



INTERNATIONAL
URANIUM (USA)
CORPORATION

DOCKET NUMBER

BYPRODUCTS

40-8681-MLA-4

DOCKETED
USNRC

Independence Plaza, Suite 950 • 1050 Seventeenth Street • Denver, CO 80265 • 303 628 7798 (main) • 303 389 4125 (fax)

August 27, 1999

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VIA FACSIMILE: (301) 415-3504

Original Via U.S. Mail

SERVED SEP - 1 1999

Greta Joy Dicus, Chairman
Nuclear Regulatory Commission
One White Flint North
11555 Rockville Pike
Rockville, MD 20852-2738

Re: Regulation of "Pre-1978" 11e.(2) Byproduct Material

Dear Chairman Dicus:

I am writing with considerable urgency concerning a matter that reaches to the very core of NRC's regulatory program for uranium. Recently, a great deal of confusion has arisen regarding the regulatory status of a class of material that has been referred to as "pre-1978 byproduct material." Materials in this class satisfy the definition of byproduct material contained in Section 11e.(2) of the Atomic Energy Act (AEA), but they originate from facilities that were not licensed by the Commission either on, or after, the effective date of the Uranium Mill Tailings Radiation Control Act (UMTRCA). Because of the confusion that exists regarding the regulatory status of pre-1978 byproduct material, there is a real and imminent danger that wastes consisting of 11e.(2) byproduct material will be disposed of in facilities that are not designed to accommodate such materials and in a manner that would circumvent the long term protections contemplated for such wastes by UMTRCA. Hence the urgency of this letter.

The current confusion over the status of pre-1978 byproduct material has resulted largely from recent statements issued by NRC that directly conflict with positions previously advanced by the Commission concerning this class of material. Many of these statements have been made with respect to materials found at sites administered under the Department of Energy's (DOE's) Formerly Utilized Sites Remedial Action Program (FUSRAP), since these FUSRAP materials often consist of pre-1978 byproduct material.

In 1992, NRC publicly took the position that pre-1978 byproduct material constitutes 11e.(2) byproduct material for purposes of the AEA. In a Federal Register notice published that year, the Commission indicated that FUSRAP materials satisfying the definition of 11e.(2) byproduct material would be regulated by NRC as 11e.(2) byproduct material. See 57 Fed. Reg. at 20,527 (May 13, 1992). A similar approach was adopted by the Commission Staff in litigation involving FUSRAP material that was intended for use as an alternate feed by International Uranium (USA) Corporation (IUSA). See Affidavit of Joseph J. Holonich,

SECY-EHD-001

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Deputy Director, Division of Waste Management, Nuclear Materials Safety and Safeguards, *In the Matter of International Uranium (USA) Corp.*, Docket No. 40-8681 MLA-4 at 7-9 (Jan. 29, 1999) (where Mr. Holonich indicates that FUSRAP materials designated as 11e.(2) byproduct material by DOE can be disposed of directly in a licensed 11e.(2) disposal facility without having to satisfy the criteria set out in the Commission's non-11e.(2) disposal policy and that such materials, because they qualify as 11e.(2) byproduct material, cannot be disposed of as low level radioactive waste).

Inconsistent statements on this issue first emanated from NRC about a year and a half ago, when Robert L. Fonner, then Special Counsel for Fuel Cycle and Safeguards Regulations at NRC, wrote a letter in which he articulated an approach to pre-1978 byproduct material that was directly opposite of NRC's previously announced position.¹ In that letter (the "Fonner Letter"), Mr. Fonner asserted that NRC cannot exercise jurisdiction over pre-1978 byproduct material because, according to Mr. Fonner, AEA Section 83a only allows the Commission to regulate as 11e.(2) byproduct material the tailings or wastes generated at a facility that was licensed by the Commission as of, or after, the effective date of UMTRCA. The Fonner Letter went on to conclude that since pre-1978 byproduct material cannot be regulated by NRC as 11e.(2) byproduct material, NRC regulations would not preclude the disposal of such material in a facility that is not licensed under the AEA (for example, a Resource Conservation and Recovery Act (RCRA) hazardous waste disposal facility).

