

Rio Tinto Energy America

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7 June 2006

Mr. Gary Janosko, Chief
Fuel Cycle Facilities Branch
Division of Fuel Cycle Safety and Safeguards
Office of Nuclear Material Safety and Safeguards
Mail Stop T-8A33
11545 Rockville Pike
Rockville, MD 20852-2738

Dear Mr. Janosko:

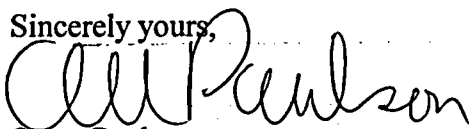
Subject: Source Material License SUA-1350 - Request for a Five (5) Year Postponement of the Initiation of the Requirements of Timeliness in Decommissioning Pursuant to 10 CFR 40.42(e) for the Sweetwater Uranium Project

Kennecott Uranium Company hereby requests an amendment to Source Materials License SUA-1350 for a five (5) year postponement of the initiation of the requirements for timely decommissioning of the Sweetwater Uranium Project (Source Material License SUA-1350) under 10 CFR 40.42(e) which states, "The Commission may grant a request to delay or postpone initiation of the decommissioning process if the Commission determines that such relief is not detrimental to the public health and safety and is otherwise in the public interest."

This is Kennecott Uranium Company's third request for a postponement. The initial request was submitted by letter dated March 20, 1996 and approved by letter dated June 18, 1996. A copy of the approval letter is included in Appendix VII. A second request was submitted on May 31, 2001 and approved by letter dated July 17, 2001. A copy of this approval letter is included in Appendix VII, as well. Substantial detail and backup documentation regarding the application of this rule to source material processing facilities has been provided to facilitate review.

Kennecott Uranium Company requests that this application be processed in a timely manner. Should you require additional information or have any questions please do not hesitate to contact me. Kennecott Uranium Company staff will be available to meet with you regarding this application should this help to expedite matters.

Sincerely yours,



Oscar Paulson

Facility Supervisor

cc: Stephen Cohen (2)
NRC-DRSS
Marty Stearns

Application for a Five (5) Year Postponement of the Initiation of the Requirements of Timeliness in Decommissioning Pursuant to 10 CFR 40.42(e) for the Sweetwater Uranium Project

1. Regulatory History of Timeliness in Decommissioning

10 CFR 40.42 (a.k.a. Timeliness in Decommissioning) became final on August 15, 1994. This rule requires that source material licensees decommission facilities if:

(3) No principal activities under the license have been conducted for a period of 24 months; or

(4) No principal activities have been conducted for a period of 24 months in any separate building or outdoor area that contains residual radioactive material such that the building or outdoor area is unsuitable for release in accordance with NRC requirements.

1.1 American Mining Congress (AMC)/National Mining Association (NMA) Challenge

This rule was challenged in court by the National Mining Association (NMA) formerly the American Mining Congress (AMC) (American Mining Congress v. Nuclear Regulatory Commission and The United States, Docket No. 94-1619 - Challenge to Final Timeliness in Decommissioning Rule). Representatives of NMA met with you and other members of Nuclear Regulatory Commission (NRC) staff on January 10, 1995 concerning this rule. This meeting is summarized in an attachment dated February 2, 1995 entitled "Summary of January 10, 1995 Meeting to Discuss Final Rule on Timeliness in Decommissioning of Materials Facilities" in Appendix II. This summary was provided by the Nuclear Regulatory Commission (NRC). The American Mining Congress (AMC) responded to these minutes in a letter dated March 8, 1995 that is included in Appendix III. This letter documented the NMA's conclusion that there is no limit on the number of extensions that a licensee can receive if the requisite conditions have been met (adequate surety and not detrimental to the environment and otherwise in the public interest). A second meeting between NMA and NRC staff occurred on July 6, 1995. That meeting was documented in a letter from Anthony J. Thompson Esq. of Shaw, Pittman, Potts and Trowbridge to Steven F. Crockett of the NRC.

This letter requested a response from NRC. Katie Sweeney, Assistant General Counsel of NMA, met with you and your staff to discuss this and other issues in January 1996. A response to the National Mining Association's (NMA) letter, dated February 16, 1996, was received from the Nuclear Regulatory Commission (NRC) which contained a final letter of understanding clarifying their position on how the soon to be finalized regulation will apply to uranium recovery licensees. This letter stated, "The conclusion that there is no limit to the number of extensions that a licensee can receive is correct". A copy is included in Appendix IV. This submittal is in part formatted to meet the requirements of that letter.

1.2 Kennecott Uranium Company Dialogue with NRC

Michael H. Gibson of Kennecott Uranium Company discussed the then proposed Timeliness in Decommissioning rule with former NRC Chairman Ivan Selin in May of 1993 at a meeting in Denver, Colorado. At that meeting, Chairman Selin stated that it might make good sense to provide a "**blanket exemption**" for uranium recovery facilities from the requirements of Timeliness in Decommissioning. This discussion is documented in a letter dated September 15, 1993 from James E. Gilchrist, Vice President of the American Mining Congress, to then NRC Chairman Selin which is attached in Appendix V.

At an NRC/Licensee meeting in Rockville, Maryland on October 25, 1994, the issue of Timeliness in Decommissioning was discussed. The issue of regulation by exemption was discussed. The issue of a licensee's history of submittals to prepare a facility for resumption of operations was discussed as well, with the understanding that a history of submittals and activity related to future resumption of operations would be considered in an application for a postponement of the initiation of Timeliness in Decommissioning.

At a meeting with members of the staff of Kennecott Uranium Company, NRC staff and a member of the staff of Shepherd Miller, Inc. (a consultant for Kennecott Uranium Company) in Rockville, Maryland on February 23, 1995, Joseph J. Holonich, then Chief of the Uranium Recovery Branch, discussed Timeliness in Decommissioning. He stated that **"possession of a license may be the basis for an exemption since an enforced license protects public health and safety."** He also discussed the importance of safe operation of the facility that did not jeopardize public health, safety or the environment and adequate in-place surety. In addition, Joseph J. Holonich provided additional clarification as to the meaning of the term "otherwise in the public interest" included in the regulation in a letter dated June 3, 1995. A copy of this letter is included in Appendix VI.

At an NRC/licensee meeting in Arlington, Texas on July 25, 1995, at which Kennecott Uranium Company had a representative, Joseph J. Holonich discussed the Timeliness in Decommissioning Rule. He discussed the two (2) meetings with NMA staff. He then stated that a two (2) year waiver extension was **"reasonable and that one longer than two (2) years was acceptable if appropriately justified."** He also stated that approval of an exemption request longer than five (5) years was **"highly unlikely."**

The matter of Kennecott Uranium Company's initial request for a postponement to the requirements of Timeliness in Decommissioning was discussed with Charlotte Abrams formerly of the Uranium Recovery Branch staff on Friday, February 9, 1996. She stated that one application had already been received by NRC. She discussed the general requirements of the application and the topics that should be covered in it. That discussion is being used as the basis for this application, the 2001 application and the initial one in 1996.

2. Facility Description and Site History

2.1 General Site History

The facility was originally constructed by Minerals Exploration Company, a wholly owned subsidiary of Union Oil Company of California in 1979 and 1980. It was operated from February 1981 until it was shut down in April 1983. During this period approximately 2.5 million tons of ore mined from the Sweetwater Pit was processed by the mill. The shut down was due to a substantial drop in uranium prices and the loss of a contract for production from the facility with Indiana Public Service. The facility was placed under care and maintenance by Minerals Exploration Company. Until June 23, 1992 the facility was owned by Minerals Exploration Company which was also the licensee. The facility was acquired by the Green Mountain Mining Venture (GMMV), a partnership between Kennecott Uranium Company and U.S. Energy Corp., a Wyoming corporation and a joint venture between U.S. Energy Corp. and Crested Corp. a Colorado corporation. The license for the facility was transferred to Kennecott Uranium Company on June 23, 1992 and the facility was operated and managed by Kennecott Uranium Company. By letter dated June 18, 1996 the Commission granted a five-year postponement of the initiation of decommissioning for the Sweetwater Uranium

Project. This letter is attached in Appendix VII. Since transfer of the license to Kennecott Uranium Company numerous submittals were made to the Nuclear Regulatory Commission (NRC) in support of converting the existing license into a performance based operating license. On August 18, 1999 a performance based operating license for the facility was granted.

On September 11, 2000, U.S. Energy Corp. and the joint venture between U.S. Energy Corp. and Crested Corp. transferred their share of the Green Mountain Mining Venture to Wyoming Coal Resource Company, a Kennecott Uranium Company affiliate, placing complete control of the joint venture in the hands of Kennecott. On July 17, 2001 a second five-year postponement of the initiation of decommissioning was granted by letter. This letter is included in Appendix VII. On November 10, 2004 the facility's license was renewed for ten years, following a renewal request dated May 25, 2004. The renewal letter noted the facility's clean inspection history, stating, **"Based on the forgoing considerations and the past performance of the licensee (inspection reports with no violations), the staff finds that approval of the request for a 10-year license renewal for the Sweetwater facility is consistent with NRC policy and is appropriate."** This letter is included in Appendix I. The joint venture also owns the Jackpot Mine and associated mining claims that control a substantial uranium resource beneath Green Mountain approximately twenty-two air miles north of the Sweetwater Uranium Project, as well as the Big Eagle Mine consisting of claims, two (2) flooded open pit uranium mines and a large shop building and wash bay.

Substantial and costly remediation work has been ongoing at the facility since the second five-year term of postponement of the initiation of decommissioning was granted. This work includes:

- Remediation of 350,000 cubic yards of diesel contaminated soil lying outside of the restricted area, but within the NRC bonded area. This remediation work was conducted between November 2001 and March 2003, and is documented in the "Hydrocarbon Contamination Remediation Report" submitted to the Commission under cover of letters dated February 24 and July 31, 2003.
- Remediation of hydrocarbon and radionuclide contaminated soils associated with the facility's Catchment Basin. This work was begun in December 2005 and the contamination is discussed in detail in the following submittals dated May 12, 2004 and subsequent related submittals.
 - Request for Amendment to License Conditions: 1.3 – Groundwater Corrective Action Program (CAP) and 11.5 – Mill Study Environmental Monitoring Program
 - Request for Amendment to Final Design – Volume VI – Part 2, Mill Decommissioning Addendum to the Existing Impoundment Reclamation Plan (Referenced in Condition 9.10)

The remediation work is ongoing.

2.2 Facility Description

The facility consists of a uranium mill housed in two (2) buildings (one for grinding, leach, countercurrent decantation and yellowcake and a second for solvent extraction), a maintenance shop, an administration building, a tire and lube building and other ancillary structures. The facility is described in detail in the revised Environmental Report submitted to NRC in August 1994.

Additional descriptive information, including site maps, may be seen in the "Request for Renewal", dated May 25, 2004.

2.3 Regulatory and Licensing History

The original license was issued to Minerals Exploration Company on February 16, 1979 by the NRC. This followed submission of the original Environmental Report for the facility dated November 1976 and the notice of availability of a Final Environmental Impact Statement for the facility dated January 15, 1979. An application for renewal of the license was filed on April 3, 1984. The license was renewed following issuance of an Environmental Assessment by the NRC dated May 29, 1985 and a Finding of No Significant Impact (FONSI). The license was renewed again when transferred from Minerals Exploration Company to Kennecott Uranium Company on June 23, 1992. This renewal followed a second Environmental Assessment dated March 24, 1992 and a second Finding of No Significant Impact (FONSI). The Commission granted the first five-year postponement of the initiation of decommissioning for the Sweetwater Uranium Project by letter dated June 18, 1996. This letter is attached in Appendix VII. The license was placed in timely renewal pending review of the submittals for a new performance based operating license. This new license was granted on August 18, 1999.

A second postponement of the initiation of decommissioning for the facility was granted by letter dated July 17, 2001. This letter is included in Appendix VII. The facility's license was renewed for a ten-year period on November 10, 2004. (This renewal letter is included in Appendix I.)

- 3. Reasons for Granting a Five (5) Year Postponement for the Sweetwater Uranium Project**
- Kennecott Uranium Company is the operator and manager of the Sweetwater Uranium Project. The project is part of the Green Mountain Mining Venture (GMMV) which also owns the Jackpot Deposit and the Big Eagle Mine on Green Mountain approximately thirty (30) miles north of the Sweetwater Uranium Project. The entire Green Mountain Mining Venture (GMMV) is owned since September 11, 2000 by Kennecott Uranium Company and Wyoming Coal Resource Company (a Kennecott Uranium Company affiliate).

The Green Mountain Mining Venture acquired the Sweetwater Uranium Project from its former owner, Minerals Exploration Company, a wholly owned subsidiary of Unocal, expressly for the purpose of processing ore extracted from the proposed Jackpot Mine. The mill was constructed and operated by Union Oil Company (Unocal) to process ore from the Sweetwater Pit located near the mill. The mill was shut down and placed under care and maintenance on April 15, 1983 due to the loss of a contract for production from the mill following the processing of approximately 2.5 million tons of ore from the Sweetwater Pit. The mill has remained shut down until the present day.

The Sweetwater Uranium Project was acquired by the Green Mountain Mining Venture before the proposed Timeliness in Decommissioning rule was announced. The Green Mountain Mining Venture acquired the project at a time when uranium prices were low in the belief that the uranium market would rebound in the future, as it is now doing. The time of market rebound was expected to be years in the future. The Green Mountain Mining Venture acquired the property understanding that it would take years to permit and develop the Jackpot Mine and revise the Source Material License for the Sweetwater Uranium Project for resumed operation. A Bureau of Land Management (BLM) Record of Decision for the Jackpot Mine was received and a Wyoming Department of

Environmental Quality (DEQ) Permit to Mine (Permit to Mine #660) was received dated June 26, 1996. The facility can be used to process ore from deposits on Green Mountain, and could also be used to process alternate feed materials.

The following is a list of reasons why a five (5) year postponement of the requirements of Timeliness in Decommissioning should be granted by the Nuclear Regulatory Commission:

3.1 Exemplary Project Compliance History and Safety Record

3.1.1 NRC Compliance History

The Sweetwater Uranium Project has an excellent compliance history with the NRC. A review of the inspections back to 1991 reveals no violations. One of the arguments for promulgating Timeliness in Decommissioning was that **"...there is a risk that safety practices at the inactive facility or the inactive portion of the operating facility may become lax as key personnel relocate..."** The exemplary compliance history of the Sweetwater Uranium Project shows that practices have not become lax in spite of years of suspended operations. Copies of the NRC inspection reports for years 2001 and 2004 are included in Appendix VIII. Inspection reports for 1996, 1997 and 1998 were included in the second application and reports for 1991, 1992, 1994 and 1995 were included in the first application.

The tailings impoundment is currently under a groundwater Corrective Action Program (CAP) mandated by License Condition 11.3. This program continues to remove contaminants from the groundwater around the tailings impoundment. The groundwater CAP has been expanded to include groundwater contamination related to the Catchment Basin by license amendment.

Practices at the facility have not become lax. Substantial and costly remediation work as described previously has been done at the facility to address problems and remove environmental liabilities.

3.1.2 Lost Time Accident History

The facility has not experienced a lost time accident involving a Kennecott Uranium Company employee in over sixteen (16) years, again showing that safety practices have not become lax. The facility safety program includes regular safety meetings, Mine Safety and Health Administration (MSHA) required annual refresher training, annual safe driver training, biannual first aid training and NRC required annual radiation refresher training and monthly radiation safety meetings. Additional training such as crane operations training has also been provided. The facility is inspected by the Office of the State Mine Inspector of Wyoming and, of course, the NRC.

3.1.3 Compliance History with the Office of the State Mine Inspector

The facility is inspected semiannually by an inspector from the Office of the State Mine Inspector. The inspections routinely refer to the facility's housekeeping as being "good"; see attached copies of the Inspection Reports from 2001 to the present, in Appendix IX. Previous inspection reports were included in the initial and second applications.

3.1.4 Environmental Protection Agency Compliance History

3.1.4.1 40 CFR Part 61 Subpart W Compliance History

Required Method 115 testing of the facility's tailings impoundment for radon emissions has been conducted annually since 1990. The impoundment has always been in compliance with 40 CFR Part 61 Subpart W. The results of these tests are listed below:

Test Date	Flux
	pCi/m2-sec
August 7, 1990	9.0
August 13, 1991	5.1
August 5, 1992	5.6
August 24, 1993	5.0
August 23, 1994	5.0
August 15, 1995	3.59
August 13, 1996	5.47
August 26, 1997	4.23
August 11, 1998	2.66
August 10, 1999	1.27
August 8, 2000	4.05
August 14, 2001	6.98
August 13, 2002	4.10
August 12, 2003	7.11
August 17, 2004	6.38
August 16, 2005	7.63

3.1.4.2 40 CFR Part 61 Subpart I Compliance History

The facility has been in compliance with 40 CFR Part 61 Subpart I. In fact, measured doses to airborne radionuclides other than radon-222 and its daughters have been low enough that reporting is not required. Compliance with this standard during future operation has been shown in Section 5.0 of the revised Environmental Report for the facility dated August 1994.

3.1.4.3 Compliance with the Constraint Rule (10 CFR 20.1101(d) Effective January 9, 1997

The facility has been in compliance with this rule since its inception, as radioactive airborne particulates downwind of the facility have been at background levels.

3.1.4.4 40 CFR 190 Subchapter F Part 190 Subpart B (40 CFR 190.10(a))

The facility has been in compliance with 40 CFR 190.10(a), the 25 millirem (whole body)/75 millirem (thyroid)/25 millirem (any other organ) dose limits to member of the public (radon and its daughters excepted) from uranium

fuel cycle operations which include uranium milling. Compliance with this standard during future operations is demonstrated in Section 5.0 of the revised Environmental Report.

3.1.5 State Of Wyoming Department of Environmental Quality (DEQ) Compliance History

As of May 12, 1992, the area containing the Sweetwater Mill and the tailings impoundment were excluded from the DEQ Permit to Mine No. 481 and the associated reclamation bond and placed directly under NRC bonding as per License Condition 9.16. This situation continues to the present day. The facility has an excellent record with the State of Wyoming DEQ.

3.2 Stability of Staff

One reason given for implementation of Timeliness in Decommissioning was that "...safety practices...may become lax as key personnel relocate..." Three staff members have been employed at the site for over fifteen (15) years. One staff member, the Senior Facility Technician who had worked on site since November 1990, transferred from the facility at the end of August 2005 and was replaced by mid-October 2005.

The staff on site has an aggregate of over eighty (80) years of uranium industry experience.

3.3 General Condition of the Facility

The facility has been maintained in excellent condition. It has been visited by Joseph J. Holonich, former Chief of the Uranium Recovery Branch, on September 21, 1995. The facility has also been visited by Charlotte Abrams, formerly of the Uranium Recovery Branch staff, on October 13, 1994 as well as Elaine Brummett of the uranium recovery licensing staff on June 7, 1999. The facility was visited as recently as Wednesday, April 26, 2006 by Stephen Cohen and Bob Lukes of the Commission staff. In addition, the facility was visited by Commissioner Merrifield and his staff on August 9, 2001. Regular care and maintenance work is performed at the facility by site staff and contract personnel as required.

Photographs of the exterior of the facility, Grinding, Leaching, Counter-Current Decantation (CCD) and Solvent Extraction (SX) areas of the mill, as well as a photograph of a pump are included in Appendix X. These photographs clearly show that the facility is well maintained.

3.4 Radiologic Cleanliness of the Facility

The facility was thoroughly cleaned at the time of shutdown in the spring of 1983. Most areas of the mill were decontaminated with the exception of the yellowcake area which was only externally decontaminated. This can be substantiated by contamination survey records.

3.5 Financial Surety

Decommissioning and reclamation costs for the NRC bonded area are covered by a surety instrument in the amount of \$8,012,000.00 described in a letter from the NRC dated July 29, 2005. The surety is governed by License Condition 9.7. The surety for the facility was rebaselined by a submittal included with the license renewal request dated May 25, 2004. This surety rebaselining included a complete recalculation of the site's surety by an outside consultant.

3.6 Radiation Doses to the General Public

Doses to members of the general public from the facility have always been well below

regulatory limits. Radiation doses are documented by ambient gamma radiation surveys, airborne particulate monitoring and radon monitoring required by license condition 11.5 of SUA-1350. The results of this monitoring are submitted semiannually in the form of the required 10 CFR 40.65 Reports. The facility is extremely isolated. The nearest community to the facility is Bairoil, Wyoming which is approximately 22 air miles northeast of the Site. This town has a population of 228 (1990 Census).

The tailings impoundment is partially below grade with above ground embankments surrounding it as seen in Figure 1 in Appendix X. Continuous particulate airborne monitoring is performed downwind of this impoundment. Airborne particulate levels are always well below 10 CFR Part 20, Appendix B, Table 2 – Effluent Concentrations, as documented by the particulate monitoring data for the last five years, included in Appendix XI.

3.7 Radiation Doses to Employees

Doses to site employees are well below regulatory limits. In fact, doses are so low that individual monitoring is not required pursuant to 10 CFR 20.1502. These doses are discussed and documented in the As Low As Reasonably Achievable (ALARA) Audit Report submitted to the NRC annually.

3.8 Changes in the Uranium Market

Recent substantive changes in the uranium market have occurred. . These changes include:

3.8.1 Price Increases

The current Uranium Exchange (UX) spot market price is \$44.00 per pound as of Monday, June 5, 2006. The UX long term price is \$46.50 per pound as of May 29, 2006. Table 1 which follows shows monthly uranium prices since March 30, 1987 and Figure 1 is a graph of these prices.

3.8.2 Renewed Interest in Nuclear Power in the United States

There has been a renewed interest in nuclear energy in the United States and elsewhere in the world within the past five years. This interest has been created in part by electrical supply problems on the West Coast and by other issues. Several utilities have been considering the construction of new nuclear power plants. Numerous foreign nations led by China and India are planning to vastly expand their nuclear electric generation base.

3.9 Receipt of a Performance Based Operating License

The facility, after almost seven years of permitting work (Fall 1992 – Conceptual Design – Tailings Management Plan, to August 18, 1999 – Receipt of the license), received a performance based operating license. The length of time required to obtain the operating license (almost seven years) exceeds the extension of the implementation of Timeliness in Decommissioning being requested. This license was renewed for a ten year period on November 10, 2004.

3.10 Permitting of the Jackpot Mine

Permit to Mine #660 was received for the Jackpot Mine from the State of Wyoming Department of Environmental Quality on June 26, 1996.

3.11 Public Interest Considerations

The NRC regulation, 10 CFR 40.42(e) states, "The Commission may grant a request to delay or postpone initiation of the decommissioning process if the Commission determines that such relief is not detrimental to the public health and safety and is otherwise in the public interest."

The continued existence of the Sweetwater Mill is in the public interest and in the interest of the United States of America in that its continued existence preserves uranium production capacity in the United States. The Sweetwater Mill is one of only four standing uranium mills in the United States and the only one remaining in Wyoming.

