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 Fees Development and Communications

Comment On: NRC-2016-0056-0001
 Fees Development and Communications; Request for Information

Document: NRC-2016-0056-DRAFT-0005
 Comment on FR Doc # 2016-06422

3/22/2016
 81 FR 15352

⑥

Submitter Information

Name: Oscar Paulson

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2016 MAY -9 PM 2:35

RULES AND DIRECTIVES
 FRAND
 15370

General Comment

Comments from Kennecott Uranium Company, SML SUA-1350, Rawlins, WY 82301

Attachments

KUC-Comments-NRC-2016-0056

SUNSI Review Complete

Template = ADM - 013

E-RIDS= ADM-03

Add= A. Bradford (AHBI)

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April 24, 2016

Ms. Cindy Bladey
Office of Administration
Mail Stop: OWFN-12-H08
U.S. Nuclear Regulatory Commission,
Washington, DC 20555-0001

Subject: Kennecott Uranium Company Comments on the Request for Information - Fees Development and Communications- (Federal Register Volume 81, Number. 55 / Tuesday, March 22, 2016 / Notices)

Dear Ms. Bladey:

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 ***Request for Information - Fees Development and Communications*** and has the following comments:

General Comments

Kennecott Uranium Company strongly supports this effort and views it as an excellent first step toward resolving some long term issues regarding agency fees and the means by which they are assessed. Kennecott Uranium Company believes that it is best equipped to comment on the following three (3) areas of the request those being:

- **Request Two**
 - *What are some specific improvements that could be made to the fee-related work papers or forms that would assist in the public's understanding of those papers and forms? For example, can the NRC improve the clarity and content of NRC invoice forms? If so, how?*
- **Request Six**
 - *Are there activities that the NRC should convert from fee-billable to nonfee-billable (or vice versa) and, if so, why? For example, should hearings for new licenses be fee-billable, or should the NRC continue to recover those costs through 10 CFR part 171 annual charges?*
- **Request Seven**
 - *Are there activities or fee classes that are more suited to flat fees rather than hourly? For example, should reviews of topical reports be subject to a flat fee or is the level of effort associated with individual topical reports too variable?*

Specific Comments

- **Request Two**

Request Two states: *What are some specific improvements that could be made to the fee-related work papers or forms that would assist in the public's understanding of those papers and forms? For example, can the NRC improve the clarity and content of NRC invoice forms? If so, how?*

This is an issue that Kennecott Uranium Company has commented about in comments on the proposed fee rules. It has been commenting on invoicing procedures and invoice forms and suggesting changes to them since 2001, a period of fifteen (15) years, requesting that the invoices be clear and detailed. Attached to this document please find Appendix 1 that contains sets of annual fee comments from Kennecott Uranium Company. These selected comment sets specifically discuss how the agency can "...improve the clarity and content of NRC invoice forms..." The content concerning invoicing is quoted, cited and listed below organized by year:

Kennecott Uranium Company Comments

Relevant excerpts from the comments regarding invoicing are provided below:

- **Revisions to 10 CFR Parts 170 and 171 on License, Inspection and Annual Fees for FY 2001**

This comment set states:

Kennecott Uranium Company believes that Nuclear Regulatory Commission (NRC) should continue its efforts to provide invoices that contain more meaningful descriptions of the work done by NRC staff and NRC Contractors. With hourly rates as high as \$144.00 per hour, the agency should be held to at least the same standard of accountability to its licensees as a private sector consultant is to his clients. In the private sector, adequate explanations and dates are provided to clients in order for clients to fully understand what was done and when it was done. This type of billing system allows costs to be specifically identified.

- **10 CFR Parts 170 and 171 Revision of Fee Schedules; Fee Recovery for FY2006**

This comment set states:

The Commission should continue its efforts to provide invoices that contain more meaningful descriptions of the work done by staff and Contractors. With proposed hourly rates at \$215.00 per hour, the agency should be held to at least the same standard of accountability to its licensees as a private sector consultant is to his clients. In the private sector, adequate explanations and dates are provided to clients in order for clients to fully understand what was done and when it was done. This type of billing system allows costs to be specifically identified.

- **Revision of Fee Schedules; Fee Recovery for FY 2012**

This comment set states:

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.

- **Revision of Fee Schedules; Fee Recovery for FY 2015**

This comment set states:

Kennecott Uranium Company continues to be concerned about the agency's invoicing process. In her January 7, 2013 letter, Katie Sweeney 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.

Lack of invoice detail 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 invoices must provide specific detail regarding the work to be completed under both 10 CFR parts 170 and 171.

Kennecott Uranium Company clearly has a record of requesting that invoices are clear, consistent, detailed and similar to those prepared and submitted by private consulting firms.

On August 3, 2012, Ms. Katie Sweeney General Counsel to the National Mining Association (NMA) sent a letter to Mr. James Dyer, Chief Financial Officer (CFO) of the Nuclear Regulatory Commission (NRC) following a meeting with him to discuss invoices. This letter outlines the National Mining Association's (NMA's) suggestions regarding the "...clarity and content of NRC invoice forms..." This letter is included in Appendix 2.

In a January 7, 2013 letter to Chairman Macfarlane Ms. Katie Sweeney, General Counsel to the National Mining Association (NMA), stated:

(3) Third, there are several process-related issues that require some detailed discussion with the Commission. NRC billing practices have long been a difficult issue for industry. For several years, industry has been dissatisfied with the level of detail contained in NRC's billing invoices, especially when it relates to time and fees charged by NRC-retained independent contractors. 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. NMA has met with and communicated in writing with NRC's Chief Financial Officer (See Attached Letter) and has received no reply to date. NMA would like to explore this issue in more depth with the Commission.

This letter and the reply that was received are included in Appendix 2 as well.

- **Request Six**

Request Six states: *Are there activities that the NRC should convert from fee-billable to nonfee-billable (or vice versa) and, if so, why? For example, should hearings for new licenses be fee-billable, or should the NRC continue to recover those costs through 10 CFR part 171 annual charges?*

Kennecott Uranium Company believes that activities that are not under the licensees' control should be converted from fee-billable to nonfee-billable. The costs associated with hearings for either new licenses, license renewals or potentially license amendments that are contested by

members of the public should be nonfee-billable. A licensee has no control over the actions of members of the general public or intervener groups. Hearings can be long and complex, not under the licensees control and as such should not be directly fee-billable.

- **Request Seven**

Request Seven states: *Are there activities or fee classes that are more suited to flat fees rather than hourly? For example, should reviews of topical reports be subject to a flat fee or is the level of effort associated with individual topical reports too variable?*

Kennecott Uranium Company believes that there are definitely activities that are suited to flat fees. An example would be reviews of standard types of submittals made by the uranium recovery industry on a routine basis such as annual Corrective Action Program (CAP) Reviews, 10 CFR 40.65 Reports, ALARA Reports, Land Use Reports surety submittals involving adjustments to the surety based upon the Consumer Price Index (CPI), review of a Standby Trust Agreement and basic surety rebaselining submittals.

Kennecott Uranium Company also discussed this issue in its comments on *Proposed Rule - Revision of Fee Schedules; Fee Recovery for FY 2011* when it stated:

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 comment set is included in Appendix 3 for reference.

