



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

COMMISSION
CORRESPONDENCE

June 12, 1980

The Honorable Bruce King
Governor of New Mexico
Santa Fe, New Mexico 87503

Dear Governor King:

I wish to bring to your attention our concerns regarding New Mexico's program for regulating uranium mills and mill tailings. It is my hope that these early constructive comments will aid the development of a sound program, and thus facilitate an amended agreement between the Nuclear Regulatory Commission (NRC) and the State of New Mexico by the November 1981 deadline specified in the Uranium Mill Tailings Radiation Control Act of 1978 (UMTRCA).

In May 1979, the Environmental Improvement Board held extensive hearings on the Environmental Improvement Division's proposed amendments to its radiation Protection Regulations, including a number of new requirements for uranium mills and tailings. Our staff testified in support of the proposed regulations which were consistent with the regulatory program which NRC was conducting.

While portions of the proposed regulations were approved by the Board during its April 11, 1980 meeting, other essential elements of the regulations were not approved. The Board did not approve the following:

- Performance objectives for mill tailings siting, design, operation and final reclamation;
- Requirements for financial sureties to assure that tailings management programs meeting the performance objectives are carried out; and
- Application of the requirement to examine alternative sites for tailings disposal to existing mills during the license renewal process.

The NRC staff believes that inclusion of these provisions in the New Mexico regulatory program would be necessary for compliance with UMTRCA by November 11, 1981. This NRC staff position was stated in Mr. Kerr's letter to Mr. Baca dated March 20, 1980, copy enclosed, and reiterated by NRC staff at the April 11, 1980 meeting of the Environmental Improvement Board.

In addition, the NRC staff recommends that the State take actions to upgrade tailings management programs at existing uranium mills. The process of working out a complete tailings disposal program is an arduous one, particularly at existing mills. This process is initiated by requiring the operators to assess the environmental impacts related to the existing piles, the completion of tailings management alternative studies, and proposal of a firm management plan by mill operators. We recommend commitments should be obtained from operators to complete such studies within a half year or so. It is particularly important that mill operators develop and commit to programs to deal with problems which are causing immediate impacts to public health and safety--blowing of mill tailings and seepage of tailings solution into groundwater formations.

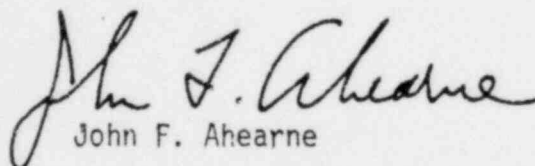
I am sure we both are interested in improving conditions at existing mills and developing appropriate requirements for new mills. These are difficult tasks. The NRC has been working on appropriate regulations for the mills we regulate and expects to have them published in final form by October 1980.

The NRC staff has, over the past several years, advised the New Mexico Environmental Improvement Division (NMEDID) of the need to be taking immediate action at existing mills. We believe it is both practicable and necessary to take prompt action at these mills.

Another particularly important consideration with regard to requirements for study of alternative tailings sites at existing tailings piles is the applicability of the standards contained in 40 CFR 190 promulgated by the U.S. Environmental Protection Agency on January 13, 1977. As explained in the enclosed NRC notice of proposed rule changes (45 FR 26072), the standards of 40 CFR 190 will apply to existing uranium mills on December 1, 1980. In order to meet the continuing requirements for adequacy of the State's program under the provisions of Section 274 of the Atomic Energy Act, New Mexico must take steps to ensure compliance at existing mills with the standards contained in 40 CFR 190 by December 1, 1980, its effective date.

In closing, let me reemphasize our intent to work with the State of New Mexico and to provide you with early constructive comments regarding your uranium mills and tailings regulatory program. I hope that this will facilitate and expedite amending NRC's agreement with New Mexico and thus allow the continued State regulation of mills and tailings.

Sincerely,


John F. Ahearne

Enclosures:

1. Ltr to T. Baca from G. W.
Kerr dtd 3/20/80
2. 45 FR 26072

cc: See next page

cc: Mr. Thomas E. Baca, Director
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