In the July 17, 2001 letter granting a five year postponement of implementation of timeliness in decommissioning, the Commission stated: **"The continued existence of the mill is in the public interest as it is one of only six uranium mills remaining in the United States and the only one remaining in Wyoming."** The mill is now one of the only four conventional mills remaining in the United States.

In addition, at such time as the uranium market permits the resumption of operations at the Sweetwater Uranium Project, the mill and the associated mine will provide primary and secondary employment in the area and tax revenues. These economic benefits are clearly in the public interest. The project benefits related to the mill are described in Sections 8 and 11 of the revised Environmental Report submitted to NRC in August 1994.

Clearly, granting of a third five year postponement of the initiation of the requirements of timeliness in decommissioning is in the public interest. Preservation of existing source material processing capability in the United States is also consistent with the stated goals of the National Energy Policy, which clearly supports the expansion of the use of nuclear power to generate electricity.

3.12 Reasonableness of a Five (5) Year Postponement

A five (5) year postponement is reasonable given the recent discussion by NRC staff of extending license periods from five (5) to ten (10) years. This extension of license periods was done as a means of reducing NRC staff workload. This subject was discussed by NRC staff at the joint NRC/NMA meeting in Denver, Colorado on March 13, 1996. The facility currently has a ten year license, issued on November 10, 2004.

A five (5) year postponement is reasonable in light of the time required to permit and start a major uranium mining and milling operation and in light of all of the other factors discussed in this application. In fact, shorter time frames are unreasonable. Revision of SUA-1350 for resumed operation required almost seven years from starting of preparation of the Conceptual Design – Tailings Management Plan (Fall 1992) to receipt of the performance based operating license (August 18, 1999).

The permitting process for the Jackpot Mine took even longer and has been costly. The permitting process was initiated by Anaconda in December 1977, with a request for a License to Explore. Anaconda continued the permitting process until the ceased working on the property in 1984. The property was returned to U.S. Energy in 1986 and the permitting process was resumed. The process was continued by the Green Mountain Mining Venture (GMMV), a joint venture between Kennecott Uranium Company, U.S. Energy Corp and a

joint venture between U.S. Energy Corp and Crested Corp, which was formed in 1990. A revised permit to mine application was submitted by the GMMV in 1993. The DEQ Permit to Mine was received on June 26, 1996. Permitting for the Jackpot Mine has been ongoing for nineteen (19) years and has cost an estimated \$8.3 million. In light of the above described time frame a five (5) year postponement is reasonable.

A five year postponement is also reasonable in light of the time frames required to make business decisions and to wait out unfavorable, but improving, market conditions. This issue was previously raised by members of the uranium recovery industry in comments on the proposed rule. Please see Comments on Timeliness in Decommissioning of Materials Facilities (RIN 3150-AD85) dated April 19, 1993 (Section III), in appendix XII.

3.13 Payment of Full Annual Fees and Hourly Charges

The Sweetwater Uranium Project pays the full annual fee required of an operating uranium mill in spite of its standby status. The project has paid the following annual fees:

Annual Fees Paid:	
Year	Fees Paid
1991	\$100,100.00
1992	\$168,082.00
1993	\$100,133.00
1994	\$74,670.00
1995	\$60,900.00
1996	\$57,000.00
1997	\$57,000.00
1998	\$61,800.00
1999	\$61,700.00
2000	\$131,000.00
2001	\$94,300.00
2002	\$73,800.00
2003	\$60,150.00
2004	\$4,681.00
2005	\$34,125.00

The Commission refunded \$30,794 in annual fees in 2004 due to over-collected amounts and a decrease in the annual fee.

The facility is regularly inspected by the NRC and the costs of the inspections are borne by the licensee through the hourly charges. In addition, the costs of review of all submittals made to the agency are paid by Kennecott Uranium Company. The project has paid the following hourly charges:

Hourly Charges Paid

Year	Charges Paid
1991	\$9,720.00
1992	\$25,175.00
1993	\$6,300.00
1994	\$11,940.00
1995	\$29,142.00
1996	\$14,088.00
1997	\$12,138.00
1998	\$51,988.00
1999	\$76,733.00
2000	\$17,443.00
2001	\$5,123.00
2002	\$5,683.00
2003	\$2,105.00
2004	\$10,258.00
2005	\$22,271.00

In spite of its standby status, the facility receives substantial regulatory oversight, the cost of which is borne by the licensee.

4. Conclusions

Kennecott Uranium Company is requesting a five year postponement of the implementation of the requirements of Timeliness in Decommissioning for the Sweetwater Uranium Project licensed under Source Material License (SUA-1350). Kennecott Uranium Company believes that a five year postponement should be granted for the following reasons:

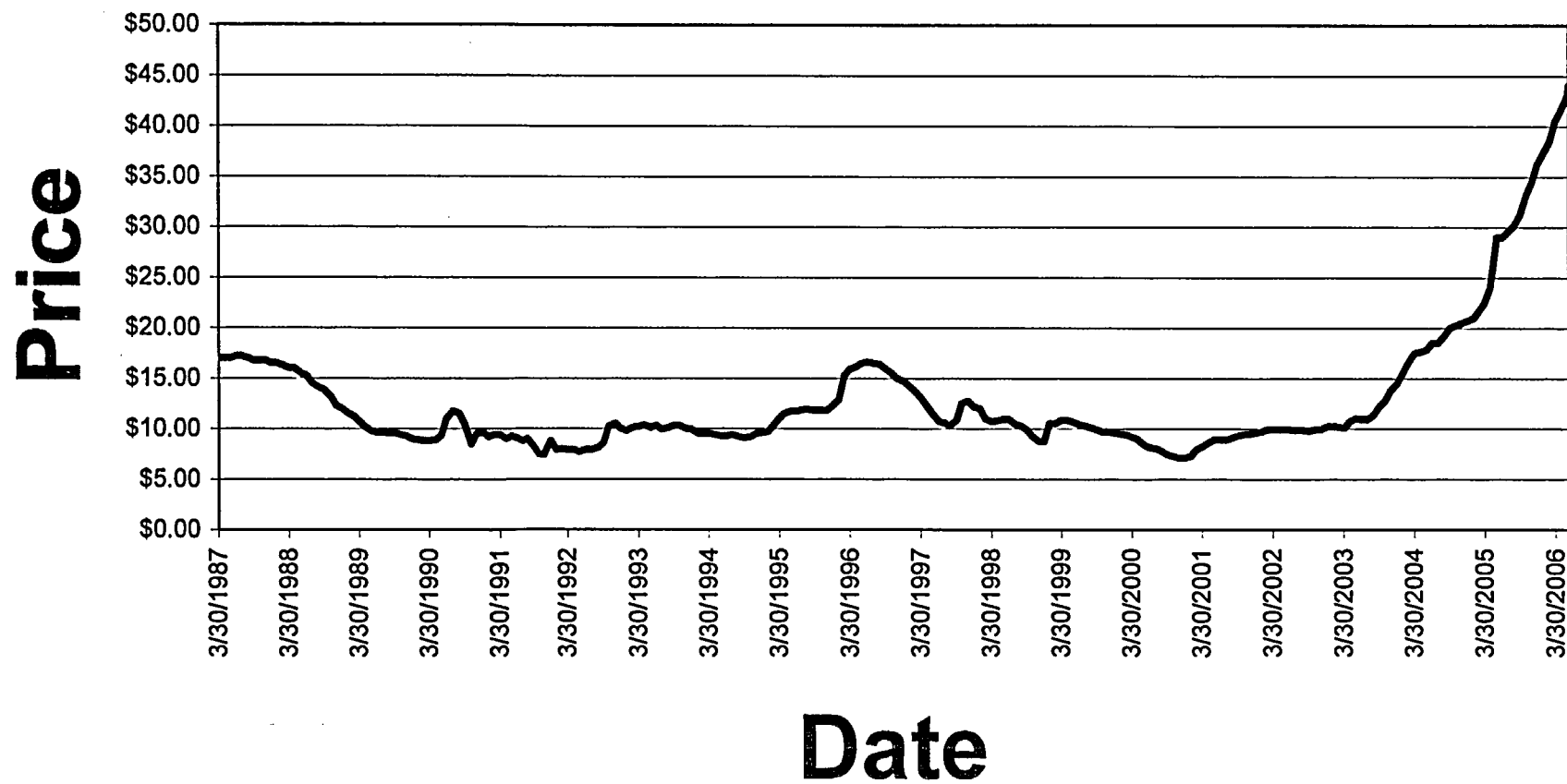
- 4.1 Record of safe operation to both employees and the general public during suspended operations.
- 4.2 Record of regulatory compliance during suspended operations to all applicable State and Federal regulations including NRC, EPA, Wyoming DEQ and other regulations..
- 4.3 Adequate surety in place in the amount of \$8,012,000.00 as of July 29, 2005.
- 4.4 Renewal of a performance based operating license for the facility on November 10, 2004, for a ten year term.
- 4.5 Improving uranium market, including price increases from \$7.10 per pound on January 22, 2001 to \$44.00 per pound on June 5, 2006. (Uranium Exchange (UX) prices.)
- 4.6 Issuance of the Wyoming DEQ Permit to Mine #660 (Jackpot Mine).
- 4.7 Excellent facility condition and cleanliness.
- 4.8 No detriment to public health and safety or the environment.

- 4.9 History of low radiation doses to employees making individual monitoring of doses unnecessary as per 10 CFR 20.1502.
- 4.10 Continued existence of the mill is in the public interest as it is one of only four (4) uranium mills remaining in the United States and the only one remaining in Wyoming.
- 4.11 Renewed interest in the United States and other nations in nuclear power. The renewed interest in nuclear power in the U.S. is clearly expressed in the National Energy Policy dated May 2001.

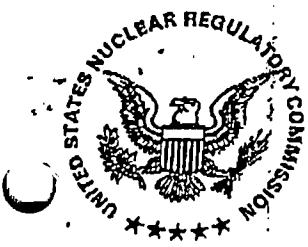
TABLE 1
Uranium Exchange
Monthly Uranium Prices
January 1987 to June 5, 2006

26-Jan-87	n/a	27-Jan-92	\$7.90	27-Jan-97	\$14.25	28-Jan-02	\$9.70
23-Feb-87	n/a	24-Feb-92	\$8.00	24-Feb-97	\$13.75	25-Feb-02	\$9.90
30-Mar-87	\$17.00	30-Mar-92	\$7.90	31-Mar-97	\$13.00	25-Mar-02	\$9.90
27-Apr-87	\$17.00	27-Apr-92	\$7.90	28-Apr-97	\$12.25	25-Apr-02	\$9.90
25-May-87	\$17.00	25-May-92	\$7.70	26-May-97	\$11.50	27-May-02	\$9.90
29-Jun-87	\$17.20	29-Jun-92	\$7.90	30-Jun-97	\$10.70	24-Jun-02	\$9.90
27-Jul-87	\$17.20	27-Jul-92	\$7.90	28-Jul-97	\$10.60	29-Jul-02	\$9.85
31-Aug-87	\$17.00	31-Aug-92	\$8.10	25-Aug-97	\$10.30	26-Aug-02	\$9.85
28-Sep-87	\$16.75	28-Sep-92	\$8.60	29-Sep-97	\$10.85	30-Sep-02	\$9.75
26-Oct-87	\$16.75	26-Oct-92	\$10.25	27-Oct-97	\$12.50	28-Oct-02	\$9.90
30-Nov-87	\$16.75	30-Nov-92	\$10.50	24-Nov-97	\$12.75	25-Nov-02	\$9.90
28-Dec-87	\$16.50	28-Dec-92	\$10.00	29-Dec-97	\$12.15	30-Dec-02	\$10.20
25-Jan-88	\$16.50	25-Jan-93	\$9.80	26-Jan-98	\$12.00	27-Jan-03	\$10.20
29-Feb-88	\$16.25	22-Feb-93	\$10.10	23-Feb-98	\$11.00	24-Feb-03	\$10.20
28-Mar-88	\$16.00	29-Mar-93	\$10.20	30-Mar-98	\$10.70	31-Mar-03	\$10.10
25-Apr-88	\$16.00	26-Apr-93	\$10.35	27-Apr-98	\$10.80	28-Apr-03	\$10.75
30-May-88	\$15.50	31-May-93	\$10.10	25-May-98	\$10.90	26-May-03	\$11.00
27-Jun-88	\$15.25	28-Jun-93	\$10.30	29-Jun-98	\$10.90	30-Jun-03	\$10.90
25-Jul-88	\$14.55	26-Jul-93	\$9.90	27-Jul-98	\$10.50	28-Jul-03	\$10.90
29-Aug-88	\$14.10	30-Aug-93	\$10.10	31-Aug-98	\$10.25	25-Aug-03	\$11.30
26-Sep-88	\$13.85	27-Sep-93	\$10.30	28-Sep-98	\$9.90	29-Sep-03	\$12.20
31-Oct-88	\$13.20	25-Oct-93	\$10.30	26-Oct-98	\$9.25	27-Oct-03	\$12.75
28-Nov-88	\$12.30	29-Nov-93	\$10.00	30-Nov-98	\$8.75	24-Nov-03	\$13.75
26-Dec-88	\$12.00	27-Dec-93	\$9.90	28-Dec-98	\$8.75	29-Dec-03	\$14.50
30-Jan-89	\$11.50	31-Jan-94	\$9.50	25-Jan-99	\$10.50	26-Jan-04	\$15.50
27-Feb-89	\$11.25	28-Feb-94	\$9.50	22-Feb-99	\$10.50	23-Feb-04	\$16.50
27-Mar-89	\$10.75	28-Mar-94	\$9.50	29-Mar-99	\$10.85	29-Mar-04	\$17.50
24-Apr-89	\$10.20	25-Apr-94	\$9.40	26-Apr-99	\$10.85	26-Apr-04	\$17.60
29-May-89	\$9.75	30-May-94	\$9.25	31-May-99	\$10.65	31-May-04	\$17.85
26-Jun-89	\$9.65	27-Jun-94	\$9.25	28-Jun-99	\$10.40	28-Jun-04	\$18.50
31-Jul-89	\$9.65	25-Jul-94	\$9.40	26-Jul-99	\$10.30	26-Jul-04	\$18.50
28-Aug-89	\$9.60	29-Aug-94	\$9.20	30-Aug-99	\$10.10	30-Aug-04	\$19.25
25-Sep-89	\$9.60	26-Sep-94	\$9.10	27-Sep-99	\$9.90	27-Sep-04	\$20.00
30-Oct-89	\$9.40	31-Oct-94	\$9.20	25-Oct-99	\$9.70	25-Oct-04	\$20.25
27-Nov-89	\$9.30	28-Nov-94	\$9.50	29-Nov-99	\$9.70	29-Nov-04	\$20.50
25-Dec-89	\$9.00	26-Dec-94	\$9.60	27-Dec-99	\$9.60	27-Dec-04	\$20.70
29-Jan-90	\$8.90	30-Jan-95	\$9.70	31-Jan-00	\$9.50	31-Jan-05	\$21.00
26-Feb-90	\$8.80	27-Feb-95	\$10.35	28-Feb-00	\$9.40	28-Feb-05	\$21.75
26-Mar-90	\$8.80	27-Mar-95	\$11.00	27-Mar-00	\$9.20	28-Mar-05	\$22.50
30-Apr-90	\$8.90	24-Apr-95	\$11.50	24-Apr-00	\$9.00	25-Apr-05	\$24.00
28-May-90	\$9.35	29-May-95	\$11.75	29-May-00	\$8.45	30-May-05	\$29.00
25-Jun-90	\$11.00	26-Jun-95	\$11.75	26-Jun-00	\$8.15	27-Jun-05	\$29.00
30-Jul-90	\$11.75	31-Jul-95	\$11.90	31-Jul-00	\$8.05	25-Jul-05	\$29.50
27-Aug-90	\$11.50	28-Aug-95	\$11.90	28-Aug-00	\$7.80	29-Aug-05	\$30.20
24-Sep-90	\$10.50	25-Sep-95	\$11.80	25-Sep-00	\$7.45	26-Sep-05	\$31.25
29-Oct-90	\$8.50	30-Oct-95	\$11.80	30-Oct-00	\$7.25	31-Oct-05	\$33.25
26-Nov-90	\$9.50	27-Nov-95	\$11.80	27-Nov-00	\$7.10	28-Nov-05	\$34.50
31-Dec-90	\$9.65	25-Dec-95	\$12.25	25-Dec-00	\$7.10	26-Dec-05	\$36.25
28-Jan-91	\$9.20	29-Jan-96	\$12.90	29-Jan-01	\$7.25	30-Jan-06	\$37.50
25-Feb-91	\$9.40	26-Feb-96	\$15.25	26-Feb-01	\$7.90	27-Feb-06	\$38.50
25-Mar-91	\$9.40	25-Mar-96	\$15.90	26-Mar-01	\$8.20	27-Mar-06	\$40.50
29-Apr-91	\$9.00	29-Apr-96	\$16.15	30-Apr-01	\$8.60	24-Apr-06	\$41.50
27-May-91	\$9.25	27-May-96	\$16.50	28-May-01	\$8.90	29-May-06	\$43.00
24-Jun-91	\$9.10	24-Jun-96	\$16.60	25-Jun-01	\$8.90	5-Jun-06	\$44.00
29-Jul-91	\$8.75	29-Jul-96	\$16.50	30-Jul-01	\$8.90		
26-Aug-91	\$9.00	26-Aug-96	\$16.40	27-Aug-01	\$9.10		
30-Sep-91	\$8.25	30-Sep-96	\$15.90	24-Sep-01	\$9.30		
28-Oct-91	\$7.50	28-Oct-96	\$15.50	29-Oct-01	\$9.45		
25-Nov-91	\$7.40	25-Nov-96	\$15.00	26-Nov-01	\$9.50		
30-Dec-91	\$8.75	30-Dec-96	\$14.70	31-Dec-01	\$9.60		

FIGURE 1
Historical Uranium Prices
1987 to Present

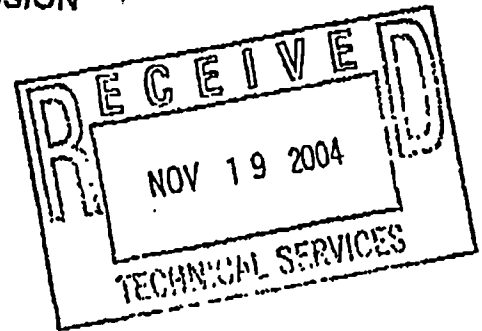


APPENDIX I



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

November 10, 2004



Mr. Oscar Paulson
Sweetwater Uranium Facility
Kennecott Uranium Company
P.O. Box 1500
Riverton, WY 82501

SUBJECT: RENEWAL OF SOURCE MATERIAL LICENSE SUA-1350 AND SURETY
UPDATE FOR THE KENNECOTT URANIUM COMPANY'S SWEETWATER
URANIUM MILL SITE, AMENDMENT 20 (TAC LU0045)

Dear Mr. Paulson:

By letter dated May 25, 2004, Kennecott Uranium Company (Kennecott) submitted an application to the U.S. Nuclear Regulatory Commission (NRC) for the renewal of Source Material License SUA-1350 for the Sweetwater Uranium Project. Form 913 "Application for Material License" was submitted July 22, 2004. The *Federal Register* Notice for the license renewal application, with an opportunity for a hearing, was published July 28, 2004. No comments were received.

In its letter, Kennecott noted that the facility has continued on operational standby status since the license was last renewed on August 18, 1999. Kennecott indicated that site conditions have remained the same since the 1999 renewal (except soil diesel contamination was cleaned to Wyoming standards and monitoring wells added) and that the facility would remain on operational standby. Since the conditions and status of the Sweetwater facility have continued unchanged over the past five years, the staff concluded that the safety and environmental evaluations performed for the 1999 renewal remain valid for the current renewal request.

The Nuclear Regulatory Commission (NRC) staff completed its review of the application and notes that Kennecott is not requesting a change to any of the conditions in Source Material License SUA-1350 other than the change to the expiration date for License Condition (LC) 4 and the surety amount in LC 9.7. A May 12, 2004, request to amend the reclamation plan to include cleanup around the catchment basin will be addressed by the NRC in a separate licensing action later this year. Further, the staff notes that a number of the existing license conditions would have to be satisfied and a pre-milling inspection completed before actual milling could commence. Based on the foregoing considerations and the past performance of the licensee (inspection reports with no violations), the staff finds that approval of the request for a 10-year license renewal for the Sweetwater facility is consistent with NRC policy and is appropriate.

The renewal application included the 2004 surety update as Appendix 4. The staff reviewed the cost estimates as revised September 14, 2004, and determined that the proposed surety amount of \$7,793,000 is acceptable (Enclosure 1). Therefore, Source Material License SUA-1350 is amended by revising LC 4 to reflect the new expiration date for a 10-year period, LC 9.7 to include the approved surety amount, and LC 9.5 to include the date of the renewal application. The license, reissued as Amendment No. 20 to Source Material License SUA-1350 is enclosed (Enclosure 2).

The NRC staff determined that this licensing action is within the scope of the analysis of 1999 Environmental Assessment (EA) for the previous license renewal and does not alter that EA decision (finding of no significant impact). The updated list of threatened and endangered species for Sweetwater County was received from the Fish and Wildlife Service on September 21, 2004. Review of the list indicates that the conclusion in the 1999 EA, that there will be no significant impacts to wildlife, is still valid. Also, the licensee provided a land use survey by letter dated February 25, 2004, indicating that there is no change to local land use. Therefore, no further environmental review is required under 10 CFR Part 51. The surety change is categorically excluded under Section 51.22(c)(10).

If you have any questions regarding this letter or the enclosures, please contact Ms. Elaine Brummett, at (301) 415-6606 or via e-mail to esb@nrc.gov.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/NRC/readlnr-rm/adams.html>.

Please note that on October 25, 2004, the NRC suspended public access to ADAMS, and initiated an additional security review of publicly available documents to ensure that potentially sensitive information is removed from the ADAMS database accessible through the NRC's web site. Interested members of the public may obtain copies of the referenced documents for review and/or copying by contacting the Public Document Room pending resumption of public access to ADAMS. The NRC Public Document Room is located at NRC Headquarters in Rockville, MD, and can be contacted at 800-397-4209 or 301-415-4737 or pdr@nrc.gov.