- **Predictability of Invoice Amounts**

The above discussed issue of flat fees for certain types of reviews leads into the issue of predictability of invoice amounts. Flat fees for various items create certainty in the invoicing process. Licensees will know in advance what they will be charged for certain types of work, which will allow them to accurately budget for the work. The current system does not allow licensees to accurately forecast and budget for agency charges for reviews. This inability to forecast agency billings is a major problem for the industry. Flat fees for at least certain items will allow for a degree of predictability regarding invoices, however it is not enough. A system for providing non-binding estimates of cost for more complex reviews needs to be created. Kennecott Uranium Company in past comments has discussed this issue as follows:

Kennecott Uranium Company Comments

- **Proposed Rule - Revision of Fee Schedules; Fee Recovery for FY 2011**

This comment set states:

Licensees typically prepare their budgets approximately five (5) months prior to the start of the new calendar year. Review and inspection invoices are erratic and invoice amounts are impossible to predict, making it impossible for licensees to effectively budget for these items. Licensees need to be able to plan for future invoices from the Commission and require some information in order to effectively budget for these costs.

and;

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. 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.

This comment set is included in Appendix 3 for reference.

- **Revision of Fee Schedules; Fee Recovery for FY 2012**

This set of comments states:

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 Catchment Basin Completion Report submitted on May 6, 2008 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.

- **Revision of Fee Schedules; Fee Recovery for FY 2015**

Kennecott Uranium Company addressed this issue as well in its comments on the 2015 proposed fee rule stating:

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 but non-binding estimate of cost to complete the review of a given submittal it would be very helpful to uranium recovery operators.

These comment sets are included in Appendix 1 for reference.

Licensees need to be able to forecast future agency invoices for the review of submittals so that they can budget properly for them. Furthermore, management of NRC costs billed to licensees and the reasonableness of NRC bills needs to be a priority in the NRC. Each significant review conducted by the NRC needs a Project Manager with a mandate/authority to manage and control costs. In a particular submittal by Kennecott Uranium Company in which a consultant was utilized to prepare the submittal, NRC's review costs were more than three (3) times the cost of Kennecott Uranium Company's consultants costs, which is unreasonable and exorbitant. Under no circumstance should the review costs exceed, or even equal, the cost to prepare.

- **Government Accountability Office (GAO) Report on the Fee Setting Process**

The National Mining Association (NMA) was contacted on April 27, 2016 by the Government Accountability Office (GAO) regarding fees. The GAO, at the request of the Senate Environment and Public Works Committee and the House Energy and Commerce Committee, is undertaking a report on the fee setting process. This issue has now drawn the attention of the GAO. Kennecott Uranium Company believes that this Request for Information as well as the work being undertaken by the GAO presents a valuable opportunity to improve the agency's fee development, fee setting and invoicing procedures.

Conclusions

Kennecott Uranium Company has a long (fifteen (15) year) history of providing input and information regarding the agency's fee development, invoicing and communications processes. The record is a long and remarkably consistent one as evidenced by the discussion above. The following are suggested changes to the agency's fee development, invoicing and communications processes:

- Invoices should be substantially more detailed, with clear connections to specific tasks that include time spent and costs accrued, logged by date and individual NRC employee. These invoices should be similar in scope and detail as invoices prepared by consulting firms used by the industry.
- Activities not under the control of a licensee should not be fee billable but rather recovered through annual charges
- Numerous items should be subject to flat fee billing, if for no other reason than the fact that flat fee billing is predictable, and enables the licensees to predict and budget for certain costs.
- A substantial problem with the agency's invoicing is the lack of predictability in the invoice amounts. This could be mitigated to some extent by flat fee invoicing for some items however for others, it would require that the agency prepare a non-binding estimate of cost to complete the review. The agency needs to have a Project Manager for each significant submittal review with the mandate/authority to manage and control costs.

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: Katie Sweeney – National Mining Association (NMA)
Rich Atkinson

Appendix 1

DOCKET NUMBER
PROPOSED RULE150.170 + 171
(66FR 16982)DOCKETED
USNRC

6

01 APR 27 P1:54

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

April 26, 2001

Secretary
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
ATTN: Rulemakings and Adjudications Staff

Gentlemen:

Subject: Kennecott Uranium Company – Comments on the Proposed Revisions to 10 CFR Parts 170 and 171 on License, Inspection and Annual Fees for FY 2001

Kennecott Uranium Company is the operator and manager of the Sweetwater Uranium Project located in Sweetwater County, Wyoming and licensed under Source Material License SUA-1350. The Sweetwater Uranium Project contains a conventional uranium mill that is currently on standby and a tailings impoundment. Kennecott Uranium Company has the following comments on the *Proposed Revisions to 10 CFR Parts 170 and 171 on License, Inspection and Annual Fees for FY 2001*:

Annual Fee for Class I Facilities

Kennecott Uranium Company supports the proposed reduction in the Annual Fee for Class I facilities from \$132,000.00 per year (Fiscal Year 2000) to \$94,300.00 per year (Fiscal Year 2001). This is a positive step for the uranium recovery industry however it does not go far enough given the current state of the industry and its importance to the energy security of the United States. In addition, Kennecott Uranium Company supports the use of a quarterly billing schedule for Class I and Class II licenses.

Average Cost Per Professional Staff Hour

The average cost per professional staff hour has been proposed at \$144.00 per hour (Fiscal Year 2001 proposed – Nuclear Materials and Nuclear Waste Program) which is an increase from the level of \$143.00 per hour (Fiscal Year 2000). Kennecott Uranium Company does not support this increase because the hourly rate being charged per professional staff hour is already far in excess of the hourly rates per professional staff hour charged by major national consulting firms. In addition to the hourly charges, the Nuclear Regulatory Commission (NRC) also collects license fees. Consulting organizations can only collect hourly charges plus reimbursement for expenses. Thus, given the fact that the Nuclear Regulatory Commission (NRC) is collecting

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SECY-02

hourly charges above and beyond annual license fees, an hourly rate of \$144.00 per hour is not justified, and should be substantially reduced, not increased.

Project Manager Charges

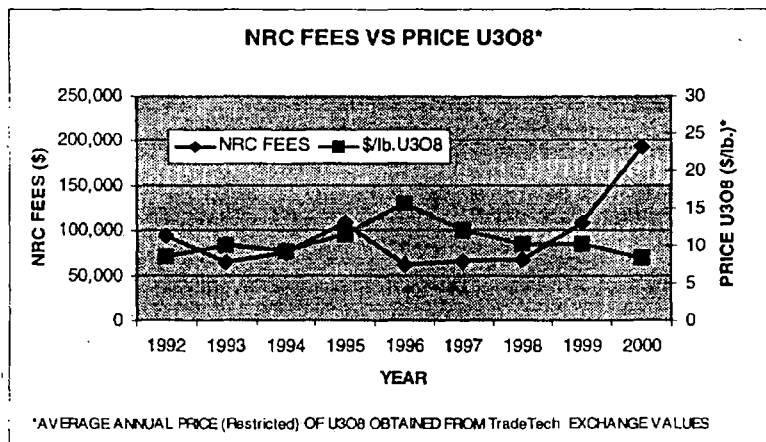
Beginning in Fiscal Year 2000, the Nuclear Regulatory Commission (NRC) began invoicing licensees for hourly charges for the licensees' Project Manager (PM), other than for work directly related to the license, such as training and general administrative work. In the case of a Project Manager (PM) who managed several licenses, these charges not directly related to license work were split among the licensees the Project Manager (PM) managed. These charges have become a significant additional expense that uranium recovery licensees, given the current state of the industry can ill afford. This problem is further exacerbated when a Project Manager (PM) "manages" only one licensee, with the result that the given licensee must pay all of the overhead costs associated with this individual. Kennecott Uranium Company supports the redesignation of Project Managers (PMs) assigned to uranium recovery licenses as Points of Contact (PC) to avoid these charges. At the very least, this change should be made for those licensees who are currently not operating.

