



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

January 9, 2007

EA-06-322

Peter J. Luthiger
Manager, Radiation Safety
& Environmental Affairs
Rio Algom Mining LLC
P.O. Box 218
Grants, NM 87020

SUBJECT: RESPONSE TO DISPUTED NOTICE OF VIOLATION

Dear Mr. Luthiger:

This refers to your letter dated December 7, 2006, submitted in response to our Inspection Report and Notice of Violation 040-08905/06-001, dated November 17, 2006. The violation involved Rio Algom Mining's failure to implement the bioassay program as required by the license when a contract employee apparently submitted an invalid bioassay sample. In your letter, you disputed the violation because you believe that you had fully established and implemented a bioassay program as required by the license.

NRC Region IV staff is currently working with other NRC offices to address the disputed violation. You will be notified in writing when the final determination is made.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter and your response (if any) will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction.

Should you have any questions concerning this letter, please contact Dr. D. Blair Spitzberg, Chief, Fuel Cycle and Decommissioning Branch, at (817) 860-8191 or Mr. Robert J. Evans, Senior Health Physicist, at (817) 860-8234.

Sincerely,

/RA/

Leonard D. Wert, Director
Division of Nuclear Materials Safety

Docket No.: 040-08905
License No.: SUA-1473

Rio Algom Mining LLC

-2-

cc:

Thomas C. Pauling, Team Leader
U.S. Department of Energy
Office of Legacy Management
2597 B 3/4 Road
Grand Junction, CO 81503

New Mexico Radiation Control Program Director

bcc w/enclosure (via ADAMS e-mail distribution):

LDWert
 Robert Lukes, FSME/DWMEP
 Bill vonTill, FSME/DWMEP
 DBSpitzberg
 LMGersey
 MVasquez
 RJEvans
 RITS Coordinator
 FCDB
 OE Mail
 RIV Nuclear Materials File - 5th Floor

SUNSI Review Completed: LMG ADAMS: Yes No Initials: LMG
 Publicly Available Non-Publicly Available Sensitive Non-Sensitive

DOCUMENT NAME: C:\FileNet\ML070110609.wpd

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1/8/07	1/09/07	1/09/07	1/09/07

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*Previous Concurrence