Most recently, in April of this year, in correspondence responding to an inquiry from Envirocare of Utah, Inc. (Envirocare), former Chairman Shirley Ann Jackson reiterated the position articulated in the Fonner Letter.² In her letter, Chairman Jackson repeated the assertion in the Fonner Letter that, based on AEA Section 83a, NRC can exercise jurisdiction over material satisfying the definition of 11e.(2) byproduct material only if the material was generated at a site that was licensed by NRC on or after November 8, 1978 (the effective date of AEA Section 83a). Jackson Letter at 2. We have recently learned that the Jackson Letter was cited in support of a request that Envirocare has made to the State of Utah to allow 11e.(2) byproduct material from a FUSRAP site to be disposed of in Envirocare's low level radioactive waste (LLRW) disposal facility.³ Envirocare's request to the State was followed by an inquiry from Utah to the Director of NRC's Office of State Programs, seeking clarification of NRC's position regarding the acceptability of disposing of pre-1978

¹ Letter from Robert L. Fonner, Special Counsel for Fuel Cycle and Safeguards Regulations (NRC) to Ann Wright, Counsel, HTRW Center of Expertise, USACE (March 2, 1998).

² Letter from Shirley Ann Jackson, Chairman, Nuclear Regulatory Commission, to Charles A. Judd, President, Envirocare (April 26, 1999) (the "Jackson Letter").

³ Letter from Mark Ledoux, Corporate Radiation Safety Officer, Envirocare to William J. Sinclair, Director, Utah Division of Radiation Control (August 5, 1999) (included here as Attachment 1).

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byproduct material in a licensed 11e.(2) disposal facility as compared to a licensed LLRW disposal facility.⁴

In an attempt to dispel some of the confusion surrounding this issue, the National Mining Association (NMA) recently presented the Commission with an Addendum to NMA's 1997 "White Paper" on the regulation of the uranium recovery industry. In that Addendum, NMA argues forcefully that the rationale articulated in the Fonner Letter (and repeated in the Jackson Letter) is incorrect, and that pre-1978 byproduct material *is* subject to regulation by NRC. Two points from the NMA Addendum warrant discussion here.

First, notwithstanding the Fonner Letter's assertion to the contrary, AEA Section 83a in no way limits NRC's authority to license pre-1978 byproduct material. Section 83a simply provides that a license for 11e.(2) byproduct material that is in effect on or after the effective date of Section 83 must contain certain provisions pertaining to the transfer of ownership and custody over byproduct material produced pursuant to such license and over the land used for disposal of such byproduct material. In other words, Section 83 requires that certain terms and conditions regarding transfer of title and custody must be included in or added to new licenses or licenses existing as of the effective date of that section. Section 83 does *not* provide that the Commission can only license materials that have been produced pursuant to an already-existing license. Indeed, the statute requires quite the opposite. Under Section 81 of the AEA, *any* person who wishes to possess, transfer or receive 11e.(2) byproduct material *must* obtain a license or other authorization from NRC, regardless of when the byproduct material was first generated and regardless of whether it was generated pursuant to an NRC license. Section 81 provides, simply, that:

No person may transfer or receive in interstate commerce, manufacture, produce, transfer, acquire, own, possess, import, or export any [11e.(2)] byproduct material, except to the extent authorized by [a license or other authorization issued by the Commission].

