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

FEB 19 1981



Robert Bernstein, M.D., Commissioner
Texas Department of Health
1100 West 49th Street
Austin, Texas 78756

Dear Dr. Bernstein:

This is to confirm the discussions Mr. Montgomery and Dr. Pettengill held on December 18, 1980, with Messrs. Herzik, Cockran, Lacker and Bailey, following our review of the Texas radiation control program. This review was the last of a three part review and covered the Department's uranium mill regulatory program. No field accompaniments of State inspectors were conducted during this visit. This review included reviews of selected license and compliance files and discussions with the staff of the Division of Occupational Health & Radiation Control.

Based upon this review, we offer the following comments and recommendations to provide a constructive basis for improving the Department's radiation control program for uranium mills.

In my previous letter to you dated November 17, 1980, I made several comments regarding staffing. The uranium mill regulatory program for your Department has a critical staff shortage. Staffing deficiencies coupled with an ever increasing licensing and compliance workload for uranium mills has affected licensing quality.

State reviews of uranium mill license applications and environmental reports appeared, at times, to be cursory. Evaluations, meetings and telephone conversations conducted by the staff for the purpose of licensing application review were rarely documented and there was a significant absence of correspondence between the staff and the applicant to indicate proper follow-up was being conducted on the many complex issues presented. It appears that many of these omissions may be attributable to heavy workloads imposed upon a staff whose size is not commensurate with the workload. Consequently, the staff does not have the time to maintain the proper level of correspondence and technical quality in their licensing reviews.

During the review it was also noted that the Texas Department of Water Resources assumes a major role in the review of water quality impacts associated with uranium mills. In several instances it was noted that the reviews conducted by water resources were directly linked to specific license conditions used by the Department staff. Because of this interaction we believe it would be prudent to develop a closer working relationship and have the arrangements documented, such as by a memorandum of understanding between your Department and Water Resources.

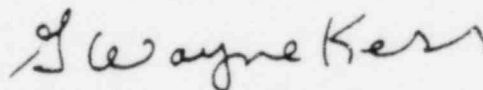
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We are also concerned over the lack of action taken in the wake of reports of three tank failures, high bioassay results and an ore truck accident at a licensed mill in the period from July 9, 1979 (the last inspection to date). No special inspections or investigations have been made and we note a reinspection is overdue. We have commented before to the State on the need to follow-up reports of incidents, particularly by timely on-site inspections and investigations, for incidents which may be of concern. I would like to receive a statement of the Department's policy for conducting on-site investigations in response to incidents which result in, or have the potential to cause, a threat to public health and safety.

Our review of the Texas radiation control program for 1980 also included a routine review of the materials program conducted October 20-24, 1980 and a special meeting devoted to the State's regulatory oversight of the Todd Research & Development Division on September 16-19, 1980. Comments and recommendations developed as a result of these partial reviews were furnished to you and your staff October 6 and November 17, 1980. The results of these meetings cause us to conclude that while the Texas radiation control program overall is, in the staff's opinion, adequate to protect the public health and safety and compatible with the NRC's program, additional staffing is absolutely essential to enable improvements that are needed. In our view, unless additional professional staff is obtained soon, the Texas program for agreement materials, including uranium mills, will be in jeopardy.

A copy of the letter to Mr. Lacker regarding the technical aspects of the program is enclosed for your information. I am enclosing additional copies of these letters for placement in the State Public Document Room or otherwise being made available for public review. I would appreciate your response by March 2, 1981 to the above comments and to my letters of October 6 and November 17, 1980 to you.

Sincerely,



G. Wayne Kerr, Director
Office of State Programs

Enclosures:
As stated

cc: Mr. G. Herzik, w/encl.
Mr. D. Lacker, w/encl.
NRC Public Document Room, w/encl.
State Public Document Room w/encl.