



INTERNATIONAL
URANIUM (USA)
CORPORATION

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USNRC

Independence Plaza, Suite 950 • 1050 Seventeenth Street • Denver, CO 80265 • 303 628 7798 (main) • 303 389 4125 (fax)

July 23, 1999

Ms. Annette L. Vietti-Cook
Secretary to the Commission
United States Nuclear Regulatory Commission
One White Flint North
Mail Stop 16C1
11555 Rockville Pike
Rockville, MD 20852

OFFICE OF SECRETARY
RULEMAKING AND
ADJUDICATIONS STAFF

SERVED JUL 27 1999

Re: Comments on Discussions at the Commission Meeting of June 17, 1999 and on
Written Submission of Envirocare of Utah, Inc.

Dear Ms. Vietti-Cook:

As a party to certain matters (International Uranium (USA) Corporation Docket Nos. 40-8681-MLA-4/MLA-5/MLA-6/MLA-7 (collectively, the "IUSA Proceedings")), before the United States Nuclear Regulatory Commission ("NRC" or the "Commission"), International Uranium (USA) Corporation ("IUSA") was served with copies of the following documents:

- (a) A letter from you dated June 23, 1999 with attached Transcript of Commission Meeting of June 17, 1999 (the "Commission Meeting"); and
- (b) A letter (the "Envirocare Letter") dated June 17, 1999 addressed to Dr. Shirley Jackson, then Chairman of the Commission, from Envirocare of Utah, Inc. ("Envirocare"), containing written comments of Envirocare on SECY-99-011, SECY-99-012 and SECY-99-013 Nuclear Regulatory Commission Meeting 1999-0512 (June 17, 1999) (the "Staff Papers").

In your letter of June 23, 1999, you invited parties to the IUSA Proceedings to provide comments to the Commission with respect to the Commission Meeting discussions. This letter contains IUSA's comments with respect to the Commission Meeting discussions. As the Envirocare Letter also deals with the issues before the Commission at the Commission Meeting as well as matters at issue in the IUSA Proceedings, and was served upon IUSA as a party to the IUSA Proceedings, we are also addressing in this letter some of the statements made by Envirocare in the Envirocare Letter.

In making the comments contained in this letter, IUSA has had the opportunity to review the National Mining Association's ("NMA's") response to the Commission regarding the Commission Meeting (the "NMA Comments").

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IUSA agrees with the NMA Comments, and would like to emphasize and expand upon the following two points made by the NMA:

1. RECYCLING FOR THE RECOVERY OF URANIUM IS GOOD PUBLIC POLICY AND SHOULD NOT BE PROHIBITED BY THE NRC

We agree with the NMA that the effect of Mr. Fliegel's arguments is to effectively prohibit the recycling of uranium-bearing waste streams for the recovery of valuable uranium. Recycling for uranium, just as for virtually all other resources, can cost money. One commentator on the Commission's Alternate Feed Policy noted:

In many cases, it is necessary to charge a fee to the customer to make a recycling system economically viable; and yet, nobody claims that these systems are "sham recycling" because the waste "generator" is compelled to pay to support the recycling process. For example . . . used oil and tires are almost never purchased from the customer by recyclers; rather, the consumer pays to get rid of them. Yet bottles, used oil and used tires that are accumulated and are actually reprocessed and reused are clearly being "recycled" despite the fact that the money is going in the "wrong direction." . . . *In fact, none of these programs involve sham recycling. They involve real, bona fide recycling because used materials are really being processed and valuable components are really being recovered and reused . . . Reclamation of source material wastes in uranium mills will serve these same beneficial purposes.*¹

Mr. Fliegel's position is that if the value of the recovered uranium is less than the cost of processing, or if a recycling fee is paid to the mill operator, then the processing is "sham processing" and should be prohibited.²

¹ Letter from Anthony T. Campitelli, Cabot Performance Materials to Chief, Rules and Directives Review Branch, U.S. Nuclear Regulatory Commission 7 (June 11, 1992). In fact, virtually all forms of recycling – including perhaps processing of such source material wastes as alternate feed – require some type of subsidy or fee, because none of it is very profitable. In his article published in the New York Times under the title, "Recycling Is Garbage," John Tierney pointed out that for every ton of glass, plastic and metal that the City of New York recycles, it spends \$200 more than it would spend to bury the material in a landfill. John Tierney, Recycling Is Garbage, N.Y. Times, June 30, 1996. Simply put, "recycling costs money."

