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Secretary
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
Attn: Rulemakings and Adjudications Staff

Docket No. PRM-170-5

Madam Secretary,

I would like to take this opportunity to comment on the petition by the National Mining Association (NMA) requesting a rulemaking that would waive assessment of all annual and periodic inspection and licensing fees imposed on NRC uranium recovery licensees, or as an alternative, establish the basis for waiving fees associated with a contemplated rulemaking that would establish requirements for licensing uranium and thorium recovery facilities. My comments in no way reflect the opinions of my employer, the Colorado Department of Public Health & Environment, and should have no impact on the relationship between NRC, NMA, and the State. My work focuses on licensing and inspection activities for the State.

I disagree with the NMA, and hope that the Commission does not pursue this rulemaking. This would set a bad precedent that may also carry over to the Agreement States. The question needs to be posed: "Is uranium recovery still a strategic asset?" American energy policy is multi-national. Unless America plans on cutting ties with Canada or Australia (two countries with vast uranium resources at competitive prices), or numerous other countries with plentiful supplies of uranium, the need for domestic uranium recovery is not strategic. The petitioner provides no reasons why we should believe that the uranium market would turn around in the near future.

There is no reason to bestow special treatment on the uranium recovery industry. Pursuing this rulemaking would set a bad precedent for other licensees under a fee-based system. The fact that the industry is small and costs have to be shared by a small pool of companies that cannot afford rulemakings should not determine if a rulemaking goes forward. What matters is how many workers are affected, how the environment is affected, and how the public is affected by the practices under question. The fee-based scheme should be rethought in cases where few licensees affect many people or the environment.

The claim that licensees cannot afford the annual fees is a red herring. In my state - Colorado, Dow Chemical, and General Atomics own the two uranium recovery licensees (UMETCO Uravan and Cotter Corporation Canon City Mill, respectfully).

It should be noted that both of these sites are on the Superfund list from past activities. If this industry is so financially challenged that they cannot afford their annual fees, then their ability to maintain worker safety and environmental protection must be questioned (since they are expenses that don't contribute to the bottom line). It also raises the issue of whether they will be able to pay for their financial assurance, potentially saddling the taxpayer with more cleanup costs.

If the burden for these fees were shifted to others, who would then determine the level of funding to be allocated for these activities? Who would determine what is appropriate oversight? With budgets under constant scrutiny, this scenario of transferring the costs to other sectors would result in pressure to reduce the amount of funding to be allocated for licensing and inspection.

Rather than limiting the resources for licensing and inspection by calling the source of the funding into question, I urge the Commission to maintain a strong regulatory oversight capability for NRC and the Agreement States.

Some of the licensees are pursuing direct disposal of non 11e.(2) byproduct material and reprocessing alternate feeds. Since NMA has brought up the issue of direct disposal of non 11e.(2) in this rulemaking petition, I respectfully ask that a full NEPA review of this practice be undertaken. The 11e.(2) disposal cells were designed and sited with one purpose, disposal of uranium mill tailings. The introduction of other wastes (which certainly seem appropriate for some materials) into these cells was not contemplated during the scoping and siting process. Clearly defined bounds must be established as to what materials are suitable for contemplation. Issues with transportation of material to the sites, as well as liability issues exist. The pedigree of some of these materials is such that dual jurisdiction over the materials is going to be problematic. Before the practice can become widespread, the NEPA process should be invoked to give a full public airing of this proposal.

I further ask the Commission to revisit their decision not to pursue Part 41, and hope that the need for the rulemaking be realized. Issues with respect to concurrent jurisdiction, bounds on direct disposal and alternate feeds in 11 e.(2) impoundments are still unresolved, and the rulemaking would put finality to these issues.

Thank you,

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