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February 11, 2000

OFFICE OF THE SECRETARY
RULE, REGULATION AND
ADJUDICATION STAFF

Secretary
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
Attn: Rulemaking and Adjudications Staff

SERVED FEB 11 2000

SECOND SUPPLEMENT TO A JANUARY 24, 2000, REQUEST FOR A HEARING IN RESPONSE TO 65 FED. REG. 138, JANUARY 3, 2000, DOCKET NO. 40-3453, LICENSE NO. SUA-917

Dear Secretary:

In my January 24 request for hearing I mentioned a "learning curve". I would here respectfully request that I be permitted to explicate that January 24 discussion. I propose to do so by way of "set [ing] forth with particularity the manner in which [my] interest is [adversely] affected by the [December 27, 1999 EDO's] Order and [by doing so consider the applicable] criteria set forth in 10 CFR 2.1306 and 2.1308." See my January 24 request at page 2, paragraph 1.

I state (on page 7, paragraph 5, of the January 24) that if the EDO's Order were sustained as published on January 3, I would be adversely affected. I further state that "the proposed new management at the Moab, Utah, facility and site would be responsive to a "learning curve" where stepping into the Atlas Corporation's shoes, as a trustee". I also offer that the "learning curve would allow added [incremental] risk to myself if I were to sojourn in a [hazardous] exclusion zone". I don't dare go to the hazard.

Continuing in the same vein, I point out that certain hazardous exposure pathways found at the exclusion zone will be under the same new management (the trustee) at the Moab, Utah, facility and site if the EDO's Order is sustained.

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Additionally, I indicate that learning curves can be counted on to be, in the end, unpredictably unpredictable, yet inevitable.

The EDO's Order proposes, in that it allows new management at the exclusion zone, a new incremental risk that aggravate the present hazard. I have stated that I find that unacceptable and, given *inter alia* the nature of the EDO's Order, unjustified, unjustifiable, and unjust.

I would here request to go to an exemplary basis for my exclusion zone/learning curve concerns.

I would offer that a February 4, 2000, letter from the Director, Division of Nuclear Material Safety, Office of Nuclear Material Safety and Safeguards, Nuclear Regulatory Commission (NRC), to the trustee (which encloses Notice of Violation and NRC Inspection Report 40-3453/99-02) would document a "learning curve" hassle with exclusion zone implications (off-site exposure, or potential exposure, of a member of the public).

The Director's February 4 transmittal letter states in pertinent part:

On December 15, 1999, the NRC completed an inspection at the site of the former Atlas uranium mill near Moab, Utah. The enclosed report presents the results of that inspection.

The NRC has determined that two violations of NRC requirements occurred. The first violation involved your failure to take corrective actions within 30 days to repair erosion damage on the tailings impoundment. This finding was a concern to the NRC because of the potential for further degradation and subsequent release of licensed materials outside of the confines of the restricted area. It appears that the onsite staff could not repair the damaged interim cover because you do not have earth-moving equipment needed to perform these types of repairs. [Emphasis added.]

The second violation involved your failure to implement the lower limits of detection specified in the license for environmental and effluent monitoring program samples. This issue is of concern to the NRC because the same problem was identified and cited during a previous inspection. Long-term corrective actions taken in response to the previous violation were not effective in preventing a repeat of the problem. [Emphasis added.]

The violations are cited in the enclosed Notice of Violation (Notice), and the circumstances surrounding them are described in detail in the subject inspection report.

In your violation response letter, you are also requested to provide us with updated information regarding an Unresolved item which was identified during the inspection. As discussed in the attached inspection report, the NRC inspectors could not confirm whether or not you have adequately demonstrated compliance with the dose limit for individual members of the public as required by 10 CFR 20.1302. [Emphasis added.]

By letter dated March 24, 1995, Atlas Corporation committed to conduct continuous sampling at the nearest residence location and to use the information obtained to determine a radon equilibrium factor for the nearest residence location. Although Atlas previously installed a radon sampler at the nearest residence location and conducted sampling at this location for several years, Atlas did not determine the specific radon equilibrium factor based on this additional information. Therefore, the NRC could not clearly confirm that you were in compliance with the annual dose limit (100 millirems per year) at the nearest residence location for calendar year 1998.

