NRC FORM 464 Part I (6-1998)

U.S. NUCLEAR REGULATORY COMMISSION

RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) / PRIVACY ACT (PA) REQUEST

FOIA/PA	RESPONSE NUMBER
99-377,00-219,00-257	19

RESPONSE TYPE ☐ FINAL ☑ PARTIAL

REQUESTER: Ms. Kimberly Boggiatto

DATE: AUG 2 3 2000

PART I. – INFORMATION RELEASED

☐ No additional agency records subject to the request have been located.

☐ Requested records are available through another public distribution program. See Comments section.

☐ APPENDICES [ ] Agency records subject to the request that are identified in the listed appendices are already available for public inspection and copying at the NRC Public Document Room.

☑ APPENDICES GG,HH Agency records subject to the request that are identified in the listed appendices are being made available for public inspection and copying at the NRC Public Document Room.

☐ Enclosed is information on how you may obtain access to and the charges for copying records located at the NRC Public Document Room, 2120 L Street, NW, Washington, DC.

☑ APPENDICES GG,HH Agency records subject to the request are enclosed.

☐ Records subject to the request that contain information originated by or of interest to another Federal agency have been referred to that agency (see comments section) for a disclosure determination and direct response to you.

☑ We are continuing to process your request.

☐ See Comments.

PART I.A – FEES

AMOUNT * $

* See comments for details

☐ You will be billed by NRC for the amount listed.

☐ You will receive a refund for the amount listed.

☐ None. Minimum fee threshold not met.

☐ Fees waived.

PART I.B – INFORMATION NOT LOCATED OR WITHHELD FROM DISCLOSURE

☐ No agency records subject to the request have been located.

☑ Certain information in the requested records is being withheld from disclosure pursuant to the exemptions described in and for the reasons stated in Part II.

☐ This determination may be appealed within 30 days by writing to the FOIA/PA Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Clearly state on the envelope and in the letter that it is a "FOIA/PA Appeal."

PART I.C COMMENTS (Use attached Comments continuation page if required)

SIGNATURE - FREEDOM OF INFORMATION ACT AND PRIVACY ACT OFFICER

Carol Ann Reed Mary Jean Ford for

NRC FORM 464 Part II (6-1998) U.S. NUCLEAR REGULATORY COMMISSION

RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) / PRIVACY ACT (PA) REQUEST

FOIA/PA: 99-377,00-219,00-257

DATE: AUG 2 3 2000

PART II.A – APPLICABLE EXEMPTIONS

APPENDICES: HH, II

Records subject to the request that are described in the enclosed Appendices are being withheld in their entirety or in part under the Exemption No.(s) of the PA and/or the FOIA as indicated below (5 U.S.C. 552a and/or 5 U.S.C. 552(b)).

- ☐ Exemption 1: The withheld information is properly classified pursuant to Executive Order 12958.
- ☐ Exemption 2: The withheld information relates solely to the internal personnel rules and procedures of NRC.
- ☐ Exemption 3: The withheld information is specifically exempted from public disclosure by statute indicated.
  - ☐ Sections 141-145 of the Atomic Energy Act, which prohibits the disclosure of Restricted Data or Formerly Restricted Data (42 U.S.C. 2161-2165).
  - ☐ Section 147 of the Atomic Energy Act, which prohibits the disclosure of Unclassified Safeguards Information (42 U.S.C. 2167).
  - ☐ 41 U.S.C., Section 253(b), subsection (m)(1), prohibits the disclosure of contractor proposals in the possession and control of an executive agency to any person under section 552 of Title 5, U.S.C. (the FOIA), except when incorporated into the contract between the agency and the submitter of the proposal.
- ☐ Exemption 4: The withheld information is a trade secret or commercial or financial information that is being withheld for the reason(s) indicated.
  - ☐ The information is considered to be confidential business (proprietary) information.
  - ☐ The information is considered to be proprietary because it concerns a licensee's or applicant's physical protection or material control and accounting program for special nuclear material pursuant to 10 CFR 2.790(d)(1).
  - ☐ The information was submitted by a foreign source and received in confidence pursuant to 10 CFR 2.790(d)(2).
- ☑ Exemption 5: The withheld information consists of interagency or intraagency records that are not available through discovery during litigation. Applicable privileges:
  - ☐ Deliberative process: Disclosure of predecisional information would tend to inhibit the open and frank exchange of ideas essential to the deliberative process. Where records are withheld in their entirety, the facts are inextricably intertwined with the predecisional information. There also are no reasonably segregable factual portions because the release of the facts would permit an indirect inquiry into the predecisional process of the agency.
  - ☑ Attorney work-product privilege. (Documents prepared by an attorney in contemplation of litigation)
  - ☑ Attorney-client privilege. (Confidential communications between an attorney and his/her client)
- ☑ Exemption 6: The withheld information is exempted from public disclosure because its disclosure would result in a clearly unwarranted invasion of personal privacy.
- ☐ Exemption 7: The withheld information consists of records compiled for law enforcement purposes and is being withheld for the reason(s) indicated.
  - ☐ (A) Disclosure could reasonably be expected to interfere with an enforcement proceeding (e.g., it would reveal the scope, direction, and focus of enforcement efforts, and thus could possibly allow recipients to take action to shield potential wrongdoing or a violation of NRC requirements from investigators).
  - ☐ (C) Disclosure would constitute an unwarranted invasion of personal privacy.
  - ☐ (D) The information consists of names of individuals and other information the disclosure of which could reasonably be expected to reveal identities of confidential sources.
  - ☐ (E) Disclosure would reveal techniques and procedures for law enforcement investigations or prosecutions, or guidelines that could reasonably be expected to risk circumvention of the law.
  - ☐ (F) Disclosure could reasonably be expected to endanger the life or physical safety of an individual.
- ☐ OTHER (Specify)

PART II.B – DENYING OFFICIALS

Pursuant to 10 CFR 9.25(g), 9.25(h), and/or 9.65(b) of the U.S. Nuclear Regulatory Commission regulations, it has been determined that the information withheld is exempt from production or disclosure, and that its production or disclosure is contrary to the public interest. The person responsible for the denial are those officials identified below as denying officials and the FOIA/PA Officer for any denials that may be appealed to the Executive Director for Operations (EDO).

