

POOR ORIGINAL

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of
Rio Algom Corporation
P. O. Box 610
Moab, Utah 84532

)
)
)
)

License No. SUA-1119
EA-80-53

ORDER IMPOSING CIVIL MONETARY PENALTIES

I

Rio Algom Corporation, P. O. Box 610, Moab, Utah. (the "licensee"), is the holder of License No. SUA-1119 (the "license") issued by the Nuclear Regulatory Commission (the "Commission"). License No. SUA-1119 authorizes uranium milling operations and possession of source material in the production of yellowcake and is due to expire on September 30, 1982.

II

An inspection of the licensee's activities under the license was conducted on June 25-27, 1980, at the licensee's Humeca Mill facility located near Moab, Utah. As a result of this inspection, it appears that the licensee has not conducted its activities in full compliance with the conditions of its license and with the requirements of the Nuclear Regulatory Commission's "Standards for Protection Against Radiation," Part 20, Title 10, Code of Federal Regulations. A written Notice of Violation was served upon the licensee by letter dated October 8, 1980, specifying the items of noncompliance in accordance with 10 CFR 2.201. A Notice of Proposed Imposition of Civil Penalties dated October 8, 1980, was served concurrently upon the licensee in accordance with

810 1150 935

Section 234 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2282) and 10 CFR 2.205, incorporating by reference the Notice of Violation, which stated the nature of the items of noncompliance and the provisions of Nuclear Regulatory Commission regulations and license conditions. An answer, dated October 28, 1980, to the Notice of Violation and Proposed Imposition of Civil Penalties was received from the licensee.

III

Upon consideration of the answers received and the statements of fact, explanation, and argument for deferral, compromise, mitigation, or cancellation contained therein, as set forth in Appendix A to this Order, the Director of the Office of Inspection and Enforcement has determined that the penalties proposed for the items of noncompliance designated in the Notice of Violation should be imposed, except for Item 2 which is remitted in its entirety.

IV

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2282) and 10 CFR 2.205, IT IS HEREBY ORDERED THAT:

The licensee pay civil penalties in the total amount of Six Thousand, One Hundred Dollars (\$6,100) within twenty-five days of the date of this Order, by check, draft, or money order, payable to the Treasurer

POOR ORIGINAL

of the United States, and mailed to the Director of the Office of Inspection and Enforcement.

V

The licensee may, within twenty-five days of the date of this Order, request a hearing. A request for a hearing shall be addressed to the Secretary to the Commission, U.S.N.R.C., Washington, DC. 20555. A copy of the hearing request shall also be sent to the Executive Legal Director, U.S.N.R.C., Washington, D.C. 20555. If a hearing is requested, the Commission will issue an order designating the time and place of hearing. Upon failure of the licensee to request a hearing within twenty-five days of the date of this Order, the provisions of this Order shall be effective without further proceedings and, if payment has not been made by that time, the matter may be referred to the Attorney General for collection.

VI

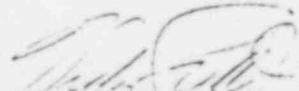
In the event the licensee requests a hearing as provided above, the issues to be considered at such hearing shall be:

- (a) whether the licensee was in noncompliance with the Commission's regulations and the conditions of the license as set forth in the Notice of Violation referenced in Sections II and III above; and,

POOR ORIGINAL

(b) whether, on the basis of such items of noncompliance, this Order should be sustained.

FOR THE NUCLEAR REGULATORY COMMISSION



Victor Stello, Jr.
Director
Office of Inspection
and Enforcement

Dated this 13th day of January, 1981
at Bethesda, Maryland

Attachment:
Appendix A, Evaluation
and Conclusion

POOR ORIGINAL

APPENDIX A
EVALUATION AND CONCLUSION

For each item of noncompliance and associated civil penalty identified in the Notice of Violation dated October 8, 1980, the original item of noncompliance is restated and the Office of Inspection and Enforcement evaluation and conclusion regarding the licensee's response to each item (October 8, 1980), is presented.

Statement of Noncompliance

1. 10 CFR 20.201 requires that the licensee make or cause to be made such surveys (evaluations) as may be necessary to comply with the regulations in this part.

