

04008084540E

## RIO ALGOM MINING CORP.

40-8084

La Sal Route  
MOAB, UTAH 84532

RETURN TO URFO - DENVER, PDR  
Phone: (801) 259-5904

May 3, 1985

R. Dale Smith, Director  
Uranium Recovery Field Office, Region IV  
U. S. Nuclear Regulatory Commission  
P. O. Box 25325  
Denver, Colo. 80225



Docket No. 40-8084  
Source Material License No. SUA-1119

Dear Mr. Smith:

Re: License Amendment No. 2

By letter dated April 22, 1985 the Nuclear Regulatory Commission (NRC) gave notice of an amendment to the source materials license for our uranium mill facility at Lisbon Mine. Under the referenced amendment, a new license condition is added requiring a groundwater detection monitoring program to ensure compliance with 40 CFR 192.32(a)(2) as published by NRC.

For reasons summarized below, the notice of April 22, 1985 issued by your office is inconsistent with procedural and substantive requirements of applicable NRC regulations, and is inconsistent with the requirements of the Atomic Energy Act, as amended by the Uranium Mill Tailings Radiation Control Act (UMTRCA) therefore, pursuant to 10 CFR 2.204 we request a hearing on the referenced amendment to our license.

First, 10 CFR 2.204 states:

"The Commission may modify a license by issuing an amendment on notice to the licensee that he may demand a hearing with respect to all or any part of the amendment within twenty (20) days from the date of the notice or such longer period as the notice may provide."

Although 10 CFR 2.1 states that:

"This part governs the conduct of all proceedings...for (a) granting, suspending, revoking, amending, or taking other action with respect to any license...." the April 22, 1985 notice fails to comply with the necessary procedural requirements of 10 CFR 2.204. For this reason, the April 22, 1985 notice is fatally defective.

Second, the amendment is inconsistent with NRC's regulatory requirements of 10 CFR Part 40 Appendix A. NRC has not altered or amended Part 40; therefore, the requirements of Part 40 remain the applicable regulations governing all licensing activities. Until adopted by NRC through appropriate rulemaking proceedings, EPA's standards, including 40 CFR 192.32(a)(2) may not be applied to licensees.

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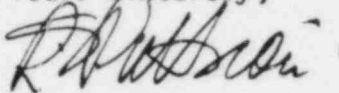
Certified By Mary C. Hood

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Third, EPA's standards, including 40 CFR 192.32(a)(2) are null and void because they are beyond the jurisdiction of that agency. Therefore, NRC can not adopt EPA requirements since to do so would be inconsistent with congressional intent in UMTRCA.

Yours sincerely,



R. S. Pattison  
Plant Superintendent

for

M. D. Lawton  
President

RSP:pa