DENYING OFFICIAL	TITLE/OFFICE	RECORDS DENIED	APPELLATE OFFICIAL		
			EDO	SECY	IG
John F. Cordes, Jr., Solicitor	Office of the General Counsel	HH & II		✓	

Appeal must be made in writing within 30 days of receipt of this response. Appeals should be mailed to the FOIA/Privacy Act Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, for action by the appropriate appellate official(s). You should clearly state on the envelope and letter that it is a "FOIA/PA Appeal."

Re: FOIA/PA 2000-0257
FOIA/PA-2000-0219
FOIA/PA-1999-0377

APPENDIX GG
RECORDS BEING RELEASED IN THEIR ENTIRETY
(If copyrighted identify with *)

NO.	DATE	DESCRIPTION/(PAGE COUNT)
1.	11/03/97	Letter to B. Campbell, U.S. Council on Environmental Quality, from Hugh L. Thompson, Jr., Deputy Executive Director for Regulatory Programs, NRC, re "Results from Ocotber 23, 1997, To Discuss the Proposed Testing Program for the Atlas Uranium Mill Tailings Reclamation Decision" (3 pages); Enclosure: Summary - Meeting to Discuss the Testing Program for the Atlas Uranium Mill Tailings Decision (4 pages); Attachment 2: Attendees Listing (1 page)
2.	02/25/99	Note to Commissioner Assistants from J. L. Blaha, OEDO Subject: Atlas Moab Meeting Summary and Inter-Agency Meeting (1 page); 02/19/99 Letter to R. Blubaugh, Atlas Corp., from N. K. Stablein, NMSS Subject: Meeting on Atlas Bankruptcy (3 pages); Attachment: Meeting Summary, 2/12/99 (3 pages); 02/10/99 Letter from Harvey Sender, Sender & Wasserman, P.C., to R. Clark, Asst. U.S. Attorney re Atlas Corp. (2 pages); 02/16/99 Letter from R. Blubaugh, Atlas Corp., to N. Stablein, NMSS; Re: License No. SUA-917, Docket No. 40-3453; Reclamation Costs and Funding Sources (2 pages)
3.	06/21/99	Note to Commissioner Assistants; Subject: Letter from Utah on Atlas (1 page); Attachment: 6/17/99 Letter from D. Nielson, State of Utah, to W. Travers, EDO; responds to 4/28/99 NRC letter. Re: whether state of Utah wants to become trustee for the Atlas Tailing site in Moab, UT. (1 page)
4.	09/23/98	E-mail from Stephen Lewis (NMSS) to B. Spitzberg (R-IV) et al Re: Atlas bankruptcy team meeting. (1 page)

Re: FOIA/PA-2000-0257
FOIA/PA-2000-0219
FOIA/PA-1999-0377

APPENDIX HH
RECORDS BEING PATIALLY WITHHELD

NO.	DATE	DESCRIPTION/(PAGE COUNT)/EXEMPTIONS
1.	04/10/00	Fax cover sheet: From Marjorie Nordlinger (OGC) to M. Fliegel (NMSS) Gina Guy, Office of the Regional Solicitor , and P. Boudreaux (DOJ) (1 page- Release); Attachment: 4/10/00 Letter to Gina Guy from John Cordes (OGC) Re: Grand Canyon Trust v. Babbitt (3 pages) [Withhold - Exemption 5 - Attorney work-product privilege, Attorney-client privilege]

Re: FOIA/PA-2000-0257
FOIA/PA-2000-0219
FOIA/PA-1999-0377

APPENDIX II
RECORDS BEING WITHHELD IN THEIR ENTIRETY

NO.	DATE	DESCRIPTION/(PAGE COUNT)/EXEMPTIONS
1.	04/21/00	Fax transmittal to T. Essig & M. Fliegel (NMSS) from J. Cordes (OGC) (1 page) [Exemptions: 5 (Attorney-client) & 6]

40-3453

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

November 3, 1997

Mr. Brad Campbell, Associate Director
for Toxics and Environmental Protection
U.S. Council on Environmental Quality
722 Jackson Place NW
Washington, DC 20503-0002

SUBJECT: RESULTS FROM OCTOBER 23, 1997, TO DISCUSS THE PROPOSED TESTING PROGRAM FOR THE ATLAS URANIUM MILL TAILINGS RECLAMATION DECISION

Dear Mr. Campbell:

On October 23, 1997, staff from the U.S. Nuclear Regulatory Commission (NRC), and the U.S. Fish and Wildlife Service (FWS) met with representatives of Oak Ridge National Laboratory/Grand Junction (ORNL/GJ), Atlas Corporation, and the Atlas contractor Harding Lawson Associates. The purpose of the meeting was to reach agreement on the proposed testing program that was recently discussed among the NRC, the U.S. Council on Environmental Quality, the U.S. Department of Interior (DOI), and Atlas.

