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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

'98 DEC 17 P 3:53

ATOMIC SAFETY AND LICENSING BOARD PANEL

Before Administrative Judges:
Peter B. Bloch, Presiding Officer
Richard F. Cole, Special Assistant

OFFICE OF THE SECRETARY
PUBLIC AFFAIRS
ADJUDICATION

In the Matter of)	
)	
INTERNATIONAL URANIUM (USA))	Docket No. 40-8681-MLA-5
CORPORATION)	December 14, 1998
)	Re: Materials License Amendment
)	
)	ASLBP No. 99-758-02MLA
)	

**INTERNATIONAL URANIUM (USA) CORPORATION'S
OPPOSITION TO THE PETITION OF
CONCERNED CITIZENS OF SAN JUAN COUNTY
SEEKING LEAVE TO INTERVENE**

I. INTRODUCTION

International Uranium (USA) Corporation ("IUSA") operates, in accordance with Source Material License No. SUA-1358 issued by the United States Nuclear Regulatory Commission ("NRC"), a uranium recovery facility called the White Mesa Mill (the "Mill") in Blanding, Utah. The Mill processes uranium-bearing materials to extract the uranium therefrom. The residuals from this process, or "tailings," are defined as "11e.(2) byproduct material," and are disposed of in an NRC-licensed "cell" or impoundment at the Mill. IUSA's Mill is regulated by the NRC, pursuant to the Atomic Energy Act of 1954, as amended, and the Uranium Mill Tailings Radiation Control Act of 1978, ("UMTRCA"), as amended, as effectuated by NRC regulations set forth at 10 C.F.R. Part 40, including Appendix A and applicable guidance documents.

SECY-ETH-006

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On October 15, 1998, IUSA submitted to NRC a request for a license amendment specifically allowing IUSA to process uranium-bearing materials from the Ashland 1 Formerly Utilized Sites Remedial Action Program (“FUSRAP”) site (“Ashland 1”) in Tonawanda, New York. Notice of IUSA’s application was published in the Federal Register on November 3, 1998. 63 Fed. Reg. 59340. Sometime on or about December 1, 1998,¹ Concerned Citizens of San Juan County submitted, pursuant to 10 CFR Part 2, Subpart L, a request for a hearing on IUSA’s application (the “Petition”).

II. ARGUMENT

As detailed below, Petitioner lacks standing to intervene in this matter as Petitioner has failed to allege any concrete and particularized injury attributable to the subject license amendment. Moreover, many of the facts alleged by Petitioner and material to its request are inaccurate and Petitioner has failed to state concerns germane to the subject matter of IUSA’s license amendment. IUSA will demonstrate that Petitioner suffers no harm by virtue of the proposed license amendment and that whatever effect the Mill may have on Petitioner (or anyone else), if any, is not changed by the activities to be conducted pursuant to the license amendment. For all of these reasons, and as set forth below, IUSA respectfully requests that the Petition be DENIED.

¹ The Request for Hearing filed by the Concerned Citizens of San Juan County is dated December 1, 1998. Additionally, the document bears a notation stating that it was sent to the Rulemakings and Adjudications Staff, Office of the Secretary, NRC, by Federal Express, on December 1, 1998. As discussed further *infra.*, the document was not accompanied by a certificate of service nor by any other indication of when and by what means it was conveyed to other parties. No copy was provided to counsel for IUSA. Personnel at IUSA are uncertain as to when and how the document arrived at IUSA.

A. Petitioner Is Not Entitled To The Requested Hearing.

1. Standards to be applied.

The Petition requires the Presiding Officer to determine whether Petitioner is entitled to intervene in a hearing on the above-referenced license amendment. NRC's Rules of Practice provide that, in ruling on a request for a hearing, the Presiding Officer

shall determine that the specified areas of concern are germane to the subject matter of the proceeding and that *the petition is timely*.

The presiding officer also shall determine that *the requester meets the judicial standards for standing* and shall consider, among other factors --.