² This issue was also addressed by Tom Bingham, the President of the Utah Mining Association, in an address to the Utah Radiation Control Board on April 8, 1999 in connection with a proposed rulemaking in that state, in which Mr. Bingham stated the following:

We have heard the assertion that what [IUSA] is doing is "sham recycling" because the value of the uranium recovered may not always cover the costs of processing. [Utah Department of Environmental Quality] argues that because

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It would be a shame to adopt an interpretation of Section 11e.(2) of the Atomic Energy Act that would lead to the conclusion that a uranium mill could not be used to recycle uranium from uranium-bearing alternate feeds, if this requires the payment of a recycling fee to the mill operator, since such an interpretation would almost certainly sound the death toll for most of this type of recycling. Uranium can only be recycled in a licensed uranium mill. If the NRC takes the position espoused by Mr. Fliegel it will in effect be making a policy decision to prohibit the recycling of a valuable resource from what would otherwise be a waste stream, in a circumstance where, as Mr. Fliegel himself admits, and as discussed below, *there are no public health or safety concerns associated with such recycling.*

Recycling for uranium at a licensed uranium mill should be recognized as a good and valid use of the mill facility. As the NMA has noted in the NMA Comments, recycling is generally considered a pro-environment policy, particularly where, in accordance with the United States Environmental Protection Agency ("EPA") philosophy on recycling, a valuable commodity for which there is a market is recovered and not wasted. Recycling should be encouraged rather than discouraged by NRC policy. This is particularly the case where there are no public health or safety concerns, and in fact, the removal of uranium reduces the radioactivity of the waste stream and in that sense ultimately makes it safer for disposal.

Footnote continued from previous page

[IUSA] may be paid a fee, its recycling is a sham. Are any of you aware of a recycling program that pays for itself?

Each Utah consumer must pay fifty cents for each new tire purchased. The Legislature just raised this fee to 85 cents effective July 1, 1999. This money goes to tire recyclers who are paid \$70 per ton if the tires are recycled for energy recovery or another ultimate product. We pay four cents per quart of lubricating oil purchased. This money is used as a recycling incentive for used oil collection centers.

In cities like Sandy, citizens pay a monthly collection fee to offset the city's extra costs in picking up and transporting to recyclers such materials as newspapers, cardboard, plastics and glass. I have not mentioned the costs in time and money spent by individuals and companies in gathering, segregating and placing these materials out for recycling.

Are all of these programs "sham recycling" just because the costs exceed the direct return from the recycled product. Of course not!

2. IF A URANIUM MILL IS SAFE FOR PROCESSING CONVENTIONAL ORES, THEN IT IS SAFE FOR PROCESSING ALTERNATE FEEDS.

In his commentary at the Commission Meeting, Mr. William Sinclair, Director, Division of Radiation Control, Utah Department of Environmental Quality, at page 81 of the Transcript of the Commission Meeting, states that he disagrees with Mr. Fliegel's opinion that uranium mill tailings impoundments are excellent places to dispose of low activity radioactive material. Mr. Sinclair states that he would have to be comfortable with the design of the groundwater protection standards at the particular mill and that at this time he is not comfortable with those standards.

In the Envirocare Letter, Envirocare asserts that the proposals contained in the Staff Papers, if adopted by the Commission, could lead to relaxing many existing regulatory standards and effectively take a regulatory step backwards. Envirocare asserts that the Commission needs to weigh the actual reduction in radioactivity of the recycled materials against the creation of what Envirocare suggests could be considered a new hazardous waste material. Envirocare describes the milling process, in which water may be added to certain forms of alternate feeds to make a slurry, and then acids, organics and other process chemicals are added to extract the uranium in the same manner as uranium is extracted from conventional ores. Envirocare concludes that this processing "creates a much more toxic hazardous material than the beginning solid waste form."