Overall, the meeting on the testing program went well, and it appears that the parties involved reached agreement on the activities to be carried out by ORNL/GJ. Essentially, all of the current testing outlined in the proposal was included in the program. As described in the summary of the meeting, there were some changes proposed in the Plume Delineation Task. After the meeting, NRC and DOI agreed that FWS could substitute some wells on the northern side of the property for some wells on the private property south of the Atlas site so long as the number of wells and the cost was consistent with the scope of the original proposal. Atlas would need to be consulted since this would result in the new wells being drilled on their property. Discussions are still continuing between FWS and the NRC concerning who will do the modeling, but this issue will be resolved shortly and will not delay the start of the testing program.

1/1

The timeframe ORNL/GJ estimated for completing the testing was 60 days from their receipt of a charge number from the U.S. Department of Energy. FWS indicated that it would prepare a final biological opinion 60 days following the completion of the ORNL/GJ results. Under 50 CFR 402.14(e), the current consultation process cannot be extended without the consent of the applicant, in this case Atlas. At the meeting, Atlas would not say if the timeframes developed were acceptable, but it did commit to provide an answer the week of October 27, 1997. If Atlas does agree to the extension it will need to state its agreement in a letter to NRC. NRC would then enclose in a letter to FWS requesting the extension.

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CF

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GG/1

A summary of the meeting addressing each particular testing activity is provided in the enclosure.

Sincerely,

Hugh L. Thompson, Jr.
Deputy Executive Director
for Regulatory Programs
U.S. Nuclear Regulatory Commission

Molly McUsic
Counselor to the Secretary
U.S. Department of Interior

Enclosure:
As stated

cc: D. Berkovitz, DOE
R. Harris, FWS
J. Holonich, NRC
R. Blubaugh, Atlas

A summary of the meeting addressing particular testing activity is provided in the enclosure.

Sincerely,
Original Signed by
Hugh L. Thompson, Jr.

Hugh L. Thompson, Jr.
Deputy Executive Director
for Regulatory Programs
U.S. Nuclear Regulatory Commission

ORIGINAL SIGNED BY
Molly McUsic
Counselor to the Secretary
U.S. Department of Interior

Enclosure:
As stated

cc: D. Berkovitz, DOE
R. Harris, FWS
J. Holonich, NRC

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McUsic (FWS)
JHolonich
JCallan
OGC
CPaperiello
JBlaha

DOCUMENT NAME: a:\FWSMINS.FWS

DEDR	OGC	FWS
HLThompson		McUsic
10/31/97	10/ /97	10/ /97

Meeting to Discuss the
Testing Program for the Atlas
Uranium Mill Tailings Decision

On October 23, 1997, staff from the U.S. Nuclear Regulatory Commission (NRC), and the U.S. Fish and Wildlife Service (FWS) met with representatives of Oak Ridge National Laboratory/Grand Junction (ORNL/GJ), Atlas Corporation, and the Atlas contractor Harding Lawson Associates. The purpose of the meeting was to reach agreement on the proposed testing program that was recently discussed among the NRC, the U.S. Council on Environmental Quality (CEQ), the U.S. Department of Interior (DOI), and Atlas. A copy of the testing program is provided as Attachment 1*, and a copy of the attendees is provided as Attachment 2. NRC reported that the proposal contained the maximum extent of the testing program. At the meeting, the attendees discussed each aspect of the testing program to:

1. first determine the need for the testing in support of the on-site stabilization decision that must be made;

2. identify what would be involved in each testing activity; and

3. what the expected schedule for completion was for each activity.

The following provides a discussion of each activity discussed. The schedule established for completion of each activity by ORNL/GJ was 60 days from the time it received a charge number to begin the work. The Christmas holidays could delay that by approximately two weeks. In addition, to discussing testing aspects of the program, the attendees also discussed various administrative aspects including training for personnel entering the Atlas site, ability to get access to adjacent private and state property, and the need for potential permits from the U.S. Army Corp of Engineers (COE). Atlas identified that, as of October 23, 1997, it had not agreed to an extension, or to the studies, only to attend this technical session.

Location of Bottom of the Tailings

The FWS explained that this test would quantify the interface of the tailings and the groundwater that discharges into the Colorado River. The information would confirm the model used by the NRC in its analysis of the impacts to groundwater and subsequently the endangered species in the Colorado River. Although the information reviewed by the NRC indicated that tailings rested on the ground surface and were not in physical contact with the groundwater, information from the State of Utah, Department of Environmental Quality (UDEQ) was that at least one well on the Atlas tailings indicated that the tailings were 15 feet below the top of the groundwater interface.

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* Not included in letter to CEQ

ENCLOSURE

To resolve this questions, it was agreed that ORNL/GJ would take two borings (not wells), one from the center of the tailings and one near the well where the UDEQ believed it found evidence that the tailing were placed below the groundwater. In addition, ORNL/GJ would use data available from other sourcessuch as wells currently in the tailings and engineering drawings. The taking of two borings rather than the drilling of wells was an agreed upon change from the original ORNL/GJ proposal; however, two borings were within the ORNL proposal.

