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October 2, 1979

DOCKET NUMBER

PROPOSED RULE

PR

3046, 70, 150, 176

(44FR50015)

Attn: Docketing and Service Branch
Secretary
U.S. Nuclear Regulatory Commission
Washington, D. C. 20555

Re: Proposed Rules for Criteria
Relating to Uranium Mill
Tailings, 44 Fed. Reg. 50015
August 24, 1979

Dear Sirs:

In reference to the captioned proposed regulations, I would like to point out that paragraph G of Criterion 11 of Appendix A to Part 40 and paragraph (b)(6) of section 150.15a are both inadequate insofar as they fail to include lands allotted to individual Indians pursuant to 25 U.S.C. §5331 et. seq.

In north western New Mexico, and in particular within the area known as the San Juan Basin, there are literally hundreds of individual Indian allotments, all of which are "subject to a restriction against a lienation imposed by the United States" and none of which are properly classified as Trust or fee lands. Moreover, many of these allotments are experiencing or will experience the effects of uranium mining and milling.

Based on my experience and the apparent overall purpose of the proposed regulations, I believe that paragraph G of Criterion 11 of Appendix A to part 40 and paragraph (b)(6) of section 150.15a should be amended to expressly include Indian allotted lands. I believe that the United States, in its capacity as the legal title owner of these lands as well as under its general trust responsibility to Indians, has the clear responsibility to assume and "assure the long-term surveillance of such lands...."

Your prompt and immediate attention to this matter will be appreciated.

Sincerely,

Eric D. Eberhard
Attorney

POOR ORIGINAL

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Acknowledged by card. ~~10/12/79~~