42 U.S.C. 2111. Moreover byproduct material is defined in AEA Section 11e.(2) broadly, to encompass *all* tailings or wastes produced from the extraction of uranium that is processed primarily for its source material content. There is no limitation in the definition of 11e.(2)

⁴ Letter from William J. Sinclair, Executive Secretary, Utah Department of Environmental Quality, Division of Radiation Control to Paul Lohaus, Director [sic], Nuclear Regulatory Commission (August 9, 1999) (the "Utah Letter") (included here as Attachment 2). In its letter to NRC, Utah also expressed concern regarding the current uncertainty over the regulatory status of pre-1978 byproduct material: "[t]he pre-1978 determination has produced confusion regarding radioactive waste management that attack [sic] the very core of proper protection of the environment and human health." *Id.*

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byproduct material that requires the definition to be applied only to material that was produced pursuant to a license. Thus, Section 81 provides that any person seeking to possess, transfer or receive 11e.(2) byproduct material must first obtain an NRC license, and under Section 11e.(2), whether a material was produced pursuant to an NRC license is *irrelevant* to the material's status as 11e.(2) byproduct material. Therefore, Section 81 requires NRC to issue a license for the possession, transfer or receipt of 11e.(2) byproduct material, regardless of whether the material was produced pursuant to a license; and nothing in Section 83 detracts from NRC's authority to do so.

The second point from the NMA Addendum that warrants discussion is the following: if the Commission departs from its previous position on pre-1978 byproduct material and follows the approach laid out in the Fonner and Jackson letters, a serious threat to the continued protection of public health and the environment will result. There are two aspects to this threat. First, wastes that constitute 11e.(2) byproduct material will be disposed of in a manner that does not provide the protections that Congress intended for such material when it enacted UMTRCA. Specifically, under the approach articulated in the Fonner Letter, pre-1978 byproduct material would not have to be disposed of in licensed 11e.(2) disposal facilities, but instead could be disposed of in solid or hazardous waste landfills. Consequently, even though pre-1978 byproduct material satisfies the definition and is in all respects identical to 11e.(2) byproduct material; unlike other 11e.(2) byproduct material wastes which would have to be disposed of in licensed 11e.(2) facilities, pre-1978 11e.(2) byproduct material could be disposed of in facilities that are not licensed under the AEA and that do *not* satisfy the long term stability and other technical criteria set out in NRC's and EPA's regulations under UMTRCA.⁵ Furthermore, unlike wastes disposed of in licensed 11e.(2) facilities, these pre-1978 byproduct material wastes would *not* be subject to long-term government custody and monitoring, or perpetual licensing following closure of the sites used for their disposal.⁶

⁵ This is precisely the concern that was raised by Senators Hatch and Bennett and Representatives Cannon, Cook and Hansen in their recent letter to the U.S. Army, where the Congressmen state that: "If the [Army Corps of Engineers] follows the ill-advised position of NRC's staff and fails to exercise regulatory control, these radioactive [pre-1978 byproduct] materials could be disposed at landfills which are not designed or operated to handle the unique characteristics of radioactive byproduct material." Letter from Senator Orrin Hatch, Senator Robert Bennett, Representative Chris Cannon, Representative Merrill Cook and Representative James Hansen to Mr. Joseph W. Westphal, Assistant Secretary of the Army - Civil Works (June 23, 1999) (included here as Attachment 3).

⁶ Moreover, an unlicensed site that disposes of 11e.(2) byproduct material could conceivably be required, after disposing of such material, to comply with the technical criteria and other requirements set out under UMTRCA (to the surprise of the site operator). Even if this were the case, however, DOE presumably would still be reluctant or unwilling to accept title and custody of the site following closure because 11e.(2)

Footnote continued on next page

As the NMA Addendum points out, this danger is not just speculative. Publicly available information indicates that at least one hazardous waste disposal facility that is not licensed to accept 11e.(2) byproduct material – the Buttonwillow facility in California – may have already accepted pre-1978 byproduct material wastes for disposal. In addition, a second hazardous waste facility – the Enviro-safe facility in Idaho -- has been selected by the U.S. Army Corps of Engineers (USACE) to receive pre-1978 byproduct material from various FUSRAP sites across the country, despite the fact that the facility is not licensed to dispose of 11e.(2) byproduct material. Similarly, Envirocare's request for permission to utilize its LLRW facility to dispose of pre-1978 byproduct material (*see* page 2, *supra*) reflects another attempt to bypass the protections provided by 11e.(2) disposal facilities, which Congress intended to be applied to the disposal of all 11e.(2) byproduct material.