Plume Delineation Task

The plume delineation was needed by the FWS to determine what the current groundwater situation looked like, and develop an understanding of the extent of the groundwater interface with the Colorado River, and how that could impact endangered species in the river. At the meeting, Atlas presented information to ORNL/GJ showing the location of current monitoring wells. ORNL/GJ did not realize that there were already monitoring wells there, so they agreed to redesign the program to complement the existing wells. In addition, it was agreed to modify the plume delineation task to start with wells on the southern property border of the site. The completion of additional wells on the Atlas site would be determined based on the on-site data collected from the property-boundary wells. Additional wells on the property south of the Atlas site identified in the proposal would only be completed if the ORNL testing shows a plume that could have migrated beyond the Atlas property. It was agreed that this approach could eliminate the need to gain access to the adjacent private property, which is viewed as a potentially significant delay in the testing program. ORNL/GJ said that it would measure alkalinity, ammonium, sulfate, conductivity, temperature, ph, and chloride in the field, and analyze for the oxyanions of vanadium, uranium, molybdenum, selenium, and arsenic and also copper in the lab.

ORNL/GJ also stated that the current scope of work assumed that the UDEQ would participate, and provide analytical lab services. Since UDEQ was not participating, the laboratory work would have to be costed in a revised workplan, and would be done by ORNL/GJ.

FWS suggested that additional data on the extent of the contamination plume could be gained if some wells were added on the northern side of the property. However, because these wells were not included in the original proposal presented at the CEQ meeting, it was agreed that FWS would raise this with the DOI representative to discuss with the CEQ attendees the need for more northern monitoring wells. In addition, FWS agreed to work with the COE to expedite any permits that might need to be obtained to allow the well drilling to proceed. ORNL would explore what would be needed from the State Engineer's office for drilling permits.

Monitoring of Riverside Water Quality

FWS explained that it viewed direct surface water testing in the river would provide information about what the concentration of contaminants entering the Colorado River from the groundwater was and impacts to endangered species. However, FWS also stated that although it believed this was some of the most essential data, these data would be the most variable because of seasonal and flow variations. FWS indicated that the proposed riverside sampling would augment the plume delineation data from previous task, and would be useful to evaluate current groundwater impacts on the river. Based on discussions of these tests, there was concern that the data would provide definitive information on the concentration of contaminants in the groundwater, but that they would not provide information on what was happening in the river through time. However, it was agreed to collect a one-time sample.

Additional Background Well

For this testing activity, FWS noted that the information obtained would allow it to assess the amount of groundwater contamination that had occurred at the Atlas site as compared to what was naturally expected. Although NRC agreed that a new background well might be appropriate, the NRC staff provided information that the location of the proposed well was not in the same aquifer as the contaminated groundwater at the Atlas site. In addition, NRC noted that location of the background well was an essential piece in determining what groundwater standards apply to the Atlas site. Hence, NRC involvement in locating a new background well was needed. Based on these discussions, it was agreed that the proposed well would be constructed, would be called a "reference" well, and that the data from the well would confirm or deny: (1) the aquifer was a different groundwater from the contaminated groundwater at the Atlas site; and (2) the National Park Service concerns that contamination from the tailings was moving to the north of the site. The well site may not be on Atlas property, but could be on State of Utah land. Permission to construct the well on State of Utah land would have to be obtained.

Modeling

In the discussion of this task, NRC noted that it understood that the funding for this calculation would come from NRC, and that NRC would use the DOE staff who routinely do these calculations to do the modeling. FWS stated that it had not heard that NRC would fund the modeling work, and really was interested in having ORNL/GJ do all of the work. It was agreed that this aspect of proposal would need further clarification.

Following the discussion of individual activities, ORNL/GJ indicated that it was prepared to start the work, but that it needed a charge number with funds from DOE. In addition, ORNL/GJ stated that it estimated that with the removal of the modeling work, the addition of a second interior pile bore site, and the addition of sample analyses, the cost of the program would be higher than the $118,000 estimate but not by much. FWS reported that CEQ would be providing the funding for the work. ORNL stated that it would need a few days to revise the proposal based on the agreements reached at the meeting.

Atlas said that it would provide its decision about the acceptability of the program and the time frame for completing the final biological opinion by the week of October 27, 1997. The schedule outlined in the meeting involved a 60-day test program, and 60 days for FWS to issue the final opinion. Atlas did ask if the test would allow FWS to revise the reasonable and prudent alternative (RPA) of moving the tailings currently in the draft biological opinion. FWS noted that it would be able to modify the RPA, but that it was not sure how, and Atlas may not be happy with the changes. FWS did note that it was working on the opinion today, and not waiting for the testing program to be completed. FWS identified the take of endangered species as the biggest issue it currently faced.

List of Attendees

NRC	FWS	ORNL
J. Holonich	R. Harris	N. Korte
M. Layton	B. Waddell	F. Gardner
M. Fliegel	J. Mizzi	
	R. Risenberg	

Atlas Corporation	Harding Lawson Associates
R. Blubaugh	G. Ohland
	J. Wegrzyn

ATTACHMENT 2

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

February 25, 1999

NOTE TO COMMISSIONER ASSISTANTS

OCM/SJ

__ Mike Weber
__ Brian Holian
__ James Johnson
__ Karla Smith
__ Regis Boyle
__ Clare Kasputys
__ Dan Gillen
__ John Monninger
X Jim Smith
__ Laban Coblentz
__ Mark Miller
__ Evelyn Williams
__ Gladys Ordaz
__ Judy Ledbetter
__ Leslie Hill
__ Frances Marek

OCM/GJD

__ Brad Jones
__ Terence Chan
X Joel Lubenau
X Keith McDaniel
__ Kristine Thomas
__ Donna Smith
__ Joanne Field

OCM/EM

X Steve Crockett
X Janet Schlueter
__ James Beall
__ Jeffry Sharkey
__ Cathy Grimes
__ Linda Lewis

OCM/ND

__ Maria Lopez-Otin
__ Roger Davis
__ Tony Hsia
X Pat Castleman
__ Vicki Bolling
__ Libby Perch

OCM/JM

__ Lynne Stauss
X Margie Doane
__ Brian McCabe
X John Thoma
__ Lorna Pini
__ Tojuana Fortune

FROM: James L. Blaha
Assistant for Operations, OEDO Debbie Corley

SUBJECT: ATLAS MOAB MEETING SUMMARY AND INTER-AGENCY MEETING

Attached is the summary from the February 12 meeting between staff and Atlas Moab. The inter-agency meeting concerning Atlas Moab has been rescheduled for Friday, February 26 at 10:00 a.m. in the Old Executive Office Building. This is provided for your information.

