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March 23, 1979

Mr. Ross Scareno
Office of Nuclear Material
Safety and Standards
Nuclear Regulatory Commission
7915 Eastern Avenue
Silver Springs, Maryland 20555

Re Comment on Timing of Certain Require-
ments of the Uranium Mill Tailings
Radiation Control Act of 1978

Dear Mr. Scareno:

We understand that the Commission at its meeting on March 7, 1979 considered the timing of certain legal obligations imposed on the Nuclear Regulatory Commission by the Uranium Mill Tailings Radiation Control Act of 1978 and requested comments from interested parties. Cyprus Mines Corporation welcomes the opportunity to express its views.

Cyprus has uranium mining rights in Fremont County, Colorado. Exploration of this property commenced in 1974, and by September 1977 significant uranium resources were identified. Additional exploration has disclosed several small ore deposits and one large deposit, resulting in estimated reserves of approximately 32 million pounds of U₃O₈.

In 1978 Cyprus sold a 49% interest in a portion of these properties to Wyoming Mineral Corporation, a wholly-owned subsidiary of Westinghouse Electric Corporation. Cyprus also leased to Wyoming a 49% interest in certain adjacent properties. These properties are known as the Hansen Project and are jointly operated by Cyprus and Wyoming pursuant to a Joint Operating Agreement, which designated Cyprus as the

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operator. Environmental and engineering work with respect to the Hansen Project has been under way for over a year, including studies of a proposed mill and tailings disposal area.

As you know, Colorado is an Agreement State under the provisions of Section 274 of the Atomic Energy Act of 1954 and for over a year Cyprus has been working closely with officials in the Colorado Department of Health in anticipation of applying for a Radioactive Materials License. Cyprus has engaged consultants, conducted extensive testing, and is presently compiling the data necessary to draft the state required environmental report, and expects to submit the environmental report together with an application for a Radioactive Materials License in mid-1979. Simultaneously, Cyprus has been working with other agencies of the Colorado Department of Health and the Colorado Department of Natural Resources, and in mid-1979 intends to also apply for the many other state licenses and permits required for the Hansen Project. It is crucially important that the Commission recognize such ongoing efforts and the resulting relationships that have developed between applicants and Agreement State officials.

Of greatest concern to Cyprus is the question the Commission is considering with respect to the possible immediate requirement for an NRC-issued byproduct material license in Agreement States and an attendant site specific Environmental Impact Statement. If the Commission determines that such requirements exist, Cyprus is concerned that the involvement of another licensing authority could significantly delay the Hansen Project. For this reason, Cyprus urges that the Commission give thoughtful consideration to the practical problems of applicants who have been working with state licensing officials in Agreement States to develop workable and safe plans for uranium mills and mines.

Cyprus wishes to emphasize that it is not urging the Commission to determine either that an NRC byproduct material license is or is not required in Agreement States. Cyprus would take the same environmentally responsible course in an NRC licensing proceeding that it is taking with Colorado. Appropriate and meaningful environmental precautions do not concern Cyprus; what concerns Cyprus is uncertainty as to the responsibilities of applicants and agencies and the potential


delay to the Hansen Project. Therefore, Cyprus requests the Commission to decide these issues promptly to eliminate this uncertainty. Should the Commission decide that the 1978 Act requires that the NRC issue a byproduct material license and prepare a site specific EIS, Cyprus also urges the Commission to promptly provide guidelines for applicants and Agreement States so that duplicative procedures and delay can be avoided.

Should NRC licensing be required, there surely is room for constructive state and federal cooperation. The Commission and its staff could make use of data assembled by Cyprus and by state officials. Federal deference could properly be given to decisions of state agencies with respect to such matters as the siting of the mill and tailings disposal area. Public hearings and comment periods could be combined. These and other measures could assure that any required federal actions would be coordinated with state regulatory actions so that applicants will not be faced with duplicative and conflicting instructions.

Cyprus recognizes that, in undertaking uranium mining and milling operations, it has important environmental responsibilities, and it intends to meet those responsibilities. We believe our present plans, developed in consultation with the appropriate Colorado agencies, will comply with NRC criteria if immediate NRC byproduct licensing is imposed on Agreement States. Our comment is submitted only to urge Commission sensitivity to the potentially disruptive effects of dual jurisdiction over the licensing of byproduct material in Agreement States during the next three-year period. Such disruptive effects, it seems to Cyprus, can and should be avoided no matter how the legal questions are answered.

Cyprus thanks the Commission for the opportunity to present this comment.

Sincerely,


Paul W. Allen
Executive Vice President

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cc: Mr. Richard Gamewell
Mr. Hamlet J. Barry III