The other way in which the position outlined in the Fonner and Jackson letters threatens the protection of human health and the environment is by jeopardizing the transfer to DOE of 11e.(2) disposal facilities that, consistent with the position first articulated by the Commission, previously accepted pre-1978 byproduct material for disposal. This is because at these facilities pre-1978 byproduct material that now may not be considered 11e.(2) byproduct material will have been commingled with 11e.(2) byproduct material already present at the facility. Through its policies governing 11e.(2) disposal facilities, the Commission has consistently sought to prevent this sort of commingling, in order to ensure that 11e.(2) disposal facilities would not be subject to dual regulation and that DOE would be free to accept custody and title to such sites following site closure, consistent with AEA Section 83.⁷ If NRC were to follow the position articulated in the Fonner and Jackson letters, it effectively would be sanctioning precisely the sort of commingling that the Commission has struggled so hard to avoid over the years.

For all of these reasons, we believe it is imperative that the Commission review its position on the regulatory status of pre-1978 byproduct material in light of the arguments presented in the NMA White Paper Addendum. In particular, we urge the Commission to clarify that pre-1978 byproduct material *is* 11e.(2) byproduct material and therefore is subject to licensing and regulation by NRC, except to the extent that such material is present at a site administered by DOE, in which case it is 11e.(2) byproduct material that is subject to

Footnote continued from previous page

and non-11e.(2) material (some of which may be RCRA hazardous waste) would have been commingled at the site.

⁷ See, e.g., *Uranium Mill Facilities, Notice of Two Guidance Documents: Final Revised Guidance on the Disposal of Non-Atomic Energy Act of 1954, Section 11e.(2) Byproduct Material in Tailings Impoundments; Final Position and Guidance on the Use of Uranium Mill Feed Materials Other Than Natural Ores*, 60 Fed. Reg. 49,296 (1995).

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regulation by DOE. In addition, we urge the Commission to act quickly to prevent any further disposal of such 11e.(2) byproduct material in facilities that are not licensed, or designed, to accept such materials, by taking the following steps:

- (i) informing USACE (the agency responsible for implementing the remediation of FUSRAP sites across the country) that FUSRAP materials consisting of pre-1978 byproduct material wastes that are to be disposed of off-site *must* be disposed of in facilities that are licensed to accept 11e.(2) byproduct material for disposal;
- (ii) notifying the State of Idaho that the EnviroSAFE facility cannot accept or dispose of wastes consisting of pre-1978 byproduct material without first obtaining a license to dispose of 11e.(2) byproduct material;
- (iii) notifying the State of California that the Buttonwillow facility cannot accept or dispose of wastes consisting of pre-1978 byproduct material without first obtaining a license to dispose of 11e.(2) byproduct material; and
- (iv) informing the State of Utah, in response to the State's recent inquiry (*see* footnote 4, page 3, *supra*), that pre-1978 byproduct material (including FUSRAP materials consisting of pre-1978 byproduct material) can only be directly disposed of at a facility that is licensed to dispose of 11e.(2) byproduct material in accordance with the requirements of UMTRCA, and that such material cannot otherwise be disposed of in an LLRW disposal facility.

Moreover, if the Commission concludes that additional time is required to evaluate this issue, we urge the Commission to notify the entities identified above that this issue is being reviewed by the Commission and that, as an interim measure to ensure adequate protection of public health and the environment pending completion of NRC's review, pre-1978 byproduct material should not be allowed to be disposed of at any facility that is not licensed to dispose of 11e.(2) byproduct material.

Thank you for your consideration.

