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Attachment C  
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March 25, 1996

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Mr. Joseph J. Holonich  
Chief  
Uranium Recovery Branch  
Division of Waste Management  
Office of Nuclear Material Safety and Safeguards  
U.S. Nuclear Regulatory Commission  
11555 Rockville Pike  
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**Re: Final Timeliness in Decommissioning Rule**

Dear Joe:

I appreciate your recent response to my August 25, 1995 letter regarding the National Mining Association's (NMA) concerns with the final timeliness in decommissioning rule. While your letter helps to clarify some of the issues raised in our letter, it also further muddles one major issue.

It remains entirely unclear what NRC means by "otherwise in the public interest." Indeed, the entire discussion of this issue in NRC's response lacks both substance and clarity. Paragraph 3b of the response seems to imply that NRC will consider whether remaining on standby status is in the best economic interests of the licensee. If I am reading 3b correctly, NRC's position has regressed to one put on the table over a year ago and later withdrawn by Mal Knapp. In any event, such a determination is not an appropriate function of the Commission. NRC's job is to determine whether a licensee can be or is in compliance with license conditions and has the necessary financial capability to maintain compliance. Character issues, foreign ownership, etc. may be relevant to the propriety of allowing a licensee to possess and manage nuclear materials, it is not, however, NRC's responsibility to judge the best economic interests of the licensee - in this case that is, whether the licensee should or should not remain on standby. As a purely regulatory agency with no industry promotional responsibilities, NRC seems particularly ill-suited to making such judgments. It is important to clarify NRC's position on this issue as your response essentially has left us

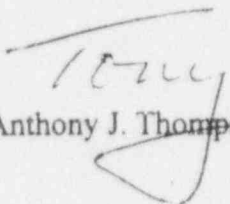
Mr. Joseph J. Holonich  
March 25, 1996  
Page 2

scratching our heads. NMA requests that NRC explain exactly what it means by "otherwise in the public interest."

I might also mention that my letter did not mean to suggest anything more than that which John Greeves has said on several occasions by using the term *pro forma*. The determination to allow a facility to remain on continued standby status normally will not be a major project for the NRC staff unless specific problems are identified by the licensee or NRC. This process should be, as you stated, straightforward and simple. Yet in an apparent effort to be extra careful not to limit NRC's authority to deny an exemption request, your letter once again may heighten licensee distrust of the process.

NMA continues to want to resolve this matter and to bring to closure the appeal pending in the D.C. Circuit. NMA's members who are uranium recovery licensees seek clarification of the issues raised above to facilitate the process of requesting extensions of the deadlines in the timeliness rule. If the licensees do not understand how NRC interprets the rule, it will be difficult to address adequately the Commission's concerns.

Sincerely,



Anthony J. Thompson

cc: Steven F. Crockett