The nature of the requester's right under the [Atomic Energy Act] to be made a party to the proceeding;

The nature and extent of the requestor's property, financial, or other interest in the proceeding; and

The possible effect of any order that may be entered in the proceeding upon the requestor's interest.²

As demonstrated below, Petitioner has not shown that it has suffered or is likely to suffer any particular harm from IUSA's license amendment, alleging, as it does, only generalized grievances about what it perceives to be environmental degradation inflicted by industry generally, and by "nuclear activities" specifically. Where, as here, Petitioner fails to make a sufficient showing of an injury-in-fact, a hearing request should be denied.

² 10 C.F.R. § 2.1205(h)(emphasis added).

2. **Petitioner has failed to demonstrate standing to intervene in this matter.**

To demonstrate standing entitling Petitioner to a hearing, Petitioner must show (1) that it has suffered, or likely will suffer, *injury in fact* from the license amendment at issue; (2) that the alleged injury is arguably within the zone of interests sought to be protected by the statute at issue; and (3) that the injury is redressable by a favorable decision in the proceeding.³ As this Court is well aware, “[s]tanding is not a mere legal technicality, it is in fact an essential element in determining whether there is any legitimate role for a court or an agency adjudicatory body in dealing with a particular grievance.”⁴

To satisfy the "irreducible constitutional minimum" of standing, a potential litigant must demonstrate that there is a "*concrete and particularized injury* that is: 1) actual or imminent; 2) caused by, or fairly traceable to, an act that the litigant challenges in the instant litigation; and 3) redressable by the court."⁵ To show the required injury in fact based on an assertion of future harm, NRC has held that that future harm "*must be threatened, certainly impending, and real and immediate.*"⁶

Petitioner has failed to satisfy the requirements for standing because it has failed to make the fundamental showing of an *injury in fact* that can be attributed to the challenged action, *i.e.*, the issuance of IUSA's license amendment permitting IUSA to process alternate feed material from the Ashland 1 site.

³ Northern States Power Company, 44 NRC 138, 1996 Lexis 46, **5-6 (1996).

⁴ Westinghouse Electric Corp., CLI-94-07, 39 NRC 322, 1994 Lexis 31, ** 5-6 (1994).

⁵ Florida Audubon Society v. Bentsen, 94 F.3d 658, 663 (D.C. Cir. 1996) (en banc) (citations omitted) (emphasis added).

⁶ Babcock & Wilcox, LBP-93-4, 1993 NRC Lexis 6, **7-8 (1993) (emphasis added).

3. **Petitioner has failed to allege an “injury-in-fact” resulting from the requested license amendment.**

Petitioner has summarized its alleged injuries in nine numbered paragraphs⁷ and in a paragraph summarizing the numbered summary paragraphs.⁸ Finally, the Petition concludes with nearly one and one-half pages of narrative entitled “AREA OF CONCERN: COMPOUNDED & CONTINUED LOCAL EXPOSURE TO RADIOACTIVE WASTE.”⁹ IUSA will address each of Petitioner’s alleged injuries and the single area of concern in the order in which they appear in the Petition.

1. Petitioner asserts that the town of “Bluff shares the same aquifer with White Mesa Mill, an aquifer that is the sole supply of drinking water for the town and its environs.”¹⁰

Petitioner is correct. The White Mesa Mill and the Town of Bluff do share the same deep aquifer, called the Navajo Sandstone or Navajo/Entrada formation. This aquifer lies more than 1300 feet below the ground surface and at least 1200 feet beneath a perched zone and is the source of drinking water both for the Mill and the Town of Bluff. Between the perched zone and the Navajo Sandstone is approximately twelve hundred feet of unsaturated Morrison Formation, a very tight (i.e., nearly impermeable) formation. In accordance with its existing license, the Mill performs groundwater monitoring in the perched zone to detect releases from the tailings cells; no releases have been detected.¹¹

⁷ Petition at 5-6.

⁸ Id. at 6.

⁹ Id. at 6-8.

¹⁰ Id. at 5.

¹¹ Affidavit of Samuel J. Billin.

In summary, Petitioner is correct to state that the Mill and the Town of Bluff share the same drinking water aquifer. This statement does not, however, state an injury to Petitioner nor raise a concern germane to this license amendment.