Sincerely,



Earl E. Hoellen
President and Chief Executive Officer

Greta Joy Dicus, Chairman

August 27, 1999

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cc: Commissioner Nils J. Diaz
Commissioner Edward McGaffigan, Jr.
Commissioner Jeffrey S. Merrifield
William D. Travers, Executive Director for Operations, NRC
Dianne R. Nielson, Executive Director, UDEQ
William J. Sinclair, Director, UDEQ Division of Radiation Control
Edgar D. Bailey, Chief, California DHS, Radiological Health Branch
David Eisentrager, Idaho Division of Health and Welfare
Kip Huston, USACE
Paul Lohaus, Director, NRC Office of State Programs
John T. Greeves, Director, NRC Division of Waste Management
John J. Surmeier, Director, NRC Division of Waste Management
Maria Schwartz, NRC, Office of General Counsel
Fred G. Nelson, Utah Attorney General's Office
Senator Orrin G. Hatch
Senator Robert F. Bennett
Representative Christopher B. Cannon
Representative Merrill A. Cook
Representative James V. Hansen

ENVIROCARE OF UTAH, INC.
THE SAFE ALTERNATIVE

CD99-375

August 5, 1999

William J. Sinclair, Director
Utah Division of Radiation Control
168 North 1950 West
Salt Lake City, Utah 84111-4850



Re: Management of FUSRAP Materials at Envirocare

Dear Mr. Sinclair:

As we discussed earlier today, Envirocare of Utah, Inc. (Envirocare) proposes to receive certain materials from the Formerly Utilized Sites Remedial Action Program (FUSRAP) sites, that were generated before 1978, for management in Envirocare's LARW cell. The United States Nuclear Regulatory Commission (NRC) has determined that these materials are not subject to NRC licensing under the Atomic Energy Act (AEA). FUSRAP materials consist of uranium mill tailings that were produced primarily during the United States' early development of nuclear materials as part of the Manhattan Engineering Project.

I have enclosed a copy of two (2) letters from the NRC that discuss the NRC's jurisdiction over these FUSRAP materials. In a letter dated April 28, 1999 from Chairman Jackson of the NRC to Charles Judd, President of Envirocare, the NRC states that there "are sites with pre-1978 11c.(2) byproduct material that are not under NRC authority, because these sites were not licensed by NRC at or after the time UMTRCA was passed" and that these materials are "under the jurisdiction of other Federal and State agencies." Chairman Jackson reaffirmed the position taken by the NRC in a letter dated March 2, 1998 from Robert L. Fomer, Special Counsel for the NRC, to Ann Wright, Counsel for the United States Army Corps of Engineers (USACE), in which he made clear that these materials are not licensed by the NRC and that the requirements of 10 CFR Parts 40 and 61 only apply to licensees disposing of licensed materials. The letter concludes by responding to the USACE's question regarding disposal of these materials at RCRA facilities, by stating that "there are no rules or regulations of the NRC that would preclude disposal of the described FUSRAP wastes at a RCRA site."

These materials are currently under the control of USACE at various FUSRAP sites, which were previously managed by the Department of Energy (DOE). The materials are pre-1978 byproduct materials that were not licensed by NRC at the time or after the time UMTRCA was passed, and, therefore, not subject to NRC authority, but subject to the jurisdiction of other Federal or State agencies. These materials are within the jurisdiction of the State of Utah for disposal at Envirocare's LARW facility. The materials are clearly within the definition of Utah Code §19-3-102 "Low-level waste," so Envirocare intends to receive them for management at our LARW facility.

William J. Sinclair, Director
ENVIROCARE August 5, 1999
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As you probably know, since the NRC has issued its determination, these materials have been disposed at hazardous waste disposal facilities in California and Idaho, as contemplated by Mr. Fonnex's response to the USACE. Let me know if you would like additional information in this regard.

Further, as you know, the NRC has retained jurisdiction over the disposal of byproduct materials in accordance with Article II, Section E of the State's agreement with the NRC, as stated by Dr. William D. Travers in his letter of May 28, 1999 to you. However, the NRC has determined that these pre-1978 materials are not regulated by the NRC. Therefore, these materials are not subject to the NRC's retained jurisdiction.

