

70-687



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

Ref: SA/JOL

FEB 8 1980

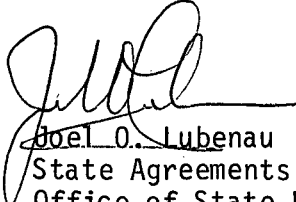
MEMORANDUM FOR: Arthur T. Clark
Advanced Fuel & Spent Fuel
Licensing Branch
NMSS

FROM: Joel O. Lubenau
State Agreements Program
Office of State Programs

SUBJECT: NEW YORK COMMENTS ON LEGAL ANALYSIS OF UNION CARBIDE
PLANT

Enclosed are New York State's comments on Bob Fonner's draft legal analysis.

With respect to the comments offered by Tom Cashman of NYDEC, we understand that DEC's responsibilities are being transferred to New York State Health Department and I would not construe Mr. Cashman's views to be representative of State Health's.


Joel O. Lubenau
State Agreements Program
Office of State Programs

Enclosure:
As stated

cc: R. Fonner, w/encl.



STATE OF NEW YORK
DEPARTMENT OF LABOR
DIVISION OF SAFETY AND HEALTH
TWO WORLD TRADE CENTER
NEW YORK, N.Y. 10047

January 22, 1982

Address Reply to:
Radiological Health Unit

Mr. J. Lubenau
Agreement Program
U.S. Nuclear Regulatory Commission
Office of State Programs
Washington, DC 20555

Dear Mr. Lubenau:

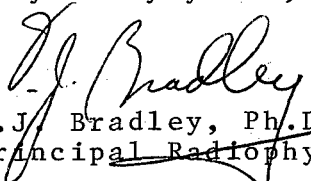
We have reviewed your submittal regarding the facility at the Union Carbide Plant located in Tuxedo, New York. We concur with your Counsel's analysis of the U.S. Nuclear Regulatory Commission's jurisdiction under its Reactor Operating License and SNM License, and New York State DOL's jurisdiction under its radioactive Material License. We might have liked a more symmetrical analysis of each agency's responsibilities under their respective regulation, but this was not Mr. Cunningham's objective. NYS/DOL under Section 38.19 of Code Rule 38 has at least the authority for sampling other licensed activities within the State.

The crux of the matter still remains at the Union Carbide Tuxedo facility on where an unambiguous line can be drawn between responsibilities of NRC and NYS/DOL under their respective licenses. As agreed at the meeting between NRC and NYS personnel in Albany, New York, we will abide by the line as drawn by the NRC if we have a chance to comment on it in advance.

The responsibility for the emission points which may contain commingled radionuclides (from NRC and DOL licensed activities) was discussed with Mr. Thomas Cashman of the New York State Department of Environmental Conservation. He recommended that such emission points will be the sole responsibility of the NRC with limits as established by NRC. Such limits before imposition would be reviewed by New York State.

If I can be of further assistance to you in this matter, please let me know.

Very truly yours,


F.J. Bradley, Ph.D.
Principal Radiophysicist

FJB:bd

cc: T. Cashman
J. Spath