Contrary to the requirement, adequate surveys (evaluations) were not made since July 1979 in regard to: 10 CFR 20.103 which requires that no licensee shall use U-238 in soluble form in such a manner as to permit any individual in a restricted area to inhale a quantity of such material in excess of the intake limits specified in Appendix B, Table I, Column 1 of this part. As a result of these inadequate surveys, actions were not taken to assure against recurrence whenever the intake of uranium ore dust by any individual exceeded the 40-hour control measure.

This is an infraction (Civil Penalty - \$1,500).

Evaluation of Licensee Response

The licensee has denied this violation on the basis that it "has had and continues to have a monitoring program in place which meets the standards of this provision and ensures that no individuals exceed the exposure limits of 10 CFR 20.103." However, the response fails to deal with the substance of the violation, that surveys conducted were inadequate to assure against recurrence whenever the intake of uranium ore dust by any individual exceeded the 40-hour control measure. Surveys conducted were inadequate in that, in some cases, calculations used to evaluate exposures were in error in such a manner that air concentrations of uranium ore dust were underestimated by as much as a factor of one hundred.

Conclusion

The item as stated is an item of noncompliance. The information presented by the licensee does not provide a basis for modification of this enforcement action. Item 1 is similar to items found during the inspection conducted on July 31 - August 1-2, 1978.

POOR ORIGINAL

Statement of Noncompliance

2. 10 CFR 20.103(b)(1) requires that the licensee, as a precautionary procedure, use process or other engineering controls, to the extent practicable, to limit concentrations of radioactive materials in air to levels below those which delimit an airborne radioactivity area as defined in 10 CFR 20.203(d)(1)(ii).

Contrary to this requirement, engineering controls had not been instituted or considered for airborne radioactivity areas existing in the Crusher Building and Main Mill Building since January 1, 1979.

This is an infraction (Civil Penalty - \$1,000).

Evaluation of Licensee Response

The licensee denies this violation on the basis that the necessary engineering and administrative controls have been installed. The licensee notes specifically that several of the engineering controls described had been installed since January 1, 1979, and that two were in the process of being installed at the time of the inspection. During our inspection on June 25-27, 1980, our inspector was unable to establish that any effort existed to specifically meet the stated criteria, and he was informed, during the management meeting at the conclusion of the inspection on June 25-27, that licensee management had no knowledge of a regulatory requirement for engineering controls.

However, in view of the information now provided by the licensee that engineering controls had been instituted or considered for the crusher and mill building since January 1, 1979, the NRC staff is withdrawing this item of noncompliance.

Conclusion

Since the licensee has provided information indicating that engineering controls have been installed since January 1, 1979, the penalty is hereby remitted in its entirety.

Statement of Noncompliance

3. License Condition 10 requires that source material be used in accordance with statements, representations and conditions contained in the supplement dated August 6, 1976.

Reply No. 7 in the supplement states that semi-annual or more frequent audits are to be made by environmental personnel from the corporate office for the purpose of reviewing plant environmental programs.

Contrary to the above, such audits had not been performed since July 1979.

This is an infraction (Civil Penalty - \$1,000).

POOR ORIGINAL

Evaluation of License Response

The licensee has admitted the item of noncompliance. No mitigating circumstances were identified by the licensee and no reduction of civil penalty was requested.

Statement of Noncompliance

4. License Condition 10 requires that source material be used in accordance with statements, representations and conditions contained in the supplement dated August 6, 1976.

Reply No. 8 in the supplement states that personal air samplers will be worn by designated workers each normal work day and that discharge volumes from dust control systems will be measured at least twice each month.

Contrary to the above, personal air samplers had not been worn by designated workers on twenty-two (22) normal work days during January through April of 1980, and discharge volumes had been determined only monthly since July 1979.

This is an infraction (Civil Penalty - \$1,000).

Evaluation of Licensee Response

The licensee admitted this item of noncompliance; however, it has requested a reduction in civil penalty based on mitigating circumstances, i.e., that the deficiency was corrected, that no threat to worker health or safety occurred, and that some uncertainty exists regarding plant operating dates versus the need to wear air samplers.

Insofar as the staff has been able to determine, any corrective action relative to this matter occurred as a result of the NRC June 25-27 inspection, not as a result of the licensee's discovery of the noncompliance. Moreover, the licensee has been cited for a similar violation on two previous occasions. Lasting corrective action has apparently not been effective. Additionally, it is the staff's view that the noncompliance did constitute a threat to worker health and safety. Although no one appears to have been subject to excessive airborne exposures, in the absence of required control measures to assure that over-exposures do not occur, the potential for excessive worker exposures did, in fact, exist.