In our discussions with the NRC regarding management of these materials, the NRC has informed Envirocare that as long as they are not placed into our 11e.(2) disposal cell, they are not subject to Envirocare's 11e.(2) byproduct materials license or regulations.

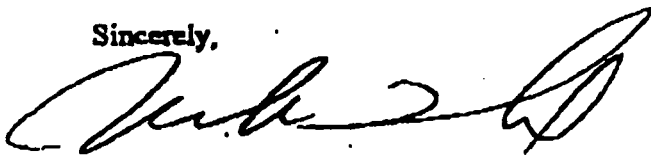
I understand that you will let me know shortly if the Division of Radiation Control has any objections to Envirocare's disposal of pre-1978 byproduct materials in our LARW cell. By copy of this letter, Envirocare is notifying the NRC of its intent to manage these FUSRAP materials in Envirocare's LARW disposal facility.

Finally, this request does not imply that Envirocare agrees with the NRC's determination that these pre-1978 byproduct materials are not subject to NRC's jurisdiction. In the event that the NRC determines at some time in the future that these materials are subject to NRC jurisdiction, Envirocare will manage these materials in accordance with such determination.

Jon Carter and George Hellstrom have discussed this matter with Fred Nelson of the Attorney General's office. Please contact George Hellstrom at (801) 532-1330 if you have questions regarding legal issues related to this matter. I believe that Ms. Maria Schwartz (301-415-1888) of the NRC Office of General Counsel could address legal issues at the NRC concerning this matter.

If you have any questions regarding this matter, please contact me at (801) 532-1330. Thank you.

Sincerely,



Mark Ledoux
Corporate Radiation Safety Officer

Enclosures

ENVIROCARE William J. Sinclair, Director
August 5, 1999
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cc: Harold LeFevre (NRC), w/o enclosures
Maria Schwartz (NRC), w/o enclosures



State of Utah

DEPARTMENT OF ENVIRONMENTAL QUALITY DIVISION OF RADIATION CONTROL



Michael O. Leavitt
Governor

Dianne R. Nielson, Ph.D.
Executive Director

William J. Sinclair
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August 9, 1999

Paul Lohaus, Director
Nuclear Regulatory Commission
Washington, D.C. 20555

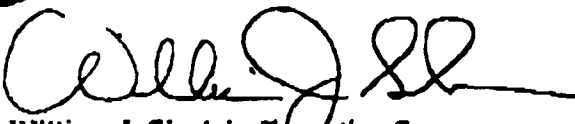
Dear Mr. Lohaus

We are in receipt of a letter of August 5, 1999 from Envirocare of Utah with attachments, concerning potential management of pre-1978 11c.(2) byproduct material (FUSRAP materials) in the low-level waste disposal (LLRW) cell at the Envirocare of Utah, Inc. facility. Enclosed is the Envirocare request with attachments which discuss the NRC jurisdiction over pre-1978 11c.(2) byproduct material. It is not clear whether the NRC would allow or under what conditions the NRC would allow pre-1978 material to be disposed of in a licensed 11c.(2) facility and whether NRC considers it appropriate. Additionally, we would be interested in the NRC opinion concerning disposal of pre-1978 waste in a licensed low-level disposal cell as requested by Envirocare.

We would appreciate an expedited response to this request so we may determine if and under what conditions, disposal of this material can be allowed. The pre-1978 determination has produced confusion regarding radioactive waste management that attack the very core of proper protection of the environment and human health.

If you have questions, do not hesitate to contact me.

