

Sweetwater Uranium Facility
Kennecott Uranium Company
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**Kennecott
Energy**

February 6, 1996

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

Secretary
U.S. Nuclear Regulatory Commission
Attn: Docketing and Service Branch
Washington, D. C. 20555-0001

DOCKET NUMBER
PROPOSED RULE **PR** 170-171
(61FR2948) ①

Gentlemen:

Subject: Comments on the Revision of Fee Schedules; 100% Fee Recovery, FY 1996

Kennecott Uranium Company is a source material licensee (License Number SUA - 1350) and operates and manages the Sweetwater Uranium Project which is located in Sweetwater County, Wyoming approximately 42 miles northwest of Rawlins, Wyoming. The Sweetwater Uranium Project contains a uranium mill which is currently on standby awaiting an improved uranium market.

Kennecott Uranium Company is in the process of making submittals to the NRC related to amending the license for future operation, as well as holding the facility pending an improved uranium market.

NRC license fees are of great concern to Kennecott Uranium Company since they comprise a significant portion of the facility's holding costs. NRC hourly charges are also of concern to Kennecott Uranium Company since they comprise a significant portion of the costs of amending the license for future operation.

Kennecott Uranium Company is very pleased to see that the Nuclear Regulatory Commission has taken a step in reducing the fee burden on uranium recovery licensees in the proposed fee structure for Fiscal Year 1996. The proposed annual license fees for uranium recovery licensees for fiscal year 1996 are lower than the fees for fiscal year 1995 as per the chart below:

<u>Class</u>	<u>1995 Fee</u>	<u>Proposed 1996 Fee</u>	<u>% Decrease</u>
I	\$60,900.00	\$57,000.00	6.4%
II	\$34,400.00	\$32,200.00	6.4%

Kennecott Uranium Company is pleased that the Nuclear Regulatory Commission continues to listen to and respond to concerns raised by the licensees. These concerns regarding license fees and hourly charges have been raised in the form of letters and directly at joint industry/agency forums like scheduled NRC/Uranium Recovery Licensee meetings.

Kennecott Uranium Company is Manager of the Green Mountain Mining Venture

Kennecott Energy Company provides marketing and other services on behalf of Cordero Mining Company,
Antelope Coal Company, Spring Creek Coal Company and Kennecott Uranium Company.

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Kennecott Uranium Company has the following other comments related to the NRC's fee structure:

1. **Dual Hourly Rates for Reactor versus Nuclear Materials Staff Hours**

Kennecott Uranium Company supports this dual rate structure since it is inherently fairer and more equitable.

2. **Hourly Rates**

The proposed hourly rate for uranium recovery licensees is \$120.00 per hour. This represents an increase of four (4) dollars per hour over the 1995 fee structure. This is an increase of 3.4%. While Kennecott Uranium Company is pleased that the increase in hourly rate is under 4% and generally in keeping with inflation, the rate itself is still unjustifiably high. An hourly rate of \$120.00 per hour equals or exceeds the hourly rate of senior consultants or principals at major (national) consulting companies. It exceeds the accepted rate for similar work in private industry.

3. **Assessment of Full Fees for Non-Operating Facilities**

The proposed rule states:

"...the NRC has consistently stated that annual fees are assessed based on whether a licensee holds a valid NRC license that authorizes possession and use of radioactive material. Whether or not a licensee is actually conducting operations using the material is a matter of licensee discretion. The NRC cannot control whether a licensee elects to possess and use radioactive material once it receives a license from the NRC. Therefore, the NRC reemphasizes that the annual fee will be assessed based on whether a licensee holds a valid NRC license that authorizes possession and use of radioactive material."

Kennecott Uranium Company possess a valid source material license (SUA - 1350), yet cannot operate at its discretion. Kennecott Uranium Company must fulfill certain NRC mandated requirements before beginning operation. These requirements are included in license SUA-1350 as license conditions. For example, License Condition 9.18 states:

"At least 6 months prior to the resumption of milling operations, the licensee shall submit for NRC review and approval, in the form of a license amendment, an updated quality assurance program and a revised effluent and environmental monitoring program."

License Condition 11.11 states in part:

"The licensee shall provide written notification to the NRC at least 30 days prior to the planned resumption of milling operations."

Should Kennecott Uranium Company choose to use the existing tailings impoundment for the future disposal of tailings, License Condition 12.6 states:

"At least 6 months prior to the resumption of operations, a report documenting an inspection of the tailings impoundment liner, any repairs performed, and the repair procedures shall be submitted to the NRC."

In addition, Kennecott Uranium Company has been told by NRC staff that an Environmental Assessment (EA) would have to be completed by NRC prior to the resumption of operations.

Kennecott Uranium Company must make certain submittals and notifications to NRC prior to the resumption of operations. Resumption of operations at the Sweetwater Uranium Project, in spite of the fact that Kennecott Uranium Company possesses a valid NRC license, is not wholly a **"matter of licensee discretion"**.

In fact, License Condition 11.11 makes operation at any time not **"a matter of licensee discretion"**, but an issue requiring additional notification to NRC and further approvals.

In addition, non-operating facilities such as the Sweetwater Uranium Project require less regulatory oversight than fully operational facilities. If fees are to be tied to the cost of regulation, then licensed but non-operational facilities should be charged lower annual fees, especially those facilities which possess valid licenses but require additional submittals, notifications or NRC approvals to resume operations.

Kennecott Uranium Company suggests that a two (2) tier fee structure be established. The two (2) tiered structure should consist of a **"licensed and operating tier"** and a lower cost **"licensed and non-operating but requiring additional submittals to operate tier"**.

4. Capriciousness of Fees

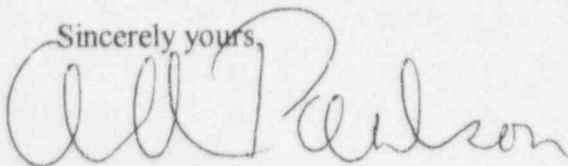
Kennecott Uranium Company supports the NRC's efforts to **"...stabilize annual fees,..."**. In addition, Kennecott Uranium Company supports the NRC's policy of adjusting fees by the percent change in the NRC's total budget. This represents a great simplification and streamlining of the fee setting procedures and has eliminated the dramatic swings in NRC fees seen in the past.

5. **Public Good Exemptions**

Kennecott Uranium Company strongly supports the statement, "**The NRC did not intend to extend public good exemptions to Federal agencies. Therefore, the NRC does not intend to grant public good exemptions to Federal agencies.**" Kennecott Uranium Company believes that this approach is entirely fair and equitable.

Kennecott Uranium Company appreciates the opportunity to comment on the proposed fee structure. If you have any questions please do not hesitate to contact me.

Sincerely yours,



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A/SB.FEB

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