2. Petitioner asserts that Petitioner is “downstream of what is becoming a significant repository of nuclear waste.”¹²

The Mill is not, and is not becoming, a “significant repository of nuclear waste.” The Mill’s *existing license* establishes the Mill’s total annual production limit (4,380 tons per calendar year)¹³ and total volume of 11e.(2) byproduct material that can be placed in the 11e.(2) cell (tailings generation rate 680,000 tons per year)¹⁴. The amount of tailings expected to be generated from processing the Ashland 1 materials is comparable to the amount that would be generated from processing the same amount of conventional ore.¹⁵ The tailings from the Ashland 1 materials will possess virtually the same radiochemical characteristics as the tailings from conventional ore.¹⁶

3. Petitioner asserts that “pollutants from the mill will eventually reach Bluff’s public water supply, the San Juan River, and downstream populations in the Colorado River Basin.”¹⁷

¹² ◦ Petition at 5.

¹³ Source Material License SUA-1358, License Condition 10.1.

¹⁴ Source Material License SUA-1358.

¹⁵ License Amendment Application.

¹⁶ Id.

¹⁷ Petition at 5.

The Town of Bluff, according to Petitioner, is eighteen miles away.¹⁸ Petitioner fails even to allege what “pollutants” Petitioner expects to reach the water supply or what the likelihood is that such pollutants are going to impact a water supply eighteen miles away. Petitioner does not allege how or if anyone among the Concerned Citizens will be injured by pollutants in the San Juan River or what injury will come to “downstream populations,” which are not alleged to be members of Petitioner’s group. Perhaps most importantly, Petitioner makes no attempt to describe how the unspecified effects feared by Petitioner might be occasioned by *the NRC action at issue: IUSA’s license amendment*.

In fact, the Mill’s tailings impoundments have synthetic liners and leak detection systems. As many as 23 monitoring wells have monitored the tailings cells since 1980 and have yielded no evidence that the tailings cells have discharged to the underlying formation. All monitoring is conducted in the first perched groundwater zone, which is approximately 110 feet below the tailings cells. This perched zone is separated from the regional drinking water aquifer by approximately 1200 feet of nearly impermeable rock.¹⁹ Thus, any release from the tailings cells would be detected in the perched zone long before it even could approach the regional aquifer. It is important to note that the perched zone is discontinuous at all locations downgradient of the Mill and is not connected with either Bluff’s water supply or the San Juan or Colorado Rivers.

¹⁸ Id.

¹⁹ Affidavit of Samuel Billin.

4. Petitioner alleges that the “changing nature” of the Mill’s operations “escalates this threat” to the Bluff community.²⁰

Presumably, the “threat” to which Petitioner refers is the same as that vaguely alluded to in the Petition’s preceding paragraph, i.e., that unspecified pollutants are going to impact Bluff’s drinking water and/or the San Juan and Colorado Rivers. Moreover, Petitioner’s characterization of the “changing nature” of the Mill’s operations is vague and misleading. The Mill previously has obtained a license and amendments thereto permitting the Mill to process conventional ore and alternate feeds and to place resulting tailings in on-site tailings cells. No material change in process or in the tailings generated therefrom will result from processing the Ashland 1 materials. Again, Petitioner by this assertion does not attempt to allege any particular harm to any person or thing or try to specify how *the activity to be permitted by the requested license amendment* is likely to harm Petitioner.

5. Petitioner complains that “[b]aseline data on surface/near-surface water quality at the mill are lacking, despite the known presence of seeps and springs in the mill vicinity and the obvious movement of waterborne (surface/subsurface) pollutants downgradient. . . . The open tailings ponds pose a potential threat to wildlife. These factors indicate areas of impact that are not confined to the Navajo Sandstone aquifer.”²¹

First, water quality data for the Mill vicinity are not “lacking.” It is important to note that baseline data presented in the Final Environmental Statement (“FES”) (U.S. NRC, May 1979, Docket No. 40-8681), include regional surface water and groundwater quality analyses gathered

²⁰ Petition at 5.

²¹ Id.

prior to construction of the Mill. Analysis of one sample taken in the Navajo Sandstone on July 25, 1977, prior to the construction of the Mill, revealed a concentration of lead in groundwater of 20 ug/l. Surface water samples reported lead concentrations as high as 150 ug/l.