UTAH RADIATION CONTROL BOARD


William J. Sinclair, Executive Secretary

c: Dianne Nielson, Ph.D., Executive Director, UDEQ
Myron Bateman, E.H.S., M.P.A., Health Officer/Department Director, Tooele County Health Department
Fred Nelson, Utah Attorney General's Office
Ken Alkema, Envirocare of Utah, Inc.
Paul Lohaus, Director, OSP, NRC Headquarters
John Greeves, Director, Division of Waste Management, NRC Headquarters
Charles Hackney, NRC Region IV
Milt Lammering, EPA Region VIII

Congress of the United States
House of Representatives
Washington, DC 20515

June 23, 1999

Mr. Joseph W. Westphal
Assistant Secretary of the Army - Civil Works
Pentagon 2E570
Washington, D.C. 20310-0108

Dear Assistant Secretary Westphal:

We are concerned that the U.S. Army Corps of Engineers is not adequately protecting public health and safety by regulating the disposal of certain uranium and thorium processed wastes under the Formerly Utilized Sites Remedial Action Program (FUSRAP).

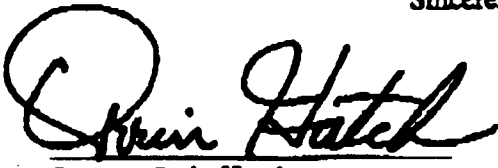
In a recent request for proposal, the Corps stated that it will not require that sites selected to dispose of these radioactive wastes - referred to as 11e.(2) byproduct material - be licensed. Indeed, the Corps recently awarded a contract to an unlicensed site in Idaho and has shipped FUSRAP waste from New York to an unlicensed site in California. The Corps appears to be relying on correspondence from the general counsel's staff of the Nuclear Regulatory Commission that NRC lacks jurisdiction over byproduct materials located at sites that were not licensed prior to 1978. We urge you to look beyond legal hair-splitting and exercise your authority to manage this waste to insure that it is disposed permanently in a facility designed for the disposal of this type of material.

The year in which the nuclear waste was created should be irrelevant to its regulation. Radioactive material is still radioactive and requires safe handling and disposal no matter whether it was created at licensed sites before or after 1978. The Conference of Radiation Control Program Directors (CRCPD) agrees and passed a resolution last year urging NRC to reconsider its position abdicating its responsibility to regulate byproduct materials. In April, CRCPD sent another letter, supported by the state of Utah, which reaffirms concerns that "without regulatory oversight of this radioactive material, there are no assurances that adequate measures are being taken to protect human health and the environment." If the Corps follows the ill-advised position of NRC's staff and fails to exercise regulatory control, these radioactive materials could be disposed at landfills which are not designed or operated to handle the unique characteristics of radioactive byproduct material.

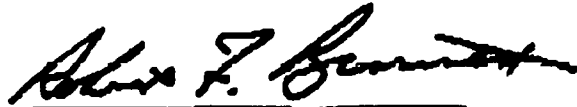
Mr. Joseph W. Westphal
June 23, 1999
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In the interest of public health and safety, we encourage you to require that sites for the disposal of 11e.(2) radioactive material be licensed by the NRC or the affected states for the disposal of this material.

Sincerely,



Senator Orrin Hatch



Senator Robert Bennett



Rep. James Hansen



Rep. Merrill Cook



Rep. Chris Cannon

cc: Greta Dicus, In-coming Chair, Nuclear Regulatory Commission

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of

INTERNATIONAL URANIUM (USA)
CORPORATION (IUSA)
(Receipt of Material from
Tonawanda, New York)

Docket No.(s) 40-8681-MLA-4

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LTR IUSA TO CHAIRMAN DTD 8/27 have been served upon the following persons by U.S. mail, first class, except as otherwise noted and in accordance with the requirements of 10 CFR Sec. 2.712.

Office of Commission Appellate
Adjudication
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Administrative Judge
Peter B. Bloch
Presiding Officer
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Administrative Judge
Richard F. Cole
Special Assistant
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Frederick S. Phillips, Esq.
Shaw, Pittman, Potts & Trowbridge
2300 N Street, NW
Washington, DC 20037

Dated at Rockville, Md. this
1 day of September 1999


Office of the Secretary of the Commission