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September 20, 1996

BY TELEFAX AND MAIL
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Joseph J. Holonich
United States Nuclear Regulatory Commission
Mail Stop T-7J9
Washington, D.C. 20555-0001

RE: Confirmatory Order for American Nuclear Corporation's Gas Hills Wyoming site;
DEQ Permit 352; Source Materials License No. SUA 667

Mr. Holonich:

This morning, I spoke with Ken Hooks about the status of the Confirmatory Order. He told me the Nuclear Regulatory Commission is waiting for the Wyoming Department of Environmental Quality to propose a solution to the issue concerning the long term surveillance fee. We understand the Department of Energy's position is that it can only accept the fee, once the site is ready for transfer to the DOE. While the DEQ does not necessarily agree with that conclusion, it would not serve our purposes to pursue that issue. We are willing to accept that condition.

Therefore, it appears the only remaining issues are those identified below. We propose a telephone conference to discuss and resolve these issues as soon as possible. Mr. Hooks believes he, you and Robert Fonner should participate. He plans to propose some alternative meeting dates to us today, if possible. We tentatively planned to meet next week.

The issues we have identified on the March 1, 1996 draft include the following:

- 1) On page 2, paragraph 2, the order states that any money spent on reclamation at the site after October 5, 1994 was spent by the state. ANC has been spending money on reclamation at the site since that date. Therefore, that statement appears to be incorrect.
- 2) On page 3, paragraph 4(1), the order provides that the DEQ shall perform

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reclamation pursuant to the reclamation plan, including any modifications approved the NRC. We interpret this to mean the NRC could unilaterally modify the reclamation plan. We desire to change this provision so that both the NRC and the DEQ must approve any modification.

- 3) On page 10, paragraph 16, we propose the following change: "the State will pay over to the U.S. Government an agreed upon amount as required by Criterion 10 of Appendix A to 10 CFR Part 40 to satisfy the long term surveillance and control fund requirement." We do not favor the current language because it assumes all remaining funds will go to the DOE. If remaining funds exceed the amount necessary for long term surveillance, the DOE should not receive all of the funds.
- 4) On page 11, first full paragraph, second line, we propose to add the words "or pay for" after the word "perform" and before the words "any reclamation". We intend to make it clear that the DEQ will not perform or pay for any reclamation, once its source of funds is exhausted.

Please consider these proposed changes, so we can discuss them during the conference call. Our goal is to end the conference with an agreement which will allow the NRC to execute the order. The other issue we ask you to consider in time for our conference is when and how you will terminate ANC's license. ANC is reluctant to settle with the DEQ when it is still bound by this license to perform reclamation. The DEQ is taking over reclamation for the site. There appears to be little purpose to maintaining ANC's license under these circumstances.

Thank you for your attention.

Sincerely,



Thomas A. Roan

Senior Assistant Attorney General

c: Rick Chancellor
Mark Moxley
Ken Hooks (by telefax)
Robert Fonner (by telefax)