



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

April 21, 2020

Ms. Sandra Ross
Manager US Legacy Assets
Rio Algom Mining LLC
P.O. Box 218
Grants, NM 87020

SUBJECT: RIO ALGOM MINING LLC, AMBROSIA LAKE WEST FACILITY, REQUEST FOR TEMPORARY EXEMPTION OF MONTHLY GROUNDWATER MONITORING DUE TO COVID-19 DISEASE GLOBAL PANDEMIC, SOURCE MATERIAL LICENSE SUA-1473, DOCKET 04008905

Dear Ms. Ross:

This letter is in response to your email request dated April 16, 2020 (Agencywide Documents Access and Management System [ADAMS] Accession No. ML20111A028) and as amended in an email on April 17, 2020 (ML20111A045) for temporary relief from the groundwater monitoring requirements in your license. Based upon the analysis below, the U.S. Nuclear Regulatory Commission (NRC) grants a temporary exemption from Title 10 of the *Code of Federal Regulations* (10 CFR) Section 40.41(c), specifically, a portion of the requirements in the Rio Algom Mining LLC (RAML, Licensee) Ambrosia Lake West Facility (Site) license SUA-1473, License Condition (LC) 34F (ML102220343) regarding monthly groundwater monitoring, as further described below.

RAML provided the following information in the April 16 request, as amended on April 17:

- In accordance with New Mexico Public Health Orders, RAML has implemented several precautionary controls to minimize the potential for COVID-19 exposures in its work force and the surrounding community. These measures include minimizing operations, staff, and visitors to site to the extent possible. RAML has also implemented screening, distancing, Personal Protective Equipment, hygiene, and other protocols.
- Based on historical monthly groundwater monitoring data collected for LC 34F, the temporary absence of monthly data does not present a risk to human health, common defense and security, or the environment.
- RAML policy requires two individuals to travel from Albuquerque, NM to the Rio Algom site (approximately 90 miles) to conduct monthly groundwater sampling. Portions of the sampling protocol make it difficult to maintain social distancing (i.e., at least 6 feet of separation between individuals). Specifically, section 3.4.1 from RAML's Site-Specific Health and Safety Plan for Ambrosia Lake Mill and Mine Site requires a minimum of two people to perform field work at the Ambrosia Lake Facility.

- For these reasons, RAML requested that it be granted a temporary exemption from monthly groundwater monitoring for LC 34F, which is the deferral of collecting monthly groundwater samples for molybdenum in one groundwater monitoring well and gross alpha in three monitoring wells at the site in April and May 2020, resuming monthly sampling in June.

Exemption Analysis

Section 40.41(c) requires that “[e]ach person licensed by the Commission pursuant to the regulations in [10 CFR Part 40] shall confine his possession and use of source or byproduct material to the locations and purposes authorized in the license.” 10 CFR 40.14, “Specific Exemptions,” allows the NRC, upon application of any interested person or upon its own initiative, to grant such exemptions from the requirements of Part 40 as it determines are authorized by law and will not endanger life or property or the common defense and security and are otherwise in the public interest. The NRC staff’s evaluation of the requested exemption follows.

Authorized by Law

The subject requirement concerns groundwater monitoring. NRC regulations specifically provide for exemptions in certain circumstances, and no other statutory provision would prevent the issuance of a temporary exemption from this monthly groundwater sample collection requirement.

Will not Endanger Life or Property or the Common Defense and Security

The underlying purpose of monthly groundwater monitoring required by LC 34 of the RAML license is to maintain safety at the Site by protecting adjacent groundwater through periodic monitoring of the affected groundwater plume.

RAML’s request for temporary relief from LC 34F consists of not taking monthly samples of groundwater in April and May 2020 at three monitoring wells at the site. In effect, this lack of groundwater data for two months will not impede the licensee’s ability to protect adjacent aquifers due to the slow movement of groundwater and a technical understanding of historical trends for molybdenum and gross alpha concentrations from more than six years of monthly groundwater monitoring data collected for LC 34F. In addition, the lack of known adjacent water well users at this time supports the conclusion that there is no undue risk to public health and safety from granting the requested temporary exemption.

The requested exemption does not involve changes to security at the Site. Therefore, the NRC finds that there is no impact on common defense and security from granting the requested temporary exemption.

In the Public Interest

On January 31, 2020, the U.S. Department of Health and Human Services declared a public health emergency (PHE) for the United States to aid the nation’s healthcare community in responding to the COVID-19 pandemic. Due to the impacts that the PHE will plausibly have on the licensee’s ability to comply with the LC 34F in its license (i.e., performing groundwater sampling while complying with restrictions in New Mexico Public Health Orders) and low impact of temporarily discontinuing monthly groundwater monitoring required by LC 34F, the NRC finds that granting the requested exemption is in the public interest.

Exemption Scope and Restrictions

The NRC staff finds that a temporary exemption of monthly groundwater monitoring for LC 34F is supported by RAML's submittal. This temporary exemption will remain in effect through the end of May 2020.

Environmental Considerations

NRC approval of this exemption request is categorically excluded under 10 CFR 51.22 (c)(25)(vi), and there are no extraordinary circumstances present that would preclude reliance on this exclusion. The NRC staff has determined that approval of this requested exemption involves no significant hazards consideration; no significant change in the types or significant increase in the amounts of any effluents that may be released offsite; no significant increase in individual or cumulative public or occupational radiation exposure; no significant construction impact; and no significant increase in the potential for or consequences from radiological accidents. In addition, the NRC staff has determined that there would be no significant impacts to biota, water resources, historic properties, cultural resources, or socioeconomic conditions in the region. As such, there are no extraordinary circumstances present that would preclude reliance on this categorical exclusion. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared in connection with the approval of this requested exemption.

Based on the above, the NRC staff finds that (1) the exemption is authorized by law, (2) the exemption will not endanger life or property or the common defense and security, and (3) the exemption is otherwise in the public interest.

In accordance with 10 CFR 2.390 of the NRC's "Agency Rules of Practice and Procedure," a copy of this letter will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records component of NRC's Agencywide Documents Access and Management System (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>.

This exemption is effective per the conditions described above or until June 1, 2020. If you have any questions, please contact Tom Lancaster of my staff at 301-415-6563 or at thomas.lancaster@nrc.gov.

Sincerely,

Patricia K. Holahan, Director
Division of Decommissioning, Uranium Recovery
and Waste Programs
Office of Nuclear Materials Safety
and Safeguards

Docket No. 040-08905
License No. SUA-1473

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ADAMS Accession No.: ML20111A322

***via e-mail**

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