

June 11, 2008

MEMORANDUM TO: Michael T. Lesar, Branch Chief  
Rules and Directives Branch  
Division of Administration  
Office of Administration

FROM: Keith I. McConnell, Deputy Director **/RA/**  
Decommissioning and Uranium Recovery  
Licensing Directorate  
Division of Waste Management  
and Environmental Protection  
Office of Federal and State Materials  
and Environmental Management Programs

SUBJECT: NOTICE OF APPLICATION FROM RIO ALGOM MINING LLC  
FOR CONSENT TO INDIRECT CHANGE OF CONTROL WITH  
RESPECT TO MATERIALS LICENSE SUA-1473, AND  
OPPORTUNITY TO PROVIDE COMMENTS AND TO REQUEST  
A HEARING

Enclosed please find one signed original, four copies, and an electronic version on a 3.5-inch diskette of the subject *Federal Register* Notice for transmittal to the Office of the Federal Register for publication.

ADM/DAS/RDB has been given owner's rights to the Notice in the U.S. Nuclear Regulatory Commission (NRC) Agencywide Documents Access Management System (ADAMS), ML080090468. Publicly available NRC documents referenced in the Notice have been finalized in ADAMS and profiled for public release. ADAMS accession numbers for all such documents are provided in the text under Further Information.

CONTACT: Thomas McLaughlin  
(301) 415-5869

Docket No.: 40-8905  
License No.: SUA-1473

Enclosures:

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2. One 3.5-inch diskette (electronic version)

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DATE	05/13/2008	05/13/2008	06/11/2008	06/11/2008	06/11/2008

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**NUCLEAR REGULATORY COMMISSION**

**[Docket No. 40-8905]**

**NOTICE OF APPLICATION FROM RIO ALGOM MINING LLC  
FOR CONSENT TO INDIRECT CHANGE OF CONTROL  
WITH RESPECT TO MATERIALS LICENSE SUA-1473,  
AND OPPORTUNITY TO PROVIDE COMMENTS  
AND TO REQUEST A HEARING**

**AGENCY:** U.S. Nuclear Regulatory Commission.

**ACTION:** Notice of consideration of request from Rio Algom Mining LLC for consent to transfer of materials license and the opportunity to request a hearing.

**DATES:** A request for a hearing must be filed by July 8, 2008.

**FOR FURTHER INFORMATION CONTACT:** Thomas McLaughlin, Project Manager, Materials Decommissioning Branch, Division of Waste Management and Environmental Protection, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, D.C., 20555. Telephone: (301) 415-5869; fax number: (301) 415-5369; e-mail: [tgm@nrc.gov](mailto:tgm@nrc.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Introduction**

The Nuclear Regulatory Commission (NRC) is considering an application from Rio Algom Mining LLC (RAML), submitted December 18, 2007, requesting approval of an indirect change of control with respect to materials license SUA-1473. RAML's parent company Billiton Investment 15 B.V. (BIBV), plans to sell its entire ownership interest in RAML to Uranium Resources, Inc. (URI).

BIBV currently owns one hundred percent (100%) of RAML. On October 12, 2007, BIBV entered into a Purchase Agreement with HRI-RAML Acquisition LLC, a Delaware limited liability company and an indirect subsidiary of URI, pursuant to which HRI-RAML Acquisition LLC will acquire from BIBV all of the interest in RAML. Consummation of the transaction will result in the indirect transfer of control of RAML and license SUA-1473 from BIBV to URI. RAML is requesting that the NRC consent to this indirect change of control.

RAML's application states that there would be no change to RAML's operations, key operating personnel or licensed activities as a result of the transaction and the indirect change of control. RAML would continue to be the holder of license SUA-1473 after the closing of the transaction and the indirect change of control. RAML will remain technically and financially qualified as the licensee and will continue to fulfill all responsibilities as the licensee. The applicant states that no amendment to the License will be necessary in connection with the request for consent.