The White Mesa Mill operates in strict compliance with all applicable laws and regulations and collects all required water quality data. While “waterborne . . . pollutants” may, indeed, tend to move downgradient, there is not, and has never been, any indication that the Mill is discharging “waterborne” or any other kind of pollutants and Petitioner does not specifically allege otherwise. Likewise, Petitioner’s allegation regarding the Mill’s tailings ponds are non-specific, baseless, and wholly irrelevant to the instant proceeding. The Mill’s tailings ponds are NRC-licensed and were designed and constructed in accordance with NRC requirements. In licensing the ponds, NRC made a determination that the ponds *did not* pose any long-term threat to wildlife.²²

Processing of the Ashland 1 materials in accordance with the license amendment at issue will effect no material change in the volume or composition of materials in the ponds from that attributable to processing of conventional feed.²³ Petitioner makes no attempt to identify a harm and attribute it to the processing of the Ashland 1 materials.

6. Petitioner asserts that “[d]ocumented pollution of White Mesa Mill wells already shows” that the Mill has somehow caused lead contamination in groundwater at the Mill.²⁴ This assertion is fraught with the same shortcomings as the others.

²² See FES (May 1979) at 7.5.1

²³ See License Amendment Application.

²⁴ Petition at 4, 5.

Apparently, the “documented pollution” Petitioner refers to is *a single water sample* taken from the Navajo Sandstone formation in 1994 that was above the drinking water standard for lead.²⁵ No single sampling event can accurately reflect groundwater quality. Multiple samples are necessary to establish the natural variability in the deep aquifer. Potential contamination of the Entrada/Navajo aquifer can only be defined in the context of background water quality of the regional aquifer. The single sample referenced by Petitioner is consistent with regional water quality data reported in the FES, which predates the Mill’s operation.²⁶ Moreover, trace element (e.g., lead) concentrations are notoriously sensitive to collection and handling methods, making reliance on a single sample scientifically indefensible.²⁷

In any event, this assertion, like each of the others set forth in the Petition, even if sufficient to establish some harm attributable to the Mill (which, as explained above, it does not), does not articulate an injury to Petitioner and *is not germane to the license amendment that is presently before the Presiding Officer*. Petitioner complains about a water sample taken more than four years ago – this cannot constitute the particularized and concrete injury upon which standing to challenge the pending license amendment can be based.

7. Paragraph 7 of the Petition articulates “three reasons” “for serious concern”: first, that processing alternate feeds will cause an “increased volume of uranium tailings and the uncertain content of alternate feed materials” to “exacerbate” the contamination referred to above; second, that the Mill is exempt from Utah water quality laws; and third, that IUSA,

²⁵ Petition at 4.

²⁶ See FES section 2.6.2. This data reflects background levels of lead exceeding the drinking water standard.

²⁷ See Affidavit of Samuel J. Billin.

“rather than an independent entity” is responsible for testing groundwater and any discharges from the Mill.²⁸

Regarding Petitioner’s first point, processing alternate feeds is not expected to produce any greater volume of tailings than processing conventional feed.²⁹ Moreover, the Ashland 1 materials previously have been determined not to contain any hazardous wastes, which determination will be confirmed in accordance with a sampling and analysis plan to be approved by the Utah Department of Environmental Quality.³⁰ Thus, Petitioner’s assertions regarding the volume and content of “alternate feed materials” are incorrect; Petitioner also makes no attempt to tie these particular assertions to the Ashland 1 materials at issue. Finally, Petitioner alleges no particularized injury; Petitioner instead speaks vaguely, and inaccurately, about exacerbating contamination that, as discussed above, does not exist.

As regards Petitioner’s second and third points, Petitioner’s complaints relating to NRC preemption of State laws³¹ and IUSA’s license requirements that it monitor potential discharges from the Mill, these points state no particular injury to Petitioner and are not germane to this proceeding: preemption and conditions in IUSA’s original source materials license governing groundwater monitoring bear no relation to the pending license amendment.

8. Petitioner voices concern about the fact that NRC assumes jurisdiction over the materials from FUSRAP sites only after the materials arrive at an NRC-licensed facility and

²⁸ Petition at 5-6.

²⁹ License Amendment Application at 6.

³⁰ Id. at 4.

