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Subject: [External_Sender] Docket ID NRC-2015-0223 - Kennecott Uranium Company's comments
Date: Thursday, April 21, 2016 9:19:24 PM
Attachments: [KUC Comments-Docket ID NRC-2015-0223.pdf](#)

Attached please find Kennecott Uranium Company's comments on Proposed Fiscal Year 2016 Nuclear Regulatory Commission Fees.

Kind Regards,
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April 19, 2016

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

Subject: Kennecott Uranium Company Comments on the Proposed Rule - Revision of Fee Schedules; Fee Recovery for Fiscal Year 2016– (Federal Register Volume 81, Number 56 - Wednesday, March 23, 2016 - Proposed Rules)

Gentlemen:

Kennecott Uranium Company is a uranium recovery licensee that owns the Sweetwater Uranium Project (NRC License SUA-1350) located in Sweetwater County, Wyoming which is the sole remaining conventional uranium mill in Wyoming. Kennecott Uranium Company has reviewed the **Proposed Rule Revision of Fee Schedules; Fee Recovery for FY 2016** and has the following comments:

Changes in Uranium Recovery Fees (Proposed 2016 versus Final 2015 Fees)

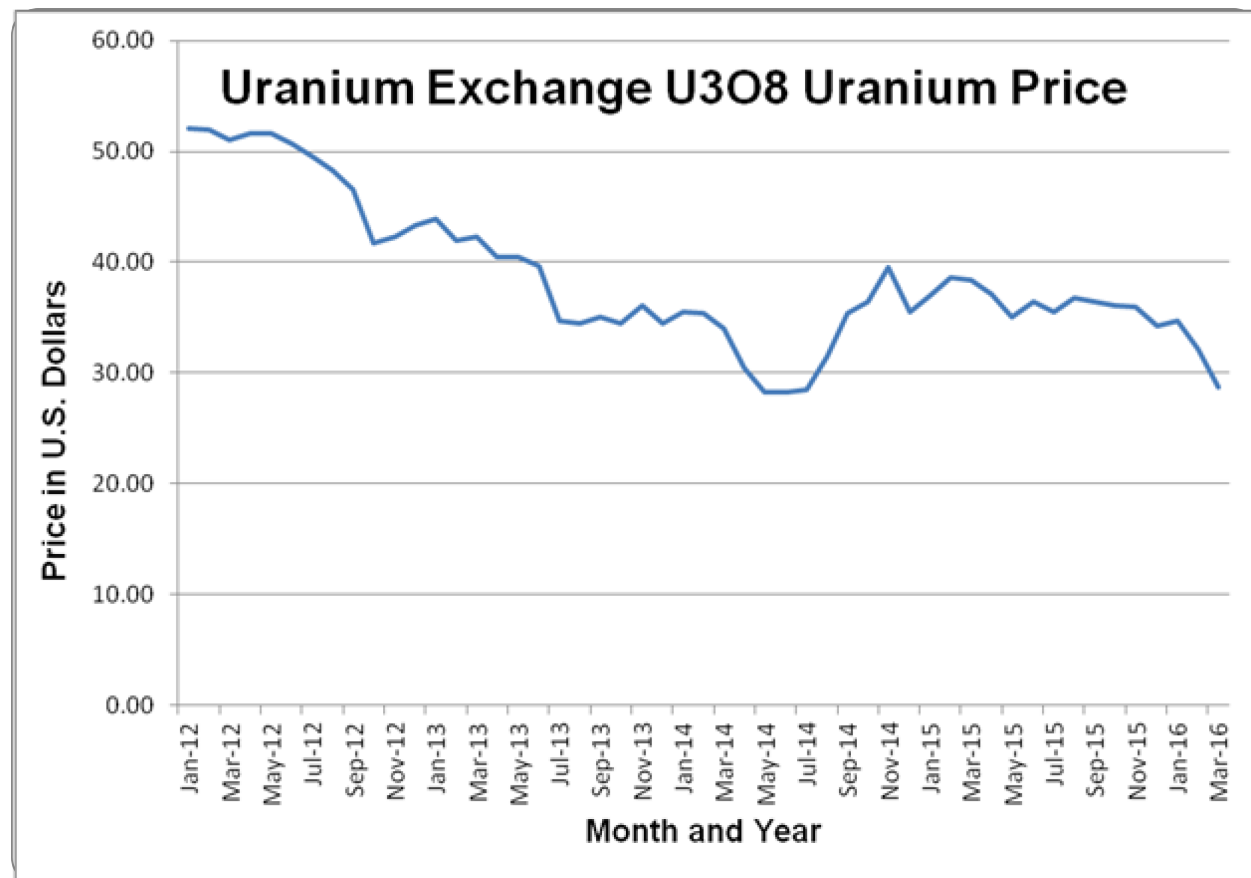
The table below shows the proposed changes in the fee structure:

