

L. A. Davis 1

1980

The Honorable Robert W. Davis
United States House of
Representatives
Washington, DC 20515

Dear Congressman Davis:

We have received a copy of the U.S. Department of Energy's (DOE) response to your inquiry of August 5, 1980, on the prospect of uranium mining in the upper peninsula of your state, and would like to supplement your file on this matter with information on the role of the U.S. Nuclear Regulatory Commission (NRC) with respect to such mining, the regulation of associated milling activities, and the relationship of NRC regulatory authority to that of the state's.

With respect to uranium mining, NRC does not have regulatory authority or licensing responsibility over uranium mines or mining operations, with the exception of in-situ mining (the chemical extraction of uranium from in-place uranium bearing ores). The U.S. Department of Labor (DOL) is the federal agency charged with the responsibility for administering mining laws and federal labor laws guaranteeing workers' rights to safe and healthful working conditions.

The NRC does have regulatory jurisdiction over the milling of uranium ores and the management of associated wastes, including uranium mill tailings, however. NRC authority and responsibility with respect to these matters are provided for in the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; the Uranium Mill Tailings Radiation Control Act of 1978; and the National Environmental Policy Act of 1969. These acts authorize and oblige the NRC, through the licensing and regulatory process, to regulate uranium milling and uranium mill tailings disposal so as to assure that such activities do not present an unreasonable risk to public health, safety, or the environment. To date, we have not had any indication of intent, by any company, to request an NRC license in conjunction with a uranium milling operation in the State of Michigan.

The Commission is engaged in an active regulatory development and licensing program to carry out its mission to protect public health and safety, and to give careful consideration to the environmental impacts of its actions. By way of example, we have issued regulations concerning Standards for Protection Against Radiation (10CFR20), and Licensing and Regulatory Policy and Procedures for Environmental Protection (10CFR51).

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With specific respect to uranium milling operations and the proper management of uranium mill tailings, the NRC has recently completed a major rulemaking action. On October 3, 1980, final regulations on Uranium Mill Licensing Requirements, (U.S. Federal Register 45 FR 65521), were issued reflecting conclusions of the final Generic Environmental Impact Statement (GEIS) on Uranium Milling (NUREG-0706, Vols. I, II, and III), and provisions of the Uranium Mill Tailings Radiation Control Act. The GEIS is a broad environmental impact assessment of the uranium milling industry as a whole, with primary focus on the issue of uranium mill tailings disposal and isolation. The new regulations promulgated on the basis of the GEIS include requirements that assure, among other things, that:

- a. Emissions of radioactive materials and other contaminants will be as low as reasonably achievable during milling operations;
- b. Prior to license termination, all site areas and structures, with the exception of areas devoted to tailings disposal, are decontaminated and decommissioned so as to allow unrestricted future use;
- c. Prior to license termination, all areas devoted to tailings disposal are reclaimed so as to ensure long-term physical isolation of the buried wastes, and reduction of residual releases of radioactive radon gas to levels within the normal range of those arising from natural background radioactivity in natural soils;
- d. As a condition of their license, mill operators are required to provide effective financial assurance that sufficient funds are available to satisfy detailed tailings disposal and mill decommissioning requirements; and
- e. Unless determined to be unnecessary to protect the public health safety, and the environment, as may be the case in rare circumstances (such as may occur with deep burial where no ongoing surveillance will be required), disposed tailings and the lands used for such disposal are required to be transferred to the state or federal government, for long-term custody, upon license termination.

In accordance with Section 274 of the Atomic Energy Act of 1954, as amended, states may enter into an agreement with the Commission providing for discontinuance of NRC regulatory authority. The Uranium Mill Tailings Radiation Control Act stipulates that states entering into such agreement (Agreement States) must, however, maintain standards which are equivalent, to the extent practicable, or more stringent than those promulgated by the

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Commission and the U.S. Environmental Protection Agency (EPA), and which are adopted and enforced by the Commission. Agreement States will also be required to have licensing and rulemaking procedures which include features specified by the Uranium Mill Tailings Radiation Control Act. Among these features are public notice, opportunity for comment, and provisions for judicial review. One-half of all uranium milling operations are licensed by Agreement States. The State of Michigan, however, is not an Agreement State, and therefore, any uranium milling operations within the state would be subject to the jurisdiction of the NRC.

We sincerely hope that the information in our letter responds to your concerns. If my office can be of further assistance, please contact me.

Sincerely,

(Signed) William J. Dircks

William J. Dircks
Executive Director
for Operations

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