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MEMORANDUM FOR: Robert E. Browning, Director
Division of Waste Management, NMSS

FROM: Frank L. Ingram
Assistant to the Director
Office of Public Affairs

SUBJECT: NEWS MEDIA INQUIRY

Bruce Milhans of "The Rapid City-Journal" (South Dakota) sent me the enclosed copy of a press release issued by a lawyer for Chem-Nuclear Systems, Inc. Milhans questions, in particular, statements generally attributed to the NRC in the last paragraph on page three and the first paragraph on page four-- "...none of the so-called 'closed sites' present a problem of health and safety for future generations" and "...the NRC does not believe that any of the sites pose any significant harm to the environment." Specifically, Milhans would like to know: (1) Do these statements accurately reflect the NRC's views and if there is, in fact, no environmental or health consequences from any of the existing or closed low-level radioactive waste burial facilities? (2) Is the NRC saying there are no significant chances of any health or environmental problems in the future from these sites, closed or operating? I would appreciate having input to reply to Milhans questions as soon as possible.

Frank L. Ingram
Frank L. Ingram
Assistant to the Director
Office of Public Affairs

Enclosure

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PRESS RELEASE

FROM: Gene N. Lebrun, Rapid City Attorney for Chem-Nuclear
Systems, Inc.
DATE: October 23, 1984
RE: Hugh Kaufman

It is not only surprising, but shocking that an EPA employee who goes around ^{reporting?} reporting to be a spokesman for the Environmental Protection Agency is so uninformed. Apparently, although Hugh Kaufman purports to be a "whistle blower" for the EPA, he is unaware of the extensive rules and regulations of the EPA sister agency, the Nuclear Regulatory Commission (NRC), which, in fact, has jurisdiction over low-level radioactive disposal sites. Hugh Kaufman, who was brought to Rapid City by the Sierra Club, charged that operating companies of low-level waste disposal sites "won't obligate company resources to clean up sites if problems occur". Isn't Kaufman aware of the NRC Regulation, Subpart E of Part 61 (10 CFR 61), which requires that before even obtaining a license to operate such a site, the proposed operating company must provide assurance to the NPC that sufficient funds will be available not only to cover the estimated cost of conducting all licensed activities over the planned operating life of the project, but also it must assure NRC that sufficient funds will be available to carry out site closure and stabilization activities including decontamination or dismantlement of the land disposal facility structures and closure and stabilization of the disposal site? These financial assurances must be such that following the transfer of the site back to the site owner, only minor custodial care surveillance and monitoring would be required.

Further, NRC requires that financial assurance be renewed annually and must take into consideration such factors affecting cost and stabilization cost as inflation, increases in the amount of disturbed land, changes in the engineering plans, closure and stabilization that has already been accomplished and any other conditions affecting the cost.

Had Kaufman been aware of the NRC's stringent requirements for financial assurances, he would know that the regulation specifically requires more than merely the pledging of the assets of the operating company, which would be committed to the project, but also that such commitment must be supplemented by surety arrangements such as surety bonds, cash deposits, certificates of deposit, deposits of government securities, escrow accounts, irrevocable letters of lines of credit, trust funds, or combinations thereof, all which must have prior approval of the NRC.

Kaufman's lack of knowledge of existing law regarding low-level radioactive disposal sites is further evident from his comment, "Get it in writing. Demand to first see the deed and title insurance." ^{and title insurance} If Kaufman had done his homework, he would realize that before a disposal site could be put into operation, the legal title must be conveyed to the government and that title insurance merely insures the title of the land, neither of which have anything to do with the safety or long-term protection of a site.

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Kaufman is also in error when he claims that the economic liability of the long-term care of the disposal site is not placed on the generators of radioactive waste. Not true. A substantial part of the fee charge the generators of low-level radioactive waste goes toward the long-term perpetuity fund to be used for the long-term care of the site. Under the license requirements of the Nuclear Regulatory Commission, the cost for the perpetual care of the site must be assured in advance to the license being granted. That care is not and will not be an obligation of the taxpayers of the State. None of the existing sites, closed or operating, were licensed or built under the current NRC regulations.

Although Kaufman was highly critical of the underground method of low-level radioactive waste disposal, his lack of knowledge of existing sites, both operative and nonoperative, and the requirements for licensures for new sites, is apparent. Had he checked with the NRC, he would have been advised that none of the so-called "closed sites" present a problem of health and safety for future generations. According to William J. Dircks, Executive Director of Operations of the Nuclear Regulatory Commission, long-term monitoring of the sites by the site custodians, under license issued by either the NRC or an agreement state, will provide early detection of any unforeseen problems.

Frank Ingram
NRC

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Further, the NRC staff does not believe that any of the sites pose any significant harm to the environment. Further, that the NRC, which is the regulatory agency for such sites, not the EPA, has conducted studies which concluded that there is no compelling health, safety or environmental reason to abandon shallow land burial methods of disposal.

It is unfortunate that Mr. Kaufman, a bureaucrat who is paid by the taxpayer, is so uninformed and chooses to carry water for the Sierra Club rather than perform his duties as an employee of the Environmental Protection Agency. Why doesn't he tell the public about the confidence that EPA has in Waste Management, Inc., when it contracted with Waste Management, Inc. to clean up an abandoned, hazardous recycling site in Seymour, Indiana, where Waste Management removed gallons of hazardous waste and yards of contaminated topsoil which were placed there not by Waste Management, not by Chem-Nuclear, but by other parties. Why doesn't Mr. Kaufman explain to the public that Waste Management's chemists, engineers, and technicians are frequently relied upon by EPA for disposing of the nation's waste.

In view of Kaufman's recent remarks in Rapid City, it is no wonder Kaufman said that President Reagan attempted to get him fired.