Invoicing Procedures

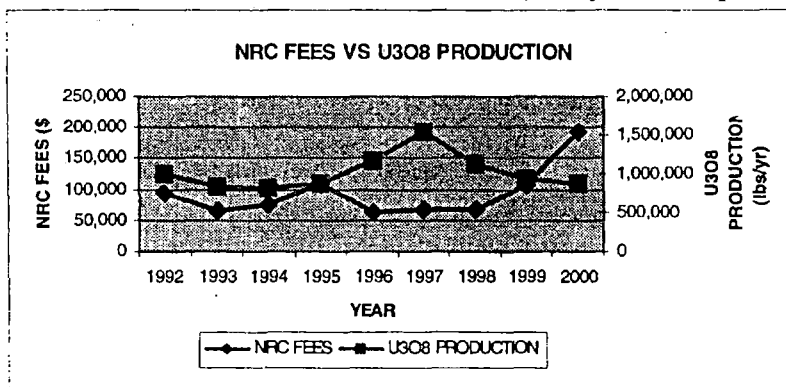
Kennecott Uranium Company believes that Nuclear Regulatory Commission (NRC) should continue its efforts to provide invoices that contain more meaningful descriptions of the work done by NRC staff and NRC Contractors. With hourly rates as high as \$144.00 per hour, the agency should be held to at least the same standard of accountability to its licensees as a private sector consultant is to his clients. In the private sector, adequate explanations and dates are provided to clients in order for clients to fully understand what was done and when it was done. This type of billing system allows costs to be specifically identified.

Status of the Uranium Recovery Industry

Uranium prices are low. The current price is \$8.25 per pound (Uranium Exchange (UX) - April 23, 2001). In spite of the depressed uranium prices fees charged to licensees have risen steadily since 1998 as shown in the chart below.



Note: Chart courtesy of the National Mining Association (NMA) and presented at a briefing of the Commissioners in Rockville, Maryland on April 10, 2001.



In addition, fees have increased steadily since 1998 in spite of declining production since 1997, as shown in the chart below.

Note: Chart courtesy of the National Mining Association (NMA) and presented at a briefing of the Commissioners in Rockville, Maryland on April 10, 2001.

The issue of fees was discussed in depth at the Commissioner's briefing provided by the National Mining Association (NMA) in Rockville, Maryland on April 10, 2001. At this briefing, the potential for regulatory relief from fees through a petition for rule making and/or legislative relief from fees in the form of a suspension of fees pending an improvement in the uranium market was discussed. Kennecott Uranium Company would support an industry wide effort through the National Mining Association (NMA) or other organization to obtain some form of relief from licensee fees.

The uranium recovery industry is vital to the long term energy security of the United States especially given the recent renewed consideration of the nuclear option by utilities. Senate File 472 - A Bill to ensure that nuclear energy continues to contribute to the supply of electricity in

the United States raises this issue stating, "... the United States must ensure that the domestic uranium mining, conversion and enrichment service industries remain viable." The fees levied against uranium recovery licensees threaten the viability of this vital industry. Licensees need relief from fees in order to survive to the time when the industry as a whole recovers.

Conclusions

Kennecott Uranium Company supports the reduction in licensee fees proposed by the Nuclear Regulatory Commission (NRC) but does not believe that the reduction goes far enough in providing the relief required by the industry in order to survive. The uranium recovery industry is vital to the energy security of the United States given the increased interest in nuclear power expressed by some utilities. The industry should not be driven to extinction by excessive fees. Kennecott Uranium Company believes that the hourly rate charged by the agency is excessive and greatly exceeds the rates charged by major national consulting firms. The rate should be substantially reduced, not increased. In addition, Kennecott Uranium Company believes that the Project Manager (PM) charges invoiced by the agency have become an increasing burden on the industry and are especially unfair to those licensees who have a Project Manager (PM) assigned solely to them. Kennecott Uranium Company believes that current Project Managers (PMs) should be redesignated as Points of Contact (PCs), for at least some (inactive or standby) licensees, with a savings in Project Manager (PM) charges for those licensees. Kennecott Uranium Company believes that the agency should continue its efforts to produce invoices containing more meaningful descriptions of work performed.

If you have any questions please do not hesitate to contact me.

Sincerely yours,

Oscar Paulson
Facility Supervisor

cc: Katie Sweeney – National Mining Association (NMA)
Marion Loomis – Wyoming Mining Association (WMA)
Rich Atkinson – Kennecott Energy Company

DOCKET NUMBER
PROPOSED RULES 170+171
(71FR 07349)

1

March 6, 2006

DOCKETED
USNRC

March 6, 2006 (12:15pm)

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

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

Gentlemen:

Subject: Kennecott Uranium Company - Comments on 10 CFR Parts 170 and 171 Revision of Fee Schedules; Fee Recovery for FY 2006; Proposed Rule - Friday, February 10, 2006

Kennecott Uranium Company is the operator and manager of the Sweetwater Uranium Project (the only remaining conventional uranium mill in Wyoming) which is licensed under Source Material License SUA-1350 and is located in Sweetwater County, Wyoming approximately 42 miles Northwest of Rawlins, Wyoming. Kennecott Uranium Company has reviewed the proposed 2006 fees and has the following comments:

Magnitude of the Increase

The table below shows the 2006 proposed fees:

TABLE IX—ANNUAL FEES FOR TITLE II SPECIFIC LICENSES

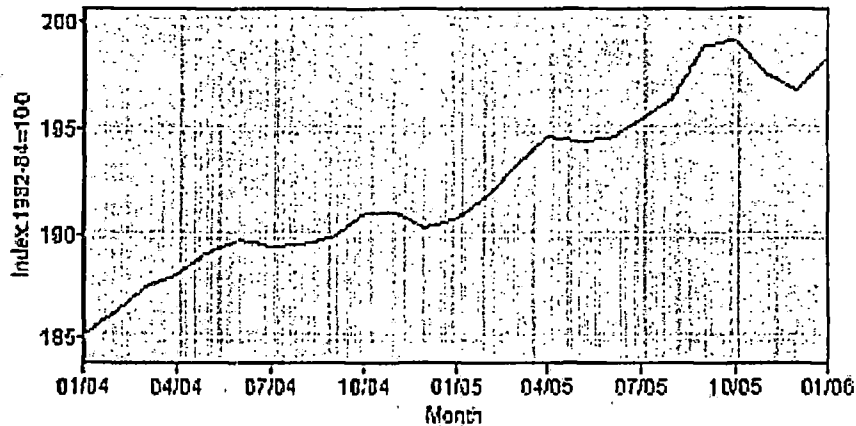
Facility type	FY 2004 Annual Fee	FY 2005 Annual Fee	FY 2006 Proposed Annual Fee	Percent Increase Since 2004
Class I (conventional mills)	\$14,500.	\$30,200.	\$66,400.	458%
Class II (solution mining)	\$12,900.	\$30,200.	\$66,400.	515%
11c.(2) disposal	\$12,800.	N/A	N/A	N/A
11c.(2) disposal incidental to existing tailings sites	\$12,900.	\$30,200.	\$66,400.	515%