Conclusion

The information presented by the licensee does not provide a basis for modification of this enforcement action. A reduction in civil penalty is not warranted. Item 4 is similar to items found during inspections on July 31 - August 1-2, 1978, and July 16-17, 1979.

OR ORIGINAL

Statement of Noncompliance

5. License Condition 10 requires that source material be used in accordance with statements, representations, and conditions contained in the license application dated August 26, 1971.

Pages 31 and 26 of the application state that monthly air sampling will be performed at thirty-five (35) locations in the mill.

Contrary to the above, sampling was performed at only twenty-one (21) locations during July 1979.

This is a deficiency (Civil Penalty - \$500)

Evaluation of Licensee Response

The licensee has admitted the item of noncompliance. However, it has requested a reduction of the civil penalty because the incident was an isolated one and was discovered and corrected by the licensee.

The item of noncompliance involves directly the health and safety of workers. While the incident was corrected by the licensee, similar items of noncompliance had been found during two previous inspections. This indicates a lack of attention during the past to this vital area of licensed activities. In this instance, the civil penalty is appropriate to assure lasting corrective action.

Conclusion

The item as stated is an item of noncompliance involving protection of personnel. The information presented by the licensee does not provide a basis for modification of this enforcement action. Item 5 is similar to items found during inspections conducted on July 31, August 1-2, 1978, and July 16-17, 1979.

Statement of Noncompliance

6. License Condition 18 requires that the licensee maintain an operational environmental monitoring program in accordance with Section II.E.2 of NUREG-0046 dated April 1976.

Contrary to the above, the following analyses had not been performed since July 1979.

- a. Ambient air samples for uranium had been obtained monthly instead of the required frequency of twice per month.
- b. Well water samples had not been analyzed for sulphate.
- c. Water from Rattlesnake Pond had not been analyzed for aluminum and molybdenum.

POOR ORIGINAL

- d. Ventilation shaft water had not been analyzed for nitrate, iron, and total alpha activity.
- e. Discharge water from the treatment facility for radium removal had not been analyzed for iron.

This is a deficiency (Civil Penalty - \$500).

Evaluation of Licensee Response

The licensee has admitted the item of noncompliance; however, it has requested mitigation of the civil penalty because the deficiencies represented no specific threat to human health and because of the numerous back-up and cross checks which occur in environmental monitoring and because of the nature of the omissions.

The NRC's concern in making this citation was that it represented a failure to follow a license condition. Although in some instances redundant steps were associated with this particular program of sampling, three of the five analyses involved are not in this category and were not followed as required. While the actual threat to human health may have been minimal as the licensee has stated, this fact was reflected in the classification of the item of noncompliance as a deficiency. Nevertheless, the noncompliance represents failure to follow a license condition, and a civil penalty is appropriate.

Conclusion

The item as stated is an item of noncompliance. The information presented by the licensee does not provide a basis for modification of this enforcement action. Item 6 is similar to items found during inspections conducted on July 31 - August 1-2, 1978, and on July 16-17, 1979.

Statement of Noncompliance

7. 10 CFR 20.203(b) requires that each radiation area be conspicuously posted with a sign or signs bearing the radiation caution symbol and the words: CAUTION (or DANGER) - RADIATION AREA.

10 CFR 20.202(b)(2) states that a "radiation area" means any area, accessible to personnel, in which there exists radiation at such levels that a major portion of the body could receive a dose in excess of 100 millirems in any five (5) consecutive days.

Contrary to these requirements, a fenced concentrate storage area with a measured perimeter dose rate of 3 mR/hour was not posted as a radiation area on the days of the inspection.

This is a deficiency (Civil Penalty - \$300).

POOR ORIGINAL

Evaluation of Licensee Response

The licensee has admitted this item of noncompliance; however, it has requested mitigation of the civil penalty because the possibility of a worker receiving overexposure in the area is remote.

The NRC staff's concern in proposing the item of noncompliance, was not for an imminent threat to the health and safety of workers but for the generic aspect of identifying and posting all areas required to be posted in accordance with the regulations. The minimal potential for overexposure of personnel had already been taken into account and is reflected by the minimal civil penalty proposed.

