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JOHN C. FERGUSON, PRESIDENT
TELEPHONE (307) 265-7912

AMERICAN NUCLEAR CORPORATION

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CASPER, WYOMING 82602

May 3, 1985

RETURN TO URFO - DENVER, P.D.

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

Re: SUA-667,
Amendment No. 21

Dear Mr. Smith:

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 facility at the Gas Hills Project. Under the referenced amendment, a new license condition is added requiring a groundwater detection monitoring program to ensure compliance with 40 C.F.R. section 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. section 2.204, we request a hearing on the referenced amendment to our license.

First, 10 C.F.R section 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 section 2.1 states that

[t]his part governs the conduct of all proceedings amending, or taking any other action with respect to any license ... [emphasis added]

DESIGNATED ORIGINAL

Certified By Mary C. Hood

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PDR ADOCK 04004492
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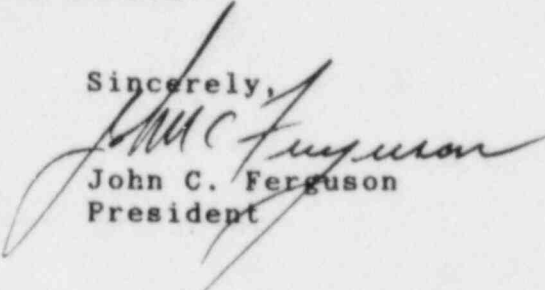
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the April 22, 1985 notice fails to comply with the necessary procedural requirements of 10 C.F.R. section 2.204. For this reason, the April 22, 1985 notice is fatally defective.

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. section 192.32(a)(2), may not be applied to licensees.

Third EPA standards, including 40 C.F.R. section 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,



John C. Ferguson
President