Sincerely,



Gary S. Janosko, Chief
Fuel Cycle Facilities Branch
Division of Fuel Cycle Safety
and Safeguards
Office of Nuclear Material Safety
and Safeguards

Docket No.: 40-8584
License No.: SUA-1350

Enclosures: Surety Technical Evaluation Report
Amendment No. 20 to License SUA-1350

cc: R. Atkinson, Kennecott
R. Chancellor, WY DEQ

**TECHNICAL EVALUATION REPORT FOR
KENNECOTT URANIUM COMPANY'S
SURETY ESTIMATE FOR THE SWEETWATER URANIUM MILL SITE**

Docket No.: 40-8584 **License No.:** SUA-1350

DATE: September 16, 2004

FACILITY: Sweetwater Uranium Project

TECHNICAL REVIEWERS: Elaine Brummett, Jill Caverly

PROJECT MANAGER: Elaine Brummett

SUMMARY AND CONCLUSIONS:

By letter dated May 25, 2004, the Kennecott Uranium Company (Kennecott) submitted the annual surety estimate for its Sweetwater facility as Appendix 4 of the license renewal application. The U.S. Nuclear Regulatory Commission (NRC) staff reviewed the cost estimates and provided comments on June 24, 2004. A revised surety update was submitted by Kennecott's letter dated July 22, 2004. The staff requested additional information on August 17, 2004, and the revised Appendix 4 was dated September 14, 2004. The staff determined that the decommissioning and reclamation activities are adequately described and reasonable cost estimates for each activity or fee was provided.

BACKGROUND:

The Kennecott mill site is located in a remote area of south-central Wyoming, in Sweetwater County, approximately 42 miles northwest of Rawlins, Wyoming. The mill was constructed in 1980 and processed ore from an adjacent open pit mine from 1981 until April 1983. The facility has been in standby status since then and the original buildings and tanks are maintained. There is one tailings impoundment that has ponds on the top that are used in the pump and evaporate program to remediate groundwater contamination due to past leakage from the impoundment. The NRC bonded area of the site is approximately 1633 acres and includes the site of the proposed tailings impoundments and diversion channels.

For the 2004 surety update, Kennecott did a rebaseline of the decommissioning and reclamation costs because the past four surety updates used the Consumer Price Index (CPI) to adjust for inflation. The existing standby letter of credit for \$221,000 and the Standby Trust (bond) in the amount of \$6,726,000 (and \$5,947,000) lists the NRC as beneficiary. The proposed 2004 surety amount is \$7,793,000.

TECHNICAL EVALUATION:

The NRC staff evaluated the surety update against the guidance in NUREG-1620, Appendix C, as meeting the regulations in 10 CFR Part 40, Appendix A, Criteria 9 and 10. Criteria 9 and 10 of 10 CFR Part 40, Appendix A, require the licensee to supply sufficient information to the NRC to verify that the amount of coverage provided by the financial assurance will permit the

Enclosure 1

completion of all decontamination and reclamation of the site. Additionally, the cost estimates must be calculated on the basis of completion of all activities by a third party, and must be updated annually.

The staff noted that the submittal did meet the license requirement for a surety update to be submitted at least 3 months prior to the October 30 anniversary date. Acceptable publications or current costs were used for unit costs. Also, the licensee added 15 percent for contingencies as required.

Facility Decommissioning

The licensee assumed that no mill facility materials would be salvaged, but that all the materials would be placed in the tailings impoundment. Worksheet 1 lists the cost for building and tank demolition and disposal. In Worksheet 4, the impoundment reclamation includes the cost for the required radon testing on the cover, and 3 years of settlement monitoring of the cover. The radiological survey and monitoring section (Worksheet 5) includes the costs for environmental and personnel monitoring.

Soil Cleanup and Radiological Surveys

In Worksheet 2, 155,567 cubic yards of soil are assumed to be removed and 67 acres reclaimed (topsoil replaced and seeded). The volumes/areas include the area known to require remediation around the catchment basin and the area of petroleum contamination. Worksheet 5 includes costs for the soil sampling and analysis, radiation survey equipment and labor, and preparation of the Final Status Survey Report.

Groundwater Restoration

The restoration costs in Worksheet 3 were based on actual 2004 costs and included three pumping wells in the vicinity of the catchment basin to control the recently found leak. The surety estimate includes operation of the corrective action program for 10 years to complete ground water restoration. Well abandonment costs were also included.

Project Management Costs and Miscellaneous

These costs are included in worksheets 4 and 5 and represent about 5 percent of the bond amount. Data analysis, preparation of the completion report, and property title review are some of the listed activities.

Material Quantities

Kennecott Corporation provided updated unit costs based on the use of accepted publications (RS Means and Wyoming DEQ Cost Calculation Method) and referenced actual costs of recent mill uranium mill decommissioning projects. The mill area quantities were estimated based on information from previous reports and is acceptable because no changes have occurred to affect the material quantities remaining on site. Additional quantities for earth work were estimated based on designs for the final grade and cover. Based on the information provided, the quantities and unit costs appear to be reasonable.

Labor and Equipment

The contractor's mobilization and demobilization costs were estimated at 5 percent (\$293,750). The individual activity costs include contractor's overhead and profit plus the labor and equipment costs. The licensee estimated that the overhead and profit for the contractor's equipment fleet is approximately 10 percent of the unit rate.

Long-Term Surveillance fee

The Long-Term Surveillance fee was calculated correctly to be \$698,301, based on the May CPI. There was no indication that additional funds should be provided in this category for fence maintenance or other long-term control measures.

Conclusion:

The staff determined that the Kennecott surety cost estimates for the Sweetwater Uranium Mill facility adequately reflect the decommissioning/reclamation quantities, unit costs, and required contingencies and fees. The total cost estimate was \$7,792,360 but the licensee rounded up to the next thousand.

Proposed License Condition Change:

Revise LC 9.7 to change the required surety amount to read \$7,793,000.

APPENDIX II

February 2, 1995

Mr. James E. Gilchrist, Vice President
Environmental Affairs
American Mining Congress
1920 N Street N.W., Suite 300
Washington, DC 20036-1662

SUBJECT: SUMMARY OF JANUARY 10, 1995, MEETING TO DISCUSS FINAL RULE ON
TIMELINESS IN DECOMMISSIONING OF MATERIALS FACILITIES

Dear Mr. Gilchrist:

Enclosed is a summary of the meeting held on January 10, 1995, to discuss the final rule on Timeliness in Decommissioning of Materials Facilities. Anthony Thompson and Traci Stegemann represented the American Mining Congress (AMC) at the meeting. The meeting summary will serve to record the approach this Office intends to take toward licensee requests for delays in initiating and completing decommissioning. Please let me know if this resolves AMC concerns with the rule.

Sincerely,

Joseph J. Holonich, Chief
High-Level Waste and Uranium
Recovery Projects Section
Division of Waste Management
Office of Nuclear Material Safety
and Safeguards

Enclosure: As stated

cc: Anthony Thompson
Traci Stegemann
Shaw, Pittman, Potts
& Throwbridge

MEETING SUMMARY

Date/Time of Meeting: January 10, 1995, 3:30 p.m.

Location of Meeting: Two White Flint North
Room T6A-1

Attendees: Attachment

The meeting was held at the request of the American Mining Congress (AMC) to discuss AMC concerns with the final rule on Timeliness in Decommissioning of Materials Facilities, published in the Federal Register on July 15, 1994. AMC has initiated a court proceeding, challenging the applicability of the rule to uranium mills. At the request of AMC, the court is holding the litigation in abeyance while AMC attempts to resolve its concerns with NRC.

AMC identified two primary concerns related to the application of the rule to uranium milling facilities. AMC argued 1) that the requirement to complete decommissioning within 24 months may be impossible to meet for most mills and 2) that the requirement for initiating decommissioning if a facility has not operated for 24 months does not adequately take into account the cyclical nature of the mineral extraction industry.

1. Requirement to complete decommissioning within 24 months

AMC stated that it may be impossible for most mills to complete decommissioning in 24 months. At many mills, at least some of the waste or rubble from the decommissioning of the mill structures will be disposed of in the tailings impoundment. The impoundment, which will be reclaimed on a separate schedule in accordance with Criterion 6A of 10 CFR Part 40, Appendix A, may not be ready to accept the decommissioning wastes within the 24 month time frame.

NRC pointed out that the Statement of Considerations for the rulemaking recognizes this potential need to extend the date for completion of decommissioning at uranium recovery facilities. Requests for such delays can be accommodated through the provisions in § 40.42(h). Additionally, if a specific date for completion of decommissioning is incorporated in a license, as is the case for most sites, the date in the license would take precedence over the timeliness rule provisions.

2. Requirement to initiate decommissioning within 24 months

AMC stated that the requirement to initiate decommissioning within 24 months of suspension of milling does not adequately take into account the cyclical nature of the mineral extraction industry. AMC argued that mills typically shut down, sometimes for periods of many years, when the price of the mineral is low. The mill operator anticipates remaining in standby until the price of the mineral rises enough for it to be attractive to restart the mill. This is true, not only for the uranium industry, but for many other mineral extraction operations. During the time a uranium mill is on standby, it is under license to NRC, subject to NRC inspection, and paying an annual fee; it also has a surety that is reviewed annually. These facilities, according to AMC

therefore, do not present the same potential problems of safety practices becoming lax or financial resources necessary for decommissioning becoming unavailable, as other facilities that are covered under the rule.

NRC pointed out that a licensee can request a delay or postponement of the initiation of decommissioning under § 40.42(e). In order for NRC to grant that request, the licensee must show that the delay a) "is not detrimental to the public health and safety" and b) "is otherwise in the public interest." The licensee would have to make a formal request addressing these issues.

NRC stated that addressing the issue of public health and safety should be relatively simple and straightforward. The licensee can reference the safety requirements already contained in its license and NRC inspections of its facility as the demonstration that it is maintaining an adequate level of protection of public health and safety. NRC envisions a relatively short statement from the licensee addressing this aspect of § 40.42(e).

The licensee will also have to discuss why its proposal to delay decommissioning is in the public interest. One aspect of this issue was discussed in detail. All licensees are required by regulation to have in place, financial assurance based on an NRC-approved reclamation plan. There have been situations in which it was recognized that the approved reclamation plan needed upgrading. In some of those situations it was also recognized that the cost to implement the revised reclamation plan, and thus the amount of surety needed, would be substantially greater than for the existing, approved plan. However, until the revised reclamation was formally approved by NRC and incorporated in the license, the surety remained based on the old reclamation plan. It can sometimes take several years of review, discussion, and revision to achieve a reclamation plan that is approved by NRC, during which time the public interest may not be protected with an adequate surety. Therefore, if a mill operator requests a delay in decommissioning, under § 40.42(e), and there is a revision to the mill's reclamation plan under review, NRC will not consider it to be in the public interest to grant the delay unless the licensee's surety accounts for the reclamation plan under review. The surety amount does not need to be based on an NRC-approved cost estimate; it can be based on the licensee's estimated cost to implement the reclamation plan under review.

ATTENDEES
NRC-AMC MEETING
JANUARY 10, 1995

Tim Johnson
Mary L. Thomas
Robert L. Fonner
Dan Gillen
Myron Fliegel
Joe Holonich
Mal Knapp
Traci Stegemann
A.J. Thompson
Steve Crockett

NRC/DWM
NRC/RES
NRC/OGC
NRC/DWM
NRC/DWM
NRC/DWM
NRC/DWM
NRC/DWM
Shaw Pittman/AMC
Shaw Pittman/AMC
NRC/OGC

301-415-7299
301-415-6230
301-415-1643
301-415-7295
301-415-6627
301-415-6643
301-415-6708
202-663-8820
202-663-9198
301-415-1620

APPENDIX III

March 8, 1995

By Hand Delivery

Mr. Joseph J. Holonich, Chief
High-Level Waste and Uranium Recovery
Projects Section
Division of Waste Management
U.S. Nuclear Regulatory Commission
11555 Rockville Pike
Rockville, MD 20852

Re: American Mining Congress v. Nuclear Regulatory
Commission and The United States, Docket No. 94-1619
- Challenge to Final Timeliness in Decommissioning
Rule

Dear Mr. Holonich:

Thank you for taking the time to meet with us on January 10, 1995 to discuss resolution of the American Mining Congress' (AMC) judicial challenge to the Nuclear Regulatory Commission's (NRC) final timeliness in decommissioning rule (59 Fed. Reg. 36,026, July 15, 1994). As you may be aware, on February 13, 1995, AMC merged with the National Coal Association to establish the National Mining Association (NMA) so henceforth your dealings on these issues will be with the new organization.

NMA appreciates your sending a draft of the January 10, 1995 meeting's minutes. NMA believes that the meeting made significant progress towards addressing its concerns with the final rule. NMA does, however, wish to take this opportunity to express its ongoing objection to routine regulation by waiver, exemption, or exception. This type of regulatory

Mr. Joseph J. Holonich
March 8, 1995
Page 2

practice continually poses the potential for inconsistent decisions over time, particularly, when there are major changes in agency personnel.

This letter, written on behalf of NMA, sets forth its uranium recovery facility licensee members' understanding of how NRC will apply the requirements of the timeliness rule to their facilities. NMA requests that NRC confirm in writing whether NMA's understanding is correct. Assuming NMA's understanding is correct, NRC's response should provide an adequate basis to settle and dismiss the above-referenced action. If there are aspects of NMA's understanding that NRC deems incorrect, further discussions will be necessary.

(1) First, with respect to the 24-month timeframe for completion of decommissioning activities, NMA recognizes that this requirement is intended to apply only to the mill areas and not to the tailings. The final rule notes that "§40.42 applies to the uranium processing facilities." 59 Fed. Reg. at 36,031. It also states in 10 C.F.R. §40.42(k): "Specific licenses for uranium and thorium mills are exempt from paragraphs (d)(4)(f) and (g) of this section with respect to reclamation of tailings impoundments and/or waste disposal areas." *Id.* at 3603. At many sites, however, it may not be possible to dispose of the mill within 24 months because of specific license requirements that schedule burial at some appropriate time which may not be within the 24-month period. Site reclamation is an integrated process based on site specific circumstances, management decisions and approved plans and submittals.¹⁴ It is inappropriate to simply assume that mill disposal can automatically be completed within 24 months from the beginning of the site closure process. Thus,

¹⁴ In addition, not all mills are disposed in the tailings pile but may be buried somewhere else on site. To the extent that any such portion of a site is being "used for disposal of byproduct material" it, along with the tailings, will be transferred to the state or federal government for perpetual licensing as a restricted site and, thus, would not be subject to the decommissioning requirements in Part 20 but rather would be subject to the requirements of 10 C.F.R. Part 40, Appendix A.

Mr. Joseph J. Holonich

March 8, 1995

Page 3

specific timetables for the various components of site closure must be and are established in site licenses.

NMA's Conclusion: It is NMA's understanding that where specific license provisions regarding the completion of decommissioning activities exist, or are required in the future, these specific license timetables will be controlling rather than the general requirements of the timeliness rule.

(2) Second, with respect to the 24-month inactivity period for facilities on "standby," NMA understands that NRC believes "flexibility has been built into the final rule so that a licensee can file for an exemption from having to commence decommissioning following 24 months of inactivity." 59 Fed. Reg. at 36,032. The rule provides that extensions of the 24-month period of inactivity can be granted if NRC determines that "this relief is not detrimental to the public health and safety and is otherwise in the public interest." *Id.* The criteria by which this broad standard may be satisfied are not explained. At our meeting, NRC indicated that an exemption from the 24 month inactivity trigger would be granted if the criteria noted above are satisfied (which it assumes will not be a major undertaking) and the licensee has posted adequate surety.

NMA's Conclusions:

a. With respect to showing that continued standby status is "not detrimental to the environment" and is "otherwise in the public interest", NMA assumes that, unless a licensee plainly has failed to fulfill its license requirements or has done so haphazardly (which would presumably result in a pending or contemplated enforcement action), this determination would be a *pro forma* exercise for NRC since NRC must regulate and oversee licensees whether they are on standby or not. And, presumably, NRC would not have granted a license in the first place unless these requirements were going to be met.

Mr. Joseph J. Holonich
March 8, 1995
Page 4

Uranium recovery facility licenses contain multiple requirements, including financial surety, protection of on-site workers, and other elements that protect the environment and the public interest whether the site is actively in production or not. Indeed, NRC asserts that it exercises full and complete oversight over standby sites and, therefore, charges them the same annual fee as that for an actively operating facility. See 59 Fed Reg. 36895 (July 20, 1994). Also, NRC not only has a "history" of site compliance but a history of licensee submittals both to prepare a facility for standby and to prepare it for resumption of operations. Thus, almost by definition, unless NRC is not fulfilling its responsibilities, the licensee must be satisfying the "not to the detriment of the environment," and "otherwise in the public interest" requirements.

b. With respect to the surety requirement, it is NMA's understanding that the amount of the surety would be based on the amount approved by the Commission or, if there is no approved amount, on the licensee's estimate of costs for final site reclamation. If there is no approved amount or no estimate, then the amount of the surety required would be subject to discussions between by NRC and the licensee.

(3) Finally, given the nature of the uranium recovery market, NMA anticipates that licensees may need to make multiple requests for extensions of the 24 month inactivity period.²⁴ However, NMA notes that this seems both cumbersome and unnecessary when the Commission could simply put a specific condition in the license allowing a longer standby term since the licensee must satisfy the "not to the detriment" and "in the public interest" criteria notwithstanding the requirements of the general timeliness in decommissioning standard. This would be a sensible approach since, as noted above, the general provisions of the rule will

²⁴ It is worth noting that virtually any site requiring a site specific advisory board, (SSAB) as proposed in NRC's decommissioning and decontamination rulemaking proceeding (59 Fed. Reg. 43,200, August 22, 1994), will likely require multiple extensions as well.

Mr. Joseph J. Holonich
March 8, 1995
Page 5

not control the time of mill reclamation or for that matter any other reclamation activities required by specific license conditions.

NMA's Conclusions: NMA assumes that there is no limit on the number of 24 month extensions that a licensee can receive. If the requisite conditions have been met (adequate surety and not detrimental to the environment and otherwise in the public interest), a facility will, if necessary, be granted continued extensions of the 24 month period.

NMA and its licensee members look forward to your response. If you have any questions about the substance or intent of this letter, please do not hesitate to call me at 202/663-9198.

Sincerely,

Anthony J. Thompson

AJT/clc

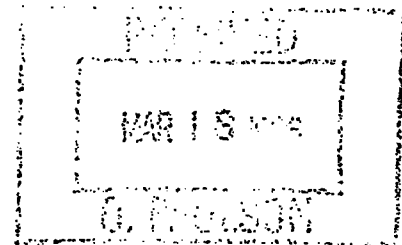
APPENDIX IV



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

February 16, 1996



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

SUBJECT: TIMELINESS IN DECOMMISSIONING RULE

Dear Mr. Thompson:

This letter is in response to your letter of August 25, 1995, to Steven F. Crockett of the Nuclear Regulatory Commission's Office of the General Counsel. Your letter, written in behalf of the National Mining Association (NMA), set forth the NMA members' understanding of how NRC will apply the Timeliness in Decommissioning rule (59 FR 36026, July 15, 1994) to uranium mills. Based on your letter, we believe there needs to be additional clarification of the NRC staff's positions. Therefore, I have attempted to address the conclusions highlighted in your letter by clearly restating the NRC's positions. The enclosure contains the clarifying information.

I hope you find that the information provided clarifies our position. Because the 24 month time period for submitting notification to NRC as required by the rule, expires next August, it is important that licensees begin preparing their requests if they wish to remain in standby status and not begin decommissioning activities.

If you have any questions on the enclosure, please feel free to contact either me or Mike Fliegel of my staff. I can be reached at (301) 415-7238 and Dr. Fliegel can be reached at (301) 415-6629.

Sincerely,

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

Enclosure: As stated

U.S. Nuclear Regulatory Commission Staff Response
to National Mining Association Comments on Decommissioning Timeliness Rule

Comment 1

National Mining Association (NMA) Comment

It is NMA's understanding that where specific license provisions regarding the completion of decommissioning activities exist, or are required in the future, these specific license timetables will be controlling rather than the general requirements of the timeliness rule.

Staff Response

The staff agrees with this conclusion.

Comment 2

NMA Comment

With respect to showing that continued standby status is "not detrimental to the environment" and is "otherwise in the public interest", NMA assumes that, unless a licensee plainly has failed to fulfill its license requirements or has done so haphazardly (which would presumably result in a pending or contemplated enforcement action), this determination would be a *pro forma* exercise since the U.S. Nuclear Regulatory Commission must regulate and oversee licensees whether they are on standby or not, particularly if licensees are being charged for it. And, presumably, NRC would not have granted a license in the first place unless these requirements were going to be met. To the extent there are concerns raised by an extension, additional license conditions could address any such concerns and provide NRC with the necessary comfort level.

Staff Response

The staff believes there are a number of clarifications that need to be made in response to this comment.

1. The standard requires a determination that continued standby status "...is not detrimental to the public health and safety [emphasis added]," not "the environment" as stated in the NMA conclusion.
2. The determination is not a *pro forma* exercise. The licensee must show that continued standby status will not be detrimental to public health and safety. In a meeting held on January 10, 1995, and documented in the NRC letter to James E. Gilchrist of the American Mining Congress dated February 2, 1995, NRC stated that addressing this issue should be relatively simple and straightforward. The licensee can reference the safety requirements already contained in its license and NRC inspections of its facility as the demonstration that it is maintaining an adequate level of protection of public health and safety. We stated that NRC envisions a relatively short statement from the licensee addressing this

aspect of § 40.42(e). However, as was stated by the staff during the January 10, 1995 meeting, the review would involve at a minimum an evaluation of the license to ensure that all necessary conditions were included and correct. The staff review was not characterized as a *pro forma* exercise.

3. The determination that continued standby status "...is otherwise in the public interest" is separate from the public health and safety determination. NRC stated at the January 10, 1995, meeting that the licensee will have to discuss why its proposal to delay decommissioning is in the public interest. NMA's conclusion that unless a licensee is not fulfilling its license requirements, the fact that it was originally granted a license resolves this issue, is clearly incorrect for the following reasons:
 - a. Properly fulfilling its license requirements is a necessary condition for being in the public interest but not necessarily a sufficient condition. It is not clear how the fact that a facility is complying with its license leads one to conclude that continual standby is in the public interest.
 - b. NRC originally granted licenses, in most cases many years ago, to these facilities to produce uranium. The public interest now, or in the future, for uranium production may be different than when the original license was granted. Furthermore, the standby request is not to produce uranium but to await changes to market conditions that might (or might not) eventually lead to uranium production. Therefore, a request for an exemption would have to show why continuation in a standby status is in the public interest. For more on the public interest showing, see the Staff Response to Comment 3.

Comment 3

NMA Comment

With respect to the surety requirement, it is NMA's understanding that the amount of the surety would be based on the amount approved by NRC or, if there is no approved amount, on the licensee's estimate of costs for final site reclamation. If there is no approved amount or no estimate, then the amount of the surety required would be subject to discussions between NRC and the licensee.

Staff Response

As stated by NRC at the January 10, 1995, meeting, the surety issue is tied to the determination of whether continued standby status is in the public interest. All licensees are required by regulation to have in place, financial assurance based on an NRC-approved reclamation plan. In many cases, the surety based on the approved plan will be the surety that satisfies the public interest. However, there have been situations in which it was

recognized that the approved reclamation plan needed upgrading. In some of those situations it was also recognized that the cost to implement the revised reclamation plan, and thus the amount of surety needed, would be substantially greater than for the existing, approved plan. However, until the revised reclamation was formally approved by NRC and incorporated in the license, the surety was based on the old reclamation plan.

