

*Trubel to  
Scarano  
11/18*

**STATE OF NEW MEXICO**

ENVIRONMENTAL IMPROVEMENT DIVISION  
P.O. Box 968, Santa Fe, New Mexico 87503  
(505) 827-5271

Thomas E. Baca, M.P.H., Director

Bruce King  
GOVERNOR

George S. Goldstein, Ph.D.  
SECRETARY

Larry J. Gordon, M.S., M.P.H.  
DEPUTY SECRETARY

October 19, 1979

John B. Martin, Director  
Division of Waste Management  
Office of Nuclear Material Safety and Safeguards  
United States Nuclear Regulatory Commission  
Washington, D.C.

Dear Mr. Martin:

I am in receipt of a Nuclear Regulatory Commission telegram dated October 12, 1979, entitled "Order Conditioning License," to United Nuclear Corporation regarding its Churchrock, New Mexico uranium mill. As a preliminary matter I would like to reaffirm New Mexico's position that the Nuclear Regulatory Commission has no jurisdiction over uranium mill tailings in the State of New Mexico at this time. The Uranium Mill Tailings Radiation Control Act of 1978 does not require or provide that NRC has any authority over uranium mill tailings in agreement states.

In your telegram you claim to have received varying or inconsistent reports as to whether "Immediate resumption of operation of the Churchrock mill was contemplated." I am disappointed that you did not take the effort yourself as the Director of the Division of Waste Management, Office of Nuclear Material Safety and Safeguards to contact me as the Director of the Environmental Improvement Division and clear up any confusion of your staff concerning the position of this Division. Such a common courtesy would have been appreciated prior to your agency attempting to infringe upon the lawful authority of this Division.

Mr. Clayton, the Deputy Director of the Division, and myself were contacted by NRC staff members on the afternoon of October 12, 1979. We stated that we would allow a temporary reopening of the tailings operation (approximately 54 days) unless NRC officials could give us a reason why we should not. The response that we received from the NRC official, Mr. Ross Scarano, was that the Nuclear Regulatory Commission did not have a specific factual basis for refusing to temporarily reopen the milling operation but would issue its order regardless. It appears that you have confused the issued of the stability of the embankment (tailings dam) with the short term proposal of United Nuclear Corporation. Nowhere in your order do you give any reason why the health and safety of the public will not be protected in the temporary limited tailings disposal scheme which has been proposed by United Nuclear Corporation and which the Environmental Improvement Division is considering at this time. We, of course, agree with you that use of the entire tailings area should not be allowed at this time.

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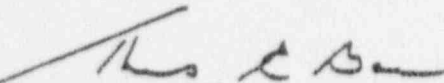
EQUAL OPPORTUNITY EMPLOYER

I consider the issuance of the order by the United States Nuclear Regulatory Commission to be not only in excess of NRC authority, but uninformed, not conducive to effective regulatory practice and contrary to the requirement that the Commission cooperate with the State in regulatory matters. I urge you to withdraw this order and to:

- 1) Resume cooperation with the state program in technical analysis of the proposal of United Nuclear Corporation for their short term tailings disposal scheme;
- 2) Forward to the State agency within a reasonable amount of time, the NRC's conclusions and findings and recommendations concerning this short term proposal;
- 3) Continue to cooperate with the State in the evaluation of the long term effect of the tailings spill on health and safety including clean-up requirements for the company, and
- 4) Continue to cooperate with the State in evaluating the suitability of allowing United Nuclear Corporation to reopen operations on a full time and continuous basis.

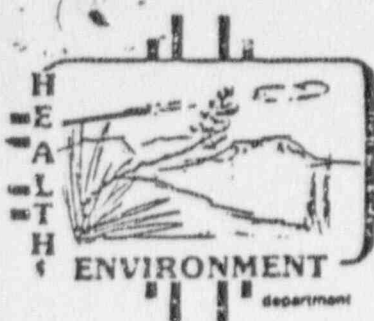
I am looking forward to your reply and hoping that the Nuclear Regulatory Commission will resume full cooperation with the State of New Mexico in regulatory matters concerning uranium milling and mill tailings as required by Section 274 of the Atomic Energy Act and by the agreement entered into by the Atomic Energy Commission (predecessor to NRC) and the Governor of the State of New Mexico on May 1, 1974.