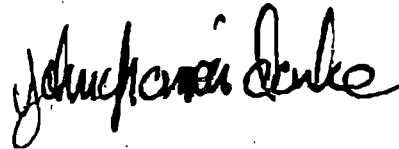
The "individual members of the public" would be sojourning (or remaining) in the one and one half mile exclusion zone surrounding the Moab, Utah, facility and site. See page 3 of the January 24 hearing request's "Exhibit A", at paragraph 3.

The "nearest [] location" is found within the "exclusion zone". See top photograph (with SUV) on page 4 of attachment 2 of the above referenced "Inspection Report". I have enclosed that photograph for your convenience. The

photograph shows (at the top) the up-river "portal" and choke point at the Colorado River referred to by the January 24 hearing request's Exhibit A.

I ingress and egress through that portal at that choke point during any sojourn up-river. See Exhibit A referenced above.

The "Notice of Violation" enclosed by the February 4 letter is addressed to "Atlas Corportion/PricewaterhouseCoopers, Moab, Utah". See "new management" and "stepping into [former management's] shoes" discussion in my January 24 hearing request, page 7 at paragraph 5. The forward slash marks the nexus of the "learning curve".



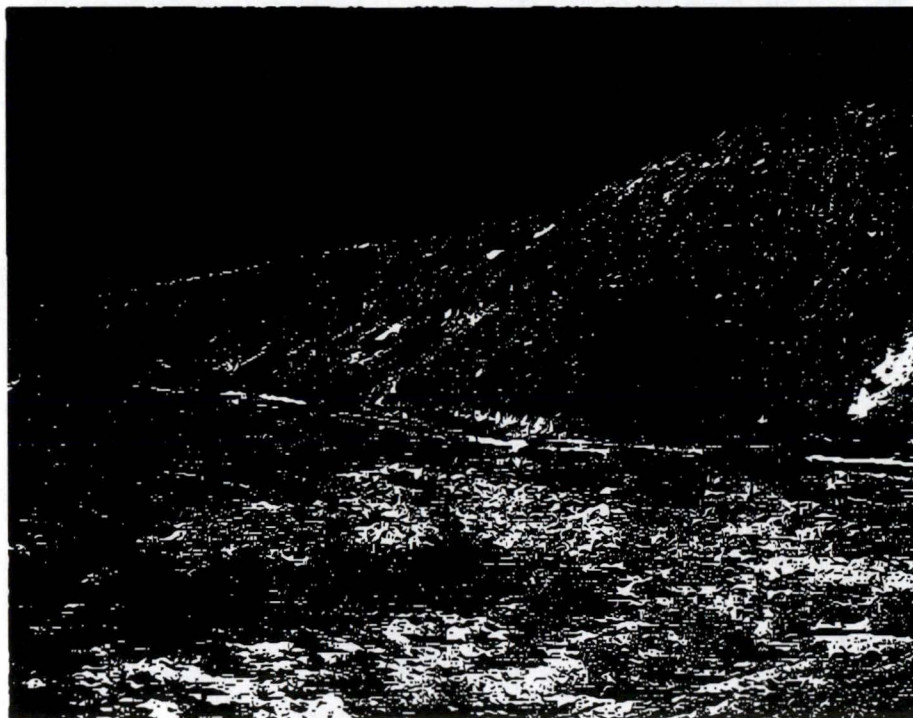
John Francis Darke

Appearing *pro se*
At Moab, Utah

Enclosure: As stated



Gas pipeline corridor looking south towards Colorado River.



South east corner of tailings embankment.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)
)
MOAB MILL RECLAMATION TRUST) Docket No. 40-3453-LT
)
(Moab Mill Site))

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing SECOND SUPPLEMENT TO JANUARY 24, 2000 REQUEST FOR A HEARING SUBMITTED BY JOHN FRANCIS DARKE ON FEBRUARY 11, 2000 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.

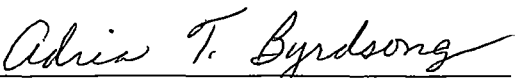
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Attention: Keith E. Eastin, Director
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Houston, TX 77002-5678


Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 11th day of February 2000