These proposed 2006 fees represent a 400% to over 500% increase in fees over three (3) years. This rapid fluctuation is far in excess of increases in the rates of inflation or the Consumer Price Index (CPI) for All Urban Consumers which licensees are required to use to increase their surety amounts. A graph of this index for 2004 to 2006 is shown below along with the associated data:

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SECT-02

Consumer Price Index - All Urban Consumers 2004 to 2006



Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual	HALF1	HALF2
2004	185.2	186.2	187.4	188.0	189.1	189.7	189.4	189.5	189.9	190.9	191.0	190.3	188.9	187.6	190.2
2005	190.7	191.8	193.3	194.6	194.4	194.5	195.4	196.4	198.8	199.2	197.6	196.8	195.3	193.2	197.4
2006	198.3														

The document 10 CFR Parts 170 and 171 Revision of Fee Schedules; Fee Recovery for FY 2006; Proposed Rule states:

Rebaselining fees in FY 2006 would result in increased annual fees compared to FY 2005 for all licensees, with the exception of certain fuel facilities. The proposed increases in annual fees range from less than one percent for certain fuel facilities to approximately 120 percent for uranium recovery facilities. However, most of the annual fee increases are of similar magnitude to the percentage increase in total required fee recovery of approximately 15 percent.

The very language of the document indicates that the uranium recovery industry has been targeted for the highest percentage increase in fees of all segments of the licensed community. In addition, the Commission is proposing elimination of quarterly invoicing for uranium recovery licensees stating:

As discussed in section 2. "Eliminating the Existing Fee Payment Exception for Uranium Recovery Licensees," the NRC is proposing that all Title II facilities be subject to the billing provisions of § 171.19(c), which state that annual fees that are less than \$100,000 are billed on the anniversary date of the license.

Kennecott Uranium Company requests that if an increase in fees for uranium recovery licensees is required, any increase would be in keeping with increases in the fees for other classes of licensees, and that the quarterly fee payment provisions remain.

Facilities in the Public Interest

In a letter dated July 17, 2001, the Commission in granting a request for the postponement of the initiation of the requirements for timeliness in decommissioning for the Sweetwater Uranium Project stated:

The continued existence of this facility is in the public interest.

This statement was made at a time when there were six (6) remaining uranium mills in the United States. There are now four (4) such facilities remaining, the Sweetwater Uranium Project, the Canon City Mill, the White Mesa Mill and the Shootaring Mill. The continued existence of these remaining conventional uranium milling facilities should be even more

in the public interest today than in 2001 because there are fewer facilities and there is at present a strong renewed interest in nuclear energy in the United States and the world for numerous reasons. Given that the continued existence of the Sweetwater Uranium Project was declared in 2001 to be in the public interest and by extension the continued existence of the other three (3) conventional uranium mills is in the public interest as well, it appears unfair that the fees being imposed on them are being increased so dramatically.

Dual Jurisdiction of In-Situ Wellfields/Performance Based Licensing

The Commission needs to investigate ways to reduce fees by streamlining the regulatory process. Completion of Memorandums of Understanding (MOUs) between the Commission and non-agreement states such as Wyoming or Nebraska regarding regulation of in-situ wellfields would help substantially to reduce costs to licensees.

Expansion of performance based licensing and the increased use of Safety and Environmental Review Panels (SERPs) would also help in reducing costs. Implementation of the much delayed Memorandums of Understanding (MOUs) and expansion of the use of Performance Based Licensing is justified due to the very low risks posed by uranium recovery licensees due to the relatively low activities of the materials that they handle.

Agreement States

In 2004 the State of Utah became an agreement state for uranium recovery and 11e.(2) byproduct material. The problem of the lack of reasonable relationship between annual fees and services rendered by the Commission is exacerbated as more states become Agreement States and existing sites are decommissioned, leaving fewer licensees to bear an even greater share of the burden. The Commission needs to continue to search for an equitable way of dealing with the scenario that could result in the last licensee having to pay for the entire program. This scenario unfortunately occurred in the uranium recovery arena when the State of Utah achieved Agreement State status, leaving only two (2) producing ISL facilities and one conventional mill licensed by the Commission. This is a serious situation that needs to be carefully reviewed and addressed.

As noted in the final FY 2002 rule, *"a decreasing licensee base . . . presents a clear dilemma for both the uranium recovery group in its efforts to maintain a viable industry and the NRC which must recoup its budgeted costs from the licensees it regulates."* (67 Fed. Reg. 42617). Some of the possible solutions that were discussed in the FY 2002 rule were establishing arbitrary fee caps or thresholds for certain classes of licensees or combining fee categories. If the uranium recovery licensee base continues to decrease, the Commission may have to revisit the fee cap issue or the other potential solutions discussed in the FY 2002 rule.

Hourly Charges

The proposed rule increases hourly charges from \$197 to \$215 per hour. This is a 9% increase, which also exceeds the rate of inflation as shown in the table and chart above. The Commission should consider a more balanced approach to uranium recovery regulation. A more balanced approach would result in less regulatory oversight and lower costs. This is especially reasonable in light of the very low risks posed by uranium extraction operations and uranium mill tailings impoundments. The Commission should continue its efforts to provide invoices that contain more meaningful descriptions of the work done by staff and Contractors. With proposed hourly rates at \$215.00 per hour, the agency should be held to at least the same standard of accountability to its licensees as a private sector consultant is to his clients. In the private sector, adequate explanations and dates are provided to clients in order for clients to fully understand what was done and when it was done. This type of billing system allows costs to be specifically identified.

Hourly fees are also much more unpredictable, and difficult to incorporate into a licensee's financial plan than the annual fee, since the total charges are not predefined but depend upon the amount of staff time expended on a particular item or submittal. Hourly charges represent a substantial amount of uncertainty in a given licensee's annual costs.