Envirocare makes an important point: there is no difference between processing alternate feeds and conventional ores. If a mill is licensed to process conventional ores for the recovery of uranium, there is no reason why it should not also be licensed to process alternate feed materials for the recovery of uranium! *If it is not safe to process alternate feeds, it is not safe to process conventional ores.*

Before an alternate feed material can be accepted for processing at a uranium mill, both the licensee and the NRC must be satisfied that the processing of the material is consistent with federal standards found in 10 CFR Part 40 and the NRC license for the mill, including the environmental assessment or the equivalent performed for the mill. Therefore, there can be no differences of any significance between processing conventional ores or alternate feed materials at a uranium mill.

A uranium mill by design must add both inorganic and organic chemicals to the process in order to extract uranium, and wastes containing these chemicals must be managed in accordance with EPA standards under the Uranium Mill Tailings Radiation Control Act ("UMTRCA"). UMTRCA contains a comprehensive regulatory regime applicable to all radiological and nonradiological aspects of processing ores for uranium, and managing and permanently disposing of the resulting tailings. These same types of inorganic and organic chemicals are used to process alternate feed materials.

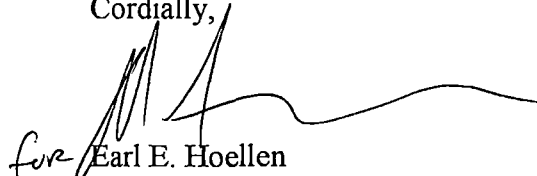
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Some alternate feed materials may contain organic or inorganic chemicals. However, IUSA can say that the classes of chemicals contained in the alternate feed materials, including FUSRAP materials, processed to date at IUSA's uranium mill are also found in the tailings from conventional ore processing, and are therefore fully contemplated in the mill's design. Moreover, these chemicals are generally in such small amounts that they are insignificant compared to normal uranium milling operations. In other words, the classes of chemicals found in alternate feeds produce no new environmental impacts—a conclusion that must be true for any alternate feed approved for processing at a uranium mill.

It is clear that if a uranium mill is licensed for the processing of conventional ores, then it must be considered safe for the processing of alternate feed materials. We believe that the requirements of 10 CFR Part 40 are very protective of the environment, public health and safety. However, if the NRC believes that there are any environmental, health or safety issues applicable to the processing of alternate feeds, those same concerns must also apply to the processing of conventional ores at uranium mills, and should be addressed by changes to 10 CFR Part 40 generally and not to changes in the Alternate Feed Policy that would restrict or prevent the processing of alternate feed materials for the recovery of uranium.

IUSA respectfully requests that the Commission take these comments into consideration in evaluating the Staff Papers and commentary thereon. If you have any questions regarding the foregoing, please contact the undersigned at 303-389-4150 or David Frydenlund, Vice President and General Counsel of IUSA, at 303-389-4130.

Cordially,


for Earl E. Hoellen
President and Chief Executive Officer

cc: NRC Commissioners
William D. Travers, NRC
Carl J. Paperiello, NRC
John T. Greeves, NRC
Joseph J. Holonich, NRC
John Surmeier, NRC
William J. Sinclair, Utah DEQ

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 IUSA TO SECY SUBMITT'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.

Office of Commission Appellate
Adjudication
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Administrative Judge
Peter B. Bloch
Presiding Officer
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Administrative Judge
Thomas D. Murphy
Special Assistant
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555

John T. Hull, Esq.
Mitzi A. Young, Esq.
Office of the General Counsel
Mail Stop - 0-15 B18
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Diane Curran, Esq.
Harmon, Curran, Spielberg
& Eisenberg, L.L.P.
1726 M Street, NW, Suite 600
Washington, DC 20036

Douglas Meiklejohn, Esq.
New Mexico Environmental Law Center
1405 Luisa Street, Suite 5
Santa Fe, NM 87505

Jep Hill, Esq.
Attorney for Hydro Resources, Inc.
Jep Hill & Associates
P.O. Box 2254
Austin, TX 78768

Herb Yazzie, Attorney General
Steven J. Bloxham, Esq.
Navajo Nation Department of Justice
P.O. Box 2010
Window Rock, AZ 86515

Docket No.(s)40-8968-ML
LTR IUSA TO SECY SUBMITT'G COM

Wm. Paul Robinson
Chris Shuey
Southwest Research and Information
Center
P.O. Box 4524
Albuquerque, NM 87106

