

STATE OF NEBRASKA



Mike Johanns
Governor

Mr. Martin J. Virgilio
Director
Office of Nuclear Material Safety and Safeguards
c/o Document Control Desk
U.S. Nuclear Regulatory Commission
Washington, DC 20555

DEPARTMENT OF ENVIRONMENTAL QUALITY

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Director

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Dear Mr. Virgilio:

The Nebraska Department of Environmental Quality (NDEQ) has reviewed the meeting summary of the discussions that took place between several non-Agreement States, the EPA and the NRC on June 11, 2002 in Denver, Colorado. The Department promulgated rules and regulations specifically for In Situ Uranium (ISL) recovery in 1982 and was granted primacy of the Underground Injection Control (UIC) Program by the EPA in 1984. During the initial stages of the ISL industry operating in our state, the Department worked closely with both the EPA and the NRC to ensure the safety of the public and the water quality of our State. The Department feels that over the last 20 years we have developed a very strong UIC Program for regulating the ISL industry as far as ground water protection and well construction/maintenance issues are concerned.

Throughout the lifetime of Nebraska's only permitted ISL facility (Crow Butte Resources, Inc. (CBR)) the Department was well aware of the dual regulation that was placed on CBR by the NRC and the NDEQ. However, it was not until November 1999 when the NDEQ approved the restoration of Mine Unit #1 at CBR that this dual regulation was readily apparent.

During the June 11th meeting, it was proposed by the NRC to retain its authority to regulate ground water protection of ISL facilities but to defer active regulation of ground water protection to the State of Nebraska's UIC Program. This deferral would have to be implemented through a Memoranda of Understanding (MOU) with the State of Nebraska.

The Department would like to take this opportunity to endorse the MOU approach as a viable solution to the dual regulation dilemma. Please let us know what the next steps are in this process so that we can assist in the development of the MOU.

If you have any questions or comments concerning this letter or the NDEQ's rules and regulations pertaining to ISL facility, please contact David Miesbach of my staff at (402) 471-4982. Thank you in advance for your consideration.

Sincerely,

Michael J. Linder
Director

NMSS&I Public
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