgp.cfm>

#### Ground Water Quality

The Department's Ground Water Quality Bureau (GWQB) supports the planned relocation of the Section 4 evaporation ponds and Pond 9. The GWQB favors the consolidation of source areas that may potentially contaminate ground water. The removal of pond sediments and eventually contaminated soils (i.e., subsequent license action) will be more protective of ground water and should result in some reductions in the post-closure monitoring requirements.


#### Air Quality

This project is located in McKinley County, which is currently considered to be in attainment of all state and national ambient air quality standards.

Applicable requirements of 40 CFR Part 61 must be followed as directed by the federal Environmental Protection Agency. The DEA should address the potential of contaminated dust blowing from the facility and ponds during the pond closure project. Dust control measures should be taken to minimize the release of particulates during construction of the proposed project. Long-term dust control can be achieved by paving, revegetating or using dust suppressants on disturbed areas following construction. Also, contractors supplying asphalt for the project must have current air quality permits.

We appreciate the opportunity to comment on this document.

Sincerely,



Gedi Cibas, Ph.D.  
Environmental Impact Review Coordinator

NMED File No. 2068ER