



Attachment D  
UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

A Thompson

June 3, 1996

Anthony J. Thompson, Esq.  
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2300 N Street, N.W.  
Washington, D.C. 20037-1128

SUBJECT: TIMELINESS IN DECOMMISSIONING RULE

Dear Mr. Thompson:

I am responding to your March 25, 1996, letter on behalf of the National Mining Association (NMA). I hope that, by clarifying the U.S. Nuclear Regulatory Commission's position on one matter, I can move us closer to resolution of what appears to be the only issue remaining between us.

In your letter you ask us to clarify what we mean by "otherwise in the public interest." You are particularly concerned that paragraph 3.b of my response to comment 2 in my February 16, 1996, letter to you may mean that the NRC intends to judge the best economic interests of licensees.

We have no such intention. Paragraph 3 was meant to make two chief points, both of which are ultimately tied to the agency's safety mission, and not to any desire by the NRC to exercise judgement about private economic interests. First, compliance with safety standards is necessary for a time extension, but not sufficient. Second, the time extension must also be "otherwise in the public interest," and while adequate surety, of the sort discussed in the attachment to my February letter, is an important part of being "otherwise in the public interest," it is not the whole. Our chief concern here remains, as always, health and safety. We want to know that there are good reasons for believing that it is in the public interest to allow an inactive facility to remain undecommissioned.

In reaching a determination about the public interest, the NRC does not intend to judge whether continuation of standby status is in the applicant's best economic interests. Those interests might, or might not, coincide with the public interest. A public interest argument might be based, for example, on Federal concern for the domestic uranium mining industry. Existing statutes oblige the Secretary of Energy to gather information on the uranium mining industry and to have a "continuing responsibility" for the domestic industry, "to encourage use of domestic uranium." See 42 U.S.C. §§ 2201b and 2296b-3. Although this responsibility is not the NRC's, the NRC recognizes that the viability of the industry is a Federal concern. Paragraph 3.b in the enclosure to my February letter permits an applicant to argue that the policies behind the cited provisions support the application for time extension.

There may be other, similar, arguments that could be made, e.g., a public interest argument based on possible future needs of the electric utility industry or on national defense. Some of these arguments may depend on

circumstances unique to a given applicant. Therefore, we have avoided attempting to define exhaustively "the public interest." The NRC's rule permits each applicant for a time extension to make the arguments most relevant to its circumstances.

I hope that this clarification removes NMA's remaining concern, and that this letter, together with your March 25, 1996, letter, my February 16, 1996, letter, and your August 25, 1995, letter, constitute a sufficient record to guide members of the NMA who want to file for time extensions. I would hope also that the same letters can serve as the basis for filing a motion for voluntary dismissal in the D.C. Circuit. I look forward to your response.

Sincerely,

A handwritten signature in cursive script, appearing to read "Joseph J. Holonich".

Joseph J. Holonich, Chief  
Uranium Recovery Branch  
Division of Waste Management  
Office of Nuclear Material  
Safety and Safeguards