License Type	Fiscal Year 2015 Annual Fee	Proposed Fiscal Year 2016 Annual Fee	Proposed Percentage Increase
Conventional and heap leach mills	\$36,100.	\$40,200.	11.4%
Basic <i>in situ</i> recovery facilities	\$45,800.	\$50,900.	11.1%
Expanded <i>in situ</i> recovery facilities	\$51,800.	\$57,600.	11.2%
<i>In situ</i> recovery resin facilities	N/A	N/A	N/A
11e.(2) disposal incidental to existing tailings sites	\$20,500.	\$22,800.	11.2%
Uranium water treatment	\$6,000.	\$6,700.	11.7%

Comments on the Proposed Fee Increases and Regulatory Streamlining Issues

The increases for each category of uranium recovery license over the 2015 annual fees exceed 10 percent. This increase far exceeds the current rate of inflation or any increases in costs from vendors, suppliers and contractors with which the uranium recovery industry does business. It far exceeds annual

salary increases for uranium recovery workers as well. Uranium prices have been in decline for the past four (4) years as shown in the chart below:



The uranium recovery industry fails to see increases of this magnitude can be justified. In the preamble to the proposed rule, NRC states:

In comparison to FY 2015, the FY 2016 budgetary resources for uranium recovery licensees increased due to additional work expected for the Uranerz Energy-Jane Doe and Strata Energy-Kenderick expansions, increased inspection activities for Strata Energy-Ross (a new licensee to fleet), increased hearing activities, and the Uranium Mill Tailings Radiation Control Act (UMTRCA) bio-sequestration review for DOE-Monument Valley.

Kennecott Uranium Company questions why work on specific projects should increase fees for all licensees. Costs related to specific projects are being recovered through hourly charges as shown below and are not related to Annual Fees.

The NRC needs to provide detailed justification on increases of this magnitude to the Annual Fees. Without a detailed justification Kennecott Uranium Company cannot provide the necessary detailed comments. Without detailed justification the NRC should not increase the fees at all.

The Commission is proposing, for the first time, to recover costs when it responds to third party demands for information in litigation where the United States is not a party. The OBRA-90 statute first requires the NRC to use its IOAA authority to collect user fees for work that provides specific benefits to identifiable applicants and licensees (such as licensing work, inspections, special projects). Kennecott Uranium Company's concern is how will the NRC ensure that these proposed costs are directly billed to the third party and will not be passed onto licensees either by increasing the annual fees or increasing the hourly rate as this would not be work that provides specific benefits to identifiable applicants and licensees?

Uranium recovery licensees are invoiced for every hour spent by staff on their projects. The resulting invoices are very large. Kennecott Uranium Company received the following invoices for hourly charges primarily for reviews related to the renewal of source material license SUA-1350:

Invoicing Period	Invoice Amount
September 21 to December 27, 2014	\$63,472.50
December 28 to March 21, 2015	\$39,548.25
March 22 to June 27, 2015	\$85,513.50
June 28 to September 19, 2015	\$66,514.50
September 21 to December 26, 2015	\$135,876.00
December 27 to March 19, 2016	\$103,113.00
Total:	\$494,037.75

Based upon these invoices, it appears to Kennecott Uranium Company that uranium recovery licensees are adequately supporting the program through the payment of the hourly charges alone.