It can sometimes take several years of review, discussion, and revision to achieve a reclamation plan that is approved by NRC. Although the licensee would have a surety based on an NRC accepted value, the public interest may not be protected because the NRC accepted value may not result in an adequate surety. Therefore, if a mill operator requests a delay in decommissioning, under § 40.42(e), and there is a revision to the mill's reclamation plan under review, NRC will not consider it to be in the public interest to grant the delay unless the licensee's surety accounts for the reclamation plan under review.

Comment 4

NMA Comment

NMA assumes that there is no limit on the number of extensions that a licensee can receive. If the requisite conditions have been met (adequate surety and not detrimental to the environment and otherwise in the public interest), a facility will, if necessary, be granted continued extensions. Indeed, given the unique nature of the uranium industry's stand-by situation, licensees could request an exemption from the 24 month period for a period of time ranging from 24 months to years. At the end of the agreed upon time, the licensee would have the option of requesting another exemption/extension. NRC's processing of these requests would be *pro forma*, unless specific concerns are identified by the licensee or raised by NRC.

Staff Response

Several aspects of this conclusion repeat the misunderstandings of previous conclusions (i.e., the test is related to public health and safety, and the adequacy of surety is a component of the test of being in the public interest) and it again assumes a *pro forma* processing of request. Please see the clarification provided for those comments. The conclusion that there is no limit to the number of extensions that a licensee can receive, is correct.

Comment 5

NMA Comment

In the alternative, the appropriate timeframe could be established as a license condition which would be controlling over the general requirements of the timeliness rule.

Staff Response

The staff does not view a license condition as an alternative approach. We expect that in any instance in which we grant an extension of the time a licensee can remain on standby, the extended time period would be established in the license. Since that extension would have been granted in conformance with § 40.42(e), we do not see a conflict between the rule and the license condition.

APPENDIX V



AMERICAN
MINING
CONGRESS
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202/861-2800
Fax: 202/861-7535

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Jerryl K. Ellis, San Francisco

September 15, 1993

The Honorable Ivan Selin
Chairman
U.S. Nuclear Regulatory Commission
Rockville, Maryland 20852

Dear Chairman Selin:

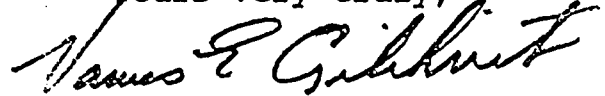
During your visit to Wyoming and Colorado, you had a variety of discussions with, among others, uranium fuel cycle licensees. The American Mining Congress (AMC) which represents many of those licensees in NRC regulatory proceedings was a participant at one of those meetings which covered a variety of topics. One of those topics that was raised by Michael H. Gibson, who is Vice President of Kennecott Uranium Company and the Chairman of AMC's Uranium Policy Council (UPC), is the focus of this letter -- namely, the relevance of NRC's proposed "Timeliness in Decommissioning" rulemaking (58 Fed. Reg. 4099-4110) to AMC's member company uranium recovery licensees.

Mr. Chairman, as you may recall, AMC has grave concerns regarding the presumptions in the proposal about when facilities become "inactive" and thereby subject to decommissioning timetables. As AMC noted in its comments on the proposed rules (copy attached), the concept of arbitrary timetables for determining when a business becomes inactive is particularly problematic for mineral processing facilities in general, and specifically for both conventional and in situ uranium production necessarily generic approach to decommissioning timetables in the proposal will inevitably lead to requirements that, for uranium

recovery facilities. AMC agrees that this would be the simplest and most cost-effective means of preserving necessary operational flexibility for uranium recovery licensees without jeopardizing public health and safety.

AMC hopes that by refreshing your recollection of this discussion you will look into the potential for such an exemption.

Yours very truly,

A handwritten signature in dark ink, appearing to read "James E. Gilchrist". The signature is fluid and cursive, with the first name "James" and last name "Gilchrist" clearly legible.

James E. Gilchrist
Vice President

Enclosure

APPENDIX VI



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

Enclosure


A. Thompson

2

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

A. Thompson

2

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,

[Original signed by]

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

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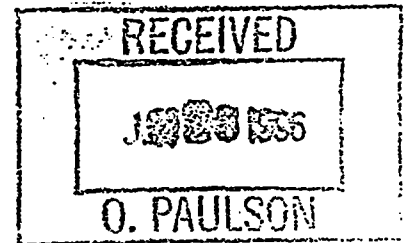
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NAME	MFliegel/dh		SCrockett <i>*tele</i>	JHolonich					
DATE	6/3/96		6/3/96	6/1/96					

APPENDIX VII



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001
June 18, 1996



Kennecott Uranium Co.
ATTN: Oscar Paulson, Facility Supervisor
Sweetwater Uranium Mill
P.O. Box 1500
Rawlins, Wyoming 82301-1500

SUBJECT: REQUEST TO POSTPONE INITIATION OF THE REQUIREMENTS OF TIMELINESS
IN DECOMMISSIONING PURSUANT TO 10 CFR 40.42(e)

Dear Mr. Paulson:

By your letter dated March 20, 1996, Kennecott Uranium Company submitted a request for postponement of the initiation of the requirements of Timeliness in Decommissioning pursuant to 10 CFR 40.42(e) for the Sweetwater Uranium facility, Source Material License SUA-1350. Under 10 CFR 40.42(e), "The Commission may grant a request to delay or postpone initiation of the decommissioning process if the Commission determines that such relief is not detrimental to the public health and safety and is otherwise in the public interest." The U.S. Nuclear Regulatory Commission staff has completed its review of Kennecott's request and considers the request for a five (5) year postponement of the initiation of decommissioning of the Sweetwater Uranium facility to be acceptable. The bases for the staff's decision are discussed below.

1. Record of regulatory compliance.

In June 1992, the license for the Sweetwater Uranium facility was transferred from Minerals Exploration Company to Kennecott Uranium Company. Since the time of that transfer, the facility has maintained an excellent inspection record. A review of inspection records for the last ten years indicates that Kennecott Uranium Company has received no Notices of Violation for the Sweetwater facility and, previous to the transfer to Kennecott, no safety violations were identified at site inspections. In addition, the facility has a good record of compliance with the State of Wyoming Department of Environmental Quality and the applicable requirements of the U.S. Environmental Protection Agency (EPA).

2. Public health and safety/maintenance of facility.

Based on NRC staff observations at site visits and inspections, the facility continues to be maintained in good condition. Radiological and monitoring requirements have been met as prescribed by the license and reporting by the licensee is timely. No detrimental impacts to the public health and safety or the environment have been identified.

3. Surety in place.

Decommissioning and reclamation costs for the site are covered by a surety instrument that is reviewed annually. This annual review is a basis by which the 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 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.

In March 1993 the Sweetwater facility submitted the first of a number of documents necessary for NRC's approval to resume operation of the Sweetwater mill. Since that time, Kennecott has submitted a revised tailings management study, a revised Environmental Monitoring Manual, an environmental report, a background groundwater study, and geologic and seismic reports for NRC staff review. Work on final documents have been delayed pending a decision from the EPA regarding use of an existing tailings impoundment. Since the submittal of the subject request for postponement, Kennecott has received approval from the EPA and plans to submit the additional information necessary for NRC review and approval for resumption of mill operation in the near future. Given the time needed for preparation of submittals and review and approval of resumed operations, the staff considers the licensee's request for a postponement of decommissioning to be reasonable.

Mr. O. Paulson

3

If you have any questions regarding this letter, you may contact the NRC Project Manager, Ms. Charlotte Abrams, at (301) 415-5808.

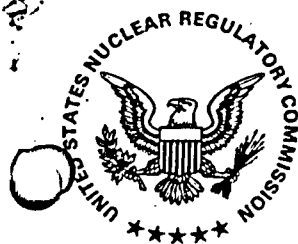
Sincerely,



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

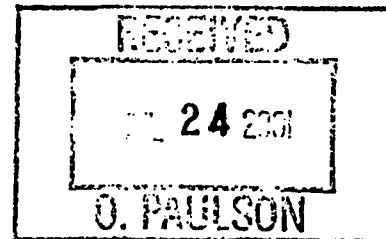
Enclosure: As stated

Docket No.: 40-8584
License No.: SUA-1350



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

July 17, 2001



Mr. Oscar Paulson
Sweetwater Uranium Facility
Kennecott Uranium Company
P.O. Box 1500
Rawlins, WY 82301

SUBJECT: SWEETWATER URANIUM MILL (SUA-1350) - FIVE (5) YEAR
POSTPONEMENT OF INITIATION OF DECOMMISSIONING

By letter dated May 31, 2001, Kennecott Uranium Company (KUC) requested a 5 - year postponement of the implementation of the requirements of Timeliness in Decommissioning (10 CFR 40.42(d)) for the Sweetwater Uranium Project licensed under Source Material License SUA-1350. The Sweetwater mill facility was shut down and has been under care and maintenance (stand-by status) since April 1983. The Timeliness in Decommissioning Rule became final in 1994. After a request by KUC, the Nuclear Regulatory Commission (NRC) granted a 5 - year postponement of initiation of decommissioning for the Sweetwater site by letter dated June 18, 1996. Also, the NRC letter of February 16, 1996, to the National Mining Association, indicated that there is no limit to the number of extensions that can be granted. The NRC staff has determined that another 5 - year postponement should be granted, as allowed by 10 CFR 40.42(f), because "...such relief is not detrimental to the public health and safety and is in the public interest," as discussed below.

1. Record of regulatory compliance

During suspended operations, the facility has a record of regulatory compliance with all applicable State and Federal regulations including those of the NRC, Environmental Protection Agency, and the Wyoming Department of Environmental Quality. The NRC inspections back to 1991 have noted no violations.

2. Public health and safety protected

The site has been and is maintained such that the public health and safety and environment are protected. The facility has a record of safe operation for both employees and the general public during suspended operations, with low radiation doses to employees, excellent safety record, and good facility condition. The environmental monitoring data demonstrate that the radon flux from the tailings pile is well below the limit, measured radioactive airborne particulates downwind of the facility have been at background levels, and doses to members of the public have been well below regulatory limits.

3. KUC is prepared to resume operations which is in the public interest

KUC obtained a performance based operating license for the facility on August 18, 1999. The uranium market has been improving, as the price increased 25 percent from January to May of 2001 (Uranium Exchange prices). Also, KUC obtained the Wyoming Permit to Mine #660 for the Jackpot and Big Eagle uranium mines (about 30 miles from the Sweetwater mill) which the company owns. Thus, KUC could resume uranium mining and milling when market conditions allow.

July 17, 2001

O. Paulson

-2-

The continued existence of the mill is in the public interest as it is one of only six uranium mills remaining in the United States and the only one remaining in Wyoming. There is renewed interest in the United States in nuclear power as clearly expressed in the National Energy Policy of May 2001. Nuclear power plants have increased power output the past several years, several plants have recently renewed operating licenses for 20 years, and new facilities are being considered. In addition, statutes oblige the Secretary of Energy to encourage the use of domestic uranium. Maintaining the domestic capacity to provide the raw material for nuclear power is in the public interest.

4. Adequate surety in place

The documents submitted by KUC on September 12, 2000, indicate a surety in the amount of \$6,471,986.00, and this required amount was incorporated in the license by the NRC letter of September 29, 2000. The facility's license also indicates that the surety amount must be increased annually, based on the inflation rate, and must be increased before any new structures (ponds, buildings) are built.

If you have any questions regarding this letter, please contact the NRC Project Manager, Ms. Elaine Brummett, at (301) 415-6606 and she also can be reached by e-mail at esb@nrc.gov. In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/NRC/ADAMS/index.html> (the Public Electronic Reading Room).

Sincerely,



Melvyn Leach, Acting Chief
Fuel Cycle Licensing Branch
Division of Fuel Cycle Safety
and Safeguards
Office of Nuclear Material Safety
and Safeguards

Docket No.: 40-8584
License No.: SUA-1350

cc: R. Atkinson, Kennecott
R. Chancellor, WY DEQ

APPENDIX VIII



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
611 RYAN PLAZA DRIVE, SUITE 400
ARLINGTON, TEXAS 76011-8064

EP 3 2 01

August 27, 2001

Posted September 3, 2001
Claf

Mr. Oscar Paulson
Kennecott Uranium Company
P.O. Box 1500
Rawlins, Wyoming 82301

SUBJECT: NRC INSPECTION REPORT 40-8584/01-01

Dear Mr. Paulson:

On August 14, 2001, the NRC completed an inspection of your Sweetwater Uranium Facility, which continues in a standby status. The enclosed report presents the results of that inspection. No violations or deviations were cited; therefore, no response to this letter is required.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter, its enclosure, and your response (if any) will be made available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/NRC/ADAMS/index.html> (the Public Electronic Reading Room).

Should you have any questions concerning this inspection, please contact Louis C. Carson II at (817) 860-8221 or Charles L. Cain at (817) 860-8186.

Sincerely,

Charles L. Cain

Charles L. Cain, Chief
Nuclear Materials Licensing Branch

Docket No.: 40-8584
License No.: SUA-1350

Enclosure:
NRC Inspection Report
40-8584/01-01

cc w/enclosure:
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Kennecott Uranium Company
Caller Box 3009
Gillette, Wyoming 82717

Mr. David Finley
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Solid and Hazardous Waste Division
122 W. 25th Street
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Art Rleinrath, Long-Term Surveillance Project Manager
U.S. Department of Energy
Grand Junction Project Office
2597 B ¾ Road
Grand Junction, Colorado 81503

Mr. Pat Mackin, Assistant Director
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Center for Nuclear Waste Regulatory Analyses
6220 Culebra Road
San Antonio, Texas 78238-5166

Wyoming Radiation Control Program Director

ENCLOSURE

**U.S. NUCLEAR REGULATORY COMMISSION
REGION IV**

Docket No.: 40-8584

License No.: SUA-1350

Report No.: 40-8584/01-01

Licensee: Kennecott Uranium Company

Facility: Sweetwater Uranium Facility

Location: Sweetwater County, Wyoming

Dates: August 13-14, 2001

Inspector: Louis C. Carson II, Health Physicist
Nuclear Materials Licensing Branch

Accompanied By: Charles L. Cain, Chief
Nuclear Materials Licensing Branch

Approved By: Charles L. Cain, Chief
Nuclear Materials Licensing Branch

Attachments: Supplemental Inspection Information

EXECUTIVE SUMMARY

Sweetwater Uranium Facility NRC Inspection Report 40-8584/01-01

This inspection included a review of site status, management organization and controls, site operation, radiation protection, radioactive waste management, and environmental protection programs. The facility continues to be in a standby status as it has been since 1983.

Management Organization and Controls

- The licensee's organization structure was consistent with the conditions of the license. Adequate oversight had been provided for site activities. Procedures were deemed adequate for the work in progress. The licensee had appropriately implemented the performance-based license and the safety and environmental review panel process (Section 2).

Operations Review and Radioactive Waste Management

- Site activities had been conducted in accordance with the applicable license and regulatory requirements. The mill and other onsite structures were maintained in good condition. Site fences were in good condition. Perimeter postings were appropriate. No significant health or safety concerns were identified during the site tours (Section 3).

Radiation Protection

- The licensee had implemented a radiation protection program as required by 10 CFR Part 20 and the license. Occupational exposures during 2000 and 2001 were below the limits established in 10 CFR Part 20 (Section 4).

Environmental Protection

- The licensee had conducted the environmental and groundwater monitoring programs and the annual land use survey in compliance with license requirements. All reports related to the groundwater and environmental monitoring programs had been submitted to the NRC as required. The reports were thorough and technically accurate. Laboratory documentation demonstrated that releases of radioactive materials to the environment were within regulatory limits from 1999 through the first half of 2001 (Section 5).

Report Details

1 Site Status

The Sweetwater Uranium Facility was built by the Minerals Exploration Company in 1980 and operated until 1983 when the facility was shutdown and placed in a standby mode. Structures in place at the site included the uranium mill, maintenance shop, administrative building, and other miscellaneous structures. A 60-acre tailings impoundment was also located at the site, with approximately 2.5 million tons of tailings being stored.

Site activities included general maintenance and preservation work, groundwater and environmental monitoring oversight, and other license related activities. The licensee has been storing contaminated equipment from the Pathfinder Lucky Mc remediation project. During this inspection, the licensee began disposal of 11e.(2) byproduct material from the Green Mountain Ion Exchange (GMIX) decommissioning project as allowed by License Condition 10.6.

2 Management Organization and Controls (88005)

2.1 Inspection Scope

The organization structure was reviewed to ensure that the licensee had established an organization with defined responsibilities and functions. The site standard operating procedures (SOP) were reviewed.

2.2 Observations and Findings

a. Management Organization

Site staffing requirements are established in License Condition 9.5. Site staffing consisted of four employees, including the facility supervisor, senior facility technician, mill foreman, and office manager. In addition, two contract security guards provided oversight of the facility during non-standard work hours. The site organization and staff were in accordance with the requirements of License Condition 9.5.

b. Management Controls

License Condition 9.6 requires SOPs to be established and implemented for all operational process activities involving radioactive materials that are handled, processed, or stored. SOPs were also required for all aspects of the radiation safety and environmental monitoring programs. Overall, site procedures had been established and were adequate for the work in progress at the site. SOPs had been updated and records indicated that the procedures had been reviewed on an annual basis.

c. Performance-Based License and the Safety and Environmental Review Panel

The licensee was issued a performance-based license (PBL) in July 1999. License Condition 9.3 of the PBL requires the licensee to establish a safety and environmental review panel (SERP). The SERP is required to ensure that changes to the facility and procedures, and tests or experiments which have not been reviewed by the NRC do not have adverse affects on systems, structures, components, and the operation of the facility. The licensee had established a SERP for pre-screening of radiation work permits and proposed changes. The inspector reviewed four safety environmental evaluations (SEE) that had been reviewed by the SERP.

- SEE#1: "Elimination of Alpha Surveys of the Roller Room Floor and Gamma Surveys in the Bin, Roller, and Dryer Room," dated June 13, 2000.
- SEE#2: "Suspension of the Tailings Pond Liner Drip," dated July 24, 2000.
- SEE#3: "Change in Reporting: Project Manager - Green Mountain Mining Venture," Organization Chart Revision," dated May 8, 2001.
- SEE#4: "Adding Ore Pad Material for GMIX 11e.(2)," dated July 11, 2001.

The SERP records and SEEs reviewed were found to be technically adequate. The SERP had made decisions in accordance with the conditions of the performance-based license. The inspector determined that the licensee's implementation of the PBL and SERP was adequate.

2.3 Conclusions

The licensee's organization structure was consistent with the conditions of the license. Adequate oversight had been provided for site activities. Procedures were deemed adequate for the work in progress. The licensee had appropriately implemented the performance-based license and the safety and environmental review panel process.

3 Operations Review (88020) and Radioactive Waste Management (88035)

3.1 Inspection Scope

A facility tour was performed to verify that site activities were being conducted in accordance with applicable regulations and the conditions of the license and to ensure that operational controls were adequate to protect the health and safety of workers and members of the general public.

3.2 Observations and Findings

During the plant tour, site buildings, fences, gates, and operating equipment were observed. Site fences were in good condition and were properly posted in accordance

with License Condition 9.9. Site structures and mill components appeared to have been properly preserved and maintained. Approximately 20,000 pounds of material containing U_3O_8 remained stored in 55-gallon drums and in a tank in the mill. The latter material was being maintained in a slurry form. Access to the material was controlled by the licensee.

The inspector visited the tailings impoundment and noted that the groundwater enhanced evaporation system was in service. The enhanced evaporation system consisted of a drip system and spray lines. The inspector observed that a sufficient amount of freeboard existed between the top of the pond surface and the top of the pond embankments in compliance with the requirements of License Condition 10.3.

The tailings impoundment sprays and evaporation system were placed into service May 1997. Six monitoring pumpback wells were in service in 2000, and a seventh pumpback well was placed into service in May 2001.

License Condition 10.6 allows the licensee to dispose of 10,000 cubic yards of 11e.(2) byproduct radioactive waste from the GMIX decommissioning project. The inspector observed the receipt and placement of three truckloads of the GMIX material into the licensee's tailings impoundment. The licensee reviewed the radioactive material shipping records and weighed each truckload of material on a recently calibrated scale. The inspector observed that each truckload of material was placed in a specific location in the tailings impoundment.

Additionally, the licensee had received and stored, in the main process facility, equipment that had been decommissioned and released from the Pathfinder Lucky Mc Remediation Project. The licensee explained that they had not sought NRC permission to dispose of this material.

3.3 Conclusions

Site activities had been conducted in accordance with the applicable license and regulatory requirements. The mill and other onsite structures were maintained in good condition. Site fences were in good condition. Perimeter postings were appropriate. No significant health or safety concerns were identified during the site tours.

4 Radiation Protection (83822)

4.1 Inspection Scope

The licensee's radiation protection program was reviewed for compliance with the requirements established in the license and 10 CFR Part 20 regulations.

4.2 Observations and Findings

a. Personnel Internal and External Exposures

To ensure that site workers had been properly monitored for potential exposures to radioactive materials, the licensee's internal and external monitoring programs were reviewed. The licensee's personnel monitoring program consisted of intermittent air sampling, surface contamination monitoring, and external radiation measurements.

For years 1999 and 2000, the licensee performed a determination that demonstrated that individual monitoring and annual dose calculations were not necessary to demonstrate compliance with the occupational dose limits in 10 CFR 20.1201. The inspector reviewed the licensee dose demonstration reports for the previous 2 years. The maximum individual exposure for 1999 and 2000 was 115 and 184 millirems, respectively. These demonstration results were based on the amount of time personnel spent in the mill and on the tailings impoundment. The demonstration included radiation survey data such as gamma surveys, radon measurements, and airborne particulate results from high volume and breathing zone samplers.

The air sample results indicated that the natural uranium concentrations in the air remained less than one percent of the derived air concentration (DAC) limit listed in 10 CFR Part 20, Appendix B. Radon daughter concentrations remained below 0.018 working levels, or 5 percent or less of the DAC limit of 0.33 working levels. The licensee monitored individuals with breathing zone samplers on a quarterly basis. The natural uranium concentrations in these samples were less than 10 percent of the DAC limit.

Overall, the licensee determined that site employees had received less than 10 percent of the occupational dose limit (5000 millirems) established in 10 CFR 20.1201 from either external or internal exposures.

During the site tour, the inspector measured ambient radiation levels using an NRC-issued microRoentgen meter (Serial Number 15540, calibration due date of November 29, 2001). The NRC did not identify any area that met the 10 CFR 20.1003 definition of a radiation area (greater than 5 millirems per hour). The highest exposure areas measured 1.6 - 2.2 millirems per hour in the central processing facility. Generally, the licensee measured external radiation exposure rates on a semi-annual basis. The inspector reviewed licensee May 2001 exposure rate data from the tailings impoundment. According to licensee survey records, there were no areas in the plant or the tailings impoundment that met the definition of a radiation area.