Conclusions

Kennecott Uranium Company does not support the proposed 2006 annual fees and hourly charges and provides the following conclusions:

1. The proposed fee increase for uranium recovery is the highest percentage fee increase for any class of licensee and the proposed 2006 fee structure appears to unfairly discriminate against the uranium recovery sector by imposing a 120% increase in annual fees. Kennecott Uranium Company requests that if fees for the uranium recovery licensees are to be raised, any increases be in keeping with increases in fees for other classes of licensees.
2. The continued existence of the remaining uranium recovery facilities in the United States is in the public interest given the renewed interest in nuclear power. The continued existence of one particular facility in Wyoming, the Sweetwater Uranium Project, was declared to be in the public interest by the Commission in 2001. Exorbitant fee increases for uranium recovery licensees are contrary to the public interest.
3. The proposed fee increases and increases in hourly rates exceed the current rates of inflation as expressed by the Consumer Price Index for All Urban Consumers.
4. Fees and hourly charges could be controlled by regulatory streamlining of the uranium recovery industry by increased use of Performance Based Licensing and by execution of Memorandums of Understanding (MOUS) with non-agreement states regarding dual jurisdiction of in-situ wellfields.
5. The proposed increase in the hourly rate to \$215.00 per hour is very large and large invoices for hourly fees represent an increasingly unpredictable expense for uranium recovery licensees.
6. Kennecott Uranium Company requests that the quarterly fee payment provisions for uranium recovery licensees remain.

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

Sincerely yours,

Oscar Paulson
Facility Supervisor

cc: Katie Sweeney - National Mining Association (NMA)

From: "Shelley Schutterle" <shelley@tribcsp.com>
To: "Katie Sweeney - NMA" <ksweeney@nma.org>, <SECY@nrc.gov>
Date: Mon, Mar 6, 2006 11:52 AM
Subject: NRC Fees 2006 comments.doc

Subject: Comments on 10 CFR Parts 170 and 171 Revision of Fee Schedules; Fee Recovery for FY 2006; Proposed Rule.

Comments from:
Kennecott Uranium Company
PO Box 1500
Rawlins, WY 82301

Shelley Schutterle
Administrative Coordinator
Kennecott Uranium Company
shelley@tribcsp.com
(307) 328-1476

CC: "Oscar Paulson" <paulson@tribcsp.com>

Mail Envelope Properties (440C68A9.833 : 3 : 59443)

Subject: NRC Fees 2006 comments.doc
Creation Date: Mon, Mar 6, 2006 12:52 PM
From: "Shelley Schutterle" <shelley@tribcsp.com>

Created By: shelley@tribcsp.com

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ksweeney (Katie Sweeney - NMA)

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Files	Size
MESSAGE	300
TEXT.htm	1249
NRC Fees 2006 comments.doc	96768
Mime:822	136364

Date & Time
Monday, March 6, 2006 12:52 PM

Options

Expiration Date:	None
Priority:	Standard
Reply Requested:	No
Return Notification:	None

Concealed Subject:	No
Security:	Standard

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PR 170 and 171
(77FR15530)

DOCKETED
USNRC

4

April 13, 2012 (10:15 am)

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

12 April 2012

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 FY 2012- (Federal Register Volume 77, Number 51 - Thursday, March 15, 2012 - 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 2012** and has the following comments:

Changes in Uranium Recovery Fees (Proposed 2012 versus Final 2011 Fees)

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

License Type	Fiscal Year 2011 Annual Fee	Proposed Fiscal Year 2012 Annual Fee	Percentage Change
Conventional and heap leach mills	\$32,300	\$23,600	26.9%
Basic <i>in situ</i> recovery facilities	\$30,700	\$29,900	2.6%
Expanded <i>in situ</i> recovery facilities	\$34,800	\$33,800	2.9%
<i>In situ</i> recovery resin facilities	\$29,100	\$28,300	2.8%
11e.(2) disposal incidental to existing tailings sites	\$10,500	\$10,200	2.9%
Uranium water treatment	\$7,300	\$7,100	2.7%

Comments on the Proposed Fee Reductions

- Kennecott Uranium Company supports these fee reductions as they are beneficial to the uranium recovery industry.

The Commission also proposed an increase in the hourly rate from \$273.00 per hour to \$274.00 per hour. While this is a small 0.4% increase, the over all rate far exceeds private consultant hourly rates and the NRC should make every effort to reduce this rate in future rulemakings.

Comments on the Hourly Rate

Uranium recovery licensees have been impacted during the license application and submittal review process by this high hourly rate in the form of very large invoices for staff time. Kennecott Uranium Company paid slightly over \$75,000 in hourly charges in 2010 and slightly over \$65,000 in hourly charges in 2011. Some of these charges were related to a review of a completion report related to a soil remediation project while others were related to an application for the postponement of the requirements of timeliness in decommissioning. Other charges were for recurring items such as reviews of surety language and routine (consumer price index based) surety increases. Licensees and applicants in NRC

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states such as Wyoming hoped to see more streamlining and efficiency in the regulatory process in the form of less time spent on submittals and consequently lower invoices over time. This has not occurred.

For example, performance based licensing was instituted for uranium recovery licensees over a decade ago. This was intended in part as a streamlining measure. Licensees have yet to realize large benefits in the form of reduced review costs from it. Licensees are able, under a performance based license, to approve certain actions via their Safety and Environmental Review Panel (SERP), subject to review during routine inspections. Kennecott Uranium Company possesses such a performance based license. Increased latitude as to the items that the SERP could address would be a direct benefit to Kennecott Uranium Company and result in cost savings.

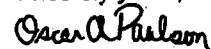
This lack of latitude is especially troubling in light of the low inherent risk of uranium recovery operations such as the Sweetwater Uranium Project. It appears that excessive amounts of time are utilized for reviews that results in both delays and very high costs, especially given the very high hourly rate. Increased latitude regarding performance based licensing could alleviate some of these delays and high costs.

Kennecott Uranium Company believes that the following steps should be considered in order to reduce hourly charges:

- **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 Catchment Basin Completion Report submitted on May 6, 2008 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 of standby trust agreements, 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.

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: Katie Sweeney – National Mining Association (NMA)
Rich Atkinson

Rulemaking Comments

From: Schutterle, Shelley (RTE) [Shelley.Schutterle@riotinto.com]
Sent: Thursday, April 12, 2012 5:12 PM
To: Rulemaking Comments
Cc: Atkinson, Rich (Cedar Mountain Ventures); Rich Atkinson
Subject: Comments on Proposed Rule - Revision of Fee Schedules; Fee Recovery for FY 2012
Attachments: KUC-NRC Fee Comments.pdf

Attached is Kennecott Uranium Company's comments on the "Proposed Rule – Revision of Fee Schedules; Fee Recovery for FY 2012 (Federal Register Vol. 77, No. 51 – Thursday, March 15, 2012).

Shelley Schutterle
Administrative Coordinator
Kennecott Uranium Company

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Avis:

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PR-170 and 171
80 FR 15476

9

PUBLIC SUBMISSION

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Submission Type: Web

Docket: NRC-2014-0200
Revision of Fee Schedules; Fee Recovery for FY 2015

Comment On: NRC-2014-0200-0001
Revision of Fee Schedules; Fee Recovery for Fiscal Year 2015

Document: NRC-2014-0200-DRAFT-0004
Comment on FR Doc # 2015-06377

Submitter Information

Name: Oscar Paulson

General Comment

To whom it may concern:

Attached please find the Adobe Acrobat Portable Document Format (*.pdf) file `kuc_nrc_fee_comments_2015_03.pdf` that contains the comments of Kennecott Uranium Company regarding the Nuclear Regulatory Commission (NRC) Proposed Rule - Revision of Fee Schedules; Fee Recovery for FY 2015 (Federal Register Volume 80, Number 55 - Monday, March 23, 2015 - Proposed Rules).