Mitchell Capitan, President
ENDAUM
P.O. Box 471
Crownpoint, NM 87313

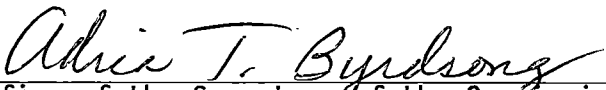
Anthony J. Thompson, Esq.
Shaw, Pittman, Potts & Trowbridge
2300 N Street, NW
Washington, DC 20037

Administrative Judge
Robin Brett
U.S. Geological Survey
917 National Center
Reston, VA 20192

Grace Sam
P.O. Box 85
Church Rock, NM 87311

Samuel D. Gollis
DNA People's Legal Services, Inc.
(Hopi Legal Services)
P.O. Box 558
Keams Canyon, AZ 86034

Dated at Rockville, Md. this
27 day of July 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 IUSA TO SECY SUBMITT'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.

Office of Commission Appellate
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Administrative Judge
Peter B. Bloch
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Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Administrative Judge
Richard F. Cole
Special Assistant
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555


Lisa B. Clark, Esq.
Mitzi A. Young, Esq.
Office of the General Counsel
Mail Stop - O-15 B18
U.S. Nuclear Regulatory Commission
Washington, DC 20555

David J. Jordan, Esq.
Jill M. Pohlman, Esq.
Stoel Rives LLP
One Utah Center, 11th Floor
201 South Main Street
Salt Lake City, UT 84111

Denise Chancellor, Esq.
Fred G Nelson, Esq.
Utah Attorney General's Office
160 East 300 South, 5th Floor
P.O. Box 140873
Salt Lake City, UT 84114

Anthony J. Thompson, Esq.
Frederick S. Phillips, Esq.
Shaw, Pittman, Potts & Trowbridge
2300 N Street, NW
Washington, DC 20037

Dated at Rockville, Md. this
27 day of July 1999


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 Material License
Amendment)

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

CERTIFICATE OF SERVICE

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Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Administrative Judge
Richard F. Cole
Special Assistant
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Lisa B. Clark, Esq.
Office of the General Counsel
Mail Stop - 0-15 B18
U.S. Nuclear Regulatory Commission
Washington, DC 20555

David J. Jordan, Esq.
Jill M. Pohlman, Esq.
Stoel Rives LLP
One Utah Center, 11th Floor
201 South Main Street
Salt Lake City, UT 84111

Fred G. Nelson, Esq.
Denise Chancellor, Esq.
Utah Attorney General's Office
160 East 300 South, 5th Floor
P.O. Box 140873
Salt Lake City, UT 84114

Anthony J. Thompson, Esq.
Shaw, Pittman, Potts & Trowbridge
2300 N Street, NW
Washington, DC 20037

Dated at Rockville, Md. this
27 day of July 1999


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-6

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U.S. Nuclear Regulatory Commission
Washington, DC 20555

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Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555

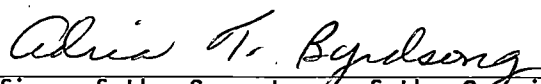
Administrative Judge
Richard F. Cole
Special Assistant
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Henry J. McGurren, Esq.
Office of the General Counsel
Mail Stop - 0-15 B18
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Jill M. Pohlman, Esq.
Stoel Rives LLP
One Utah Center, 11th Floor
201 South Main Street
Salt Lake City, UT 84111

David C. Lashway, Esq.
Shaw, Pittman, Potts & Trowbridge
2300 N Street, NW
Washington, DC 20037

Dated at Rockville, Md. this
27 day of July 1999


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

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Adjudication
U.S. Nuclear Regulatory Commission
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Washington, DC 20555

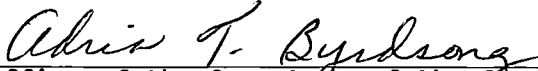
Administrative Judge
Richard F. Cole
Special Assistant
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555

L. Michael Rafky, Esq.
Office of the General Counsel
Mail Stop - 0-15 B18
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Michelle R. Rehmann
International Uranium (USA) Corp.
Independence Plaza, Suite 950
1050 Seventeenth Street
Denver, CO 80265

David C. Lashway, Esq.
Shaw, Pittman, Potts & Trowbridge
2300 N Street, NW
Washington, DC 20037

Dated at Rockville, Md. this
27 day of July 1999


Office of the Secretary of the Commission