³¹ Petitioner is correct that the Mill is exempt from Utah water quality regulations. NRC regulations establish the Mill’s water quality requirements. The Mill is in compliance with all NRC water quality regulations.

states that “[s]uch uncertainty regarding the handling of nuclear waste materials does not adequately ensure public safety.”³²

Here, Petitioner states a generalized grievance about the statutory scheme empowering NRC to regulate specified aspects of the uranium fuel cycle. Petitioner articulates no injury, particularized or otherwise, and raises no wrong that can be redressed by the Presiding Officer. This complaint is not germane to the pending license amendment.

9. Petitioner states “We can find no rigorous plan . . . to protect the water quality in the White Mesa area. . . . In summary, evidence of injury is shown through endangerment of the local aquifer and other water resources and the lack of basic environmental regulations to safeguard our community.”³³ Perhaps this assertion sums up Petitioner’s concerns; it also underscores Petitioner’s inability to characterize any particular injury potentially to be occasioned by the requested license amendment and Petitioner’s failure to raise issues that are germane to the instant proceeding. In addition, as related above, the Mill complies with rigorous NRC regulations designed to protect water quality; there is no evidence of endangerment to the regional aquifer or other water resources.

Petitioner also has stated one “Area of Concern: Compounded & Continued Local Exposure to Radioactive Waste.”³⁴ This section, while addressing generalized grievances with the operation and regulation of the nuclear industry at large, alleges that “[a]n increase in tailings volume means greater local exposure to radioactive materials . . . and other metals.”³⁵ As above,

³² Petition at 6.

³³ Id.

³⁴ Id. at 6-7 (all CAPS in original).

³⁵ Id. at 7.

Petitioner fails to recognize that the tailings resulting from the processing of Ashland 1 materials will, in volume and composition, be essentially the same as tailings resulting from processing conventional ore under IUSA's existing license. IUSA's existing license establishes the Mill's limits on production and tailings generation; Petitioner's area of concern is not germane to the pending license amendment.

III. CONCLUSION

NRC's regulations make clear that a party seeking to intervene in a licensing proceeding must raise concerns that are germane to the subject proceeding and must satisfy the requirements for standing to participate in the hearing. Concerns are germane when they arise specifically in connection with the agency action that is the subject of the proceeding. Standing is conferred on parties who can demonstrate that the subject agency action will, or is likely to, cause the party an injury-in-fact, i.e., a concrete and particularized injury that arises from the challenged action and can be remedied by the court. Petitioner herein has failed to raise concerns germane to IUSA's requested license amendment and has failed to show how granting the requested license amendment is likely to cause Petitioner any concrete and particularized injury.

Distilled to their essence, Petitioner's allegations express a general unhappiness with the nuclear industry and with the presence of radioactive materials in the region. Petitioner's suggestion that the White Mesa Mill threatens to contaminate Bluff's water supply, eighteen miles away, reflects Petitioner's misapprehension of multiple facts and, in any event, implicates the design, integrity, and capacity of tailings cells at the White Mesa Mill that were licensed long ago and *are not the subject of this license amendment proceeding.*

IUSA is not without sympathy for Petitioner's concerns. However, IUSA has been licensed to operate the White Mesa Mill since 1980, without doing harm to public health or the environment. Processing of the Ashland 1 materials pursuant to the requested license amendment is not materially different, in terms of the processing itself or the volume or composition of tailings generated, from the processing of conventional and alternate feeds that the Mill has done successfully for many years.

Petitioner has failed to raise any issue germane to this license amendment and Petitioner has failed to articulate any injury-in-fact occasioned by the license amendment here at issue. Accordingly, and for all of the reasons set forth above, IUSA respectfully submits that Petitioner, lacks standing to participate in a hearing on the subject license amendment and the Petition should be **DENIED**.

Respectfully submitted,



Anthony J. Thompson

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Uranium Corporation

AFFIDAVIT OF SAMUEL J. BILLIN, P.E.

AFFIDAVIT OF SAMUEL J. BILLIN, P.E.

I, SAMUEL J. BILLIN, being duly sworn upon oath, depose and state as follows:

I am a Registered Professional Engineer in the State of Utah, license number 95-180588.

