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2/10/83

MEMORANDUM FOR: William J. Dircks, Director
Office of the Executive Director
for Operations

FROM: John G. Davis, Director
Office of Nuclear Material Safety
and Safeguards

SUBJECT: RESPONSE TO CONGRESSMAN CHENEY

This memorandum is to address your concern as to the licensing fees charged to Ogle Petroleum, Inc., which arose through an inquiry from Congressman Cheney regarding our proposed revised fee schedule. To answer your basic question, as posed by Mr. Rehm, Ogle has not been overcharged as a result of bureaucratic ineptness or staff inefficiency. Ogle's initial license review was processed at a cost to the U.S. Government of about \$263,000 of which Ogle was charged only \$66,500. Even if the costs could have been reduced by correcting for the alleged inefficiencies, Ogle would still have been charged the then-maximum application review fee of \$66,500. We intend to followup on the efficiency implications of Ogle's experience in establishing and conducting our oversight functions for regionalized uranium recovery licensing this fiscal year.

In summary, we consider the letter to Congressman Cheney prepared by the Office of Administration (ADM) to be responsive and accurate, and to appropriately call for later detailed followup on the underlying "efficiency" issues raised by Ogle Petroleum, Inc. (OPI). Accordingly, we recommend that the ADM response be signed and issued. We will coordinate with the Region IV Uranium Recovery Field Office to generate a full reply later, on the efficiency issues, for inclusion in the record for the revised fee schedule.

Basically, Ogle objects to the proposal that licensing fees not be limited, saying this will lead to even greater inefficiency than now exists. OPI cites examples from its experience involving the initial application review and license issuance, and a still-pending license

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B. Fisher

amendment request. In neither case has Ogle been overcharged. The basic details regarding these two actions are as follows:

Initial Application Review

Ogle correctly states that the NRC license review cost more and took longer than did the necessary permit application review performed by the Wyoming Department of Environmental Quality (WDEQ). However, Ogle erroneously attributes this to staff inefficiency, misuse of consultants, and performing unnecessary environmental reviews. Instead, the following major factors increase the work effort that NRC must undertake that are not required by WDEQ, with a corresponding influence on cost and duration:

1. The NRC, unlike Wyoming, cannot issue a license for the kind of facility proposed by Ogle without a detailed site-specific NEPA review, with notice and opportunity for public comment. Our 10 CFR Part 51 regulations dictate that in this and similar cases full Draft and Final Environmental Impact Statements be prepared and issued.
2. The NRC review, unlike Wyoming's, included preparation of a full Safety Evaluation Report in order to properly consider occupational radiation safety protection and other safety issues posed by the application. Wyoming has no similar statutory requirement to provide for protection of health and safety from radiation.
3. The NRC, unlike Wyoming, operates on a cost-recovery basis (with upper limits at present) geared to recoup the value of services rendered. The review efforts conducted by Wyoming are largely subsidized.

These factors are primarily responsible for most of the differences in cost and time between the NRC and WDEQ license application reviews. Ogle was charged \$66,500 for the NRC review, license issuance, and the subsequent processing of five license amendments considered to be part of the initial review. The actual cost to the government for providing these services was some \$263,000; mostly (over 70%) for preparation of supporting environmental reviews required by NEPA and 10 CFR Part 51. The remaining cost represents about 1 staff year of effort, which I find quite reasonable. As to timeliness, the license was signed in May, 1981, about 21 months after the application was received. The DEIS was issued

10 months after receipt of the application, and the FEIS followed 10 months later. Considering the comprehensiveness and the level of detail of the required reviews, this performance is consistent with other licensing actions.

License Amendment Review

The proposed license amendment in question would authorize the conduct of solution mining activities in a second mining area, known as Mine Unit No. 2. Prior to issuing such an authorization the licensing staff must assure that there exists an appropriate physical barrier between the ore zone and the underlying aquifer to protect against migration of mining fluids. To date, the NRC licensing staff has not been able to determine, based on available information, that the necessary protection exists in the Mine Unit No. 2 area.

The staff has attempted to resolve outstanding technical issues on this matter with the applicant, and has considered issuance of a formal denial. In a further effort to resolve differences, the licensing staff again met with Ogle representatives in Denver on January 17, 1983. This meeting has resulted in a subsequent submittal by Ogle, which is now under review.

The situation with Ogle is being monitored very closely at the staff level. John Collins, Region IV Administrator, will now be following this matter since it is his responsibility. In order to become knowledgeable on this matter, Commissioner Asselstine requested and received a full briefing on December 17, 1982. His office is being kept informed of progress in resolving this situation.

(Signed) John G. Davis
John G. Davis, Director
Office of Nuclear Material Safety
and Safeguards

cc: John Collins, Region IV
R. Dale Smith, URFO, Region IV
John Austin, OCM

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*See previous official record copy for concurrence.

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The situation with Ogle is being monitored very closely at the staff level, and I will continue to give it my personal attention. In order to become knowledgeable on this matter, Commissioner Asselstine requested and received a full briefing on December 17, 1982. His office is being kept informed of progress in resolving this situation.

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Fenner concurs by telecon to D. Martin, 2/4/83

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