

414.15/KJH/82/05/26/0

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MAY 28 1982

WMUR:KJH
414.15

MEMORANDUM FOR: John B. Martin, Director
Division of Waste Management

FROM: Ross A. Scarano, Chief
Uranium Recovery Licensing Branch
Division of Waste Management

SUBJECT: STATUS REPORT ON TECHNICAL ASSISTANCE TO OGC (332112)

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By the end of the last reporting period, all briefs, both petitioners' and respondent's, had been filed and oral argument had been held in connection with litigation on the mill tailings regulations. The petitioners claimed that the Commission did not have the authority to establish the mill tailings requirements prior to EPA issuance of related standards and that, even if we did have the authority, we had not followed proper procedures in developing the regulations.

On March 17, 1982, the 10th Circuit Court of Appeals in Denver, CO issued a decision in this matter finding that the Commission did have the authority to issue the subject regulations, had followed proper procedures, had examined all of the important issues, and had provided an adequate basis for the requirements.

The petitioners have informed the Commission (OGC) that they intend to appeal this decision. The avenues of appeal which are available to the petitioners are: (1) petition for a re-hearing (before the same court - same justices); (2) petition for a re-hearing "en-banc" (before the same court -- 10th Circuit -- but with review by all justices assigned to the 10th Circuit); and (3) petition for certiorari before the United States Supreme Court. The petitioners may pursue any or all of

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these appellate processes. The petitioners have requested an extension of the time for filing an appeal and the Commission has not objected to this request.

Original Signed by:
R. A. Scarano

Ross A. Scarano, Chief
Uranium Recovery Licensing Branch
Division of Waste Management

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| NAME | : KJHamill:ag | : DEMartin | : RAScarano | : | : | : | : |
| DATE | : 82/05/26 | : 5/27/82 | : 5/27/82 | : | : | : | : |