Sincerely,

  
THOMAS E. BACA  
Director

TEB:BSG/lq

cc: Dr. Hendrie, Chairman, U.S. Nuclear Regulatory Commission  
Congressional Delegation  
Bruce King, Governor, State of New Mexico  
George S. Goldstein, Secretary, Health and Environment Department



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October 31, 1979

*King file  
4 met.*

D.D. Turberville, Vice-President  
United Nuclear Corporation  
Mining and Milling  
P.O. Box 3951  
Albuquerque, New Mexico 87190

Dear Mr. Turberville:

As a result of the inspection of the UNC preparations for interim mill operations, it was agreed that the following items are to be accomplished:

1. Extend and/or adjust the tailings solution discharge line for the borrow pit so that solution will not erode the dike bank.
2. Appropriate logs for recording data required by EID order of October 23, 1979, will be prepared for interim operations.
3. Two seepage detection wells will be drilled northeast of the north-east bank of the borrow pit. Drilling procedure and locations shall be coordinated between Mr. R. Booth, SH & B and Mr. Bruce Gallaher, NMEID. Wells are to be completed no later than November 5, 1979. These wells shall be checked weekly for fluids, and if present, water samples shall be taken and analyzed for pH, conductivity, sulfate, chloride and total dissolved solids. Results shall be reported to EID in weekly reports.
4. UNC will provide an aerial photo of the tailings impoundment facility to the State Engineer and NMEID every two weeks during the interim operation period.

Ground water seepage is of serious concern to NMEID for the interim operation due to the exposed sandstone, coal and limestone that appears along the north-east bank of the excavated borrow pit. For this reason the installation of monitor wells of item 3 are necessary. Since the excavation of the east borrow pit is also indicating areas of sandstone at elevations very near the ground surface and near the diversion dike, it may be necessary to use a clay or artificial liner if this borrow pit is to be used for tailings solution in the future.

D.D.Turberville  
October 31, 1979  
Page 2

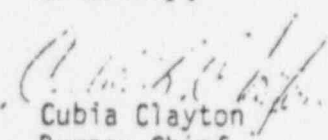
To facilitate an accurate assessment of seepage from the excavated pit during the next several months, a detailed water budget for the pit should be prepared and reported to the Division in the regular weekly reports. The water budget shall include the following:

1. Volume of water discharged to the pit during a seven day period,
2. Volume of solids discharged to the pit during a seven day period (as determined by samples analyzed for suspended solids),
3. Volume of water in storage in the pit at the end of each seven day period,
4. Precipitation during seven day period and total volume of fluid added to pit from precipitation and run-off (assume no infiltration or evaporation in run-off area),
5. Evaporation during seven day period and area of the pond in the pit.

Item three above will, of course, require an accurate determination of the stage/volume relationship for the pit. As soon as this has been accomplished, please submit a table to the Division which provides this relationship for every 0.10 ft. increment of stage, and also include the Company's estimate of the accuracy of the table. When stage is measured weekly to determine volume please measure and report values to the nearest 0.05 foot.

You are to be reminded that the clean-up operations required by NMEID order 2 dated July 18, 1979, and order 3 dated August 13, 1979, are to be actively followed during the interim operation. Any diminishing of the effort would be considered detrimental to future mill operations and could be viewed as grounds for immediate cessation of operations.

Sincerely,

  
Cubia Clayton  
Bureau Chief

CC/gws

20 11 5 11 51

Rec 11/9/79

Kindly  
Copy sent to [unclear] +  
[unclear] or 11/9/79

# POOR ORIGINAL

Status Report on Sampli. Program to  
Determine the Environmental Impact of the United  
Nuclear Corporation Mill Tailings Spill

New Mexico Health and Environment Department  
Environmental Improvement Division

November 2, 1979

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Add-5

DUPLICATE



40-2602  
October 24, 1979

NOTICE OF NON-ROUTINE EVENT INVOLVING AGREEMENT STATE OR  
AGREEMENT MATERIALS - 79-18C

This NOTICE constitutes an early report of events occurring in an Agreement State of possible safety or public interest significance. The information presented is as initially received without verification or evaluation and is basically all that is known by State Agreements Program staff as of this date.

AGREEMENT STATE: New Mexico

FACILITY: Church Rock Uranium Mill

SUBJECT: Order to United Nuclear Permitting Limited Operation

New Mexico issued an order late 10/23/79 to permit interim operation by United Nuclear at Church Rock with discharge into the center tailings pond and borrow pit. Before actually starting, there must be an inspection by the Environmental Improvement Division (EID) and the New Mexico State Engineer. EID is also requiring in the order that UNC undertake a study of alternate sites.

The State's action has been coordinated with NMSS

Contact: G. W. Kerr, 492-7767; F. Young, 492-7794

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54  
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