Attachment: As stated

cc: W. Travers, EDO (w/attachment)
M. Knapp, DEDE (w/o attachment)
F. Miraglia, DEDR (w/attachment)
P. Norry, DEDM (w/o attachment)
J. Blaha, AO (w/attachment)
M. Horn, OEDO (w/attachment)
K. Stablein, NMSS (w/o attachment)
SECY (w/attachment)
OGC (w/attachment)
OCA (w/o attachment)
OPA (w/o attachment)
EDO R/F (w/attachment)

GG/2

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

February 19, 1999

Mr. Richard Blubaugh
Vice President of Environmental
and Government Affairs
Atlas Corporation
370 Seventeenth Street, Suite 3050
Denver, CO 80202

SUBJECT: MEETING ON ATLAS BANKRUPTCY

Dear Mr. Blubaugh:

On February 12, 1999, a public meeting was held at the U.S. Nuclear Regulatory Commission (NRC) to discuss the status of Atlas Corporation's reorganization plan. Enclosed is a summary of the meeting.

If you have any questions, please contact me at (301) 415-7238 or the NRC project manager, Dr. Myron Fliegel, at (301) 415-6629.

Sincerely,

N. King Stablein, Acting Chief
Uranium Recovery Branch
Division of Waste Management
Office of Nuclear Material Safety
and Safeguards

Docket No. 40-3453
License No. SUA-917

Enclosure: As stated

cc: See attached list

Addresses for Letter Dated: February 19, 1999

Honorable Bruce Babbitt
Secretary of the Interior
18th & C Street, N.W.
Washington, D.C. 20240

Sylvia Barrett
Metropolitan Water District of
Southern California
700 Moreno Avenue
LaVerne, California 91750

R.L. Christie, ATL
PO Box 1366
Moab, Utah 84532

John E. Cook, Reg. Dir.
Rocky Mountain Region
National Park Service
U.S. Department of the Interior
12795 Alameda Parkway
PO Box 25287
Denver, Colorado 80225-0287

Walt Dabney, Superintendent
Canyonlands National Park
National Park Service
2282 S. West Resource Blvd.
Moab, Utah 84532

Susan D. Daggett
Earthjustice Legal Defense Fund
1631 Glenarm Place, Suite 300
Denver, CO 80202

Dale Edwards
Radiation Protection Coordinator
Atlas Corporation
P.O. Box 1207
Moab, Utah 84532

Grand County Library
25 South 100 East
Moab, Utah 84532

Reed Harris
U.S. Fish and Wildlife Service
Lincoln Plaza, Suite 404
Salt Lake City, Utah 84115

Dan Kimball, Chief
Water Resources Division
National Park Service
U.S. Department of Interior
1201 Oakridge Drive, Suite 250
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William Lamb
Associate State Director
Bureau of Land Management
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Milton K. Lammering
U.S. Environmental Protection Agency
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Al McLeod
Grand County Council
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Regional Director
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Marcia Moore
W0760
Bureau of Land Management
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Washington, DC 20240

Kerry Moss
National Park Service
Mining and Minerals Branch
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Denver, Colorado 80236

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Senior Environmental Review Officer
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U.S. Department of the Interior
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Chicago, Illinois 60611

William J. Sinclair, Director
Division of Radiation Control
Department of Environmental Quality
State of Utah
168 North 1950 West
P.O. Box 144850
Salt Lake City, Utah 84114-4850

Anthony J. Thompson
Shaw, Pittman, Potts & Trowbridge
2300 N Street, N.W.
Washington, DC 20037-1128

Christine Turk, Chief
Branch of Compliance
National Park Service
12795 W. Alameda Parkway
P.O. Box 25287
Denver, Colorado 80225

Wes Wilson
U.S. EPA - Region III
999 18th Street, Suite 500
Denver, Colorado 80202-2405

Meeting Summary

Date/Time of Meeting: February 12, 1999, 8:30 a.m.

Location of Meeting: Nuclear Regulatory Commission
Two White Flint North
Room T7A-1

Attendees: Attachment

The meeting was held at the request of Atlas Corporation to present Atlas' concerns regarding its reorganization plan that is being prepared pursuant to its bankruptcy proceeding filed with the United States Bankruptcy Court for the District of Colorado and to discuss three options Atlas has been developing. U.S. Nuclear Regulatory Commission (NRC) staff planned to discuss the status of progress on completion of the Final Environmental Impact Statement (FEIS). On September 22, 1998, Atlas filed a petition for relief under Chapter 11 of Title 11 of the United States Code, 11 U.S.C. Sections 101 et seq. On October 1, 1998, Atlas met with NRC staff to discuss the effect of its bankruptcy on the reclamation of its NRC-licensed uranium mill site near Moab Utah. The reorganization plan is due to be filed with the court by March 15, 1999.

