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ENVIROCARE OF UTAH, INC.

THE SAFE ALTERNATIVE

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June 17, 1999

OFFICE
ADJUTANT
CD99-252

Dr. Shirley Jackson, Chairman
U.S. Nuclear Regulatory Commission
Washington, D.C.

SERVED JUN 28 1999

Re: Written Comments, SECY-99-011, SECY-99-012, and SECY-99-013
Nuclear Regulatory Commission Meeting 1999-0512 (June 17, 1999)

Dear Chairman Jackson:

Envirocare of Utah, Inc. (Envirocare) respectfully provides written comments on the three (3) staff papers to be discussed at the referenced meeting on June 17, 1999. The three staff papers are in part a response by the U.S. Nuclear Regulatory Commission (NRC or Commission) to a paper presented to the NRC by the National Mining Association titled, "Recommendations for a Coordinated Approach to Regulating the Uranium Recovery Industry" (White Paper). Envirocare operates a radioactive waste disposal facility at Clive, Utah, which is licensed by the NRC and the State of Utah. Decisions made by the Commission regarding the staff recommendations on the three staff papers and on the White Paper affect the regulatory environment in which Envirocare operates.

Envirocare supports the NRC's regulatory oversight of the uranium processing industry and the radioactive waste disposal industry. As the Commission is aware, the initial development of radioactive materials for the uranium fuel cycle process did not always protect human health and the environment, especially where the wastes and residuals of these activities were concerned. These issues have been addressed over time with the passage of legislation that specifically addressed such issues as low level waste and uranium mill tailings. As a result of these laws, the NRC has developed a fairly comprehensive regulatory scheme. In general Envirocare believes that the existing regulatory scheme adequately addresses the issues and is protective of human health and the environment. The proposals, if adopted by the Commission, could lead to a relaxing of many of these regulatory standards and effectively take a regulatory step backwards. This could cause the NRC to relive past regulatory mistakes.

While the staff papers address several of the issues raised by the White Paper, and address changes that have occurred in the uranium fuel cycle process, Envirocare believes that the changes that have occurred in the uranium fuel cycle process require a further look than that proposed in the staff papers. The industry has shifted from traditional milling operations, and has adopted in situ leaching techniques as the primary method to produce uranium. According to the NRC's statistics in SECY 99-011, there is

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only one operating uranium mill in the United States, two that are in standby and 16 that have ceased operation and are in reclamation. Several of the proposals presented to the Commission involve changes to the regulations that would allow uranium mills to become disposal facilities. The Commission needs to examine the issues prior to adopting the staff or White Paper positions. Two of the proposals to be considered by the Commission request that commercial waste disposal activities be allowed in the mill tailings ponds. One proposal addresses allowing the disposal of waste other than 11e.(2) byproduct material within mill tailings impoundments, while the second proposal requests the Commission to legitimize the "sham recycling" of 11e.(2) remediation wastes as the proper use of the Alternate Feed Policy. Both of these proposals are major federal actions that are changing the nature and use of uranium mills for disposal of wastes. While it is true that these facilities already are contaminated with much of the same materials, and are currently designated as the final repository for the 11e.(2) byproduct material generated at their mill, the NRC has not reviewed the adverse environmental effects that these decisions will have. These adverse environmental effects far outweigh the limited positive benefits derived from these actions. A NEPA review of this major federal action needs to be performed.

Using the previously referenced NRC numbers, there are currently 19 uranium mills at various stages in their lives. Only one is currently operating, and two are expected to resume operations in the future. The NRC needs to focus on the closure and reclamation of the 16 conventional mills that have ceased operations. If these facilities do not have adequate resources to complete reclamation of their facilities, then the NRC needs to assure that reclamation will be completed as originally planned. Allowing mills to expand into commercial radioactive waste disposal would only increase reclamation costs and cause potential adverse environmental impacts. These facilities must be licensed for disposal operations under 10 CFR Part 61.