I received a bachelor of science degree in civil engineering from Brigham Young University in 1991 with an emphasis in water resources and hydraulics. I received a master of science degree from Utah State University in civil engineering in 1992 where I studied groundwater hydrology and chemical transport. I have more than seven years of experience assisting the mineral industry with permitting new facilities, permit amendments, and remediation of hazardous waste sites.

At the request of International Uranium (USA) Corporation (IUC), I have directed a multi-disciplinary team of scientists in evaluating the operation of tailings cells at the White Mesa Mill and review of pleadings filed in opposition to IUC's proposed license amendments. These team reviews have included geochemists, groundwater hydrologists, and mining geologists familiar with both the uranium mineral industry and permitting of mineral facilities with both state and federal agencies.

Our reviews have resulted in several observations that are significant in responding to pleadings concerning the amendment of IUC's Source Material License. These technical evaluations are as follows:

Reviewing the performance of the tailings cells in use by the mill (cells No. 1, 2, and 3) indicates that there is little potential for tailings solution to impact the perched water zone underlying the site or the deep Entrada/Navajo bedrock aquifer located some 1,300 feet below the site.

The existing tailings cells were lined with synthetic materials and contain leak detection systems. Quality control and assurance was provided by oversight and inspection by multiple parties including registered professional engineers and representatives of the United States Nuclear Regulatory Commission (USNRC). Since the cells were constructed in the early 1980's, there have been no indications that tailings cells in use were or are discharging tailings liquid to either the leak detection systems or the underlying formation.

The site is underlain by several geologic formations. The uppermost bedrock formation is the Burro Canyon/Dakota Sandstone. The Morrison Formation is a grouping of several similar rock types forming an aquitard (i.e., a barrier to vertical groundwater flow) from 110 feet to 1,300 feet below the site. A significant regional aquifer, the Entrada/Navajo Sandstone Formation, is located below the Morrison Formation.

We performed infiltration and groundwater flow modeling based on observations documented throughout the facility life (Letter report to Anthony Thompson dated November 23, 1998). These calculations indicated that very low quantities of liquid

could permeate the PVC liner system and potentially infiltrate the formation. These quantities would be considered “de minimis” and inherent for PVC liners according to guidance documents provided by the United States Environmental Protection Agency (USEPA).

Based on our modeling, potential discharges from the tailings facilities cannot reach the perched water zone for a minimum of 1,300 years. Even then, impacts to water quality are unlikely due to closure of the facility, regional changes in groundwater hydrology, and attenuating processes occurring in slow moving groundwater.

As impacts to the perched zone 110 feet below the site are highly unlikely, the likelihood of any impacts to the Entrada/Navajo aquifer, some 1,300 feet below the site, are even more remote.

The existence of a perched water zone beneath the facility significantly limits the potential for operation of the tailings cells to impact the Entrada/Navajo aquifer.

Monitoring of the perched zone has been performed since 1980, prior to construction of the tailings cells. This monitoring program has included up to 23 wells in the Burro Canyon/Dakota Formation. Potential for contamination of the Entrada/Navajo aquifer would certainly be preceded by detection in the perched water zone.

The conclusion that the Entrada/Navajo Formation is contaminated below the site is unwarranted based on the one sample result indicated in the filing of the Concerned Citizens of San Juan Co. Utah.

The filing cites a chemical analysis of a single sample collected December 14, 1994 from Energy Fuels Well #5 as an indication of contamination of the Entrada/Navajo aquifer in the vicinity of the White Mesa mill. The filing notes that the reported concentration of lead in this sample was greater than the action level for lead (15 ug/L) established by the Utah Division of Drinking Water (Rule R309-103). The filing further implies that such indicated contamination has resulted from activities of the White Mesa Mill. Any claims of contamination in the Entrada/Navajo aquifer, based on the chemical analysis of this single sample are unwarranted by virtue of the following facts.

No records of sample collection are provided including well purging methods and quantities, methods of sample handling, methods of sample preservation and cleanliness of sample containers. These methods have been developed to assure that reported chemical analyses do, in fact, represent chemical conditions within the water body in question.

Regardless of what procedures were or were not followed, extensive scientific evidence has shown that no single purging schedule a priori produces accurate samples of groundwater. A series of samples collected during purging with subsequent analysis is required to determine a purging volume and schedule that will produce consistent results.

