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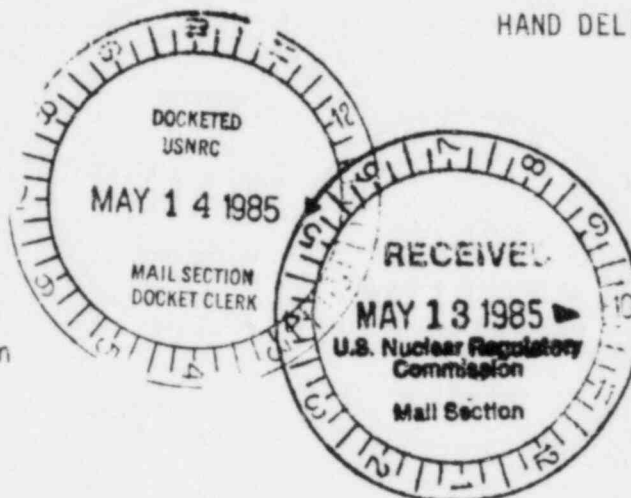
General Office: 772 Horizon Drive, Grand Junction, CO 81501  
Corporate Office: 212 West Michigan Avenue, Jackson, MI 49201  
Registered Office: 136 South Main, Salt Lake City, UT 84101

(303) 245-5460  
(517) 788-1942  
(801) 534-0734

May 10, 1985

HAND DELIVERED

Mr. R. Dale Smith  
Director  
Uranium Recovery Field Office  
Region IV  
U.S. Nuclear Regulatory Commission  
P.O. Box 25325  
Denver, CO 80225 (0325)



Dear Mr. Smith:

Re: SUA-1371, Amendment Nos. 21 and 23

By letter dated April 22, 1985, the Nuclear Regulatory Commission (NRC) gave notice of an amendment to the source material license for our uranium mill at the Shooting Canyon Uranium Processing Facility. Under the referenced amendment, a new license condition is added requiring a groundwater detection monitoring program to ensure compliance with 40 C.F.R. § 192.32 (a) (2), as published by NRC.

For reasons summarized below, the notice of April 22, 1985 issued by your office is inconsistent with procedural and substantive requirements of applicable NRC regulations, and is inconsistent with the requirement of the Atomic Energy Act, as amended by the Uranium Mill Tailings Radiation Control Act (UMTRCA). Therefore, pursuant to 10 C.F.R. § 2.204, we request a hearing on the referenced amendment to our license.

First, 10 C.F.R. § 2.204 states:

The commission may modify a license by issuing an amendment on notice to the licensee that he may demand a hearing with respect to all or any part of the amendment within twenty (20) days from the date of the notice or such longer period as the notice may provide [emphasis added].

Although 10 C.F.R. § 2.1 states that

[t]his part governs the conduct of all proceedings . . . for: (a) Granting, suspending, revoking, amending, or taking any other action with respect to any license . . . [emphasis added]

the April 22, 1985 notice fails to comply with the necessary procedural requirements of 10 C.F.R. § 2.204. For this reason, the April 22, 1985 notice is fatally defective.

DESIGNATED ORIGINAL

Certified By Mary C. Hood

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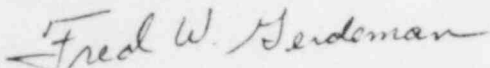
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Page 2  
Mr. R. Dale Smith

Second, the amendment is inconsistent with NRC's regulatory requirements of 10 C.F.R. Part 40, Appendix A. NRC has not altered or amended Part 40; therefore, the requirements of Part 40 remain the applicable regulations governing all licensing activities. Until adopted by NRC through appropriate rulemaking proceedings, EPA's standards, including 40 C.F.R. § 192.32(a) (2), may not be applied to licensees.

Third, EPA standards, including 40 C.F.R. § 192.32(a)(2), are null and void because they are beyond the jurisdiction of that agency. Therefore, NRC cannot adopt EPA requirements since to do so would be inconsistent with congressional intent in UMTRCA.

Sincerely,



Fred W. Gerdeman  
Director of Regulatory Affairs

FWG:cw