

November 8, 2004

Katie Sweeney, Associate General Counsel  
National Mining Association  
1130 17<sup>th</sup> Street, NW  
Washington, DC 20036

SUBJECT: NATIONAL MINING ASSOCIATION/FUEL CYCLE FACILITIES FORUM WHITE PAPER "DIRECT DISPOSAL OF NON-11e.(2) BYPRODUCT MATERIALS IN URANIUM MILL TAILINGS IMPOUNDMENTS"

Dear Ms. Sweeney:

This letter is to inform you that we have considered your White Paper, "Direct Disposal of Non-11e.(2) Byproduct Materials in Uranium Mill Tailings Impoundments," (ML042100456) and have determined that we will take no further action regarding it at this time. The material in the White Paper was presented by Anthony Thompson at the National Mining Association (NMA)-Nuclear Regulatory Commission (NRC) Conference on Uranium Recovery in Denver on May 18, 2004. Copies of the White Paper were given to the NRC staff at that time. The NRC staff met with representatives from NMA and the Fuel Cycle Facilities Forum on July 22, 2004, to further discuss the White Paper.

The White Paper proposes that the NRC develop generic waste acceptance criteria that, if met, would allow direct disposal in uranium mill tailings impoundments of radioactive material not meeting the definition of byproduct material in Section 11e.(2) of the Atomic Energy Act of 1954, as amended (referred to as non-11e.(2) byproduct material). The White Paper discusses several candidate waste streams and suggested radiological criteria.

The staff concludes that development of such criteria, including the necessary interactions with other Federal agencies (e.g., the Department of Energy as the likely long-term custodian and the Environmental Protection Agency for issues involving material under its regulatory purview) as well as potentially affected States, would involve considerable staff resources. As there have been no site-specific applications that may be expedited by generic criteria nor a request for rulemaking, and considering the resource constraints in the NRC uranium recovery program, further staff effort in this area is not warranted. Furthermore, were we to receive a request for rulemaking, it would likely be considered low priority.

If you have any questions concerning this letter, please feel free to contact Myron Fliegel at (301) 415-6629 or via e-mail at [mhf1@nrc.gov](mailto:mhf1@nrc.gov).

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice for Domestic Licensing Proceedings and Issuance of Orders," a copy of this letter will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>.

Sincerely,

**/RA/**

Gary S. Janosko, Chief  
Fuel Cycle Facilities Branch  
Division of Fuel Cycle Safety  
and Safeguards  
Office of Nuclear Material Safety  
and Safeguards

cc: A. Nardi, Westinghouse  
D. Culberson, Nuclear Fuel Services, Inc.

K. Sweeney

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Sincerely,

**/RA/**

Gary s. Janosko, Chief  
Fuel Cycle Facilities Branch  
Division of Fuel Cycle Safety  
and Safeguards  
Office of Nuclear Material Safety  
and Safeguards

cc: A. Nardi, Westinghouse  
D. Culberson, Nuclear Fuel Services, Inc.

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\*see previous concurrence

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<b>NAME</b>	M. Fliegel*		B. Garrett		B. von Till		G. Janosko	
<b>DATE</b>	11/1/04		11/2/04		11/2/04		11/8/04	

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