One sample of any geologic media, especially a mobile media such as groundwater, has an undefined reliability. Multiple samples are required to establish the natural amount of variability due to seasonal aquifer fluctuations and sampling methods.

Trace element (e.g., lead) concentrations in water are notorious for their sensitivity to collection and handling methods as well as their heterogeneous distributions in aquifers. In no way can one sample be considered an accurate indicator of groundwater concentrations.

Contamination of the Entrada/Navajo aquifer can only be defined in the context of background water quality in the regional aquifer. Constituent concentrations may naturally exceed such criteria. I am aware of no evidence to substantiate a claim that groundwater has been contaminated by the White Mesa Mill.

Background data presented in the Final Environmental Statement (U.S.NRC, May 1979) include regional surface water and groundwater quality analyses collected prior to the construction of the mill. These data include analyses reporting up to 20 ug/L total lead for a sample taken in the Navajo Sandstone on July 25, 1977. Water quality analyses from nearby streams indicate lead concentrations up to 150 ug/L. These samples indicate the potential for background concentrations of lead, prior to mill construction, to be greater than the Utah Division of Drinking Water action levels.

FURTHER AFFIANT SAYETH NOT.

I swear under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

DATED this 14th day of December 1998.



Samuel J. Billih, P.E.

Voluntarily signed and sworn to before me this 14th day of December 1998, by the signer, whose identity is personally known to me or was proven to me on satisfactory evidence.



NOTARY PUBLIC

Residing at: 1345 W 101st Ave - Denver, CO 80221
My Commission expires: 10/26/01

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD PANEL

Before Administrative Judges:
Peter B. Bloch, Presiding Officer
Richard F. Cole, Special Assistant

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)	ASLBP No. 99-758-02MLA
_____)	

CERTIFICATE OF SERVICE

I hereby certify that I caused true and complete copies of the foregoing International Uranium (USA) Corporation's Opposition To The Petition Of Concerned Citizens Of San Juan County Seeking Leave To Intervene in the above-captioned matter to be served, via facsimile, certified mail, and e-mail on this 14th day of December, 1998 to:

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U.S. Nuclear Regulatory Commission
Washington, DC 20555

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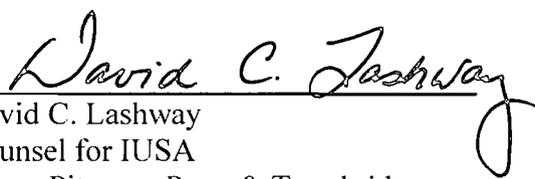
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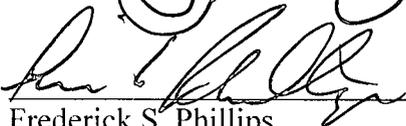
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ASLB No. 99-758-02MLA

NOTICE OF APPEARANCE

The undersigned, Anthony J. Thompson, being an attorney at law in good standing admitted to practice before the courts of the District of Columbia hereby enters his appearance as counsel on behalf of INTERNATIONAL URANIUM (USA) CORPORATION, in the above captioned matter.

In addition, Frederick S. Phillips and David C. Lashway, being attorneys at law in good standing admitted to practice before the courts of the District of Columbia hereby enters their appearance as counsel on behalf of INTERNATIONAL URANIUM (USA) CORPORATION, in the above captioned matter.



Anthony J. Thompson


Frederick S. Phillips

David C. Lashway

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ON BEHALF OF INTERNATIONAL URANIUM
(USA) CORPORATION

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U.S. Nuclear Regulatory Commission
11555 Rockville Pike
Rockville, MD 20852

Commissioner Edward McGaffigan, Jr.
U.S. Nuclear Regulatory Commission
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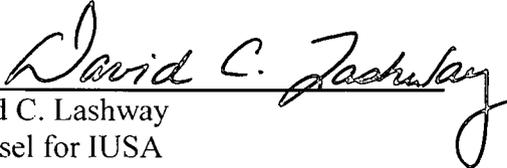
E. Meloy, Clerk
Concerned Citizens for San Juan County
P.O. Box 261
Bluff, Utah 84512
(Certified Mail only)

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