Pursuant to 10 CFR 40.46, no Part 40 license shall be transferred, assigned or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of the license to any person, unless the Commission, after securing full information, finds that the transfer is in accordance with the provisions of the Atomic Energy Act, and gives its consent in writing. An Environmental Assessment (EA) will not be performed for this proposed action because it falls within a class of actions categorically excluded from the requirement to perform an EA pursuant to 10 CFR 51.22(c)(21).

Approval of the indirect change of control is contingent upon receipt of the fully executed financial assurance instruments which are in form and substance satisfactory to NRC. Upon receipt of such instruments, the NRC staff plans to approve the December 18, 2007, application by issuing the necessary order, along with a supporting safety evaluation report.

## II. Opportunity to Request a Hearing

Any person whose interest may be affected if the December 18, 2007, application is approved, and who desires to participate as a party in an NRC adjudicatory hearing, must file a request for a hearing. The hearing request must include a specification of the contentions which the person seeks to have litigated in the hearing, and must be filed in accordance with the NRC E-Filing rule, which the NRC promulgated in August, 2007, 72 FR 49139, (August 28, 2007). The E-Filing rule requires participants to submit and serve documents over the internet or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek a waiver in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least ten (10) days prior to the filing deadline, the petitioner/ requestor must contact the Office of the Secretary by e-mail at [HEARINGDOCKET@NRC.GOV](mailto:HEARINGDOCKET@NRC.GOV), or by calling (301) 415-1677, to request (1) a digital identification (ID) certificate , which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and/or (2) creation of an electronic docket for the proceeding (even in instances in which the petitioner/requestor (or its counsel or representative) already holds an NRC-issued digital ID certificate). Each petitioner/ requestor will need to download the Workplace Forms Viewer™ to access the Electronic Information Exchange (EIE), a component of the E-Filing system. The Workplace Forms Viewer™ is free and is available at <http://www.nrc.gov/site-help/e-submittals/install-viewer.html>. Information about applying for a digital ID certificate is available on NRC's public website at <http://www.nrc.gov/site-help/e-submittals/apply-certificates.html>.

Once a petitioner/requestor has obtained a digital ID certificate, had a docket created, and downloaded the EIE viewer, it can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC

guidance available on the NRC public website at <http://www.nrc.gov/site-help/e-submittals.html>. A filing is considered complete at the time the filer submits its documents through EIE. To be timely, an electronic filing must be submitted to the EIE system no later than 11:59 p.m. Eastern Standard Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The EIE system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically may seek assistance through the “Contact Us” link located on the NRC website at <http://www.nrc.gov/site-help/e-submittals.html> or by calling the NRC technical help line, which is available between 8:30 a.m. and 4:15 p.m., Eastern Time, Monday through Friday. The help line number is (800) 397-4209 or locally, (301) 415-4737.

Participants who believe that they have a good cause for not submitting documents electronically must file a motion, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) first class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville, Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by

courier, express mail, or expedited delivery service upon depositing the document with the provider of the service.

Non-timely requests and/or petitions and contentions will not be entertained absent a determination by the Commission, the presiding officer, or the Atomic Safety and Licensing Board that the petition and/or request should be granted and/or the contentions should be admitted based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)-(viii). To be timely, filings must be submitted no later than 11:59 p.m. Eastern Standard Time on the due date.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at [http://ehd.nrc.gov/EHD\\_Proceeding/home.asp](http://ehd.nrc.gov/EHD_Proceeding/home.asp), unless excluded pursuant to an order of the Commission, an Atomic Safety and Licensing Board, or a Presiding Officer. Participants are requested not to include social security numbers in their filings. Copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, should not be included in the submission.

The formal requirements for documents contained in 10 CFR 2.304(c)-(e) must be met. If the NRC grants an electronic document exemption in accordance with 10 CFR 2.302(g)(3), then the requirements for paper documents, set forth in 10 CFR 2.304(b) must be met.

In accordance with 10 CFR 2.309(b), a request for a hearing must be filed by July 8 2008.