Conclusion

The item as stated is an item of noncompliance. The information presented by the licensee does not provide a basis for modification of this enforcement action.

Statement of Noncompliance

8. 10 CFR 20.203(d)(2) requires that each airborne radioactivity area be conspicuously posted with a sign or signs bearing the radiation caution symbol and the words: CAUTION (or DANGER) - AIRBORNE RADIOACTIVITY AREA.

Contrary to this requirement, various airborne radioactivity areas in the Crusher Building and the Main Mill Building were not conspicuously posted on the days of the inspection.

This is a deficiency (Civil Penalty - \$300).

Evaluation of Licensee Response

The licensee has admitted this item of noncompliance, however, licensee requests remission of the item based on an oversight in replacing signs on doors which had been replaced. This item as stated is an item of noncompliance. The information supplied by the licensee does not provide a basis for modification of this enforcement action.

Conclusion

The item as stated is an item of noncompliance. The information presented by the licensee does not provide a basis for modification of this enforcement action.

Statement of Noncompliance

9. 10 CFR 40.65 requires that semi-annual effluent monitoring reports be submitted to the Nuclear Regulatory Commission specifying the quantity of

POOR ORIGINAL

each of the principal radionuclides released to unrestricted areas in gaseous effluents.

Contrary to this requirement, principal stack releases of radium-226 and thorium-230 were not reported during calendar year 1979.

This is a deficiency (Civil Penalty - \$0).

Evaluation of Licensee Response

The licensee denied this item of noncompliance, asserting that its applicable license condition requires only measurement, not reporting, and that the NRC merely requested by letter of September 1, 1977 that the licensee submit its reports. The NRC staff notes that the letter and the license condition are not germane; the Violation is based on the licensee's failure to report in accordance with 10 CFR Part 40.65, a report clearly required and not submitted as indicated in the Notice of Violation. Any future failure to make this report will be considered a repeat violation and civil penalties may be considered.

Conclusions

The item as stated is an item of noncompliance. The information presented by the licensee does not provide a basis for modification of this enforcement action.

Statement of Noncompliance

10. License Condition 10 requires that source material be used in accordance with statements, representations and conditions contained in the supplement dated August 6, 1976.

Reply No. 3 in the supplement states that whole body counts will be performed annually on affected employees.

Contrary to this requirement, such counts had not been performed since July 1978.

This is a deficiency (Civil Penalty - \$500).

Evaluation of Licensee Response

This violation has been denied by the licensee with the explanation that it interprets the word "affected" to mean that analyses will be performed only when external factors indicate a need for such an analysis on an individual basis. If a urinalysis sample indicates concentrations of 30 micrograms per liter, then in vivo analysis (whole body counting) will be performed. In the NRC staff's view, the license condition refers to all dryer workers, i.e., all those employees who, because of the nature of their work, have a high potential for intake. However, even under the licensee's more restricted reading of its license condition, the Notice of Violation continues to be valid as stated.

POOR ORIGINAL

Licensee's records show that at least two workers exceeded the 30 micrograms per liter limit (53.3 and 33.9 micrograms per liter) without receiving whole body counts.

Conclusion

The item as stated is an item of noncompliance. The information presented by the licensee does not provide a basis for modification of this enforcement action.

Statement of Noncompliance

11. License Condition 23 requires that the licensee minimize the dusting of dried tailings, as necessary, by the installation of a sprinkler system, chemical stabilization, covering with soil, or other equivalent means.

Contrary to this requirement, the licensee had not implemented effective means to control dusting of tailings as observed by the inspectors on June 26, 1980.

This is a deficiency (Civil Penalty - \$500).

Evaluation of Licensee Response

The licensee has denied this item of noncompliance, contending that its license condition does not require that dusting be controlled in every conceivable environmental circumstance and that all practical measures had been taken to control dusting.

The NRC staff agrees that the licensee is not required to eliminate the dusting of tailings under all environmental circumstances. However, during the day of the inspection, in the NRC staff's view, the control systems in place could have been more efficiently used to minimize the dusting.

Moreover, the staff does not concur that reasonable efforts to minimize dusting were taken, in that sprinkler systems which were installed and operating at the time, were obviously not capable of maintaining the beach areas in a condition which would minimize dusting of dry tailings.

Conclusion

In view of the above, the licensee is required to provide further response to this item in conjunction with payment of civil penalty as imposed.

POOR ORIGINAL