

STATE OF COLORADO

Roy Romer, Governor
Patti Shwayder, Executive Director

Dedicated to protecting and improving the health and environment of the people of Colorado

HAZARDOUS MATERIALS AND WASTE MANAGEMENT DIVISION

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Colorado Department
of Public Health
and Environment

December 26, 1996

Mr. Joseph Holonich
Uranium Recovery Branch
Office of Nuclear Materials Safety
Mail stop T7J9
Nuclear Regulatory Commission
Washington, D.C. 20555

Re: Disposal of Radioactive Waste Originating in New Mexico at the Naturita UMTRA Title I Disposal Cell.

Dear Mr. Holonich:

The Colorado Department of Public Health and Environment has reviewed the verbal proposal by the Nuclear Regulatory Commission to dispose of byproduct material originating in New Mexico at the Title I cell at Uravan. It is our assessment that the best option would be to dispose of the material on site in New Mexico, assuming that the proper technical criteria could be met. NRC has estimated that such disposal would cost \$300,000, which is within the amount of money available for the site. I would think that sufficient flexibility is available within the remaining money for Long Term Maintenance, to allow for this disposal option.

Should NRC wish to pursue disposal in Colorado, we believe that this action requires considerable state and local government involvement prior to the disposal taking place. The UMTRCA statute requires full state participation in the selection and performance of a remedial action for which it pays a part of the cost. Since the state has paid for the acquisition of the site, construction of the disposal cell, and for ancillary facilities such as the decontamination stations which will be used during this operation, additional state participation would be required before disposal is approved. The Cooperative Agreement between DOE and CDPHE requires various cooperative activities to occur prior to disposal (construction), including development of NEPA documentation and concurrence on a Remedial Action Plan.

Further, since NRC previously ruled that Title I material must be regulated as Title I material even if it is disposed of at a Title II site, then it follows that Title II material must be regulated as Title II material, even if it is disposed of at a Title I site. My preliminary reading of Colorado Revised Statute 25-11-202 and 203 indicates that no material from out of state may be disposed of in Colorado without an approved application to the Department of Public Health and Environment (including an application fee), and the approval of the Governor and the General Assembly.

Based on this discussion, the CDPHE requires the NRC to perform the following actions and submit the following information, so that this request can be evaluated. Should NRC wish to go forward with this action, additional information may be required pursuant to CRS 25-11-101 et seq.

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- 1) The volumes of material must be adequately estimated by use of properly spaced boreholes, and other appropriate surveying techniques.
- 2) The material must be adequately characterized for the presence of hazardous waste. Standard EPA methodology for sampling frequency and analytical methodology must be followed.
- 3) A complete environmental assessment pursuant to NEPA must be prepared which evaluates the various disposal options. Particular focus on transportation issues associated with the Colorado disposal option must be addressed.
- 4) A thorough evaluation of comparative costs must be made. Currently, NRC seems to be assuming "free" disposal at the Naturita site. However, various costs must be considered. Disposal for the New Mexico material should cost as much per cubic yard as disposal of the Title I material. If the New Mexico material is taking space in our disposal cell, the disposers must pay their fair share of all associated project costs, including permitting, design, land acquisition, construction, road maintenance, etc. If not the UMTRA Program is subsidizing a private property owner for disposal of their material. This is not appropriate.

NRC must also evaluate the availability of other federal funds to make up the shortfall which is causing them concern. It would seem that this shortfall is a result of inadequate financial assurance at the site. What mechanisms does NRC have when their regulation of a site has resulted in inadequate financial assurance?

5) NRC must hold a sufficient number of public meetings to discuss this issue with interested parties, in an effort to obtain the approval of the local communities. As we all know, local concerns regarding the UMTRA cleanup delayed the project for several years, and ultimately lead to a change in our selected disposal option. Similarly, local concerns may impact your proposal. At these meetings, NRC must discuss:

- Why this problem exists
- What disposal options are available
- Why it is not OK to put Title I material on top of Title II material, but OK to put Title II material on top of Title I.

We look forward to discussing this issue in greater detail in the future. If you have any questions, or if I can be of any assistance, do not hesitate to call me at (303) 692-3387.

Sincerely,



Jeffrey Deckler
Remedial Programs Manager

cc: Steve Hamp, DOE/AL
Cookie Been, Mayor/ Town of Naturita
Mary Helen DeKovend, Mayor / Town of Nucla
Mel Staats, Montrose County Commissioner
Doug Young, Governor's Office of Policy