

From: "Bruce Calder" <Bruce.Calder@tdh.state.tx.us>
To: TWFN_DO.twf1_po(DMS4)
Date: Fri, Dec 3, 1999 11:13 AM
Subject: Applicability of Groundwater Supplemental Standards to UMTRCA Ti

Dear Dennis,

As you may be aware, here in Texas we have three (3) UMTRCA Title II tailings impoundment sites. One of these, the Conquista site which is operated by Conoco, is located within less than 1500 feet immediately downgradient of the UMTRCA Title I site and, in fact, within the same hydrogeologic regime. That is, the Conoco site and the Title I site have the same uppermost aquifers. They also share essentially identical contaminant impacts. [As an aside, both sites have independent mill-related groundwater contamination in the uppermost aquifers, although contaminant plumes from the UMTRA site may, by this time, actually extend onto Conoco property, as well].

The Title I site applied for and was granted the utilization of "supplemental standards" for its "corrective action" strategy to address the groundwater contamination in the uppermost aquifers. This, as you know, is a regulatory provision (per 40 CFR Part 192) which essentially allows for the sole reliance on "natural attenuation" as a means to address corrective action for aquifers deemed contaminated from uranium mining/milling activities. At this time, supplemental standards, per se, are still ONLY provided in the regulations for Title I sites, and NOT for Title II sites. In the case of the Title I site, supplemental standards were accepted for it by NRC, on the basis of the groundwater in the area being considered of "limited use" due to widespread ambient groundwater contamination (presumed to be naturally contaminated prior to mining/milling activities).

On a couple of occasions, Joe Holonich, NRC, has stated that the NRC has become amenable to reviewing an application from a Title II site for something akin to Title I's supplemental standards under the allowance for "alternative proposals" (i.e., alternatives to the specific requirements given) as stated in the Introduction to 10 CFR Part 40, Appendix A. With this in mind, I suggested to Conoco that they explore this option since their site is a direct hydrogeologic analog to the Title I site, and especially given the fact that the Title I site was, in fact, approved to apply supplemental standards.

With the foregoing in mind,

- (a) Could you please advise us as to how Conoco should go about making such an application?;
- (b) Are there any actual case histories where a Title II has applied for (and got accepted by NRC) supplemental standards?
- (c) Is there any NRC or federal guidance, Staff Technical Position paper, or NUREG, etc., that would assist a licensee in applying for supplemental standards (either for Title I or II); and/or any of the

same guidance that would assist a regulator charged with the responsibility of reviewing such applications?

I shall be very grateful for any help you can offer us on these matters. Thank you.

Bruce Calder

CC: GATED.nrcsmtp("gary.smith@tdh.state.tx.us")