License Condition 9.5 requires the licensee to obtain air samples and external radiation measurements semiannually in the ore crushing and yellowcake areas of the mill. Air samples were to be analyzed for natural uranium and radon daughter concentrations. Record reviews and observations of personnel during the GMIX 11e.(2) material unloading at the tailings impoundment confirmed that the airborne samples and gamma measurements had been obtained.

b. Bioassay Program

The licensee performed bioassay sampling on a quarterly basis. Personnel tested included contract workers and individuals who were potentially exposed to radioactive materials. During year 2000, only site personnel submitted urine samples for laboratory analysis. Additional bioassay samples had been obtained during the first half of 2001 to include samples collected from workers associated with the GMIX decommissioning project. No sample results exceeded the lowest action level of 15 micrograms of uranium per liter of urine.

c. Employee Training

License Condition 9.5 requires the licensee to conduct initial and annual refresher training for all mill process or maintenance employees as specified by the topics listed in Section 5.3 of the March 1984 renewal application and 10 CFR 19.12. The licensee is required to document employee radiation safety training. The inspector confirmed that the licensee had conducted and documented annual training for all employees in February 2000 and March 2001. Special training had been held for 12 GMIX decommissioning employees on July 9 and August 2, 2001. The radiation safety officer (RSO) had completed the biennial RSO retraining on May 8, 2000. The inspector determined that the licensee was in compliance with License Condition 9.5 and 10 CFR 19.12.

d. Equipment Calibrations

License Condition 9.5 requires the licensee to calibrate all radiation monitoring, sampling, and detection equipment annually or as recommended by the manufacturer, whichever is more frequent. The licensee had established a semi-annual instrument calibration program for all instruments including survey meters, laboratory instruments, and air samplers. A review of selected instrument calibration records from May 1999 to August 2001 revealed that the instruments had been calibrated as required. Additionally, the inspector reviewed the licensee's instrument calibration chart from year 2000 which identified that all radiation instruments had been calibrated at the required intervals.

e. Release of Equipment for Unrestricted Use

License Condition 9.5 requires that the release of equipment or packages from the restricted area be in accordance with the NRC report, "Guidelines for Decontamination of Facilities and Equipment Prior to Release for Unrestricted Use or Termination of Licenses for Byproduct or Source Materials," dated September 1984. A review of the licensee's equipment release records indicated that all components had been appropriately released by the licensee during years 2000 and 2001.

f. Annual As Low As is Reasonably Achievable (ALARA) Audit

License Conditions 9.3D and 12.3 requires the licensee to perform an annual ALARA audit. License Condition 12.3 requires the report to be submitted to the NRC. The most

current report, submitted to the NRC on February 21, 2001, was reviewed. The report was thorough and provided relevant information including analysis of trends.

4.3 Conclusions

The licensee had implemented a radiation protection program as required by 10 CFR Part 20 and the license. Occupational exposures during 2000 and 2001 were below the limits established in 10 CFR Part 20. Other program areas deemed satisfactory included the training, equipment calibration, radiation, and ALARA programs.

5 **Environmental Protection (88045)**

5.1 Inspection Scope

The environmental monitoring program was reviewed to assess the effectiveness of the licensee's program and to evaluate the effects, if any, of site activities on the local environment. The groundwater compliance monitoring program was reviewed to verify that the program was consistent with the requirements specified in the license.

5.2. Observations and Findings

a. Environmental Protection

License Condition 11.5 requires the licensee to submit the results of all effluent and environmental monitoring to the NRC on a semi-annual basis. Environmental monitoring program requirements are identified in License Condition 11.5. During mill shutdown, air particulate, radon, and gamma monitoring are required to be conducted downwind of the tailings cell. Also, radon monitoring is required at an upwind location.

The inspector reviewed the licensee's year 2000 and the first half of year 2001 semi-annual effluent reports dated August 9, 2000, and February 21 and August 8, 2001. These reports were found to be thorough and complete. The licensee appeared to have obtained all environmental monitoring samples required by the license, and the results were documented in the reports. The inspector noted that the licensee continues to maintain a computer database for tracking when specific environmental samples are due for analysis. Air samples had been collected at the environmental monitoring sample station No. 4A located downwind of the site. During year 2000 and 2001, the air sample filters were composited and analyzed quarterly for natural uranium, thorium-230, lead-210 and radium-226. Laboratory results indicated that all samples were less than 5 percent of the effluent concentration limits established in 10 CFR Part 20, Appendix B.

Ambient gamma exposure rates were measured at Sample Station No. 4A and at a control location in the administrative building. Data collected during year 2000 and 2001 indicated that Station No. 4A measured near background for the year.

Radon-222 samples were obtained at two sample stations. The highest radon measurement during year 2000 and the first half of year 2001 was obtained at Sample Station No. 2 upwind of the site. The sample measured 6.4 picocuries per liter which was 64 percent of the 10 CFR Part 20, Appendix B, effluent concentration limit. Radon sample results during year 2000 and first half of year 2001 measured 18 to 64 percent of the 10 CFR Part 20, Appendix B, effluent concentration limit for radon-222 with daughters removed.

The inspector's comparison of environmental monitoring data during year 2000 and first half of year 2001 indicated that the results were comparable. No adverse trends were identified in the environmental monitoring program.

b. Groundwater Compliance Monitoring Program

A groundwater compliance monitoring program is required by License Conditions 11.3 and 12.3. The licensee's groundwater compliance program included over 40 tailings monitoring wells and point-of-compliance wells. The program analyzed the wells for chemical and radiological constituents and currently operates six pumpback wells to extract groundwater. The groundwater was discharged into the tailings impoundment which contains an enhanced evaporation system to dispose of the groundwater in the tailings impoundment. The licensee had obtained the samples and operated the pumps and evaporation system as required by the license during 1999 and 2000.

A groundwater corrective action program review is required to be submitted to the NRC on an annual basis in accordance with License Condition 12.3. The licensee's annual corrective action program reports dated, February 21, 2000, and 2001 were briefly reviewed during the inspection. The inspector determined that the licensee had maintained a groundwater corrective action program as required by License Conditions 11.3 and 12.3.

c. Annual Land Use Survey

License Condition 11.2 stipulates that a land use survey be performed annually. The land use survey is required to be submitted to the NRC on an annual basis by License Condition 12.3. The inspector reviewed annual land use survey for years 1999 and 2000. No significant changes in land use within a 5-mile radius of the site were identified.

5.3 Conclusions

The licensee had conducted the environmental and groundwater monitoring programs and the annual land use survey in compliance with license requirements. All reports related to the groundwater and environmental monitoring programs had been submitted to the NRC as required. The reports were thorough and technically accurate. Laboratory documentation demonstrated that releases of radioactive materials to the environment were within regulatory limits from 1999 through the first half of 2001.

6 Exit Meeting Summary

The inspector presented the inspection results to the representatives of the licensee at the conclusion of the inspection on August 14, 2001. Licensee representatives acknowledged the findings as presented. The licensee did not identify any information reviewed during the inspection as proprietary information.

ATTACHMENT

PARTIAL LIST OF PERSONS CONTACTED

Licensee

G. Palochak, Mill Shift Foreman/Alternate Radiation Safety Officer
O. Paulson, Facility Supervisor/Radiation Safety Officer

INSPECTION PROCEDURES USED

IP 83822 Radiation Protection
IP 88005 Management Organization Control
IP 88020 Operations Review
IP 88035 Radioactive Waste Management
IP 88045 Environmental Monitoring

ITEMS OPENED, CLOSED AND DISCUSSED

Opened

None

Closed

None

Discussed

None

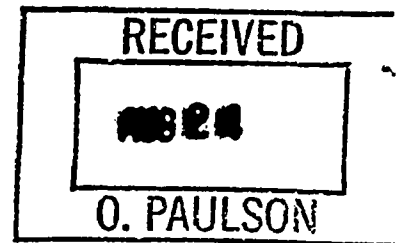
LIST OF ACRONYMS USED

ALARA	as low as reasonably achievable
DAC	derived air concentrations
GMIX	Green Mountain Ion Exchange
PBL	performance-based license
RSO	radiation safety officer
SEE	safety environmental evaluations
SERP	safety and environmental review panel
SOP	Standard Operating Procedure



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
611 RYAN PLAZA DRIVE, SUITE 400
ARLINGTON, TEXAS 76011-4005

August 19, 2004



Posted August 24, 2004
Ally

Mr. Oscar Paulson
Kennecott Uranium Company
P.O. Box 1500
Rawlins, Wyoming 82301

SUBJECT: NRC INSPECTION REPORT 040-08584/04-001

Dear Mr. Paulson:

On July 21, 2004, the NRC completed an inspection of your Sweetwater Uranium Facility, which continues in a standby status. The enclosed report presents the results of that inspection. No violations or deviations were cited; therefore, no response to this letter is required.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter and its enclosure will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html> (the Public Electronic Reading Room).

Should you have any questions concerning this inspection, please contact Judith Walker at 817 860-8221 or the undersigned 817-860-8197.

Sincerely,

Anthony J. Dairs for

Jack E. Whitten, Chief
Nuclear Materials Licensing Branch

Docket No.: 040-08584
License No.: SUA-1350

Enclosure:
NRC Inspection Report
040-08584/01-001

cc w/enclosure:

Kennecott Uranium Company

-2-

Mr. Rich Atkinson
Kennecott Uranium Company
Caller Box 3009
Gillette, Wyoming 82717

Mr. David Finley
Wyoming Department of Environmental Quality
Solid and Hazardous Waste Division
122 W. 25th Street
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Art Rleinrath, Long-Term Surveillance Project Manager
U.S. Department of Energy
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Grand Junction, Colorado 81503

Mr. Pat Mackin, Assistant Director
Systems Engineering & Integration
Center for Nuclear Waste Regulatory Analyses
6220 Culebra Road
San Antonio, Texas 78238-5166

Wyoming Radiation Control Program Director

ENCLOSURE

**U.S. NUCLEAR REGULATORY COMMISSION
REGION IV**

Docket No.: 040-08584

License No.: SUA-1350

Report No.: 040-08584/04-001

Licensee: Kennecott Uranium Company

Facility: Sweetwater Uranium Facility

Location: Sweetwater County, Wyoming

Dates: July 21, 2004

Inspector: Judith Walker, Health Physicist
Nuclear Materials Licensing Branch

Approved By: Jack E. Whitten, Chief
Nuclear Materials Licensing Branch

Attachments: Supplemental Inspection Information

EXECUTIVE SUMMARY

Sweetwater Uranium Facility NRC Inspection Report 040-08584/04-001

This inspection included a review of site status, management organization and controls, site operation, radiation protection, radioactive waste management, and environmental protection programs. The facility continues to be in a standby status as it has been since 1983.

Management Organization and Controls

- The licensee's organization structure was consistent with the conditions of the license. Adequate oversight had been provided for site activities. Procedures were deemed adequate for the work in progress. The licensee had appropriately implemented the performance-based license and the safety and environmental review panel process (Section 2).

Operations Review and Radioactive Waste Management

- Site activities had been conducted in accordance with the applicable license and regulatory requirements. The mill and other onsite structures were maintained in good condition. Site fences were in good condition. Perimeter postings were appropriate. No significant health or safety concerns were identified during the site tours (Section 3).

Radiation Protection

- The licensee had implemented a radiation protection program as required by 10 CFR Part 20 and the license. Occupational exposures during 2002 and 2003 were below the limits established in 10 CFR Part 20. Other program areas deemed satisfactory included training, equipment calibration, radiation, and As Low As Reasonably Achievable (ALARA) programs (Section 4).

Environmental Protection

- The licensee had conducted the environmental and groundwater monitoring programs and the annual land use survey in compliance with license requirements. All reports related to the groundwater and environmental monitoring programs had been submitted to the NRC as required. The reports were thorough and technically accurate. Laboratory documentation demonstrated that releases of radioactive materials to the environment were within regulatory limits from 2002 through 2003 (Section 5).

Report Details

1 Site Status

The Sweetwater Uranium Facility was built by the Minerals Exploration Company in 1980 and operated until 1983 when the facility was shutdown and placed in a standby mode. Structures in place at the site included the uranium mill, maintenance shop, administrative building, and other miscellaneous structures. A 60-acre tailings impoundment was also located at the site, with approximately 2.5 million tons of tailings being stored.

Site activities included maintenance of the tailings impoundment, mill/general facility maintenance, groundwater and environmental monitoring, and environmental remediation. The licensee continues to store contaminated equipment from the Pathfinder Lucky Mc remediation project.

2 Management Organization and Controls (88005)

2.1 Inspection Scope

The organization structure was reviewed to ensure that the licensee had established an organization with defined responsibilities and functions. The site standard operating procedures (SOP) were reviewed.

2.2 Observations and Findings

a. Management Organization

Site staffing requirements are established in License Condition 9.5. Site staffing consisted of four employees, including the facility supervisor, senior facility technician, mill foreman, and office manager. In addition, two contract security guards provided oversight of the facility during non-standard work hours. The site organization and staff were in accordance with the requirements of License Condition 9.5.

b. Management Controls

License Condition 9.6 requires SOPs to be established and implemented for all operational process activities involving radioactive materials that are handled, processed, or stored. SOPs were also required for all aspects of the radiation safety and environmental monitoring programs. Overall, site procedures had been established and were adequate for the work in progress at the site. SOPs had been updated and records indicated that the procedures had been reviewed on an annual basis.

c. Performance-Based License and the Safety and Environmental Review Panel

The licensee was issued a performance-based license (PBL) in July 1999. License Condition 9.3 of the PBL requires the licensee to establish a safety and environmental review panel (SERP). The SERP is required to ensure that changes to the facility and procedures, and tests or experiments which have not been reviewed by the NRC do not have adverse affects on systems, structures, components, and the operation of the facility. The licensee had established a SERP for pre-screening of radiation work permits and proposed changes. The inspector reviewed three safety environmental evaluations (SEE) that had been reviewed by the SERP.

- SEE#6: "Pump Test/Recovery of Perched Fluids Leaked from the Bottom of the Facility Catchment Basin During Facility Operation Discovered at a Depth of Thirty-Five (35) to Fifty-Five (55) Feet Below Surface In a Well Approximately Twenty (20) Feet East of the Basin," dated September 4, 2003.
- SEE#6: (Amendment) "Recovery of Perched Fluids Leaked from the Bottom of the Facility Catchment Basin During Facility Operations Discovered in TMW-105," dated March 23, 2004.
- SEE#7: "Diversion of Surface Runoff Entering the Catchment Basin," dated November 11, 2003.

The SEEs addressed remediation of diesel organic contamination which was the result of previous operations conducted between 1980 and 1983. The SEEs were found to be technically adequate. The SERP had made decisions in accordance with the conditions of the performance-based license. By the letter dated May 12, 2004, the licensee requested an amendment to the license to address the remediation of soil and groundwater contamination discovered in the area of the facility's catchment basin. The inspector determined that licensee's implementation of the PBL and SERP was adequate.

2.3 Conclusions

The licensee's organization structure was consistent with the conditions of the license. Adequate oversight had been provided for site activities. Procedures were deemed adequate for the work in progress. The licensee had appropriately implemented the performance-based license and the safety and environmental review panel process.

3 Operations Review (88020) and Radioactive Waste Management (88035)

3.1 Inspection Scope

A facility tour was performed to verify that site activities were being conducted in accordance with applicable regulations and the conditions of the license and to ensure that operational controls were adequate to protect the health and safety of workers and members of the general public.

3.2 Observations and Findings

During the plant tour, site buildings, fences, gates, and operating equipment were observed. Site fences were in good condition and were properly posted in accordance with License Condition 9.9. Site structures and mill components appeared to have been properly preserved and maintained. Approximately 20,000 pounds of material containing U_3O_8 remained stored in 55-gallon drums and in a tank in the mill. The latter material was being maintained in a slurry form. Access to the material was controlled by the licensee.

The inspector toured the tailings impoundment and noted that the groundwater enhanced evaporation system was in service. The inspector observed that a sufficient amount of freeboard existed between the top of the pond surface and the top of the pond embankments in compliance with the requirements of License Condition 10.3. The inspector also noted that the licensee inspected the tailings impoundment on a daily/weekly basis. The licensee also contracted an outside engineer to perform annual inspections of the tailings impoundment. The annual inspection noted minor localized erosion of the impoundment liner, but concluded that the overall integrity was sufficient.

The tailings impoundment sprays and evaporation system were placed into service May 1997. Seven monitoring pumpback wells were in service in 2001.

3.3 Conclusions

Site activities had been conducted in accordance with the applicable license and regulatory requirements. The mill and other onsite structures were maintained in good condition. Site fences were in good condition. Perimeter postings were appropriate. No significant health or safety concerns were identified during the site tours.

4 Radiation Protection (83822)

4.1 Inspection Scope

The licensee's radiation protection program was reviewed for compliance with the requirements established in the license and 10 CFR Part 20 regulations.

4.2 Observations and Findings

a. Personnel Internal and External Exposures

To ensure that site workers had been properly monitored for potential exposures to radioactive materials, the licensee's internal and external monitoring programs were reviewed. The licensee's personnel monitoring program consisted of intermittent air sampling, surface contamination monitoring, and external radiation measurements.

Personnel dosimetry for the site is only required during full operations; however, during 2001, 11e.(2) byproduct material was received and disposed on-site; therefore, thermoluminescent dosimeters were issued to employees and contractors for that period. The highest exposure for an individual for 2001 was 40 millirem. During 2002 the licensee performed an occupational exposure assessment and in 2003 the licensee performed a determination of no requirement for individual monitoring. The results in both assessments determined that personnel did not receive an occupational dose in excess of 10 percent of the limits for external and internal exposure. These demonstration results were based on the amount of time personnel spent in the mill and on the tailings impoundment. The demonstration included radiation survey data such as gamma surveys, radon measurements, and airborne particulate results from high volume and breathing zone samplers.

The air sample results indicated that the natural uranium concentrations in the air remained less than 1 percent of the derived air concentration (DAC) limit listed in 10 CFR Part 20, Appendix B. In 2001, 2002 and 2003, radon daughter concentrations measured from 0.016 to 0.053 working level (WL) or 16 percent or less of the DAC limit of 0.33 WL. The licensee monitored individuals with breathing zone samplers on a quarterly basis. The natural uranium concentrations in these samples for 2001, 2002, and 2003 were less than 10 percent of the DAC limit.

Overall, the licensee determined that site employees had received less than 10 percent of the occupational dose limit (5000 millirems) established in 10 CFR 20.1201 from either external or internal exposures.

During the site tour, the inspector observed the licensee performing ambient radiation surveys using a microRoentgen meter. The licensee did not identify any area that met the 10 CFR 20.1003 definition of a radiation area (greater than 5 millirems per hour). The highest exposure areas measured 0.317-0.519 millirems per hour in the central processing facility. The licensee continued to measure external radiation exposure rates on a semi-annual basis. The inspector reviewed the licensee's June 2004 exposure rate data from the tailings impoundment. According to licensee survey records, there were no areas in the plant or the tailings impoundment that met the definition of a radiation area.

b. Bioassay Program

The licensee performed bioassay sampling on a quarterly basis. Personnel tested included contract workers and individuals who were potentially exposed to radioactive materials. During the years 2002 and 2003, site personnel and contract workers submitted urine samples for laboratory analysis. No sample results exceeded the lowest action level of 15 micrograms of uranium per liter of urine.

c. Employee Training

License Condition 9.5 requires the licensee to conduct initial and annual refresher training for all mill process or maintenance employees as specified by the topics listed in Section 5.3 of the March 1984 renewal application and 10 CFR 19.12. The licensee is required to document employee radiation safety training. The inspector confirmed that the licensee had conducted and documented annual training for all employees in February of 2002, 2003 and 2004. The radiation safety officer (RSO) had completed the biennial RSO retraining in 2003. The inspector determined that the licensee was in compliance with License Condition 9.5 and 10 CFR 19.12.

d. Equipment Calibrations

License Condition 9.5 requires the licensee to calibrate all radiation monitoring, sampling, and detection equipment annually or as recommended by the manufacturer, whichever is more frequent. The licensee had established a semi-annual instrument calibration program for all instruments including survey meters, laboratory instruments, and air samplers. A review of selected instrument calibration records from August 2002 to May 2004, revealed that the instruments had been calibrated as required. Additionally, the inspector reviewed the licensee's instrument calibration chart from the years 2001 - 2003, which identified that all radiation instruments had been calibrated at the required intervals.

e. Release of Equipment for Unrestricted Use

License Condition 9.5 requires that the release of equipment or packages from the restricted area be in accordance with the NRC report, "Guidelines for Decontamination of Facilities and Equipment Prior to Release for Unrestricted Use or Termination of Licenses for Byproduct or Source Materials," dated September 1984. A review of the licensee's equipment release records indicated that all components had been appropriately released by the licensee during years 2002 - 2004.

f. Annual As Low As is Reasonably Achievable (ALARA) Audit

License Conditions 9.3D and 12.3 require the licensee to perform an annual ALARA audit. License Condition 12.3 requires the report to be submitted to the NRC. For the years 2002 - 2003, the licensee performed and submitted annual ALARA audits to NRC for review. The reports were thorough and provided relevant information including analysis of trends.

4.3 Conclusions

The licensee had implemented a radiation protection program as required by 10 CFR Part 20 and the license. Occupational exposures during the years 2002 and 2003 were below the limits established in 10 CFR Part 20. Other program areas deemed satisfactory included the training, equipment calibration, radiation, and ALARA programs.

5 **Environmental Protection (88045)**

5.1 Inspection Scope

The environmental monitoring program was reviewed to assess the effectiveness of the licensee's program and to evaluate the effects, if any, of site activities on the local environment. The groundwater compliance monitoring program was reviewed to verify that the program was consistent with the requirements specified in the license.

5.2. Observations and Findings

a. Environmental Protection

License Condition 11.5 requires the licensee to submit the results of all effluent and environmental monitoring to the NRC on a semi-annual basis. Environmental monitoring program requirements are identified in License Condition 11.5. During mill shutdown, air particulate, radon, and gamma monitoring are required to be conducted downwind of the tailings cell. Also, radon monitoring is required at an upwind location.

The inspector reviewed the licensee's years 2002 and 2003 semi-annual effluent reports dated February 10, and August 13, 2003 and February 18, 2004. These reports were found to be thorough and complete. The licensee appeared to have obtained all environmental monitoring samples required by the license, and the results were documented in the reports. Air samples had been collected at the environmental monitoring sample station No. 4A located downwind of the site. During the years 2002 and 2003, the air sample filters were composited and analyzed quarterly for natural uranium, thorium-230, lead-210 and radium-226. Laboratory results indicated that all samples were less than 2.8 percent of the effluent concentration limits established in 10 CFR Part 20, Appendix B.

Ambient gamma exposure rates were measured at Sample Station No. 4A and at a controlled location in the administrative building. Data collected during the years 2002 and 2003 indicated that Station No. 4A measured near background for the year.