NRC staff (staff) discussed the status of the FEIS. At the October 1, 1998, meeting, the staff committed to try to expedite the completion of the FEIS. The staff had expected to publish the FEIS in early January 1999. NRC cannot act upon Atlas' proposal to reclaim the Moab site until after the FEIS is published. NRC stated that the staff encountered difficulty in determining whether the ammonia standard in the Colorado River that is included in the U.S. Fish and Wildlife Service (FWS) Final Biological Opinion's (FBO) reasonable and prudent alternative, i.e., the level of ammonia which would not jeopardize endangered species of fish in the river, would be met by the reclamation. NRC stated that Atlas would need to provide more data and perform additional analysis to resolve this issue. NRC stated that it will therefore issue the FEIS with an open issue, i.e., whether onsite reclamation will result in meeting the ammonia standard set out in the FBO. Atlas stated that it would be unable to provide the additional data and analysis to resolve the open issue because of its financial condition. NRC told the representatives from Atlas that the staff expects to issue the FEIS in early March 1999.

Atlas discussed the current situation with respect to options it has been considering to reclaim the site. At the October 1 meeting, Atlas had discussed a plan in which a turnkey operator would assume responsibility for managing the reclamation of the site and would also assume the risk of increased reclamation costs. At the October meeting, Atlas stated that it had identified approximately $22 million of assets which would be sufficient to enter into the turnkey contract. At today's meeting, however, Atlas told the staff that the proposal from the turnkey contractor was approximately $29 million and that this cost put such a contract beyond Atlas' financial resources. Atlas discussed several options which were identified in its February 10, 1999, letter (copy enclosed) to Robert Clark, Assistant U.S. Attorney, who is representing NRC in the bankruptcy proceeding.

These options involve transferring money to an existing Standby Trust, with the trustee responsible for site reclamation with a cap on that trustee's liability corresponding to the amount included in the trust. Under two of these options, after NRC issued a confirmatory order to the

Enclosure

trustee, NRC would terminate Atlas' license and Atlas would be released from any further liability. Under the first option, there would be insufficient money in the trust to actively clean up the ground water. Under the second option, surface reclamation would be performed based on a 200 year design standard rather than a 1000 year design standard and would be considered an "interim" solution. The money projected to be saved by this option would be used to address ground-water cleanup. The third option would provide for NRC and Atlas to agree on an organized default, followed by termination of Atlas' license.

Atlas requested that NRC review the options proposed in the February 10 letter and negotiate with Atlas, as well as the other interested parties, including the U.S. Department of the Interior (DOI) and other stakeholders. Atlas stated that it had discussed these options with some of these stakeholders, and characterized their reaction as receptive to exploring options which would allow Atlas' assets to be used to remediate the site rather than litigate the matter. Staff stated that it would need to evaluate Atlas' proposed options and to discuss the options with the Commission before it could make any commitments. (Additionally, because the U.S. Department of Justice (DOJ) represents NRC in both the bankruptcy case and the Endangered Species Act case brought in Utah District Court, any negotiation would need to be conducted by or with DOJ, which also represents DOI and FWS.) NRC asked Atlas to provide a table showing the total amount of assets available, identifying the source of the money. [That information was subsequently provided by letter dated February 16, 1999, attached.]

Atlas Meeting
Feb. 12, 1999

Name	Organization	Telephone
Myron Fliegel	NRC, DWM	(301) 415-6637
Joe Holonich	NRC, DWM	(301) 415-6708
M. Virgilio	NRC, NMSS	(301) 415-7800
F. Miraglia	NRC EDO	301 415 1713
J. Greeves	NRC/DWM	301-415-7437
HARVEY SEDER	~~ATLAS~~ Atlas	303-296-1999
Greg Shaffer	Atlas	303 629-2427
A.J. THOMPSON	SHAW, PITTMAN	202-663-9198
CARL J. TAPERIELLO	NRC	301-415-7800
RICHARD BLUBAUGH	ATLAS	303-629-2436
Tom Combs	NRC/OCA	301-415-1776
Michael Layton	NRC/NMSS	301.415.6676
Charlotte Abrams	NRC/NMSS	301 415 7295
Shirley Smith	~~Reston~~ RestonGates	208-661-3876
Richard Codell	NMSS/DWM	301-415-8167
Merri Horn	NRC/EDO	301-415-1724
Susan Uttal	NRC/OGC	301 415 1582
MARIA SCHWARTZ	NRC/OGC	301-415-1888
Marjorie Nordlinger	NRC/OGC	301-415-1616
King Stablein	NRC/NMSS/DWM	(301)-415-7238
Bob Clark (via phone)		(303) 454-0112
Howard Tallman (via phone)		(303) 771-3420

SENDER & WASSERMAN, P.C.
ATTORNEYS & COUNSELORS AT LAW
1999 BROADWAY, SUITE 2305
DENVER, COLORADO 80202

TELEPHONE
(303) 296-1999
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HARVEY SENDER
ALSO MEMBER OF NEW MEXICO BAR
e-mail:sendor@sendwass.com

February 10, 1999

Robert Clark, Esq.
Assistant U. S. Attorney
1961 Stout St. #1100
Denver, CO 80294

RE: Atlas Corp.