In addition to meeting other applicable requirements of 10 CFR 2.309, a request for a hearing filed by a person other than an applicant must state:

1. The name, address, and telephone number of the requester;
2. The nature of the requester's right under the Act to be made a party to the proceeding;

3. The nature and extent of the requester's property, financial or other interest in the proceeding;
4. The possible effect of any decision or order that may be issued in the proceeding on the requester's interest; and
5. The circumstances establishing that the request for a hearing is timely in accordance with 10 CFR 2.309(b).

In accordance with 10 CFR 2.309(f)(1), a request for hearing or petitions for leave to intervene must set forth with particularity the contentions sought to be raised. For each contention, the request or petition must:

1. Provide a specific statement of the issue of law or fact to be raised or controverted;
2. Provide a brief explanation of the basis for the contention;
3. Demonstrate that the issue raised in the contention is within the scope of the proceeding;
4. Demonstrate that the issue raised in the contention is material to the findings that the NRC must make to support the action that is involved in the proceeding;
5. Provide a concise statement of the alleged facts or expert opinions which support the requester's/petitioner's position on the issue and on which the requester/petitioner intends to rely to support its position on the issue; and
6. Provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. This information must include references to specific portions of the application that the requester/petitioner disputes and the supporting reasons for each dispute, or, if the requester/petitioner believes the application fails to contain information on a relevant matter as required by law, the identification of each failure and the supporting reasons for the requester's/petitioner's belief.

In addition, in accordance with 10 CFR 2.309(f)(2), contentions must be based on documents or other information available at the time the petition is to be filed, such as the application, or other supporting document filed by an applicant or licensee, or otherwise available to the petitioner. Contentions may be amended or new contentions filed after the initial filing only with leave of the presiding officer.

Requesters/petitioners should, when possible, consult with each other in preparing contentions and combine similar subject matter concerns into a joint contention, for which one of the co-sponsoring requesters/petitioners is designated the lead representative. Further, in accordance with 10 CFR 2.309(f)(3), any requester/petitioner that wishes to adopt a contention proposed by another requester/petitioner must do so, in accordance with the E-Filing rule, within ten days of the date the contention is filed, and designate a representative who shall have the authority to act for the requester/petitioner.

As indicated below, pursuant to 10 CFR 2.310(g), any hearing would be subject to the procedures set forth in 10 CFR Part 2, subpart M.

### **III. Opportunity to Provide Written Comments**

Within 30 days from the date of publication of this notice, persons may submit written comments regarding the license transfer application, as provided for in 10 CFR 2.1305. The Commission will consider and, if appropriate, respond to these comments, but such comments will not otherwise constitute part of the decisional record. Comments should be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff, and should cite the publication date and page number of this FEDERAL REGISTER notice. Comments received after 30 days will be considered if practicable to do so, but only those comments received on or before the due date can be assured consideration.

#### **IV. Further Information**

For further details with respect to the proposed action, see the licensee's letter dated December 18, 2007 (See ADAMS ML073540523), a letter from NRC to the licensee dated February 1, 2008, requesting financial information from the potential buyer (See ADAMS ML080160032), a letter from NRC to the licensee dated February 1, 2008, acknowledging the receipt of the Application (See ADAMS ML080090595), a transmittal letter dated March 21, 2008, and affidavit requesting that the financial information provided to NRC be withheld from the public pursuant to NRC regulation 10 CFR Part 2.390 (See ADAMS ML081420592), and a letter from NRC dated May 30, 2008, to the counsel representing the potential buyer agreeing with the 10 CFR Part 2.390 request (See ADAMS ML081440408), all of which are available for public inspection, and can be copied for a fee, at the U.S. Nuclear Regulatory Commission's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, 20852. The NRC maintains an Agency-wide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. These documents may be accessed through the NRC's Public Electronic Reading Room on the internet at <http://www.nrc.gov>.

Persons who do not have access to ADAMS or who have problems in accessing the documents located in ADAMS may contact the PDR reference staff at 1-800-397-4209, 301-415-4737 or by email at [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov).

Dated at Rockville, Maryland, this 11th day of June, 2008.

FOR THE NUCLEAR REGULATORY COMMISSION.

**/RA/**

Keith I. McConnell, Deputy Director  
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Licensing Directorate  
Division of Waste Management  
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