

March 7, 2002

Mr. Frank Marcinowski, Director
Radiation Protection Division
U.S. Environmental Protection Agency
Washington, DC 20460

SUBJECT: COMMENT ON THE U.S. NUCLEAR REGULATORY COMMISSION'S POLICY
REGARDING ALTERNATE FEED MATERIALS AT URANIUM MILLS AND WASTE
DISPOSAL AT URANIUM MILL TAILINGS IMPOUNDMENTS

Dear Mr. Marcinowski:

Thank you for your letter dated January 16, 2002, responding to our Federal Register Notice (66 FR 55604, Nov. 2, 2001) concerning the National Mining Association's (NMA's) petition for rulemaking, which seeks relief from all U.S. Nuclear Regulatory Commission (NRC) licensing and inspection fees for uranium recovery licensees. You stated that the U.S. Environmental Protection Agency (EPA) takes no position with respect to the petitioner's requested fee waiver; however, you addressed a number of NMA's statements that were published in the Notice regarding alternate feed materials and the use of mill tailings impoundments for waste disposal.

Specifically, you expressed concern with NMA's assertion that conventional mill tailings impoundments offer an underutilized disposal option for high-volume, low-activity wastes similar to uranium mill tailings, such as Technologically Enhanced Naturally Occurring Radioactive Materials, and other non-Atomic Energy Act materials. You also provided several attachments of previous correspondence between the EPA and the NRC regarding alternate feed and waste disposal at uranium mill tailings impoundments, and requested further discussions among the EPA, the NRC and affected States regarding the petitioner's suggestion of additional uses of uranium mill tailings impoundments.

As you recall, the Commission deliberated the policy of disposing materials other than 11e.(2) byproduct material in the context of the Commission Paper SECY-99-012. The Commission's policy direction was issued in Staff Requirements Memorandum to SECY 99-0012, dated July 26, 2000. The Commission stated that disposal of material other than 11e.(2) byproduct material in mill tailings impoundments should be allowed only if: 1) there is adequate protection of the public health, safety and the environment; 2) the long-term custodian of the site has indicated its willingness to accept responsibility for maintenance of the site prior to NRC approving the disposal; and 3) necessary approvals of other affected regulators (e.g., States and EPA) have been obtained.

The staff issued a Regulatory Issue Summary (RIS 2000-23) to uranium recovery licensees, States, and other interested parties on November 30, 2000, providing guidance on the Commission's policy for using alternate feeds and disposing material other than 11e.(2) byproduct material in mill tailings impoundments. We evaluate specific alternate feed and mill

tailings disposal requests from licensees on a case-by-case basis following the guidelines contained in RIS 2000-23. A copy of RIS 2000-23 is provided as an enclosure.

We recently revised two uranium recovery guidance documents and issued them for a 75-day public comment period (67 FR 5348, Feb 5, 2002) which is scheduled to end on April 22, 2002. The standard review plan for reclamation reviews of mill tailings sites (NUREG-1620) contains a place holder in Appendix I that will include the guidance contained in RIS 2000-23. Copies of these guidance documents have been forwarded to Mr. Loren Setlow of your office. We will be happy to meet with you at your convenience to discuss your concerns with the Commission's policy, or you can provide specific written comments regarding these policies during the public comment period for the guidance documents. We will address all comments we receive on these guidance documents, and the revised documents will be submitted to the Commission for approval before issuing them as final guidance.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>.

If you have any questions concerning this letter, please contact me at (301) 415-7212 or e-mail mfw@nrc.gov.

Sincerely,

/ra/

Michael F. Weber, Director
Division of Fuel Cycle Safety
and Safeguards
Office of Nuclear Material Safety
and Safeguards

Enclosure: Regulatory Issue Summary 2000-23

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Sincerely,

/ra/

Michael F. Weber, Director
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Enclosure: Regulatory Issue Summary 2000-23

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