Kennecott Uranium Company is concerned that other actions taken by NRC over time to streamline the regulatory process and by extension reduce fees and hourly costs have not been effective. These actions include:

- Preparation of NUREG-1910 - *Generic Environmental Impact Statement for In-Situ Leach Uranium Milling Facilities* dated May 2009
- Performance Based Licensing for Uranium Recovery Licensees

It was believed that when implemented these two (2) actions would result in lower costs to licensees and a general streamlining of the regulatory process. Specifically NUREG-1910 was prepared in the belief that it would result in a faster and less costly license application process. Instead licensing a uranium recovery facility now takes longer and costs more in NRC fees than ever before. Performance based licensing was initiated in the belief that it would reduce the number of amendment requests and NRC review costs. In recent years NRC staff has restricted the use of Safety and Environmental Review Panels (SERPs) to perform routine reviews such as those associated with development of new wellfields, resulting in more amendment requests that result in additional costs.

Uranium recovery is the lowest risk sector of the nuclear fuel cycle and should require the least oversight. Increasingly it is clear that the uranium recovery industry is enduring more (and more costly) oversight.

Kennecott Uranium Company recognizes as well that industry plays a role in controlling the costs associated with licensing reviews through providing robust licensing documents and responding to agency requests in a timely manner. However, these efforts have been hamstrung by changing requirements made unilaterally by NRC staff without the benefit of industry or public input. NRC staff should work under existing Commission-approved guidance until staff prepares new guidance and solicits stakeholder comments. Regarding standardization, Kennecott Uranium Company believes that some savings could be realized by standardized designs. However, the majority of the increased costs for licensing actions are not related to technical design reviews by NRC staff. The increases are clearly due to reinterpreted safety standards and huge increases in the costs of environmental and cultural resource reviews. An example of this sort of problem is the LC 12.10 Technical Evaluation Report (ADAMS Accession Number: ML14289A148) received by a Wyoming uranium recovery licensee. The National Mining Association (NMA) responded to this document with a letter to Mr. Larry W. Camper (now retired), Director, Division of Decommissioning, Uranium Recovery and Waste Programs dated January 23, 2015. The Wyoming Mining Association (WMA) sent a similar letter dated on or about February 9, 2015. The guidance discussed in these letters pertained to radon and its progeny at uranium recovery facilities and calculation of dose from them. The National Mining Association (NMA) received a response to its letter in June 2015, promising additional discussion and an additional workshop to try to resolve outstanding issues. To date, no meeting or workshop has been scheduled by the Nuclear Regulatory Commission (NRC). The longer it takes to resolve issues of this kind, the more its costs, since more staff time becomes involved. In addition, because completed guidance is lacking, staff is forced to spend additional

time reviewing solutions developed and proposed by licensees without benefit of accepted guidance. Ultimately these issues involve consideration of risk. Section 84 of the Atomic Energy Act of 1954 as amended discusses 11(e).2 byproduct and by extension uranium recovery stating:

- a. The Commission shall insure that the management of any byproduct material, as defined in section 11e.(2), is carried out in such manner as—*
- (1) the Commission deems appropriate to protect the public health and safety and the environment from radiological and nonradiological hazards associated with the processing and with the possession and transfer of such material taking into account the risk to the public health, safety, and the environment, with due consideration of the economic costs and such other factors as the Commission determines to be appropriate,*

A consideration of the low risks associated with uranium recovery would ultimately lead to lower regulatory costs.