Radon-222 samples were obtained at two sample stations. The highest radon measurements during the years 2002 and 2003 were obtained at Sample Station No. 2 upwind of the site. The samples measured 4.2 and 3.9 picocuries per liter which was 42 and 39 percent of the 10 CFR Part 20, Appendix B, effluent concentration limit for the respective years. Radon sample results (with daughters removed) for the years 2002 and 2003 measured 0.42 and 0.39 percent of the 10 CFR Part 20, Appendix B, effluent concentration limit.

The inspector's comparison of environmental monitoring data during the years 2002 and 2003 indicated that the results were comparable.

b. Groundwater Compliance Monitoring Program

A groundwater compliance monitoring program is required by License Conditions 11.3 and 12.3. The licensee's groundwater compliance program included over 40 tailings monitoring wells and point-of-compliance wells. The program analyzed the wells for chemical and radiological constituents and currently operates seven pumpback wells to extract groundwater. The groundwater was discharged into the tailings impoundment which contains an enhanced evaporation system to dispose of the groundwater in the tailings impoundment. The licensee had obtained the samples and operated the pumps and evaporation system as required by the license during the years 2002 and 2003.

A groundwater corrective action program review is required to be submitted to the NRC on an annual basis in accordance with License Condition 12.3. The licensee's annual corrective action program reports dated February 10, 2003 and February 11, 2004, were briefly reviewed during the inspection. The inspector determined that the licensee had maintained a groundwater corrective action program as required by License Conditions 11.3 and 12.3.

c. Annual Land Use Survey

License Condition 11.2 stipulates that a land use survey be performed annually. The land use survey is required to be submitted to the NRC on an annual basis by License Condition 12.3. The inspector reviewed annual land use survey for the years 2001, 2002, and 2003. The licensee reported no significant changes in land use within a 5-mile radius of the site were identified, except in 2002 where the licensee performed excavation of diesel contaminated soil north of the Main Shop Building (Section 2.2 c.).

5.3 Conclusions

The licensee had conducted the environmental and groundwater monitoring programs and the annual land use survey in compliance with license requirements. All reports related to the groundwater and environmental monitoring programs had been submitted to the NRC as required. The reports were thorough and technically accurate. Laboratory documentation demonstrated that releases of radioactive materials to the environment were within regulatory limits from the years 2002 through 2003.

6 Exit Meeting Summary

The inspector presented the inspection results to the representatives of the licensee at the conclusion of the inspection on July 21, 2004. Licensee representatives acknowledged the findings as presented. The licensee did not identify any information reviewed during the inspection as proprietary information.

ATTACHMENT

PARTIAL LIST OF PERSONS CONTACTED

Licensee

G. Palochak, Mill Shift Foreman/Alternate Radiation Safety Officer
O. Paulson, Facility Supervisor/Radiation Safety Officer

INSPECTION PROCEDURES USED

IP 83822 Radiation Protection
IP 88005 Management Organization Control
IP 88020 Operations Review
IP 88035 Radioactive Waste Management
IP 88045 Environmental Monitoring

ITEMS OPENED, CLOSED AND DISCUSSED

Opened

None

Closed

None

Discussed

None

LIST OF ACRONYMS USED

ALARA	as low as reasonably achievable
DAC	derived air concentrations
GMIX	Green Mountain Ion Exchange
PBL	performance-based license
RSO	radiation safety officer
SEE	safety environmental evaluations
SERP	safety and environmental review panel
SOP	Standard Operating Procedure

APPENDIX IX



THE STATE

OF WYOMING

MAY 29

DAVE FREUDENTHAL
GOVERNOR

DONALD G. STAUFFENBERG
State Inspector of Mines

Department of Employment

OFFICE OF MINE INSPECTOR
P. O. Box 1094
Rock Springs, Wyoming 82902
TELEPHONE 307-362-5222 FAX 307-362-5233

May 16, 2006

INSPECTION REPORT

INSPECTION DATE: May 11, 2006

OPERATOR: Kennecott Uranium Co., P. O. Box 1500, Rawlins, WY 82301

FACILITY: Sweetwater Uranium Mill

INSPECTION PARTY: Oscar Paulson, Facilities Supervisor and Don Stauffenberg, State Inspector of Mines

An inspection was made for compliance with the Wyoming State Safety Rules and Regulations and the following conditions were observed:

First Aid:	Present	First Aid Training:	Yes
Housekeeping:	Good	Safety Clothing:	Worn by all
Communications:	Phone/Cell phone	Emergency Numbers Posted:	Yes
Workplace Inspections Documented:	Yes	Inspection Reports:	Posted at site
Equipment Inspection Documented:	Yes		

There are four employees working one, ten-hour shift a day, four days a week. They have had no lost time accidents in 2006. There is a security guard at the site during the off-shift hours.

There is a contractor on site who has been contracted to excavate unsuitable soils from the Mill Catchment Basin Area.

Corrective Actions Requested: 1

1. No one at this site had advanced first aid training. WR 56.18010. This individual must be capable of patient assessment, artificial respiration, CPR, control of bleeding, and treatment of shock, wounds, burns and musculoskeletal injuries. A trained person must be at the site when ever employees are present.

ABATED 5/11/06

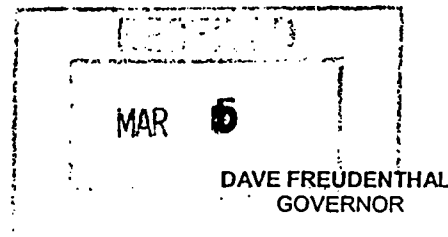
Cooperation gratefully acknowledged.

Don Stauffenberg
State Inspector of Mines



THE STATE

OF WYOMING



DONALD G. STAUFFENBERG
State Inspector of Mines

Department of Employment

OFFICE OF MINE INSPECTOR
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Rock Springs, Wyoming 82902
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February 15, 2006

INSPECTION REPORT

INSPECTION DATE: February 9, 2006

OPERATOR: Kennecott Uranium Co., P. O. Box 1500, Rawlins, WY 82301

FACILITY: Sweetwater Uranium Mill

INSPECTION PARTY: George Palochak, Maintenance Supervisor and Don Stauffenberg, State Inspector of Mines

An inspection was made for compliance with the Wyoming State Safety Rules and Regulations and the following conditions were observed:

First Aid:	Present	First Aid Training:	NO
Housekeeping:	Good	Safety Clothing:	Worn by all
Communications:	Phone/Cell phone	Emergency Numbers Posted:	Yes
Workplace Inspections Documented:	Yes	Inspection Reports:	Posted at site
Equipment Inspection Documented:	Yes		

There are four employees working one, ten-hour shift a day, four days a week. They have had no lost time accidents in 2006. There is a security guard at the site during the off-shift hours.

There was a contractor on site who has been contracted to excavate unsuitable soils from the Mill Catchment Basin Area.

Corrective Actions Requested: 1

1. No one at this site had advanced first aid training. WR 56.18010. This individual must be capable of patient assessment, artificial respiration, CPR, control of bleeding, and treatment of shock, wounds, burns and musculoskeletal injuries. A trained person must be at the site when ever employees are present.

Cooperation gratefully acknowledged.

Don Stauffenberg
State Inspector of Mines



THE STATE

OF WYOMING

JEC 1 5

DAVE FREUDENTHAL
GOVERNOR

DONALD G. STAUFFENBERG
State Inspector of Mines

Department of Employment

OFFICE OF MINE INSPECTOR

P. O. Box 1094

Rock Springs, Wyoming 82902

TELEPHONE 307-362-5222 FAX 307-362-5233

December 12, 2005

INSPECTION REPORT

INSPECTION DATE: December 8, 2005

OPERATOR: Kennecott Uranium Co., P. O. Box 1500, Rawlins, WY 82301

FACILITY: Sweetwater Uranium Mill

INSPECTION PARTY: George Palochak, Maintenance Supervisor and Don Stauffenberg, State Inspector of Mines

An inspection was made for compliance with the Wyoming State Safety Rules and Regulations and the following conditions were observed:

First Aid:	Present	First Aid Training:	Yes
Housekeeping:	Good	Safety Clothing:	Worn by all
Communications:	Phone/Cell phone	Emergency Numbers Posted:	Yes
Workplace Inspections Documented:	Yes	Inspection Reports:	Posted at site
Equipment Inspection Documented:	Yes		

There are four employees working one, ten-hour shift a day, four days a week. They have had no lost time accidents in 2005. There is a security guard at the site during the off-shift hours.

They are operating the perimeter pump back/corrective action wells. The tailings cell evaporation system has been shut down due to freezing weather. They are still in a care and maintenance mode with the mill and mine property.

The shop buildings and mill shop were inspected. We discussed the inspection of safety harnesses and lanyards. A handout explaining the inspection criteria was given to mine personnel.

They have let a contract for remediation work in the Catchment Basin near the mill. The unsuitable material that is excavated will be placed in the tails cell. This contractor will start work after the first of the year. I will return at that time.

Corrective Actions Requested

None at this time.

Cooperation gratefully acknowledged.

Don Stauffenberg
State Inspector of Mines



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DAVE FREUDENTHAL
GOVERNOR

2

April 25, 2005

INSPECTION REPORT

INSPECTION DATE: April 21, 2005

OPERATOR: Kennecott Uranium Co., Box 1500, Rawlins, WY 82301

FACILITY: Sweetwater Uranium Mill

INSPECTION PARTY: George Palochak, Maintenance Supervisor and Don Stauffenberg, State Inspector of Mines

An inspection was made for compliance with the Wyoming State Safety Rules and Regulations and the following conditions were observed:

First Aid:	Present	First Aid Training:	Yes
Housekeeping:	Good	Safety Clothing:	Worn by all
Communications:	Phone & Cell phone	Emergency Numbers Posted:	Yes
Workplace Inspections Documented:	Yes	Inspection Reports:	Posted at site
Equipment Inspection Documented:	Yes		

There are four employees working one, ten-hour shift a day, four days a week. They have had no lost time accidents in 2005. There is a security guard at the site during the off shift hours.

They are operating the perimeter pump back/corrective action wells. The tailings cell evaporation system is also operating. They are still in a care and maintenance mode with the mill and mine property.

The land farm area, tails cell, pit area and the shop buildings were inspected.

Corrective Actions Requested: None at this time.

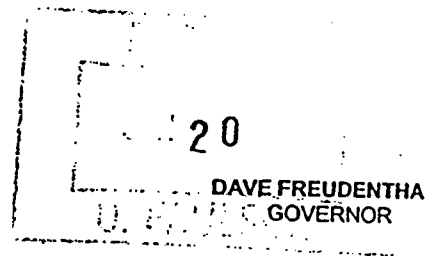
Cooperation gratefully acknowledged.

Don Stauffenberg
State Inspector of Mines



THE STATE

OF WYOMING



Department of Employment

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State Inspector of Mines

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INSPECTION REPORT

June 14, 2004

INSPECTION DATE: June 10, 2004

OPERATOR: Kennecott Uranium Co., Box 1500, Rawlins, WY 82301

FACILITY: Sweetwater Uranium Mill

INSPECTION PARTY: Oscar Paulson, Facility Supervisor and Don Stauffenberg, State Inspector of Mines

An inspection was made for compliance with the Wyoming State Safety Rules and Regulations and the following conditions were observed:

First Aid:	Present	First Aid Training:	Yes
Housekeeping:	Good	Safety Clothing:	Worn by all
Communications:	Phone & Cell phone	Emergency Numbers Posted:	Yes
Workplace Inspections Documented:	Yes	Inspection Reports:	Posted at site
Equipment Inspection Documented:	Yes		

There are four employees working one, ten-hour shift a day, four days a week. They have had no lost time accident in 2004. There is a security guard at the site during the off shift hours.

They are operating the perimeter pump back/corrective action wells. The tailings cell evaporation system is also operating. They are still in a care and maintenance mode with the mill and mine property.

There is one contractor on site. This contractor is digging pits in the land farm with a backhoe. A sample taken from soil that was dug from the pit, to check for diesel contamination, then the material is placed back into the pit. No one required to get down into the sample pits. This operation was not active during my inspection.

The land farm, tails cell, pit area and the shop buildings were inspected.

Corrective Actions Requested: None at this time.

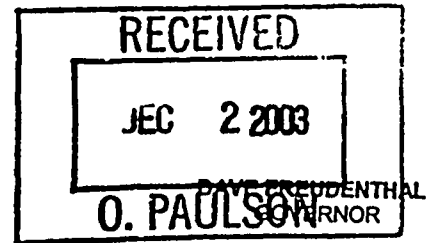
Cooperation gratefully acknowledged.

Don Stauffenberg
State Inspector of Mines



THE STATE

OF WYOMING



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December 1, 2003

INSPECTION REPORT

INSPECTION DATE: November 20, 2003

OPERATOR: Kennecott Uranium Co., Box 1500, Rawlins, WY 82301

FACILITY: Sweetwater Uranium Mill

INSPECTION PARTY: Oscar Paulson, Facility Supervisor; George Palochak, Mill Foreman; and Don Stauffenberg, State Inspector of Mines

An inspection was made for compliance with the Wyoming State Safety Rules and Regulations and the following conditions were observed:

First Aid: Present	First Aid Training: Yes
Housekeeping: Good	Safety Clothing: Worn by all
Communications: Phone & Cell phone	Emergency Numbers Posted: Yes
Workplace Inspections Documented: Yes	
Equipment Inspection Documented: Yes	
Inspection Reports: Posted at site	

There are four employees working one, ten hour shift a day, four days a week. They have had no lost time accidents in 2003. There is a security guard at the site during the off shift hours.

They are operating the perimeter pump back/corrective action wells. The tailings cell evaporation system has been shut down for the winter.

They are still in a care and maintenance mode with the mill and mine property. The mill and all buildings were inspected.

The corrective actions requested during my last inspection have been corrected.

Corrective Actions Requested: 0
None at this time.

Cooperation gratefully acknowledged.

Don Stauffenberg
State Inspector of Mines



THE STATE

OF WYOMING

DAVE FREUDENTHAL
GOVERNOR

4 15

Department of Employment

DONALD G. STAUFFENBERG
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P. O. Box 1094
Rock Springs, Wyoming 82902
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January 13, 2002

INSPECTION REPORT

INSPECTION DATE: January 9, 2003

OPERATOR: Kennecott Uranium Co., Box 1500, Rawlins, WY 82301

FACILITY: Sweetwater Uranium Mill

INSPECTION PARTY: Oscar Paulson, Facility Supervisor; and Don Stauffenberg, State Inspector of Mines

An inspection was made for compliance with the Wyoming State Safety Rules and Regulations and the following conditions were observed:

First Aid: Present	First Aid Training: Yes
Housekeeping: Good	Safety Clothing: Worn by all
Communications: Phone & Cell phone	Emergency Numbers Posted: Yes
Workplace Inspections Documented: Yes	
Equipment Inspection Documented: Yes	
Inspection Reports: Posted at site	

There are four employees working one, ten hour shift a day, four days a week. They have had no lost time accidents in 2003. There is a security guard at the site during the off shift hours.

They are operating the perimeter pump back/corrective action wells. The tailings cell evaporation system has been shut down for the winter.

They are still in a care and maintenance mode with the mill and mine property.

There are two contractors on site. One is excavating diesel contaminated soil and placing it in a land farm, and the other is checking for leaks in water and waste lines. If leaks are found they are excavated and repaired.

The corrective actions requested during my last inspection have been corrected.

Corrective Actions Requested: 0
None at this time.

Cooperation gratefully acknowledged.

Don Stauffenberg
State Inspector of Mines



JIM GERINGER
GOVERNOR

21

Department of Employment

DONALD G. STAUFFENBERG
STATE INSPECTOR OF MINES

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P.O. BOX 1094
ROCK SPRINGS, WYOMING 82902
TELEPHONE 307-362-5222

September 23, 2002

INSPECTION REPORT

INSPECTION DATE: September 19, 2002

OPERATOR: Kennecott Uranium Co., Box 1500, Rawlins, WY 82301

FACILITY: Sweetwater Uranium Mill

INSPECTION PARTY: Oscar Paulson, Facility Supervisor; and Don Stauffenberg, State Inspector of Mines

An inspection was made for compliance with the Wyoming State Safety Rules and Regulations and the following conditions were observed:

First Aid: Present	First Aid Training: Yes
Housekeeping: Good	Safety Clothing: Worn by all
Communications: Phone & Cell phone	Emergency Numbers Posted: Yes
Workplace Inspections Documented: Yes	
Equipment Inspection Documented: Yes	
Inspection Reports: Posted at site	

There are four employees working one, ten hour shift a day, four days a week. They have had no lost time accidents in 2002. There is a security guard at the site during the off shift hours.

They are operating the perimeter pump back/corrective action wells. The tailings cell evaporation system is also operating.

They are still in a care and maintenance mode with the mill and mine property.

There are two contractors on site excavating diesel contaminated soil and placing it in a land farm and checking for leaks in fuel, water and waste lines. If leaks are found they are excavated and repaired.

The corrective actions requested during my last inspection have been corrected.

Corrective Actions Requested: 0
None at this time.

Cooperation gratefully acknowledged.

Don Stauffenberg
State Inspector of Mines



DONALD G. STAUFFENBERG
STATE INSPECTOR OF MINES

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TELEPHONE 307-362-5222

JIM GERINGER
GOVERNOR

February 25, 2002

INSPECTION REPORT

INSPECTION DATE: February 14, 2002

OPERATOR: Kennecott Uranium Co., Box 1500, Rawlins, WY 82301

FACILITY: Sweetwater Uranium Mill

INSPECTION PARTY: Oscar Paulson, Facility Supervisor; George Palochak, Mill Foreman; and Don Stauffenberg, State Inspector of Mines

An inspection was made for compliance with the Wyoming State Safety Rules and Regulations and the following conditions were observed:

First Aid: Present
Fire Protection: Present
Communications: Phone, Cellular Phone and Radio
Housekeeping: Good
Safety Clothing: Worn by all
Inspection Reports: Posted

There are four employees working one, ten hour shift a day, four days a week. They have had no lost time accidents in 2002. There is a security guard at the site during the off shift hours.

They are operating the perimeter pump back/corrective action wells. The tailings cell evaporation system is idle.

They are still in a care and maintenance mode with the mill and mine property.

The contractor is still on site excavating diesel contaminated soil and placing it in a land farm.

The corrective actions requested during my last inspection have been corrected.

Corrective Actions Requested: 0
None at this time.

Cooperation gratefully acknowledged.

Don Stauffenberg
State Inspector of Mines

THE STATE



OF WYOMING

JIM GERINGER
GOVERNOR

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ROCK SPRINGS, WYOMING 82902
TELEPHONE 307-362-5222

December 12, 2001

INSPECTION REPORT

INSPECTION DATE: December 7, 2001

OPERATOR: Kennecott Uranium Co., Box 1500, Rawlins, WY 82301

FACILITY: Sweetwater Uranium Mill

INSPECTION PARTY: Oscar Paulson, Facility Supervisor; George Palochak, Mill Foreman; and Don Stauffenberg, State Inspector of Mines

An inspection was made for compliance with the Wyoming State Safety Rules and Regulations and the following conditions were observed:

First Aid: Present
Fire Protection: Present
Communications: Phone, Cellular Phone and Radio
Housekeeping: Good
Safety Clothing: Worn by all
Inspection Reports: Posted

There are four employees working one, ten hour shift a day, four days a week. They have had no lost time accidents in 2001. There is a security guard at the site during the off shift hours.

They are operating the perimeter pump back/corrective action wells and the tailings cell evaporation system.

They are still in a care and maintenance mode with the mill and mine property.

They have a contractor on site who is excavating diesel contaminated soil and placing it in a land farm.

The corrective actions requested during my last inspection have been corrected.

Corrective Actions Requested: 0
None at this time.

Cooperation gratefully acknowledged.

Don Stauffenberg
State Inspector of Mines

*Department of Employment*DONALD G. STAUFFENBERG
STATE INSPECTOR OF MINESOFFICE OF MINE INSPECTOR
P.O. BOX 1094
ROCK SPRINGS, WYOMING 82902
TELEPHONE 307-362-5222

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RETURN TO: SAS-post	

16, 2001

INSPECTION REPORT

INSPECTION DATE: July 12, 2001

OPERATOR: Kennecott Uranium Co., Box 1500, Rawlins, WY 82301

FACILITY: Sweetwater Uranium Mill

INSPECTION PARTY: Oscar Paulson, Facility Supervisor; George Palochak, Mill Foreman; and Don Stauffenberg, State Inspector of Mines

An inspection was made for compliance with the Wyoming State Safety Rules and Regulations and the following conditions were observed:

First Aid: Present
Fire Protection: Present
Communications: Phone, Cellular Phone and Radio
Housekeeping: Good
Safety Clothing: Worn by all
Inspection Reports: Posted

There are four employees working one, ten hour shift a day, four days a week. They have had no lost time accidents in 2001. There is a security guard at the site during the off shift hours.

They are operating the perimeter pump back/corrective action wells and the tailings cell evaporation system.

They are still in a care and maintenance mode with the mill and mine property.

US Energy Corp. is working on a road and pad in the tails cell area.

The corrective actions requested during my last inspection have been corrected.

Corrective Actions Requested: 0
None at this time.

Cooperation gratefully acknowledged.

