



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

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OCT 21 1979

Mr. Thomas E. Baca, Director
Environmental Improvement Division
P. O. Box 968, Crown Building
Santa Fe, New Mexico 87503

Dear Mr. Baca:

This is in reference to your October 19, 1979, letter questioning the advisability of the NRC taking an independent licensing action related to United Nuclear's Church Rock Uranium Mill.

As we noted in our conversations with your staff following the Church Rock dam failure, we would not take an independent action as long as we concurred in your actions. Your contemplated action on October 12, 1979, to authorize resumption of mill operations was in our opinion premature for two reasons. First of all, as noted by Mr. Ross Scarano in conversations with you and three other EID staff members on October 12, 1979, the NRC could not come to a determination of the safety of the interim operating plan simply because information necessary for that evaluation had not been submitted to the NRC. Secondly, as noted in Mr. Gossick's letter to you dated August 23, 1979, we consider the current site as unacceptable for the long-term containment of impounded tailings. It would not have been in the public interest to resume piling tailings at the existing site without a firm plan to find a new site as soon as possible.

Following our issuance of the October 12, 1979 order, Mr. Scarano and our consultants had a series of meetings with United Nuclear Corporation which resulted in (1) our receipt of sufficient data to conclude that the proposed interim operating plan could be utilized safely under the conditions listed by the State Engineer and our October 24, 1979, order and (2) a firm commitment by United Nuclear Corporation to immediately perform an alternative site study to support a proposal to develop a new tailings impoundment site to be submitted to the appropriate regulatory agencies by January 30, 1980 (copy enclosed).

As you know, Congress has recently passed an amendment to the UMTRCA of 1978 to make it clear that the NRC has no direct licensing responsibility over tailings materials in Agreement States for at least the three-year period following enactment of the UMTRCA. Accordingly, our orders to United Nuclear Corporation no longer have legal significance. We would, however, urge New Mexico to pursue vigorously the United Nuclear commitment to identify and develop an acceptable alternate tailings impoundment site utilizing a below-grade burial scheme.

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Mr. Thomas E. Baca

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In addition to reinstating Agreement States' sole jurisdiction over uranium mill tailings, the amendment included a few more changes. Section 204(h)(2) states that:

"...such State authority shall be exercised in a manner which, to the extent practicable, is consistent with the requirements of section 274o. of the Atomic Energy Act of 1954 (as added by section 204(e) of this Act). The Commission shall have the authority to insure that such section 274o. is implemented by any such State to the extent practicable during the three-year period beginning on the date of the enactment of this Act."

I understand Mr. Scarano is working closely with you and your staff to define the scope of technical assistance you would need from us to fulfill New Mexico obligations for independent environmental assessments related to mill tailings licensing proposals.

I expect that now that Congress has clarified the mill tailings jurisdiction question that our staffs can again fully cooperate in dealing with the very complex technical issues related to uranium tailings disposal.

Sincerely,



John B. Martin, Director
Division of Waste Management

Enclosure:
Ltr fm DDTurberville to JBMartin
dtd 10/19/79

UNC MINING AND MILLING



Division of United Nuclear Corporation
A UNC RESOURCES Company

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October 19, 1979

Mr. John R. Martin, Director
Division of Waste Management
Office of Nuclear Material Safety and Safeguards
Nuclear Regulatory Commission
Washington, D. C. 20555

Dear Mr. Martin:

This letter is to confirm the discussions among representatives of the New Mexico Environmental Improvement Division, the Nuclear Regulatory Commission and United Nuclear Corporation at a meeting held in Albuquerque October 17, 1979. In connection with the resumption of Stage 1 discharges for a limited period of time at United Nuclear's Church Rock Mill, United Nuclear recognizes the need for, and has initiated the following action:

1. The performance of a study of possible alternative tailings impoundment sites and alternative tailings disposal systems. The objectives by which possible alternative sites and systems for below grade disposal are to be studied include:
 - (i) location away from population centers so as to minimize population exposure;
 - (ii) containment in a disposal system or systems designed to minimize dispersion and dispersal by natural forces;
 - (iii) containment in a disposal system or systems designed to limit radiological exposures or releases in accordance with the ALRA principle;
 - (iv) containment in a disposal system or systems designed to limit seepage of toxic material into the groundwater to the limits set in the New Mexico Groundwater Regulations (if applicable), or other applicable regulatory limits;
 - (v) during operations, the blowing of tailings to unrestricted areas shall be minimized to the extent reasonably practical during normal operating conditions.

ENCLOSURE

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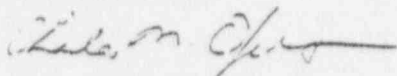
October 19, 1979

2. Submittal of the study provided for above to the appropriate regulatory agency or agencies for review within 90 days from commencement of Stage 1 operations. The submittal shall be accompanied by a proposal by the company for the development of the preferred new alternative site (if obtainable) and system for disposal of tailings generated after such development. The proposal will include a feasibility study of and plans to ultimately relocate the existing tailings from the current site, or develop and/or demonstrate an impoundment system at the current site for the existing tailings that could be shown to provide reasonable assurance of containment of the tailings over the long term.
3. The study provided for herein shall be a study of the general characteristics of the site, such as geology, hydrology, population, and meteorology. Detailed information, such as would be developed through drilling and testing, will not be developed until appropriate authorization by the appropriate agency or agencies. The subsequent detailed report will include a study of alternative reclamation schemes.

Stage 1 operations as used in this letter refers to discharge of the solid fraction into the central cell of the tailings disposal area, and the liquids into the borrow pit.

United Nuclear's action is without prejudice to its position that the Nuclear Regulatory Commission has incorrectly perceived its jurisdiction or, that if jurisdiction is present, it was improperly exercised.

Sincerely,



for D. D. Turberville
Division President

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cc: New Mexico Environmental Improvement Division
New Mexico State Engineer