



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

SEP 22 1980

ADR-DCS-
WM-29

Mr. Albert J. Hazle, Director
Radiation and Hazardous Wastes
Control Division
Colorado Department of Health
4210 East 11th Avenue
Denver, Colorado 80220

Dear Mr. Hazle:

In your August 11, 1980 letter, you requested that the NRC review the final Homestake Pitch Project tailings management proposal in sufficient detail to permit written concurrence of your anticipated licensing action in this case. You indicated further that your reason for desiring written NRC concurrence at this time was to facilitate eventual transfer of the reclaimed mill tailings disposal site title to the Federal Government. This letter is in response to your request.

Title II of the Uranium Mill Tailings Radiation Control Act of 1978 (UMTRCA) reaffirms that the responsibility for licensing and regulation of uranium mills and tailings disposal sites in Agreement States will remain with the State. UMTRCA requires that the state implement regulations in their licensing actions that are at least as stringent as those implemented by the NRC in non-Agreement States. While UMTRCA does call for NRC to determine that all applicable standards and requirements pertaining to tailings (as byproduct material) are met before a license is terminated, it does not require NRC concurrence in initial Agreement State licensing actions.

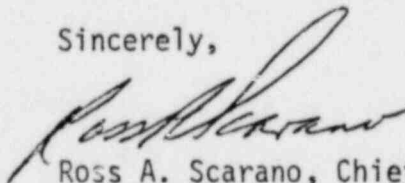
As you are aware, in assisting the U. S. Forest Service in preparing the Environmental Impact Statement for the Pitch Project, the NRC evaluated the applicant's proposed tailings management plan against the then existing interim performance criteria for the disposal of mill tailings and concluded that the proposed plan was acceptable. As stated in our last letter to you of June 9, 1980 on this subject, detailed engineering plans for the Pitch project are most appropriately reviewed and approved at the state level. This would of course include the independent hydrology and geotechnical analyses performed to assure that Regulatory Guide 3.11 requirements related to embankment stability during the operational period are met.

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We recognize that since the Pitch EIS was issued, we have finalized the Generic Environmental Impact Statement (GEIS) on uranium milling and associated regulations. During the period of time that the regulations were being developed, we conditioned licenses with a statement that changes in approved program may be necessary to conform to the final regulations. These regulations are in fact more specific than the interim performance objectives; therefore, we will likely be making modifications to some of our own licensing actions to assure that all programs meet the regulations. It would be consistent for the state to license the Homestake Pitch Project based upon the findings of our previous review with a condition that later changes may be required to meet the State's final rules when they become effective.

While we appreciate your motives and efforts in planning ahead to avoid possible problems in any future transfer of the mill tailings site to a Federal agency as described in Title II of UMTRCA, we consider it inappropriate for NRC to concur in specific Agreement States licensing actions.

Sincerely,



Ross A. Scarano, Chief
Uranium Recovery Licensing Branch
Division of Waste Management