Don Stauffenberg
State Inspector of Mines

APPENDIX X



Figure 1. Aerial View of the Sweetwater Uranium Project - 1980

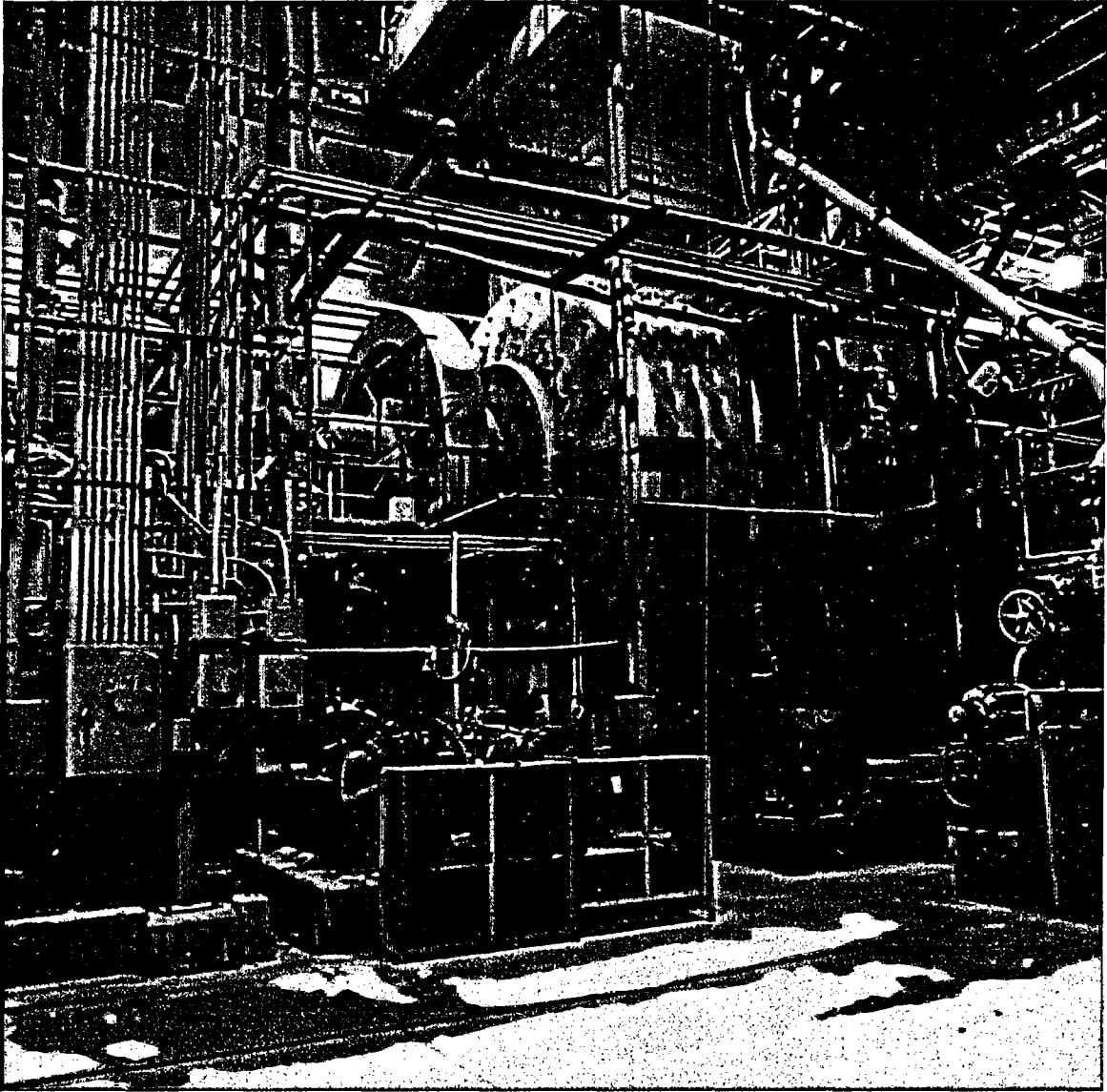


Figure 2. Mill Building Interior - Semi-Autogenous Grinding Mill

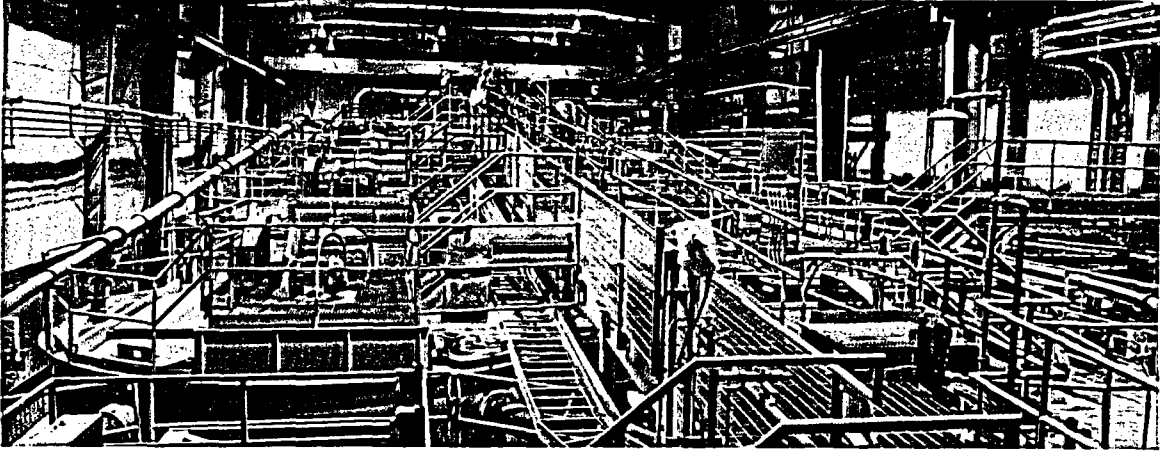


Figure 3. Mill Building Interior - Leaching Area

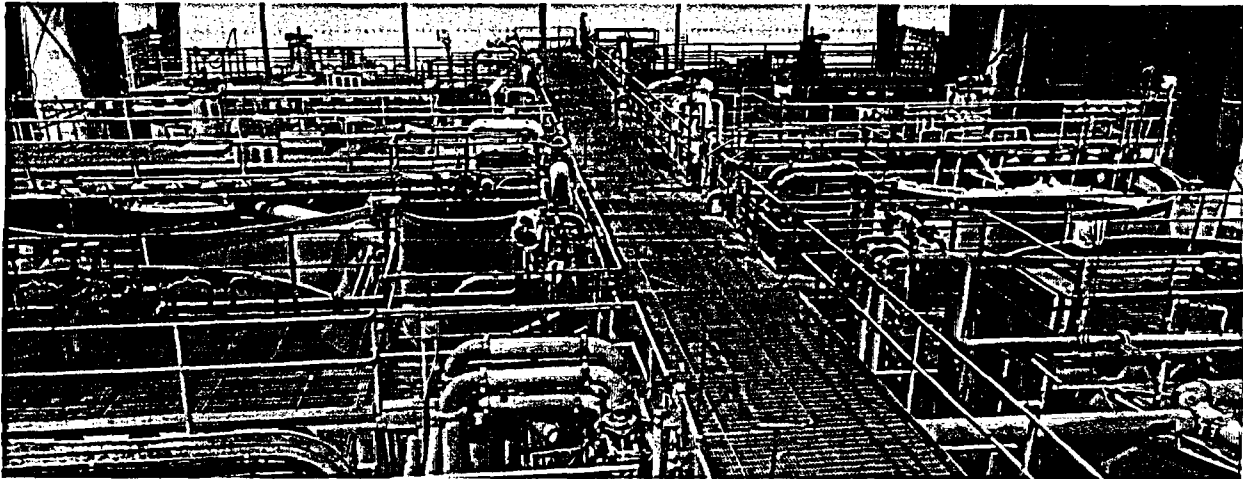


Figure 4. Mill Building Interior - Counter Current Decantation (CCD) Area

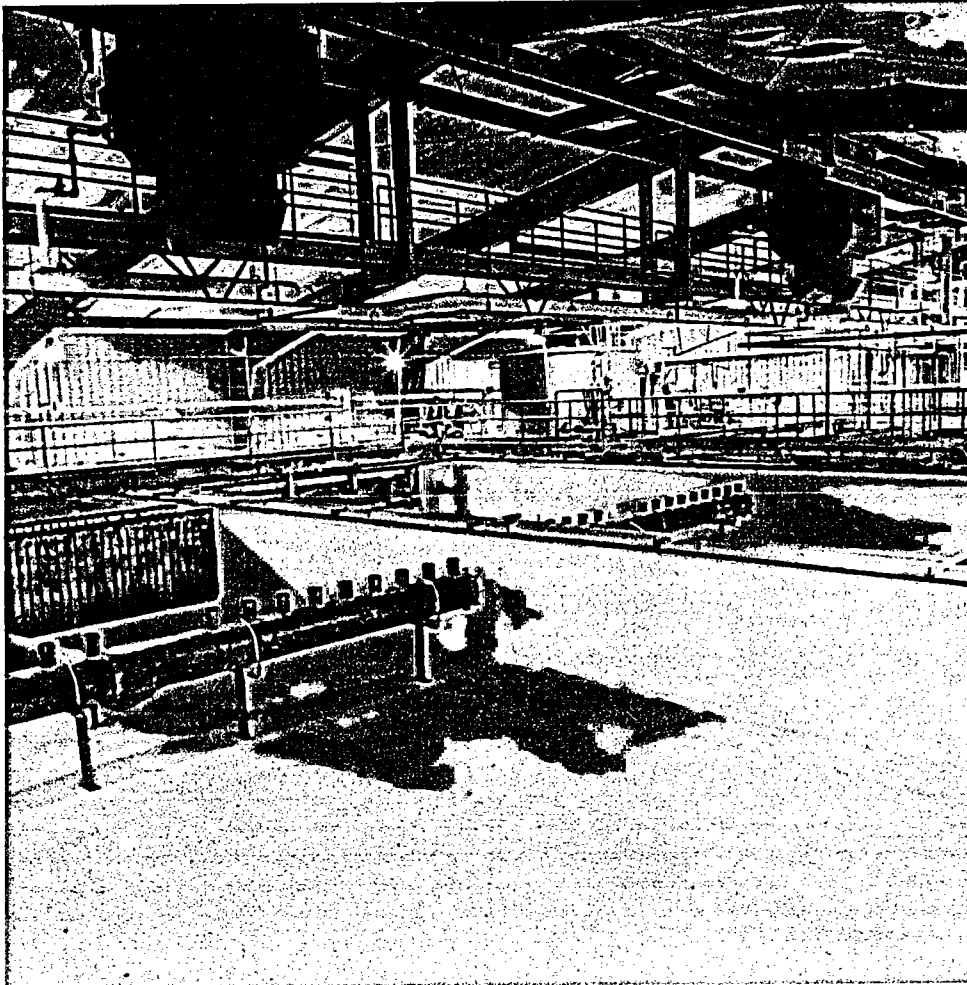


Figure 5. Solvent Extraction (SX) Building Interior

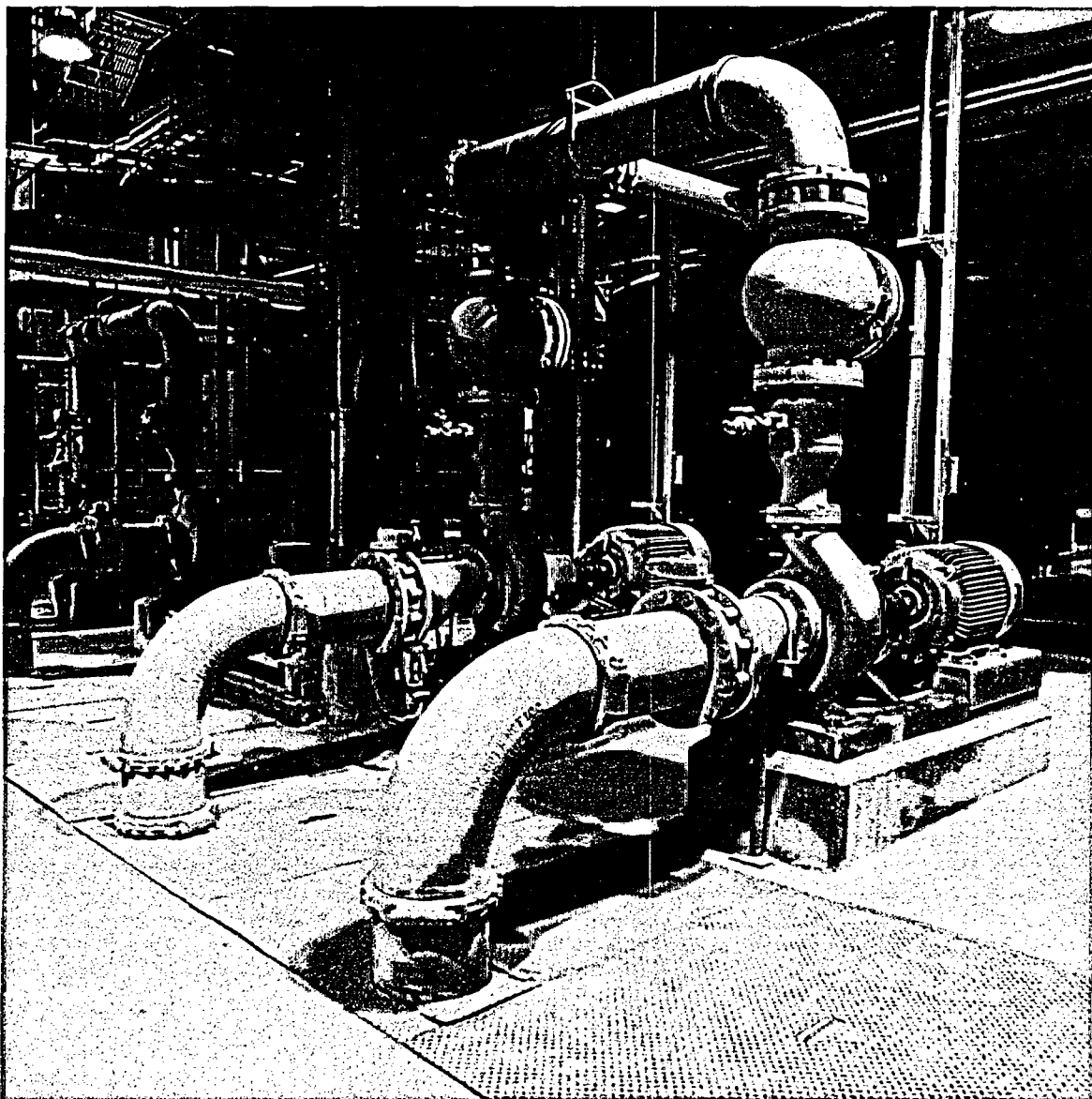


Figure 6. Pumps in Mill Building

APPENDIX XI

KENNECOTT URANIUM COMPANY
SWEETWATER URANIUM PROJECT
Source Material License SUA-1350

CONTINUOUS LOW-VOLUME AIR PARTICULATE ANALYSIS

STATION 4A - 2005

Quarter/Date Sampled Air Volume	Radionuclide	Concentration μCi/ml	Error Estimate μCi/ml	LLD μCi/ml	Effluent Conc.* pCi/ml	% Effluent Concentration
1st Quarter 1/1/05 - 4/4/05 Air Vol in mLs 4.38 E+10	U-nat	<1.00 E-16	N/A	1.00 E-16	9.00 E-14	<1.11 E-01
	Th-230	<1.00 E-16	N/A	1.00 E-16	3.00 E-14	<3.33 E-01
	Ra-226	1.11 E-16	3.25 E-17	1.00 E-16	9.00 E-13	1.23 E-02
	Pb-210	1.61 E-14	3.25 E-16	2.00 E-15	6.00 E-13	2.68 E+00
2nd Quarter 4/4/05 - 7/3/05 Air Vol in mLs 4.39 E+10	U-nat	2.16 E-16	N/A	1.00 E-16	9.00 E-14	2.40 E-01
	Th-230	1.15 E-16	2.59 E-17	1.00 E-16	3.00 E-14	3.82 E-01
	Ra-226	1.95 E-16	7.78 E-17	1.00 E-16	9.00 E-13	2.16 E-02
	Pb-210	1.38 E-14	3.33 E-16	2.00 E-15	6.00 E-13	2.30 E-00
3rd Quarter 7/3/05 - 10/1/05 Air Vol in mLs 4.18 E+10	U-nat	1.12 E-16	N/A	1.00 E-16	9.00 E-14	1.25 E-01
	Th-230	<1.00 E-16	N/A	1.00 E-16	3.00 E-14	<3.33 E-01
	Ra-226	1.60 E-16	4.07 E-17	1.00 E-16	9.00 E-13	1.78 E-02
	Pb-210	9.71 E-15	4.26 E-16	2.00 E-15	6.00 E-13	1.62 E+00
4th Quarter 10/1/05 - 1/1/06 Air Vol in mLs 4.56 E+10	U-nat	1.21 E-16	N/A	1.00 E-16	9.00 E-14	1.34 E-01
	Th-230	<1.00 E-16	N/A	1.00 E-16	3.00 E-14	<3.33 E-01
	Ra-226	<1.00 E-16	N/A	1.00 E-16	9.00 E-13	<1.11 E-02
	Pb-210	2.65 E-14	5.79 E-16	2.00 E-15	6.00 E-13	4.42 E+00

LLD's are as published in Reg. Guide 4.14

*Effluent Concentration from the NEW 10 CFR Part 20 - Appendix B - Table 2

Year for Natural Uranium

Year for Thorium-230

Week for Radium-226

Day for Lead-210

**KENNECOTT URANIUM COMPANY
SWEETWATER URANIUM PROJECT
Source Material License SUA-1350**

CONTINUOUS LOW-VOLUME AIR PARTICULATE ANALYSIS

STATION 4A - 2004

Quarter/Date Sampled Air Volume	Radionuclide	Concentration $\mu\text{Ci}/\text{ml}$	Error Estimate $\mu\text{Ci}/\text{ml}$	LLD $\mu\text{Ci}/\text{ml}$	Effluent Conc.* $\mu\text{Ci}/\text{ml}$	% Effluent Concentration
1st Quarter 1/1/04 - 4/1/04 Air Vol in mLs 4.17 E+10	U-nat	<1.00 E-16	N/A	1.00 E-16	9.00 E-14	<1.11 E-01
	Th-230	<1.00 E-16	N/A	1.00 E-16	3.00 E-14	<3.33 E-01
	Ra-226	<1.00 E-16	N/A	1.00 E-16	9.00 E-13	<1.11 E-02
	Pb-210	1.39 E-14	2.85 E-16	2.00 E-15	6.00 E-13	2.32 E+00
2nd Quarter 4/1/04 - 6/30/04 Air Vol in mLs 3.94 E+10	U-nat	<1.00 E-16	N/A	1.00 E-16	9.00 E-14	<1.11 E-01
	Th-230	1.38 E-16	3.62 E-17	1.00 E-16	3.00 E-14	4.58 E-01
	Ra-226	<1.00 E-16	N/A	1.00 E-16	9.00 E-13	<1.11 E-02
	Pb-210	3.62 E-15	4.63 E-16	2.00 E-15	6.00 E-13	6.04 E-01
3rd Quarter 6/30/04 - 10/4/04 Air Vol in mLs 4.31 E+10	U-nat	<1.00 E-16	N/A	1.00 E-16	9.00 E-14	<1.11 E-01
	Th-230	<1.00 E-16	N/A	1.00 E-16	3.00 E-14	<3.33 E-01
	Ra-226	<1.00 E-16	N/A	1.00 E-16	9.00 E-13	<1.11 E-02
	Pb-210	<2.00 E-15	N/A	2.00 E-15	6.00 E-13	<3.33 E-01
4th Quarter Air Vol in mLs	U-nat	1.09 E-16	N/A	1.00 E-16	9.00 E-14	1.21 E-01
	Th-230	2.99 E-16	3.45 E-17	1.00 E-16	3.00 E-14	9.97 E-01
	Ra-226	2.69 E-16	3.45 E-17	1.00 E-16	9.00 E-13	2.99 E-02
	Pb-210	1.76 E-14	2.88 E-16	2.00 E-15	6.00 E-13	2.93 E+00

LLD's are as published in Reg. Guide 4.14

*Effluent Concentration from the NEW 10 CFR Part 20 - Appendix B - Table 2

Year for Natural Uranium

Year for Thorium-230

Week for Radium-226

Day for Lead-210

**KENNECOTT URANIUM COMPANY
SWEETWATER URANIUM PROJECT
Source Material License SUA-1350**

CONTINUOUS LOW-VOLUME AIR PARTICULATE ANALYSIS

STATION 4A - 2003

Quarter/Date Sampled Air Volume	Radionuclide	Concentration μCi/ml	Error Estimate μCi/ml	LLD μCi/ml	Effluent Conc.* pCi/ml	% Effluent Concentration
1st Quarter 1/2/03 – 3/31/03 Air Vol in mLs 4.59 E+10	U-nat	<1.00 E-16	N/A	1.00 E-16	9.00 E-14	<1.11 E-01
	Th-230	<1.00 E-16	N/A	1.00 E-16	3.00 E-14	<3.33 E-01
	Ra-226	<1.00 E-16	N/A	1.00 E-16	9.00 E-13	<1.11 E-02
	Pb-210	6.44 E-15	1.70 E-16	2.00 E-15	6.00 E-13	1.07 E+00
2nd Quarter 3/31/03–6/30/03 Air Vol in mLs 4.63 E+10	U-nat	<1.00 E-16	N/A	1.00 E-16	9.00 E-14	<1.11 E-01
	Th-230	5.38 E-16	5.13 E-17	1.00 E-16	3.00 E-14	1.79 E+00
	Ra-226	1.42 E-16	2.67 E-17	1.00 E-16	9.00 E-13	1.57 E-02
	Pb-210	6.11 E-15	1.70 E-16	2.00 E-15	6.00 E-13	1.02 E+00
3rd Quarter 6/30/03–10/1/03 Air Vol in mLs 4.41 E+10	U-nat	1.15 E-16	N/A	1.00 E-16	9.00 E-14	1.28 E-01
	Th-230	1.01 E-16	2.37 E-17	1.00 E-16	3.00 E-14	3.37 E-01
	Ra-226	<1.00 E-16	N/A	1.00 E-16	9.00 E-13	<1.11 E-02
	Pb-210	1.47 E-14	3.19 E-16	2.00 E-15	6.00 E-13	2.45 E+00
4th Quarter 10/1/03 – 1/1/04 Air Vol in mLs 4.23 E+10	U-nat	<1.00 E-16	N/A	1.00 E-16	9.00 E-14	<1.11 E-01
	Th-230	<1.00 E-16	N/A	1.00 E-16	3.00 E-14	<3.33 E-01
	Ra-226	<1.00 E-16	N/A	1.00 E-16	9.00 E-13	<1.11 E-02
	Pb-210	4.72 E-15	1.12 E-16	2.00 E-15	6.00 E-13	7.86 E-01

LLD's are as published in Reg. Guide 4.14

*Effluent Concentration from the NEW 10 CFR Part 20 - Appendix B - Table 2

Year for Natural Uranium

Year for Thorium-230

Week for Radium-226

Day for Lead-210

KENNECOTT URANIUM COMPANY
SWEETWATER URANIUM PROJECT
Source Material License SUA-1350