The Commission has been asked to address the Alternate Feed Policy. This policy currently affects one and possibly up to three uranium mills. The Alternate Feed Policy was initially adopted by the NRC to allow uranium mills to process uranium bearing materials that are not natural ores. Envirocare acknowledges that over the years there have been several alternate feeds processed by uranium mills that contained high enough concentrations of uranium that it made sense to process the material for its uranium content. However, the current requests for approval of alternate feeds have involved remediation wastes from FUSRAP sites that have very low concentrations of recoverable uranium. These materials have become economically viable for the facility to process only because "recycling" or disposal fees are being paid to the mill owner. The Commission needs to weigh any actual reduction in radioactivity of the "recycled" materials against the creation of what could be considered a new hazardous waste material. Additionally, the Commission needs to determine if this type of processing

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truly should be given the benefit of processing for source material that creates 11e.(2) byproduct material, since the addition of hazardous constituents to an existing 11e.(2) byproduct material is not subject to the RCRA exemption. The mills take a solid form waste, they add water to make it a slurry, and then add acids, organics and other process chemicals to extract the uranium. The resulting material is pumped into tailings ponds for management. This processing creates a much more toxic hazardous material than the beginning solid waste form. Continuation of this policy must be carefully examined by the Commission prior to approval of the White Paper of staff positions.

The following are specific comments to the staff papers.

SECY-99-011, Draft Rulemaking Plan: Domestic Licensing of Uranium and Thorium Recovery Facilities – Proposed New 10 CFR Part 41

Envirocare supports, in general, the development of additional regulations to address issues regarding licensing of in situ leach facilities and 11e.(2) byproduct material disposal facilities. Envirocare recognizes that the changes in the industry since the initial writing of 10 CFR Part 40 and Appendix A require modifications to the current regulations.

Envirocare supports regulations that address licensing of 11e.(2) byproduct material disposal facilities. The lack of these regulations created many difficulties in determining the proper application of various portions of the NRC's regulations, such as 10 CFR Part 20, Part 40, including Appendix A, Part 51, and Part 61, during the licensing of Envirocare's 11e.(2) byproduct material disposal facility. The positions put forth in the White Paper, and certain recommendations put forth in the staff papers, would provide for the creation of commercial disposal facilities at existing 10 CFR Part 40 facilities. While Envirocare does not agree with the proposals, if the Commission accepts these recommendations, Envirocare believes that the Commission needs to address these additional issues. These new disposal options are major federal actions under NEPA and as such must be subject to the full NEPA process. Licensing actions for each facility must be evaluated separately to assure that the proposed action meets the stringent requirements for the licensing of a disposal facility. Just because the NRC had previously approved the licensing of uranium mill tailings at a facility does not automatically mean that the facility can meet the requirements of a new disposal facility.

The staff recommends revising 10 CFR Part 40, Appendix A. These changes include the deletion of prescriptive site and design requirement, and the revision of the applicability of siting and design requirements for existing facilities. Envirocare cautions the Commission to review any proposed changes to these regulations to assure that the resulting regulations are not less protective to human health and the environment than are

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currently afforded under the proscriptive requirements. If an existing facility is requesting the addition of disposal options, the regulations should provide for a complete review of the current siting, operations and design basis, and determine whether the expansion of the operations in total will meet requirements for licensing a new disposal facility, and if not, why the facility should be licensed for disposal.

Envirocare agrees that the review of the surety can be extended to a biannual review, with the ability to provide a more frequent review, if warranted. Additionally, the update of the long-term surveillance fees should be brought forward to current dollars.

SECY-99-012, Use Of Uranium Mill Tailings Impoundments For The Disposal Of Waste Other Than 11e.(2) Byproduct Material And Reviews Of Applications To Process Material Other Than Natural Uranium Ores

This paper addresses the changes to NRC guidance documents issued in September 1995. One guidance addresses the requirements for disposal of non-11e.(2) byproduct material in a mill tailings impoundment, and the other guidance addresses the processing of alternate feeds. Envirocare supports maintaining both of these guidance documents in their current form.

With respect to the first proposal, disposal of non-11e.(2) byproduct material in a tailings impoundment, the current document contains 10 criteria to determine the suitability of proceeding with licensing of disposal of these material within a mill tailings impoundment. Envirocare supports the current guidance. This guidance assures that the waste will be compatible with the 11e.(2) byproduct material, addresses RCRA and CERCLA issues, requires concurrence with the party that will take title for long term surveillance, requires that the affected compacts agree to the disposal, and requires licensing for disposal. While no facility has opted to use this guidance, it is Envirocare's interpretation that the licensing required would be pursuant to 10 CFR Part 61. Other than for the convenience of the uranium industry, there has not been a compelling need to change this guidance document.

