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Atlas Minerals

Division of Atlas Corporation TURN TO URFO - DENVER, PDR

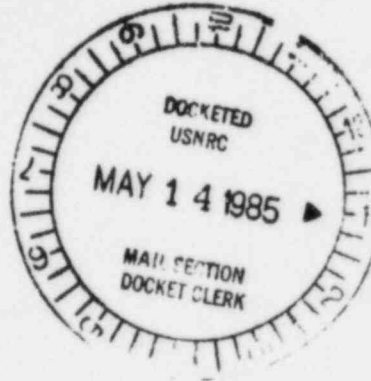
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Mr. R. Dale Smith, Director
 Uranium Recovery Field Office
 Region IV
 U.S. Nuclear Regulatory Commission
 P.O. Box 25325
 Denver, Colorado 80225



RE: Source Material License No. SUA-917
 Docket No. 40-3453
 Amendment No. 21

Dear Mr. Smith:

By letter dated April 30, 1985, the Nuclear Regulatory Commission (NRC) issued an amendment (No. 21) to the Source Material License for our uranium mill facility at Moab, Utah. Under the referenced amendment, a new license condition (No. 49) is added requiring a ground water detection monitoring program to ensure compliance to 40 CFR 192.32(a)(2).

For reasons summarized below, the amendment of April 30, 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 CFR 2.204, we request a hearing on the referenced amendment to our Source Material License No. SUA-917.

First, 10 CFR 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 CFR 2.1 states that

[t]his part governs the conduct of all proceedings for (a) granting, suspending, revoking, amending, or taking other action with respect to any license [emphasis added]
 the amendment of April 30, 1985 fails to comply with the necessary procedural requirements of 10 CFR 2.204. For this reason, the amendment is fatally defective.

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Certified By Gary C. Hand

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Division of Atlas Corporation

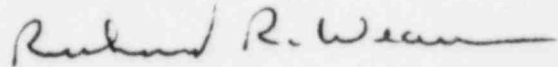
SHEET 2 DATE

TO R. Dale Smith, NRC

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

Third, EPA standards, including 40 CFR 192.32(a)(2), are null and void because they are beyond the jurisdiction of EPA. Therefore, NRC cannot adopt EPA requirements since such action would be inconsistent with congressional intent in UMTRCA.

Sincerely,



Richard R. Weaver
President

cc: Edward R. Farley, Jr.
Ramsey Potts
R. E. Blubaugh
Anthony J. Thompson, Esq.

REB/j1