STATE OF NEW MEXICO
GOVERNOR'S CABINET
SANTA FE
87503

BRUCE KING
GOVERNOR

GEORGE S. GOLDSTEIN, PH.D.
SECRETARY FOR HEALTH & ENVIRONMENT

October 18, 1979

The Honorable Bruce King
Governor of New Mexico
Executive Legislative Building
Santa Fe, New Mexico 87503

Dear Governor King:

On April 3, 1974, you and U.S. NRC Commissioner Doub signed an agreement effective May 1, 1974, which provided for the discontinuance of certain U.S. Nuclear Regulatory Commission authority (see Attachment No. 1) within New Mexico including uranium mill licensing. Under this agreement New Mexico has exclusive authority to regulate uranium mills. Since the agreement was signed the New Mexico Legislature has provided increased support to this program through allocation of additional positions and increased funding and New Mexico has developed a strong regulatory program for uranium mills.

During the last frantic hours of the 1978 Congressional session, Congress passed the Uranium Mill Tailings Radiation Control Act of 1978. This Act is a paragon of confusion. Attachment 2 shows the intent of the principal authors of the Act. However, the NRC has chosen to implement concurrent licensing based on their interpretation of the Uranium Mill Tailings Radiation Control Act of 1978 (UMTRCA) in contradiction to the intent of the principal authors of the UMTRCA.

The states position is that concurrent jurisdiction is not provided in that law or any other (see Attachment No. 3).

In your 1979 letters of March 22, June 8 and 13 (Attachment No. 4) you have supported congressional legislation designed to clarify the Uranium Mill Tailings Radiation Control Act of 1978 to make it unmistakably clear to the NRC that Congress did not intend to change the status quo of licensing jurisdiction in Agreement States at this time.

This legislative-bureaucratic hassle has resulted in a very real problem in the regulation of the New Mexico Radioactive Material License issued for operation of United Nuclear Corporation's (UNC) Church Rock Uranium Mill. Since July 16 of this year, when the UNC dam broke, the New Mexico Health and Environment Department has been working with the State Engineer and UNC to prevent any long-range effects from the spill that occurred at UNC's tailings impoundment at Church Rock. The state has received some assistance from Federal agencies and has required UNC to carry out extensive remedial activity.

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House subcommittee to hear testimony on Church Rock spill

ALBUQUERQUE (AP) — A House subcommittee dealing with the Nuclear Regulatory Commission's authority is expected to take testimony in Washington Monday about a tailings dam spill in New Mexico.

United Nuclear Corp.'s Church Rock mill has been shut down since the July 16 spill.

The state engineer's office has been considering recommending to the state Environmental Improvement Division that the mill be allowed to reopen for 45 days under certain conditions. But on Friday, the NRC issued an order closing the mill indefinitely.

The order came after a staff member for Rep. Morris Udall, D-Ariz., checked on the possibility that the state would allow the reopening.

A Udall spokesman said the Arizona congressman scheduled the hearings before his energy and environment subcommittee after the subcommittee received allegations that United Nuclear's original designs were not thoroughly checked, although they were approved by the state.

The spokesman said the reports raised questions about whether states such as New Mexico have adequate manpower to handle regulation of mill tailings sites.

New Mexico is an "agreement state," which means state officials have the responsibility for regulating tailings.

However, the NRC has claimed "concurrent jurisdiction" in such matters until November 1981. The agency said it took the position because of ambiguous language in the 1978 Mill Tailings Act.