Kennecott Uranium Company appreciates the opportunity to comment on this rulemaking.

Oscar Paulson

Facility Supervisor
Kennecott Uranium Company
Sweetwater Uranium Project
P.O. Box 1500
42 Miles Northwest of Rawlins
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E-mail: oscar.paulson@riotinto.com

Attachments

kuc_nrc_fee_comments_2015_03

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USA
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April 17, 2015

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 FY 2015– (Federal Register Volume 80, Number 55 - Monday, March 23, 2015 - Proposed Rules)

Gentlemen:

Kennecott Uranium Company is a uranium recovery licensee (Source Materials License SUA-1350) and the operator and manager of the Sweetwater Uranium Project located in the Great Divide Basin in Sweetwater County, Wyoming. This facility is one of the three (3) remaining conventional uranium mills in the United States and is currently on standby. Kennecott Uranium Company has reviewed the **Proposed Rule Revision of Fee Schedules; Fee Recovery for FY 2015** and has the following comments:

Changes in Uranium Recovery Fees (Proposed 2015 versus Fiscal Year 2014 Fees)

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

License Type	Fiscal Year 2014 Annual Fee	Proposed Fiscal Year 2015 Annual Fee	Percentage Change
Conventional and heap leach mills	\$33,800	\$40,700	+20.4%
Basic <i>in situ</i> recovery facilities	\$42,800	\$51,500	+20.3%
Expanded <i>in situ</i> recovery facilities	\$48,500	\$58,300	+20.2%
Resin toll milling facilities	N/A	N/A	N/A
11e.(2) disposal incidental to existing tailings sites	\$19,200	\$23,100	+20.3%
Uranium water treatment	\$5,600	\$6,800	+21.4%

Comments on the Proposed Fee Increases and Regulatory Streamlining Issues

The approach of deriving government fees by backing into the budgeted amount is a disservice to licensees. The NRC should provide an estimate of the specific work that will be completed under 10CFR 170 for each licensee. Licensees must be able to provide a budget to management, and under this

situation it is essentially not possible. The process must be changed to provide a degree of certainty for licensees.

The increases for each category of uranium recovery license over the 2014 annual fees exceed twenty (20) percent. This increase far exceeds the current rate of inflation and 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. If every supplier increased costs 20% in a single year, it would create a substantial and possibly fatal economic hardship. Kennecott Uranium Company fails to see how increases of this magnitude can be justified. In the preamble to the proposed rule, NRC states:

In comparison to FY 2014, the proposed FY 2015 budgetary resources for uranium recovery licensees increased due to greater resources required for environmental reviews of uranium mining applications and tribal consultations with uranium recovery licensing actions. Specifically, staff worked to expedite environmental reviews for uranium mining applications by improving the National Historic Preservation Act Section 106 Tribal Consultation process to accelerate NRC consideration of uranium mining applications.

The Section 106 Tribal Consultation process is a protracted process that has created frustration, long licensing delays and substantial costs for uranium recovery licensees, both for license applicants and for those involved in certain other licensing actions. The Section 106 Tribal Consultation process was discussed in a letter from Katie Sweeney of the National Mining Association (NMA) to the Honorable Allison M. Macfarlane, Chairman U.S. Nuclear Regulatory Commission dated January 7, 2013. In the letter Katie Sweeney discussed the Section 106 Tribal Consultation process stating:

Second, NRC's conduct of the National Historic Preservation Act's (NHPA) Section 106 process has become a source of great concern within the uranium recovery industry. Industry understands that the Section 106 process is mandatory for new operating facilities and for some other licensing actions and has attempted to assist the Agency in conducting this process. However, industry is deeply concerned with the lack of a standardized process or protocol, perhaps a regional programmatic agreement, for the Section 106 process and with the failure of NRC Staff to be more decisive in its role as the "lead agency" in its licensing process.

Kennecott Uranium Company is concerned by the fact that the NRC is attempting to justify a fee increase based upon "... greater resources required for environmental reviews of uranium mining applications and tribal consultations with uranium recovery licensing actions." The Section 106 Tribal Consultation process should be streamlined and not used as a justification for higher fees.

Mr. Larry W. Camper, Director, Division of Waste Management and Environmental Protection, Office of Federal and State Materials and Environmental Management Programs responded on February 12, 2013 to the January 7, 2013 letter and stated the following regarding the Section 106 Tribal Consultation process:

Staff believes that it has improved its implementation of the NHPA Section 106 process over the last few years. For example, staff has been cooperating with the U.S. Department of the Interior's Bureau of Land Management (BLM) under the Memorandum of Understanding for both the proposed Dewey-Burdock and Ross projects by jointly preparing the supplemental Environmental Impact Statement and conducting the Section 106 review for each project, thus gaining efficiency and minimizing duplicative efforts. Staff also facilitated Tribal field surveys for four Crow Butte proposed projects so that the majority of the surveys were completed within four weeks.

If steps have indeed been made to improve the Section 106 Tribal Consultation process, then it should not be used as a justification to increase fees.

The NRC should recognize that these increases are especially damaging to the uranium recovery industry at the present time because the spot market price for uranium oxide/U3O8 continues to be depressed at USD39.00 per pound (*Uranium Exchange Monday, April 13, 2014*). The uranium recovery industry has very limited opportunities to increase revenue to pay for these increased costs.

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, Director, Division of Decommissioning, Uranium Recovery and Waste Programs dated January 23, 2015.

Comments on the Hourly Rate

The Commission also proposed a decrease in the hourly rate from \$279.00 per hour to \$277.00 per hour, or a 0.72% decrease over 2013 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 Kennecott Uranium Company 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 fuel cycle results in huge regulatory costs that have become an existential threat to some operators.

The NRC must provide a system that ensures that high quality work will be completed for each hour charged. \$277/hour equates to \$544,000 per 2,000 hour working year.

Comments on Invoicing

Kennecott Uranium Company continues to be concerned about the agency's invoicing process. In her January 7, 2013 letter, Katie Sweeney stated:

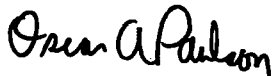
NRC invoices have been wholly lacking in standard detail that every consultant, law or accounting firm in the private sector must provide and NRC's hourly rates exceed those of many of these organizations in the Western part of the country. Accordingly, NRC's invoices do not offer industry any opportunity 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.

Lack of invoice detail 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 invoices must provide specific detail regarding the work to be completed under both 10 CFR parts 170 and 171.

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 but non-binding estimate of cost to complete the review of a given submittal it would be very helpful to uranium recovery operators.

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
Katie Sweeney – National Mining Association (NMA)

Appendix 2



KATIE SWEENEY
General Counsel

August 3, 2012

Mr. James Dyer, Chief Financial Officer
U.S. Nuclear Regulatory Commission
One White Flint North
11555 Rockville Pike
Rockville, MD 20852-2738

Dear Mr. Dyer:

Recently, Christopher Pugsley and I met with you, Michael Weber, and Mark Satorius on behalf of the National Mining Association (NMA) regarding a variety of uranium recovery industry regulatory issues. One key issue discussed relates to the format and content of the Nuclear Regulatory Commission's (NRC) invoices to uranium recovery licensees and license applicants. This letter is directed specifically at our members' issues and concerns with such invoices.