Dear Mr. Clark:

In accordance with our conversations recently, the purpose of this letter is to summarize the status of the Moab situation and options currently available. As you are aware, the NRC, despite representations to the contrary, has still not acted on the proposed license amendment. In addition, as reflected in the liquidation analysis previously forwarded to you, both the NRC and the State of Utah have filed large and troublesome claims seeking administrative priority, $44 million and $77 million respectively. The Utah claim objection should be filed by the end of the week. I hope to have a copy for you before the meeting on Friday. Similar claim objections and related motions as to the NRC claim should be ready to be filed shortly thereafter.

As we have discussed, the continuing delays in the approval process, combined with the uncertainty about the nature of the remediation of the ground water, has driven up the price of any proposed third party remediation. The current estimate for surface reclamation, only, is approximately $22,000,000. This cost is marginally achievable by allocating all of the potential Moab related assets to the reclamation. The ground water cost estimates range from $500,000 to $29,000,000. The $500,000 number involves a ground water corrective action plan and the establishment of alternative concentration limits without any further remediation. The $29,000,000 number involves not only prevention of ground water seepage but pumping and treating the ground water. There are two other ground water seepage proposals presented by HLA at costs of $7.5 million and $8.5 million respectively.

The RMSOURCE bid of $27,775,000 combines the surface reclamation only bid with the risks of assuming the liability, new bonding, and environmental and stop-loss insurance. The price is simply not feasible for Atlas. In addition, one of the preconditions is the deposit of 50% of that amount, i.e. $13.87 million, into the standby trust. Clearly payment of that sum by Atlas is well beyond the realm of possibilities.

The following reflects the available options to resolve the dispute, short of claims litigation in the Bankruptcy Court over the amount and priority of the claims of NRC and the State of Utah In addition to objecting to the claim of the NRC, should it be necessary, Atlas would file a motion seeking to abandon the site under 11 U.S.C. 554 and to reject the license as an executory contract

under 11 U.S.C. 365.

1. Atlas transfers the land, the water rights and Title X receivables for future claims into the standby trust. The existing cash allocable to the bond would also go into the trust. The trust would hire Harding Lawson Associates (HLA) or some other contractor to do the surface reclamation and ground water to the extent it is limited to alternative concentration limits. To the extent a different solution to the groundwater issue is selected, additional funding for the trust would have to be obtained from federal or state sources. Upon transfer of the assets to the trust, Atlas would be released of any further liability.

2. Atlas transfers the same assets into the trust. The surface reclamation is performed based upon a 200 year design standard rather than a 1000 year design standard and is considered an interim design. This reduces the surface reclamation cost by $3 to $4 million. The additional resources are used to address ground water or other remediation issues. All of the other terms, as reflected in option one above, remain the same. As you know, there is currently proposed legislation to move the site and limit the liability of Atlas. This alternative should be attractive to the groups supporting such a move as it provides both a substantial time period to obtain the authorization and funding for moving the site and provides for a less expensive ground cover to be removed at a later date.

3. If NRC insists on the 1000 year ground cover and a ground water resolution in the $5 to $7 million dollar range, Atlas and NRC would agree on an organized default and termination of the license. Atlas would transfer the land and the rights to receive Title X receivables for future claims into the trust. NRC would presumably call the bond and transfer the proceeds into the trust. NRC may have an agreed general unsecured claim and not an administrative claim. NRC would share pro rata with the other creditors in the distribution to unsecured creditors.

Finally, it should be obvious that any cost effective and feasible solution requires either the agreement of the State of Utah or the joinder by the NRC in the claim objection on grounds of federal preemption.

I will be happy to address any questions or concerns at the meeting on Friday. If we can reach agreement in concept on one of these options quickly, we can then move forward to deal with clarifications and the necessary details to seek Court approval.

Very truly yours,

Harvey Sender

cc: Gregg Shafter
Tony Thompson
Howard Tallman
Richard Blubaugh

ATLAS CORPORATION

Republic Plaza, 370 Seventeenth Street, Suite 3050
Denver, CO 80202
Telephone: (303) 629-2440 Fax: (303) 629-2445

RICHARD E. BLUBAUGH
Vice President Environmental
and Governmental Affairs

February 16, 1999

Via Facsimile (301) 415-5397

N. King Stablein, Acting Chief
U.S. Nuclear Regulatory Commission
High-Level Waste and Uranium Recovery
Projects Branch (MS-T7J9)
Division of Waste Management, ONMSS
Washington, D.C. 20555-0001

Re: License No. SUA-917, Docket No. 40-3453; Reclamation Costs and Funding Sources

Dear Mr. Stablein:

We appreciate the opportunity afforded Atlas to meet with Messrs. Miraglia, Paperiello, Holonich and the other participants in the February 12, 1999 meeting requested by Atlas. As requested during this meeting, the following is a further explanation of the surface reclamation cost estimate of $22 million and the sources of funding projected by Atlas to cover these costs.

The estimated costs are from the recently received proposal from the independent third party, EMSOURCE.

Activity/Item	$ million
Preparation and Mill Site Cleanup	.24
Dewatering of Tailings Pile	2.71
Tailings Pile Cover Installation	5.01
Aggregate and Rock Armor	8.40
Site Restoration	1.18
Compliance Monitoring (10 yr.)	1.10
Long-Term Surveillance Fund	.70
Groundwater Corrective Action Plan Update	.40
Project Management	1.67
Inflation Adjustment	.78
Total	$22.19

The resources available to Atlas that would be allocated to the Moab reclamation are shown below.