Comments on the Hourly Rate

The Commission also proposed a decrease in the hourly rate from \$268.00 per hour to \$266.00 per hour, or a 0.75% decrease over 2015 rates. While any decrease is welcome, the hourly rate remains very high especially in comparison to the hourly rates of consultants working for the uranium recovery industry. The primary issue that KUC has with the hourly rate is that the large number of hours expended by NRC staff on licensing reviews for the lowest risk sector in the nuclear power cycle results in huge regulatory costs that have become an existential threat to some operators.

- **Provision of Cost Estimates for Submittal Reviews**

Licensing submittals are given a completeness review by NRC staff prior to the initiation of detailed technical review work in order to determine if the submittal contains the requisite information for acceptance. Private industry expects consultants to prepare budgetary estimates before work is begun. With NRC reviews, industry is expected to write a blank check. In a global industry such as the uranium recovery industry, it is very difficult to explain to company executives and shareholders the uncertainty involved with licensing actions. In the case of Kennecott Uranium Company, an estimate of the cost to review the License Renewal submitted on July, 2014 would have been very useful in the budgeting process. Commission staff should be able upon completion of the Completeness Review to provide the licensee or applicant with an estimate of the approximate number of man hours required to review the submittal.

- **Creation of a Schedule of Costs for Common Tasks**

The Commission should provide licensees with a schedule of approximate costs (or a cost range) for performing common tasks such as a reviewing and approving a surety, reviewing and approving a standby trust agreement or other tasks. With this information licensees would be able to more effectively budget for reviews by Commission staff. This would be very useful for Kennecott Uranium Company for such items as the review of annual consumer price index changes to sureties, reviews, reviews of surety language and reviews of standard annual reports.

- **Preparation of More Detailed Invoices**

Kennecott Uranium Company believes that Commission staff should provide invoices containing a similar level of detail that is provided in invoices from industry consultants. In this manner, licensees would at least be able to better understand how staff time is allocated.

Comments on Invoicing

Kennecott Uranium Company continues to be concerned about the agency's invoicing process. In her January 7, 2013 letter, Katie Sweeney of the National Mining Association (NMA) stated:

NRC invoices have been wholly lacking in standard detail that every consultant, law or accounting firm in the private sector must provide and NRC's hourly rates exceed those of many of these

organizations in the Western part of the country. Accordingly, NRC's invoices do not offer industry any opportunity to gauge the reasonableness of fees incurred for different phases of the licensing process which, in turn, makes a lessons learned approach for future licensing actions virtually impossible to implement.

This continues to be a problem. In addition, there is no predictability for budgeting purposes regarding the magnitude of these invoices in regards to the review of a given submittal. The uranium recovery industry needs, for budgeting purposes, to be able to estimate the total value of future review invoices for a given submittal. Members of the uranium recovery industry have no idea of the magnitude of the quarterly review invoices until they arrive and must be paid. This creates a difficult situation in the form of large unanticipated expenses for uranium recovery operators. If the agency as part of its completeness review were to provide an approximate and non-binding estimate of cost to complete the review of a given submittal it would be very helpful to uranium recovery operators.

Request for Information - Fees Development and Communications ((Federal Register / Volume 81, Number 55 / Tuesday, March 22, 2016 / Notices – pages 15352 to 15353)

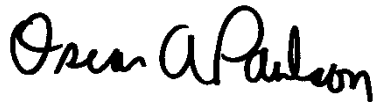
Kennecott Uranium Company has been reviewing this request for information with interest and believes that it is a positive step by the Nuclear Regulatory Commission (NRC) toward resolving issues regarding fees. The request states:

The focus of this information-gathering effort is to obtain information for the NRC to consider in evaluating the changes (if any) that the NRC can make to improve the transparency and the timeliness of its fees development and invoicing processes.

Kennecott Uranium Company supports this effort as a step toward improving the fee development and invoicing process.

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

Sincerely yours,



Oscar Paulson
Facility Supervisor

cc: Rich Atkinson – Cedar Mountain Ventures, LLC
Katie Sweeney – National Mining Association (NMA)