CONTINUOUS LOW-VOLUME AIR PARTICULATE ANALYSIS

STATION 4A - 2002

Quarter/Date Sampled Air Volume	Radionuclide	Concentration $\mu\text{Ci/ml}$	Error Estimate $\mu\text{Ci/ml}$	LLD $\mu\text{Ci/ml}$	Effluent Conc.* $\mu\text{Ci/ml}$	% Effluent Concentration
1st Quarter 1/2 - 3/31/02 Air Vol in mLs 4.57 E+10	U-nat	<1.00 E-16	N/A	1.00 E-16	9.00 E-14	<1.11 E-01
	Th-230	<1.00 E-16	N/A	1.00 E-16	3.00 E-14	<3.33 E-01
	Ra-226	<1.00 E-16	N/A	1.00 E-16	9.00 E-13	<1.11 E-02
	Pb-210	5.57 E-15	2.41 E-16	2.00 E-15	6.00 E-13	9.29 E-01
2nd Quarter 3/31 - 7/1/02 Air Vol in mLs 4.51 E+10	U-nat	<1.00 E-16	N/A	1.00 E-16	9.00 E-14	<1.11 E-01
	Th-230	<1.00 E-16	N/A	1.00 E-16	3.00 E-14	<3.33 E-01
	Ra-226	<1.00 E-16	N/A	1.00 E-16	9.00 E-13	<1.11 E-02
	Pb-210	2.53 E-15	1.41 E-16	2.00 E-15	6.00 E-13	4.21 E-01
3rd Quarter 7/1 - 9/30/02 Air Vol in mLs 4.79 E+10	U-nat	1.06 E-16	N/A	1.00 E-16	9.00 E-14	1.18 E-01
	Th-230	<1.00 E-16	N/A	1.00 E-16	3.00 E-14	<3.33 E-01
	Ra-226	<1.00 E-16	N/A	1.00 E-16	9.00 E-13	<1.11 E-02
	Pb-210	5.57 E-15	1.71 E-16	2.00 E-15	6.00 E-13	9.28 E-01
4th Quarter 9/30/02-1/2/03 Air Vol in mLs 5.36 E+10	U-nat	<1.00 E-16	N/A	1.00 E-16	9.00 E-14	<1.11 E-01
	Th-230	<1.00 E-16	N/A	1.00 E-16	3.00 E-14	<3.33 E-01
	Ra-226	1.36 E-16	2.41 E-17	1.00 E-16	9.00 E-13	1.51 E-02
	Pb-210	1.74 E-14	1.66 E-15	2.00 E-15	6.00 E-13	2.89 E+00

LLD's are as published in Reg. Guide 4.14

*Effluent Concentration from the NEW 10 CFR Part 20 - Appendix B - Table 2

Year for Natural Uranium

Year for Thorium-230

Week for Radium-226

Day for Lead-210

**KENNECOTT URANIUM COMPANY
SWEETWATER URANIUM PROJECT
Source Material License SUA-1350**

CONTINUOUS LOW-VOLUME AIR PARTICULATE ANALYSIS

STATION 4A - 2001

Quarter/Date Sampled Air Volume	Radionuclide	Concentration μCi/ml	Error Estimate μCi/ml	LLD μCi/ml	Effluent Conc.* pCi/ml	% Effluent Concentration
1st Quarter 1/2/01 - 4/1/01 Air Vol in mLs 4.78 E+10	U-nat Th-230 Ra-226 Pb-210	<1.00 E-16 <1.00 E-16 <1.00 E-16 1.89 E-14	N/A N/A N/A 1.31 E-15	1.00 E-16 1.00 E-16 1.00 E-16 2.00 E-15	9.00 E-14 3.00 E-14 9.00 E-13 6.00 E-13	<1.11 E-01 <3.33 E-01 <1.11 E-02 3.16 E+00
2nd Quarter 4/1 - 7/1/01 Air Vol in mLs 4.58 E+10	U-nat Th-230 Ra-226 Pb-210	<1.00 E-16 <1.00 E-16 <1.00 E-16 4.72 E-15	N/A N/A N/A 2.23 E-16	1.00 E-16 1.00 E-16 1.00 E-16 2.00 E-15	9.00 E-14 3.00 E-14 9.00 E-13 6.00 E-13	<1.11 E-01 <3.33 E-01 <1.11 E-02 7.86 E-01
3rd Quarter 7/1 - 10/1/01 Air Vol in mLs 4.87 E+10	U-nat Th-230 Ra-226 Pb-210	3.34 E-16 2.58 E-16 <1.00 E-16 1.33 E-15	N/A 4.94 E-17 N/A 2.67 E-16	1.00 E-16 1.00 E-16 1.00 E-16 2.00 E-15	9.00 E-14 3.00 E-14 9.00 E-13 6.00 E-13	3.72 E-01 8.61 E-01 <1.11 E-02 2.21 E+00
4th Quarter 10/1/01-1/2/02 Air Vol in mLs 4.26 E+10	U-nat Th-230 Ra-226 Pb-210	<1.00 E-16 <1.00 E-16 <1.00 E-16 1.46 E-14	N/A N/A N/A 2.56 E-16	1.00 E-16 1.00 E-16 1.00 E-16 2.00 E-15	9.00 E-14 3.00 E-14 9.00 E-13 6.00 E-13	<1.11 E-01 <3.33 E-01 <1.11 E-02 2.44 E+00

LLD's are as published in Reg. Guide 4.14

*Effluent Concentration from the NEW 10 CFR Part 20 - Appendix B - Table 2

Year for Natural Uranium

Year for Thorium-230

Week for Radium-226

Day for Lead-210

Notes:

The results for natural uranium, thorium-230 and radium-226 were all below the lower limit of detection (LLD) for the first and fourth quarters of 2001 because the ground surface was snow or frost-covered for most of the quarter, resulting in extremely low levels of airborne particulates.

APPENDIX XII



**AMERICAN
MINING
CONGRESS**

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April 19, 1993

Secretary

U.S. Nuclear Regulatory Commission

Washington, D.C. 20555

Attn: Docketing and Service Branch

Re: Comments on Timeliness in Decommissioning of
Materials Facilities (RIN 3150-AD85)

Dear Secretary:

On January 13, 1993, the Nuclear Regulatory Commission (NRC) published a proposed rule that would require timely decontamination and decommissioning of the facilities of nuclear material licensees, including uranium recovery facilities other than waste disposal areas associated therewith. 58 Fed. Reg. 4099, 4101-02. The proposed rule would amend 10 C.F.R. Part 40 and establish specific time periods for decommissioning unused portions of operating uranium recovery facilities and for decommissioning the entire site upon termination of operations. These comments on the proposed rule are submitted by the American Mining Congress (AMC).

AMC is a national trade association representing: (1) producers of most of the United States' metals, uranium, coal, and industrial and agricultural minerals; (2) manufacturers of mining and mineral processing machinery, equipment and supplies; and (3) engineering and consulting firms and financial institutions that serve the mining industry. Many of AMC's member companies will be significantly and directly affected by the proposed rule.

AMC generally supports the idea of reasonable guidelines, and even milestones for certain appropriate decommissioning events. Such guidelines/milestones, if properly developed, can provide the public and NRC licensees with a framework to direct such activities. The time frames and assumptions that underly the current proposal, however, do not adequately address: (1) the detailed and comprehensive requirements applicable to uranium recovery facilities, (2) the nature of the uranium marketplace, (3) the impracticality of piece-meal closure at such facilities, or (4) the realistic likelihood that NRC

can fulfill its responsibilities in a timely manner based upon the past experience and the proposed closure of the Uranium Recovery Field Office (URFO). AMC, therefore, strongly urges NRC to build more flexibility into the proposed revisions to Part 40 affecting uranium recovery facilities. This flexibility is necessary to allow for consideration of site-specific and/or process-specific conditions. It would reflect a presumption that prolonged "standby status" adequately protects public health and safety, unless NRC makes an affirmative finding to the contrary.

I. General Comments.

AMC recognizes that there is value in setting milestones for decommissioning activities. NRC licensees need to know what is expected of them as they begin to cease operations and prepare to close and decommission their facilities and terminate their licenses. AMC notes that the concept of an explicit time frame for decommissioning with milestones to measure progress toward closure is reflected currently in the context of decommissioning and closure of uranium mill tailings impoundments in both an NRC/Environmental Protection Agency (EPA) Memorandum of Understanding, 56 Fed. Reg. 55434 (October 25, 1991) (MOU), and in a proposed settlement agreement between AMC, EPA and the Environmental Defense Fund (EDF) relating to closure of such sites. 58 Fed. Reg. 17230 (April 1, 1993).

Both of the above referenced documents, however, address uranium mill tailings impoundment closure and decommissioning. The fact that tight time frames were developed for these facilities does not justify a similar, inflexible approach for other facilities. As discussed before, AMC requests that the proposed rule be revised to provide for more flexibility in the time frame for decommissioning. In addition, NRC must recognize that, for many sites, a longer time frame will be required than that which is proposed.

II. The Rule Must Provide Flexible and Reasonable Time Frames.

Radon emissions from uranium mill tailings impoundments have been judged by both NRC and EPA to be the dominant potential threat to public health from uranium recovery operations.¹ Thus, as a result of its concerns about prompt closure of inactive tailings impoundments, EPA supported timeliness criteria. 54

¹See NRC Final Generic, Environmental Impact Statement on Uranium Milling ("GEIS"), NUREG-0706, Vol. I at 4, 6-72-74; Vol. II at A-15, 17, 25, 31, 35 (hereinafter "NRC GEIS"); See also, EPA, Final Environmental Impact Statement for Remedial Action Standards for Inactive Uranium Processing Sites, Vol. I at 63 (1982).

Fed. Reg. 51654, 51683 (December 15, 1989).² Even the public health risks from inactive tailings facilities are insignificant, however, and the risk from other aspects of uranium recovery operations is considerably smaller. Indeed, there is no suggestion that inactive uranium milling facilities or surface facilities at in situ leach (ISL) sites pose an equivalent public health concern. Therefore, tight time frames for decommissioning are not appropriate or necessary. This is particularly true in light of the multitude of regulatory controls and reporting requirements applicable to such facilities while operating at maximum capacity or on standby--even uranium mill tailings impoundments must meet the 20 pCi/m²/sec radon flux limit in 40 C.F.R. Part 61, Subpart W during standby conditions.

Both the EPA/NRC MOU and the proposed settlement agreement recognize the need for flexibility due to site specific conditions, including those beyond the control of the licensee. These documents provide licensees with protection with respect to meeting milestones or completing final closure when circumstances beyond a licensee's control affect its capability to comply in a timely fashion. The proposed settlement agreement even provides the licensees with the flexibility to keep portions of the tailings pile open to receive waste for an essentially open-ended time frame, so long as compliance with the flux limit is demonstrated. Thus, NRC and EPA have demonstrated more apparent flexibility towards closure of inactive tailings impoundments (which pose a greater potential risk), than the NRC does in the proposal related to decommissioning the related, but less risky, uranium recovery facilities.

Additionally, section 84(c) of the Uranium Mill Tailings Radiation Control Act (UMTRCA) explicitly provides licensees with the right to propose alternatives based on site specific factors (such as local or regional conditions, including geology, topography, hydrology and meteorology).³ This kind of flexibility is necessary as site-specific and/or process-specific conditions may not fit neatly with generic requirements and assumptions. AMC believes that the NRC's proposed rule does not provide the necessary flexibility for uranium recovery licensees.

²Although, as NRC has noted, even the potential radiation exposure to the public from uranium mill tailings piles presents no acute health hazard because "long and sustained exposure to radioactivity in the tailings pile would be required to produce any significant chance of adverse effect." NRC GEIS Vol. I at 12-31.

³"The NRC is obligated to consider site specific alternatives proposed by licensees by law and agency rules." See Memorandum from Herzel Plaine, General Counsel, USNRC, to the NRC Commissioners re: Uranium Mill Tailings--Jurisdictional Bases for EPA's standards, SECY-S5-125 (April 10, 1985).

By fashioning timetables that do not take into account site-specific circumstances, factors beyond the control of the licensee, and the problematic nature of the international market place for the sale of uranium, the proposed rule as presently drafted could undermine the energy security of the United States. Forcing premature decommissioning of uranium production facilities which may be required in the future to provide uranium for electric power generation would be both unwise and unnecessary.

The proposed rule acknowledges the Commission may grant an extension to the 18-month time limit for decommissioning because of the problems with the availability of waste disposal facilities, reductions in dose or waste volume due to radioactive decay, technical feasibility of decommissioning, regulatory requirements of other government agencies, lawsuits, groundwater treatment activities, or monitored natural groundwater restoration. 58 Fed. Reg. at 4101. AMC believes that this time frame is wholly inadequate for application to uranium recovery facilities. Closure and final decommissioning of uranium milling facilities, or portions thereof, may necessarily have to await completion of certain tailings impoundment closure activities before they can be properly and appropriately accomplished. Portions of the milling facility may be necessary for groundwater remediation, and tailings closure (to include burying portions of the dismantled mill) generally has to wait for proper physical conditions. These events alone can take several years. Similarly, at ISL sites, surface facilities are necessary for groundwater restoration that can take years. Thus, a much more reasonable time frame is needed for uranium recovery facilities.

AMC also believes that whatever more reasonable time frame is adopted for uranium recovery facilities, the regulations still need to explicitly provide for flexibility in meeting timetables for any factors beyond the control of the licensee. Assuming the licensee is undertaking good faith efforts to achieve compliance, factors that should allow for delay in schedules include the following:

- site-specific physical conditions;
- inclement weather or climatic conditions (including an act of God);
- a judicial or administrative order or decision; or change to the statutory, regulatory, or other legal requirements applicable to the licensee's facility that would preclude or delay the performance of activities required for compliance;
- labor disturbances;
- any modification, cessation or delay ordered by state, federal or local agencies;

- delays that result from NRC failure to take final action after the licensee has made a good faith, timely effort to submit legally sufficient applications, responses to requests (including relevant data requested by NRC), or other information, including approval of the closure plan by NRC or the affected Agreement state; and
- an act or omission of any third party over whom the licensee has no control.

The regulations should make clear that the Commission will grant extensions of time for decommissioning schedules because of the above listed factors.

UMTRCA already provides the uranium recovery licensees with the right to propose alternatives, but the regulations for all licensees should explicitly provide for licensee-proposed alternative timetables that allow for site-specific and/or process-specific considerations and market fluctuations. Alternative timetables should be acceptable provided the licensee is substantially in compliance with 10 C.F.R. Part 20 and other parts applicable to the type of license held by the facility and the facility represents no significant potential hazard to employees, the public or the environment.

III. Stand-By Situations and the Nature of the Uranium Marketplace Must Be Considered.

The proposed rule states that "with respect to making business decisions on further use of inactive facilities, the Commission considers a period of approximately 24 months to be reasonable." 58 Fed. Reg. 4101. The 24-month period, however, is entirely inadequate for the uranium production industry, and it does not represent a reasonable business cycle for virtually any kind of mining.

As a general matter, the mining industry is very cyclic. Mineral production from beginning to end can be a lengthy process. Many deposits that are being mined may have been under development for years before production began. Often, development and production are put on "standby" due to economic conditions in the international commodity marketplace where most minerals are traded. Market prices over which the mine operator has no control ultimately drive the pace of development and production until the mineral resource is exhausted, at which time reclamation begins. It is not at all unusual for a mining operation to be inactive for five to ten years and then resume operations when the market cycle allows a return to profitability. With respect to the uranium industry, the depressed nature of the market has been exacerbated by the changes in the Commonwealth of Independent States and the subsequent effects of its product in the United States market.

Licensees must be given the option to wait out down-turns in the market by "idling" the facilities and placing them on standby under an appropriate care and maintenance program until such time as operations can profitably be restarted. Uranium mills and ISL facilities represent large investments. The proposed rule could threaten operators' ability to recover necessary and appropriate returns on such investments. If NRC determines that a facility (or even portions thereof) must be decommissioned within 24 months, it essentially could result in NRC controlling and dictating the fate of the domestic uranium production industry.⁴ Given the nature of the uranium production industry and in particular its current "nonviability," the proposed regulations should allow for a longer period than 24 months to commence decommissioning for a uranium production facility that is on standby.

Whatever the time frame that is ultimately promulgated for such facilities, there should be an explicit provision for uranium recovery licensees to, in effect, get an automatic renewal or extension for an equivalent time frame upon application to NRC, unless NRC makes an affirmative finding that a licensee's standby operation poses a threat to public health. The current emphasis in the proposal on licensees demonstrating that extensions would not be "detrimental to the public health and safety" and are "otherwise in the public interest" does not reflect reality. If such facilities do not protect public health and safety and the public interest, then they should not be licensed in the first place. Since they are licensed and subject to comprehensive controls, whether operating at maximum capacity or on standby, the presumption should be that NRC has acted appropriately in the public interest by licensing such facilities initially. Unless NRC finds to the contrary that as a result of changed circumstances, its initial licensing decision is no longer valid, the presumption should be that such facilities can remain on standby indefinitely.

Incorporating this kind of flexibility for uranium production facilities would not pose a hazard to employees, the public, or the environment. The proposed rule suggests that "[i]f decommissioning is delayed for long periods following cessation of operations, there is a risk 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." 58 Fed. Reg. 4100. The Commission further expresses concern that bankruptcy may further delay commissioning. These concerns are unfounded. As noted above, uranium production facilities must be bonded for decommissioning, and NRC

⁴See the comments of the Rio ALGOM Mining Corp. and Quivera Mining Company on the "Timeliness in Decommissioning of Material Facilities" for discussion on the effects of the proposed rule on the Quivera Mining Company's Ambrosia Lake, New Mexico facility and the Smith Ranch Wyoming facility.

licensed facilities are heavily monitored and regulated by the NRC. Thus, renewal of a facility license on standby can be conditioned on ongoing protection of public health.

Facilities on standby are subject to the same rules and regulations as operating ones. To illustrate, these facilities are:

- (1) inspected by the NRC or Agreement State;
- (2) bonded and have adequate surety in place;
- (3) subject to reporting requirements including environmental reporting, ALARA reporting, land use reporting, annual surety updates, corrective action program reviews, and updates to environmental reports;
- (4) required to request license amendments for even minor changes in operations;
- (5) subject to environmental monitoring requirements including groundwater monitoring, air particulate monitoring, upwind and downwind radon gas monitoring, maintenance of a meteorological station, and ambient gamma radiation monitoring;
- (6) subject to health physics monitoring requirements including bioassay (urinalysis) programs for specific employees, workplace gamma radiation monitoring, workplace alpha radiation monitoring, workplace radon gas monitoring, workplace dust sampling, and employee personal breathing zone sampling;
- (7) subject to other health physics requirements such as issuance of radiation work permits for special or non-routine work by employees within specific areas of the facility and radiation training for employees; and
- (8) subject to EPA radon gas emission limits.

These requirements and regulations more than adequately ensure that an idle facility will not pose a threat to human health or the environment. It is not necessary to require automatic reclamation of any facility because of a lack of a "principal activity" when the facility does not present a danger to the public and is in compliance with the applicable regulations. Therefore, it is appropriate to allow facilities to propose their own alternative time schedules and to seek renewal as economic circumstances dictate with a presumption that such renewal will be granted.

IV. The End-of-Use Concept Is Inappropriate for Many Facilities.

The practicality of the "end-of-use" decommissioning concept has major problematic implications at uranium recovery facilities. The proposed regulations focus on end-of-use as a trigger point for decommissioning. Defining end-of-use, however, and applying it in practical terms is often very difficult. At many facilities it is not possible to decontaminate certain buildings or outdoor areas because everything is thoroughly interconnected. Piecemeal decommissioning in all cases of "end-of-use" may not be possible if final decommissioning is to be accomplished. For example, if a uranium mill is on standby then by definition, its crushing, leaching, and solvent extraction circuits are not in use. If these portions of the mill must be decommissioned for that reason, it essentially means the entire mill must be decommissioned, as a mill cannot function without these circuits.

Also as noted above, it is possible at a conventional mill or ISL site to use facilities that are not technically in production, and which may therefore fall within the end-of-use definition, to remediate groundwater. Indeed, at ISL sites, it is also possible to be producing from some well fields and restoring others at the same time. In reality, it would be enormously expensive, time consuming, burdensome, impractical (and maybe even impossible) to decommission certain of these nonproducing facilities or portions thereof.

The proposed rules should be modified to reflect reality at many of the uranium recovery facilities potentially subject to the proposed regulations. The 56-month proposed time frame for completing the decommissioning process is unrealistic for some uranium milling facilities as well as ISL facilities. Groundwater restoration (which requires the ongoing operation of surface processing facilities) is the major decommissioning element for in-situ facilities and can often take seven to ten years to complete. Groundwater corrective action at conventional milling facilities can often require equal or greater time frames. The proposed regulations should be revised to address these concerns.

V. Specific Comments

A. Redundant Regulations.

Redundant requirements should be carefully charted and removed. For example, the proposed rule requires a decommissioning plan to be submitted to NRC 12 months prior to cessation of principal activities. This requirement, however, is already contained in existing regulations and is generally included as a license condition.

B. Section 40.42(d)(3) and (4).

As noted in the above discussion, the 24 month time frame is not realistic for mineral recovery activities and, in particular, for the domestic uranium industry in light of its "nonviability." In light of the limited risk associated with such facilities and the comprehensive regulatory oversight applicable to them, ongoing "standby" status should be presumptively extended unless NRC affirmatively makes a finding otherwise in light of the limited risks associated with such facilities and the comprehensive regulatory oversight applicable to them.

C. Section 40.42(e).

For the reasons set forth in A above, the Commission should presumptively grant extensions to uranium recovery facilities.

D. Section 40.42(e).

This section should be rewritten to explicitly provide that uranium recovery licensees have a right to propose alternative schedules for decommissioning in accordance with section 83(c) of UMTRCA and that the Commission will presume that such alternatives will protect "public health and safety" and are "otherwise in the public interest" absent an affirmative finding to the contrary.

E. Section 40.42(f)(4)(vi).

Eighteen months is generally not sufficient to complete decommissioning of uranium recovery facilities and portions thereof. This provision should be modified to state that decommissioning will be completed as soon as practicable after a final decision to cease operations. Specific milestones can be added to facility licenses according to site-specific realities.

F. Section 40.42 g(1) and (2).

See comments on D above.

G. Section 40.42(h).

See comments on C, D & E above.

H. Section 40.42(k).

This provision allegedly exempts "waste disposal areas at uranium recovery facilities" because of the applicability of the provisions of Criterion 9 of Appendix A to 10 C.F.R. Part 40 and the requirements of Subpart T of 40 C.F.R. Part 61. 58 Fed. Reg. at 4101. However, as written, it exempts "specific licenses for uranium milling." *Id.* at 4107. This discrepancy would not cover waste disposal areas at ISL sites and in any event is too limited for the reasons set forth above.

I. Commission Review Period.

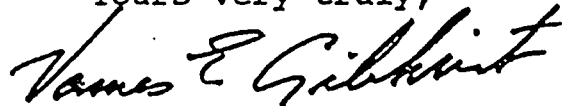
The proposal indicates that Commission review and approval of decommissioning plans is estimated to be six months or less. 58 Fed. Reg. 4101. This assumption appears wildly optimistic in view of industry history, including NRC's failure to approve reclamation plans for time frames in excess of five years. NRC's ability to timely address decommissioning plans from uranium recovery facilities would appear to be in jeopardy in light of the Commission's proposed closure of URFO.

VI. Conclusion.

For all the above reasons, AMC respectfully requests that NRC revise the proposed rule to: (1) explicitly provide for licensee proposed alternative timetables; (2) explicitly allow for the extensions of time for decommissioning schedules for factors beyond the control of the licensee; (3) provide for enough time for restoration of groundwater at in-situ sites; (4) re-define "end-of-use" to recognize that in some situations the facility or area at issue cannot practically be decommissioned because it is so interconnected with the rest of the area or rest of the process; and (5) make the specific changes set forth above.

If you have any questions or would like AMC to provide additional material, please contact me at 202/861-2876 or AMC's counsel on this matter, Anthony J. Thompson of Perkins Coie, at 202/628-6600.

Yours very truly,



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JEG/clc