

11/25

# COLORADO DEPARTMENT OF HEALTH

Richard D. Lamm  
Governor

Frank A. Traylor, M.D.  
Executive Director



Mr. G. Wayne Kerr  
Director, Office of State Programs  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Dear Mr. Kerr:

I am responding to your October 29, 1980 letter regarding your special review of the Colorado program as a result of the Colorado Bureau of Investigation report of the actions and activities at the Cotter Uranium Mill in Canon City. I appreciate your recognition that the Department has taken a number of positive actions with respect to the Cotter license as well as the total Radiation Control Program in the past year and one-half. We are committed to further program enhancements both through the development of more adequate internal program operating guidelines and the securing of additional fiscal support to alleviate our staffing needs.

I am responding using the format of your letter.

A. Administrative Policies & Practices:

1. Prior to your annual inspection visit in August of this year, the Department had already taken steps to terminate unannounced inspections. We will continue our presently implemented practice of unannounced inspections except in the very special situations where it is of clear necessity to announce our inspections in advance. These exceptions would be extremely limited and generally related to such activities as recordkeeping review or special follow-up to previous inspections where the presence of specific management individuals must be guaranteed.
2. The Department recognizes the importance of prompt follow-up inspections as well as verification of the implementation of necessary corrective actions by licensees. Repetitive noncompliance citations and serious violations must be dealt with expeditiously and we will not allow facilities to delay the implementation of corrective actions. If we are able to

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achieve a greater level of staff resource, obviously the ability to perform follow-up inspections more promptly and to overview implementation of corrective actions will be enhanced.

3. This item was already answered in Dr. Arnott's response to your September 8, 1980 letter. We have set a timetable for the completion of written procedures for radioactive materials regulatory matters including escalated enforcement actions. A copy of our procedures will be communicated to you upon completion.
4. We recognize the importance of laboratory support in our Radiation Control Program. It is our intent to insure that the necessary laboratory needs are addressed in our request for cash funding of the program which is presently being prepared for the Legislature. Your previous comments as well as our response has indicated that the cash fee aspects of any program should be sufficient to offset resource requirements for all elements of the program, not just those specifically pertaining to the radioactive materials licensing and inspection aspects.
5. This item was also indicated by your staff at their annual program review and it is an important one. Once again I refer you to Dr. Arnott's response to your September 8th letter resulting from your annual program review.

B. Civil Penalty Authority:

We agree that civil penalty authority would be an important aspect for our program and, in particular, would encourage prompt compliance with violation citations. Modification to the statutes which are presently being prepared for the upcoming legislative session will include provisions regarding civil penalties. This suggested change will be based upon the Model Civil Penalties Act provided by your office.

C. Updating Regulations:

We will make every attempt to promptly update our regulations in the future. It is important to note, however, that we will not be in a position to update our regulations pending final regulations and statutes concerning agreement

states at the Federal level. We have found it not realistic to update regulations on the basis of ever changing guidance and less than final regulations at the Federal level. It should be also noted that State due process requirements associated with the Administrative Procedures Act provide a minimum time frame in which regulations may be modified. These time frames at the State level are not always as expeditious as might be desired by Federal agencies.

D. Staffing:

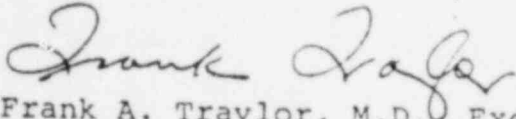
The level of staffing and its relationship to the UMTRCA requirements for agreement states are of great concern to this Department. Dr. Arnott, in his letter, addressed a definitive approach attempting to resolve this problem. I must, however, caution as he did in his letter that our ability to increase staffing to the levels which NRC would consider adequate are subject to Legislative action. We can, however, indicate to you that we intend to make a maximum effort to achieve this level of staffing for this program. We believe that concerns within the State of Colorado for an adequate program and an understanding of our present staffing situation will support our request. Also, we have operated at less than full authorized strength because of budgetary uncertainties at the Federal level. These uncertainties have been resolved partially beginning with the present fiscal year, October 1, 1980, and we are at the present time attempting to fill at least two additional staff positions in this program. I anticipate that this additional staffing during the interim period will considerably aid our program efforts.

I appreciate your efforts in evaluating our program and am gratified that the basic result of both your special overview and the annual review indicates that the program is capable of providing adequate protection of public health and safety. Your constructive comments and concerns will enhance our program operation. In this context, your audits and reports are most welcome as they aid and guide us in the preparation of additional actions which will improve our program.

If you require additional amplification on any of my responses, please contact Dr. Robert Arnott or Mr. Al Hazle.

Thank you for your interest in our program.

Sincerely,

A handwritten signature in cursive script, appearing to read "Frank Traylor".

Frank A. Traylor, M.D., Executive Director  
Colorado Department of Health

FAT:ja

cc: Robert A. Arnott, Ph.D.  
Albert J. Hazle