Over the years, NMA members have expressed significant concerns regarding the lack of adequate information on invoices received from NRC. After much discussion and a key meeting in October 1994, NRC modified the format and content of its invoices in a manner that licensees and license applicants considered to be an improvement. Unfortunately, over time, this progress has eroded away and the current invoice format and content lacks sufficient detail and explanation to provide licensees and license applicants with little more than a simple dollar amount to be paid.

At our June 2012 meeting, you indicated that your office had sent inquiries to licensees seeking feedback on invoice format and content with the most recent billing statement. NMA has been unable to identify any uranium recovery member company that received such inquiry. You noted at our meeting that an opportunity for comment and feedback was still available if a letter was prepared and submitted by NMA to your office. Accordingly, by this letter, NMA hereby provides the following comments:

- (1) NRC invoices should identify the specific NRC Staff member(s) by name charging a particular uranium recovery company for time spent on licensee/license applicant matters;
- (2) NRC invoices should provide an explanation of the nature and subject of the work performed;
- (3) NRC invoices should provide a numerical total of the time spent on a particular date on such work;

Name of Recipient

Date

Page Two

- (4) NRC invoices should break down work done on specific reviews of licensing action into subsets (e.g., time spent on the National Historic Preservation Act (NHPA) Section 106 Tribal Consultation process under the ambit of NRC Staff's environmental review);
- (5) NRC invoices should provide any relevant explanation of unusual or abnormally large amounts of time/dollars spent on any project or subset thereof.

NMA members also respectfully request that NRC contractors prepare and submit their invoices in the same format and with the same content as NRC invoices. NMA believes that adding such a requirement to the basic government contracts awarded to these entities should be a simple matter. While we recognize that this may need to be done via change order for projects under current review, it should be relatively straightforward to impose such a requirement on project reviews in the future.

The above-referenced invoicing practices are (and have been for decades) standard in the private sector for consultants, accountants, attorneys, etc. Given that NRC's hourly rates for its staff rival or exceed the rates for many of the service providers for NMA's members noted above, it is unreasonable for NRC to provide less detail for its oversight and the work of its contractors. Indeed, to the extent that NRC's contractors work with the private sector, they are providing the requisite detail. Without this detail, it makes developing budgets (which include estimates for regulatory review) difficult, if not impossible, for both licensees and license applicants and NRC Staff. It also makes it virtually impossible for a licensee or license applicant to dispute an invoice or part thereof as unreasonable which they can do with their consultants, accountants, and attorneys.

NRC expects and requires detailed and thorough license or license amendment applications which must pass initial acceptance review prior to detailed technical and environmental review. Licensees/license applicants should be able to expect the same quality and detail from NRC in its invoices which can range into the hundreds or thousands or millions of dollars. Indeed, given the very large numbers NMA uranium recovery members are experiencing in their invoices, anything significantly less than what is requested herein will be deemed unacceptable and likely will require NMA seeking solutions with other entities including potentially the Office of Management and Budget (OMB) and relevant Congressional delegations.

NMA's uranium recovery members appreciate your time and the opportunity to provide comments on the current status of NRC's invoicing practices, and we would be happy to discuss such matters with you in greater detail at your convenience. Thank you once again for your time and attention in this matter and please do not hesitate to contact me at 202/463-2627 to discuss these issues.

Sincerely,



Katie Sweeney



KATIE SWEENEY
General Counsel

August 3, 2012

Mr. James Dyer, Chief Financial Officer
U.S. Nuclear Regulatory Commission
One White Flint North
11555 Rockville Pike
Rockville, MD 20852-2738

Dear Mr. Dyer:

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Over the years, NMA members have expressed significant concerns regarding the lack of adequate information on invoices received from NRC. After much discussion and a key meeting in October 1994, NRC modified the format and content of its invoices in a manner that licensees and license applicants considered to be an improvement. Unfortunately, over time, this progress has eroded away and the current invoice format and content lacks sufficient detail and explanation to provide licensees and license applicants with little more than a simple dollar amount to be paid.

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- (3) NRC invoices should provide a numerical total of the time spent on a particular date on such work;

Name of Recipient
Date
Page Two

- (4) NRC invoices should break down work done on specific reviews of licensing action into subsets (e.g., time spent on the National Historic Preservation Act (NHPA) Section 106 Tribal Consultation process under the ambit of NRC Staff's environmental review);
- (5) NRC invoices should provide any relevant explanation of unusual or abnormally large amounts of time/dollars spent on any project or subset thereof.


NMA members also respectfully request that NRC contractors prepare and submit their invoices in the same format and with the same content as NRC invoices. NMA believes that adding such a requirement to the basic government contracts awarded to these entities should be a simple matter. While we recognize that this may need to be done via change order for projects under current review, it should be relatively straightforward to impose such a requirement on project reviews in the future.

The above-referenced invoicing practices are (and have been for decades) standard in the private sector for consultants, accountants, attorneys, etc. Given that NRC's hourly rates for its staff rival or exceed the rates for many of the service providers for NMA's members noted above, it is unreasonable for NRC to provide less detail for its oversight and the work of its contractors. Indeed, to the extent that NRC's contractors work with the private sector, they are providing the requisite detail. Without this detail, it makes developing budgets (which include estimates for regulatory review) difficult, if not impossible, for both licensees and license applicants and NRC Staff. It also makes it virtually impossible for a licensee or license applicant to dispute an invoice or part thereof as unreasonable which they can do with their consultants, accountants, and attorneys.

NRC expects and requires detailed and thorough license or license amendment applications which must pass initial acceptance review prior to detailed technical and environmental review. Licensees/license applicants should be able to expect the same quality and detail from NRC in its invoices which can range into the hundreds or thousands or millions of dollars. Indeed, given the very large numbers NMA uranium recovery members are experiencing in their invoices, anything significantly less than what is requested herein will be deemed unacceptable and likely will require NMA seeking solutions with other entities including potentially the Office of Management and Budget (OMB) and relevant Congressional delegations.

NMA's uranium recovery members appreciate your time and the opportunity to provide comments on the current status of NRC's invoicing practices, and we would be happy to discuss such matters with you in greater detail at your convenience. Thank you once again for your time and attention in this matter and please do not hesitate to contact me at 202/463-2627 to discuss these issues.

Sincerely,



Katie Sweeney



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

February 11, 2013

CHIEF FINANCIAL
OFFICER

Ms. Katie Sweeney, General Counsel
National Mining Association
101 Constitution Avenue, NW, Suite 500 East
Washington, DC 20001

Dear Ms. Sweeney:

This letter responds to your letter to me dated August 3, 2012, concerning licensee fees. The Nuclear Regulatory Commission (NRC) was not aware of your letter until you referenced it in your letter to Chairman Macfarlane dated January 7, 2013. In the August 2012 letter you identified concerns regarding the U.S. Nuclear Regulatory Commission (NRC) fee invoices for its uranium recovery licensees and applicants. All of your concerns involve providing licensees and applicants with a sufficient level of detail on their invoices.