Option 2 is unclear as to what requirements a licensee would be required to meet to be able to dispose of these materials in a tailings impoundment. There are numerous jurisdictional issues that are raised by this proposal that make it impractical to implement, as proposed. Envirocare opposes this option.

Option 3 requests Congressional approval for implementing Option 2. This option is recommended by staff. Since Envirocare's position is that 10 CFR Part 61 provides a licensing process for obtaining NRC approval for a waste disposal facility, Option 2 is unnecessary and Congressional approval is not required.

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The second issue addressed by the staff paper is the NRC guidance on the use of alternate feeds at uranium mills. Envirocare supports the current guidance. The staff recommends modifications to the current guidance that would allow licensees to use a performance based license to make the determination on whether alternate feed is appropriate to for processing at the facility. The staff recommendation would focus on four factors.

1. The concentration of uranium in the alternate feed,
2. Financial considerations (if the licensee chooses to use that basis,
3. A demonstration that the material can be disposed of directly in the tailings impoundment without further processing [and therefore truly is being processed for its source material content], or
4. Any other basis of equivalent capability to make the demonstration.

Envirocare's primary concern is the third factor. The staff makes the erroneous assumption that if the material could be disposed of directly in the tailings impoundment without further processing, then any processing is "truly" for its source material content. This presupposes that the facility is licensed to directly dispose of this material in the tailings impoundment. Even if material is 11e.(2) byproduct material it cannot be disposed of in the impoundment, unless the facility is licensed for disposal of 11e.(2) byproduct material and any processing must be evaluated under the first criteria.

While Envirocare supports the current guidance, if the Commission decides to modify the guidance, the Commission needs to assure that decisions to process are made on the economic extraction of uranium, not on an erroneous assumption that if the material is 11e.(2) material, then any processing must be being processed for source material content. The determination of whether the material is processed primarily for source material should rely upon the reason for processing the waste. The fact that uranium is present in the material is not an irrebuttable presumption when the mill receives substantial revenues to "recycle" the material that was shipped from a remediation site for disposal. The NRC's regulations provide for obtaining an appropriate disposal license, which should be followed for facilities that want to be able to manage radioactive wastes.

SECY-99-013, Recommendation On Ways To Improve The Efficiency Of NRC Regulation At In Situ Leach Uranium Recovery Facilities

Envirocare does not comment on this paper.



ENVIROCARE
OF UTAH, INC.

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Envirocare respectfully submits these comments and asks for the Commissions consideration in making it determination on how to proceed on these issues. If you have any questions regarding this matter please contact George Hellstrom or myself at (801) 532-1330.

Sincerely,

Kenneth L. Alkema
Sr. Vice President

cc: NRC Commissioners

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of
HYDRO RESOURCES, INC.

Docket No.(s) 40-8968-ML

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LTR ALKEMA TO CHM SUBMIT'G COM have been served upon the following persons by U.S. mail, first class, except as otherwise noted and in accordance with the requirements of 10 CFR Sec. 2.712.

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Docket No.(s)40-8968-ML
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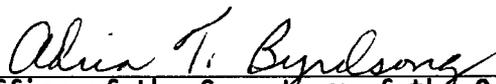
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Dated at Rockville, Md. this
28 day of June 1999


Office of the Secretary of the Commission

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of

INTERNATIONAL URANIUM (USA)
CORPORATION (IUSA)
(Receipt of Material from
Tonawanda, New York)

Docket No.(s) 40-8681-MLA-4

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LTR ALKEMA TO CHM SUBMIT'G COM have been served upon the following persons by U.S. mail, first class, except as otherwise noted and in accordance with the requirements of 10 CFR Sec. 2.712.

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of

INTERNATIONAL URANIUM (USA)
CORPORATION (IUSA)
(Request for Material License
Amendment)

Docket No.(s) 40-8681-MLA-5

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Docket No.(s)40-8681-MLA-5
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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of

INTERNATIONAL URANIUM (USA)
CORPORATION (IUSA)
(Request for Materials License
Amendment)

Docket No.(s) 40-8681-MLA-6

CERTIFICATE OF SERVICE

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Office of the Secretary of the Commission

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of

INTERNATIONAL URANIUM (USA)
CORPORATION (IUSA)
(Request for Materials License
Amendment)

Docket No.(s) 40-8681-MLA-7

CERTIFICATE OF SERVICE

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