

**RIO ALGOM MINING LLC**  
POST OFFICE BOX 218-GRANTS, NEW MEXICO 87020  
505-287-8851

December 2, 2008

U.S. Nuclear Regulatory Commission  
ATTN: Document Control Desk  
11555 Rockville Pike  
Rockville MD 20852-2738

Ref: Reply to Notice of Violation

Dear Sirs;

Rio Algom Mining LLC is in receipt of the Notice of Violation, docket 040-08905, License SUA-1473 resulting from an NRC inspection that occurred at the site from October 6-9, 2008. The results of the inspection identified one violation of license (License SUA-1473) condition 34F that requires, in part, collection of a second sample within seven calendar days of becoming aware of exceedances of any ACL parameter.

A thorough review was conducted to determine the reasons confirmatory samples for each occurrence where an exceedance was noted were not collected within the requisite timeframe.

Tres Hermanos B Compliance Well 31-02, July 2007-

- In August 2007 the site RSO unexpectedly resigned his position with the company and a new RSO was transitioning into the role. Subsequently the analytical results for the July sampling period were received and the exceedance was not identified and the confirmatory sample was not collected.

Tres Hermanos B Compliance Well 31-02, April 2008-

- The RSO did recognize the exceedance (see attached statement). The collection of a second sample was initiated; however, it was not completed in a timely fashion.

Dakota Sandstone Compliance Well 36-06, February, 2008-

- The RSO was focused on reviewing data results for Radionuclides and neglected to identify the sulfate exceedance.

As a result of Rio Algom's internal review, a number of corrective actions have been taken. Each of these actions is to confirm that we are accurately reviewing data and taking the appropriate actions in response.

The actions taken include:

- 1) Hiring a new Supervisor of Environmental Affairs/RSO to enhance the staff level. This position will be filled by March 1, 2009.

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- 2) The present RSO has initiated a written procedure to evaluate ACL results. The procedure mandates that upon receipt of the data it is reviewed and actions are taken to comply with the permit.

The RSO has also included in the procedure a requirement that the analytical results are copied to an outside engineering firm for confirmation and review. It is incumbent on the outside firm to make the President of the company aware of any issues with the data within five working days.

It is important to note that a total of three subsequent sampling events have occurred from Tres Hermanos B Compliance Well 31-02 and the concentrations have all been within prescribed limits... In addition a total of two sampling events have occurred from Dakota Sandstone Compliance Well 36-06 and sulfate results were within the alternate concentration limits.

Based on the results of our review, we are confident that the actions taken will obviate the re-occurrence of the violations noted in your inspection.

If you should have further questions, please contact Terry Fletcher at 505-287-8851x11 or [Terry.Fletcher@BHPBilliton.com](mailto:Terry.Fletcher@BHPBilliton.com).

Sincerely,

*Don Sweeney by 717*  
Don Sweeney  
RSO

Cc: Terry Fletcher RAMC  
Tom McLaughlin NRC  
Elmo Collins NRC Region 1V

## **Sweeney, Don C**

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**From:** Sweeney, Don C  
**Sent:** Friday, October 10, 2008 1:31 PM  
**To:** 'Linda.Gersey@NRC.Gov'  
**Subject:** Rio Algom Mining inspection

Linda

As requested, please accept this statement in regard to the exceedance issues.

While reviewing results on July 7<sup>th</sup> for the 1<sup>st</sup> half Semiannual Groundwater Report for 2008, I became aware that 2 wells had exceeded a constituent ACL.

Results for monitor well 31-02 arrived via email around June 9<sup>th</sup>. Upon reviewing results on July 7<sup>th</sup>, I became aware of an exceedance in Uranium. A second sampling was performed on July 10<sup>th</sup>. As required in Condition 34F, this second sampling occurred within 7 days of my being aware of the exceedance. This second sampling had results below the ACL for Uranium. A minimum of monthly sampling of monitor well 31-02 was initiated to verify these results being below the ACL. These results continue to be below the ACL.

Monitor well 36-06KD had an exceedance in Sulfate on February 11<sup>th</sup>. However the next sampling on April 22<sup>nd</sup> was below the ACL and back to the previous historical results. As this sampling was below the ACL, I did not do a follow up sample.

With these occurrences, I now review results at the earliest possible date after receiving them by email or standard mail delivery.

Regards

Donald Sweeney  
Radiation Safety Officer  
Environmental Department Supervisor  
Rio Algom Mining LLC  
PO Box 218  
Grants, NM USA 87020  
505.287.8851x15