Resource	$ million
Restricted Cash applied against the existing surety	4.225
DOE reimbursement of 56% of funds expended (0.561 x $22.2 million)	12.45
Land value of releasable and salable property (estimate)	1.28 to 2.26
Water rights on Colorado River (estimate)	1.18 to 1.63
Unpaid Claims for Title X funds	1.84
Total	$20.98 to 22.41

Also, as discussed during the meeting, Atlas has initiated a proposal for consideration by the Department of Interior and others that would reduce the cost of reclamation by modifying the cap to more directly satisfy the minimum 200 year standard, thus eliminating placement of much of the rock armor. This approach could be considered "interim" thus minimizing concerns about irretrievable and irreversible commitment of resources and could reduce the cost between $3 and $4 million.

As this matter is of extreme importance to Atlas, we request your urgent attention and response.

Regards,

Richard E. Blubaugh

cc: Anthony Thompson, Esq.
Gregg Shafter

Cyr / Gray / Burns / Chandler / Clark / Rutberg / Horn / Nordlinger / Kim

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

June 21, 1999

NOTE TO COMMISSIONER ASSISTANTS

OCM/SJ

___ Mike Weber
___ Brian Holian
___ James Johnson
___ Karla Smith
___ Regis Boyle
___ Clare Kasputys
X Dan Gillen
___ Steve Cahill
___ Jim Smith
___ Laban Coblentz
___ Mark Miller
___ Evelyn Williams
___ Gladys Ordaz
___ Judy Ledbetter
___ Leslie Hill
___ Frances Marek

OCM/GJD

___ Brad Jones
___ Terence Chan
___ Joel Lubenau
X Keith McDaniel
___ Tom Boyce
___ Donna Smith
___ Nobel Green

OCM/EM

___ Steve Crockett
X Janet Schlueter
___ James Beall
___ Jeffry Sharkey
___ Cathy Grimes
___ Linda Lewis

OCM/ND

___ Maria Lopez-Otin
___ Roger Davis
___ Tony Hsia
___ Pat Castleman
X John Lubinski
___ Vicki Bolling
___ Libby Perch

OCM/JM

___ Lynne Stauss
___ Margie Doane
___ Brian McCabe
X John Thoma
___ Joseph Shea
___ Lorna Pini
___ Tojuana Fortune

FROM: James L. Blaha Jim
Assistant for Operations, OEDO

SUBJECT: LETTER FROM UTAH ON ATLAS

In the attached letter, Utah declines to become the trustee for the Atlas Tailing site, in Moab, Utah.

Attachment:
As stated

cc: W. Travers, EDO (w/o attachment)
M. Knapp, DEDE (w/o attachment)
F. Miraglia, DEDR (w/attachment)
P. Norry, DEDM (w/o attachment)
J. Blaha, AO (w/attachment)
C. Raddatz, OEDO (w/attachment)
D. Martin, OEDO (w/attachment)

SECY (w/attachment)
OGC (w/attachment)
OCA (w/o attachment)
OPA (w/o attachment)
EDO R/F (w/attachment)

GG/3

Michael O. Leavitt
Governor
Dianne R. Nielson, Ph.D.
Executive Director
Brent C. Bradford
Deputy Director

State of Utah

DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF THE EXECUTIVE DIRECTOR

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Holonich
King

June 17, 1999

William D. Travers
Executive Director of Operations
Nuclear Regulatory Commission
Washington DC 20555-0001

Dear Mr. Travers:

This is in response to your correspondence of April 28, 1999, asking whether the state of Utah is interested in becoming the Trustee to administer the reclamation trust and implement the reclamation of the Atlas Uranium Mill Tailings site near Moab, Utah. The state of Utah has carefully considered your request to become the Trustee and has decided to decline the request. However, the state of Utah is anxious to commence discussions with the NRC on an appropriate Trustee, in accordance with the recently signed Atlas bankruptcy agreement.

If you have further questions, do not hesitate to contact me or Bill Sinclair of my staff.

Best regards,

Dianne R. Nielson

Dianne R. Nielson, Ph.D.
Executive Director

cc: John Greeves, NRC Division of Waste Management
Paul Lohaus, NRC Office of State Programs
Charles Hackney, NRC Region IV
Harvey Merrill, Chairman, Grant County Council
Governor Michael O. Leavitt
Ted Stewart, Governor's Office

From: Stephen Lewis
To: Blair Spitzberg, Frederick Combs, Jack Goldberg,...
Date: Wed, Sep 23, 1998 12:12 PM
Subject: Re: Atlas bankruptcy team meeting

Mike: Yes, OGC will attend the meeting tomorrow. Maria and I plan to attend. I have discussed the meeting with Jack Goldberg and he indicated that Jay McGurren, who is assigned to the 2.206 Petition from the State of Utah, will also attend.
>>> Myron Fliegel 09/23 10:59 AM >>>
Atlas Corp. filed a petition for bankruptcy, under chapter 11, yesterday. NRC staff is in the process of reviewing Atlas' proposal for stabilization of its uranium tailings onsite near Moab, Utah but has not approved the plan.

NRC staff will be meeting with Atlas next week. We need to have a meeting of the Atlas bankruptcy team to discuss the situation. I have scheduled the meeting for Thursday, Sept 24 at 1:00pm in room T-07C1. Please let me know if you or a representative can not attend.

CC: John Greeves, Larry Bell, Michael Weber, Stuart...

GG/4

Fax

M. Fiegel

Name: Gina Guy
303-231-5363

Paul Boudreaux
202-305-0275

From: Marjorie Nordlinger]
Date: April 10, 2000
Subject: Grand Canyon Trust v. Babbitt, 2;98CV0803S (D. Utah)
Pages: 1

Comments: [Comments]

HH/1