As we discussed during our meeting last year, after the transition to the new accounting system in October 2010, NRC staff reached out to licensees to obtain their feedback on the layout and detail of fee invoices. Based upon the feedback provided to the NRC, a new invoice format was finalized and put into place during FY 2011. The overall goal for this new format was to balance the need to provide a sufficient level of detail without causing an undue burden for NRC licensees by providing voluminous details in the invoices. The NRC has received favorable feedback from some of its licensees on the new format. We regret that your concerns were not addressed through these changes.

The NRC is interested in improving the quality of its fee invoices provided to all its licensees and applicants. Our experience with other licensees and applicants has shown that NRC fees invoices can be tailored to meet industry needs when coordinated communications occur between the licensee or applicant, the NRC Program Office, and NRC Office of the Chief Financial Officer. My office will coordinate with the NRC Office of Federal and State Materials and Environmental Management Programs to include an agenda item on licensee fee invoices during a planned meeting between the NRC and the National Mining Association.

If you have any questions or require further clarification, please contact Mr. Seth Coplin at Seth.Coplin@nrc.gov or (301) 415-7554.

Sincerely,

A handwritten signature in cursive script, appearing to read "J. E. Dyer", is positioned above the printed name.

J. E. Dyer
Chief Financial Officer

Appendix 3

RioTinto

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PR 170 and 171
(76FR14748)

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DOCKETED
USNRC

April 19, 2011 (4:45 pm)

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

April 14, 2011

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 FY 2011 – (Federal Register Volume 76, Number 52 - Thursday, March 17, 2010 – Proposed Rules)

Gentlemen:

Kennecott Uranium Company is a uranium recovery licensee and operator of the Sweetwater Uranium Project, a conventional uranium mill currently on standby located in Sweetwater County, Wyoming. Kennecott Uranium Company has reviewed the **Proposed Rule Revision of Fee Schedules; Fee Recovery for FY 2011** and has the following comments:

Changes in Uranium Recovery Fees (Proposed 2011 versus Final 2010 Fees)

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

2010 Nuclear Regulatory Commission (NRC) Fees

<u>Fee Class/Fee Category</u>	<u>FY 2010 Final Fee Rule</u>	<u>FY 2011 Proposed Fee Rule</u>	<u>Change from FY 10</u>
URANIUM RECOVERY			
2.A.(2)(a) Conventional & Heap-Leach Mills	\$38,300	\$31,900	-16.7%
2.A.(2)(b) Basic In-situ Recovery Facilities	\$36,300	\$30,300	-16.5%
2.A.(2)(c) Expanded In-situ Recovery Facilities	\$41,100	\$34,300	-16.5%
2.A.(2)(d) In-situ Recovery Resin (facilities	\$34,400	28,800	
2.A.(2)(e) Resin Toll Milling	N/A	N/A	N/A
2.A.(3) Disposal of 11e(2) Materials	N/A	N/A	N/A
2.A.(4) 11 e(2) Disposal Incidental to Oper.	\$12,400	\$10,400	-16.1%
2.A.(5) Uranium Water Treatment Facility	\$8,600	\$7,200	-16.3%

Comments on the Proposed Fee Reductions

Kennecott Uranium Company supports these fee reductions as they are beneficial to the uranium recovery industry.

The Commission also proposed an increase in the hourly rate from \$259.00 per hour to \$273.00 per hour. This is a 5.4% increase.

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Comments on the Increase in the Hourly Rate

Kennecott Uranium Company opposes this increase. The increase of 5.4% far exceeds the current rate of inflation. When this increase is coupled with the Commission's existing invoicing practices, it adds to regulatory costs that are already a significant financial burden to the company. This rate greatly exceeds the rate charged by industry consultants to the company. The number of hours in a working year for federal employees is 2,020 hours. At a rate of \$273. per hour this equates to \$551,460. This is an extremely are amount.

The problems with the increase in the hourly rate are tied not only to its magnitude but to how the Commission invoices licensees and include the following issues:

- **Allocation of Man Power to Work Related to Uranium Recovery Licensees**
The Commission allocates and invoices far too many hours of time to the review of submittals and related documents. Kennecott Uranium Company believes that this level of man power is excessive and is not in proportion to the risk posed by uranium recovery facilities. The Commission should review its allocation of staff time to items such as inspections and should only allocate sufficient staff time to complete those tasks efficiently while protecting public health and the environment.
- **Lack of Transparency in Invoicing**
Commission invoices consistently lack sufficient detail to allow the licensee to determine the precise nature of the work being invoiced. The uranium recovery industry has repeatedly asked that the Commission provide sufficient detail to allow licensees to analyze costs. Kennecott Uranium Company requests that invoices provided by the Commission contain no less detail than those submitted by consultants to the industry.
- **Licensee Budgeting Process**
Licensees typically prepare their budgets approximately five (5) months prior to the start of the new calendar year. Review and inspection invoices are erratic and invoice amounts are impossible to predict, making it impossible for licensees to effectively budget for these items. Kennecott Uranium Company needs to be able to plan for future invoices from the Commission and requires information in order to effectively budget for these costs.

Kennecott Uranium Company believes that the Commission should implement the following steps to address these problems:

- **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. 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.
- **Rigorous Internal Review of Manpower Applied to Different Tasks**
The Commission should review the manpower levels assigned to different activities and compare them to the relative risk to public health and the environment.

- **Broaden the Use of Performance based Licensing**
Expansion of performance based licensing and the increased use of Safety and Environmental Review Panels (SERPs) would help in reducing review costs. Expansion of the use of Performance Based Licensing is justified due to the very low risks posed by uranium recovery licensees considering the low specific activity of the materials that they handle. Contrary to this approach, staff has restricted actions that can be approved by a SERP in recent draft licenses.
- **Complete Reviews in a More Timely Manner**
Kennecott Uranium Company believes that delays in completing reviews ultimately results in more time being spent on them and higher costs.

Comments on Agreement States

On September 30, 2009, the State of New Jersey became the thirty-seventh agreement state. The problem of the lack of reasonable relationship between annual fees and services rendered by the Commission is exacerbated as more states become Agreement States, leaving fewer licensees to bear an even greater share of the burden. The Commission needs to continue to search for an equitable way of dealing with this situation or the ultimate scenario of the last licensee having to pay for the entire program could come to pass.

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: Katie Sweeney – National Mining Association (NMA)

Rulemaking Comments

From: Haag, Kelly (RTEA-Temp) [Kelly.Haag@riotinto.com]
Sent: Tuesday, April 19, 2011 12:42 PM
To: Rulemaking Comments
Cc: KSweeney@nma.org; Schutterle, Shelley (CCC)
Subject: Comments on the Proposed Rule - Revision of Fee Schedules; Fee Recovery for FY 2011
Attachments: KUC-NRC fee comments 041811.pdf

Gentlemen:

Attached please find the Adobe Acrobat Portable Document Format (*.pdf) file *KUC-NRC_fee_comments_041811.pdf* that contains Kennecott Uranium Company's comments on the ***Proposed Rule - Revision of Fee Schedules; Fee Recovery for FY 2011.***

Thank you!

Oscar Paulson

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