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Ms. Ruth C. Clusen
Assistant Secretary for Environment
U.S. Department of Energy
Washington, D.C. 20585

Dear Ms. Clusen:

This is in response to your letter of November 10, 1980, requesting that the U.S. Nuclear Regulatory Commission (NRC) initiate action by property owners for the installation or upgrading of fences at eight of the inactive uranium mill tailings sites designated for remedial action under Title I of the Uranium Mill Tailings Radiation Control Act (UMTRCA) of 1978.

We do not believe that it is the intent of the Congress in enacting the UMTRCA that NRC should require current owners to provide interim control measures which may be needed at the inactive sites. Rather, we consider it the clear intent of Congress for the DOE to be taking such action. The purpose of Title I was for the federal government to take remedial action at inactive sites where the obligation or responsibility of current owners did not exist or was uncertain. DOE was clearly identified in the Act as the responsible agency. For Title I sites, the NRC role is one of concurrence with DOE remedial actions, not one of initiating remedial action.

The NRC staff has no specific information about conditions at the inactive sites. With information that DOE was to develop under Section 102(b) of Title I which states that within one year of passage of the Act DOE "shall assess the potential health hazard to the public from the residual radioactivity at designated processing sites," DOE should have a basis upon which to decide where interim access control or other remedial measures such as interim stabilization are needed and to take action. The NRC staff previously has discussed with DOE the need for DOE to evaluate and take, if necessary, interim actions. (Please see Item 3 of the enclosed minutes, dated March 7, 1980, of an NRC/DOE meeting on the inactive sites program.) The costs associated with taking any interim remedial action should be small in comparison to those associated with the final tailings disposal and site cleanup operations.

In order that NRC may appropriately perform its role of concurrence in DOE remedial actions, I would appreciate hearing from you concerning the action DOE will take to provide needed interim remedial and control measures, based on specific conditions at inactive sites, to protect public health and safety.

cc: W. Cunningham, DOE
8103130060

Sincerely,

(Signed) John G. Davis

ELD
RFonner
12/1/80

Rev. 2
12/10/80

*See previous yellow for concurrences.

John G. Davis, Director

OFFICE	WMUR*	WM*	Office of Nuclear Material Safety and Safeguards	NMSS
SURNAME	HJMiller	RScarano	JMartin	JGDavis
DATE	Enclosure: minutes of March 7, 1980, Meeting	12/4/80	12/4/80	12/ /80



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

MAR 7 1980

MEMORANDUM FOR: Files

FROM: George Wu
Uranium Recovery Licensing Branch

SUBJECT: MEETING ON UMTRCA - TITLE I INACTIVE SITE REMEDIAL
ACTIONS

Time and Place: 1:00 p.m., January 7, 1980

Attendees:

William Mott, DOE	Mark Gottlieb, EPA
Richard Campbell, DOE	Ross Scarano, WMUR
Donald Groelsema, DOE	H. Miller, WMUR
Steven Miller, DOE	E. Grammer, ELD
Richard Marquez, DOE	G. Wu, WMUR
Stan Lichtman, EPA	

Purpose:

The purpose of the meeting, requested by DOE, was to discuss the actions which DOE will be performing in carrying out the requirements of Title I of the Uranium Mill Tailings Radiation Control Act of 1978 (UMTRCA), and the extent of NRC involvement with these actions. Discussions focused on the process by which NRC will participate in (through concurrence or licensing) DOE remedial actions, and on the DOE schedules and plans for implementing remedial actions.

More details are provided in the meeting notice to various participants from H. Miller, January 4, 1980 (Attachment A). The planned second part of the meeting, involving discussion of research needs, was postponed due to the shortage of time.

Summary:

The following summarizes important points discussed and agreements made during the meeting.

1. DOE described the division of responsibilities within the Department for implementing the UMTRCA. The Office of Environment is responsible for program characterization and designation, and the Office of Nuclear Energy for program performance. Details are given in Attachment B, Division of Responsibilities, provided by DOE in the meeting.

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2. DOE described its plans for issuing environmental documents. Environmental impact statements (EIS's) will be prepared for sites where large populations reside nearby, and where there will be removal of tailings. Currently it is anticipated this will occur at nine of the sites. Environmental assessments (EA's) will be prepared for the other 16 sites. However, DOE took the position that it cannot publish final EIS's (or EA's) before the EPA standards are set. This position results from an internal DOE interpretation of legal requirements.

NRC stated that DOE should not hold off doing any substantive work not barred by the UMTRCA while waiting for EPA to promulgate its standards. For instance, DOE can start the impact assessment process; this will not result in irrevocable commitments defeating the purpose of NEPA. The alternative actions can be considered in a way that envelopes the forthcoming EPA standards. Many of the related decisions are ones which will not be impacted directly by the standards.

The DOE schedule for remedial action is based upon the EPA schedule for issuing draft standards in March and final standards in October of 1980. DOE stated that if EPA keeps to this schedule, the standards will not be on the critical path for taking remedial actions. DOE is in the process of obtaining contractors in support of the program and will proceed with detailed planning and engineering once they are on-board.

3. NRC stated that DOE should examine and review the available information to determine where interim stabilization may be needed. While ultimate tailings disposal and stabilization cannot begin at the inactive sites, conditions at some of the tailings piles where current windblown particulate emissions are relatively high, such as at the Durango site, may be easily controlled by simple means, such as water or chemical sprays on the piles. NRC stated that one of its current tailings disposal requirements for active mill sites calls for the elimination of windborne particulates; the concern which drives this requirement is equally applicable to inactive sites. NRC stated that DOE should make a conscious effort to determine what can be done, and how, to provide interim stabilization at the piles where significant dusting is occurring.

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4. DOE described its plans and schedules for implementing the remedial action program. Details are given in the reprint of the viewgraph package which DOE presented at the meeting (Attachment C). In general, NRC will be involved by providing reviews and comments, concurrences, and licensing actions at various points in the process.

- a. DOE will prepare a remedial action concept paper which will describe in preliminary nature the various site data, disposal alternatives, and the preferred option for remedial action at each site to be agreed upon by DOE and the involved State. The paper will generally be less than ten pages long, will contain site information at the reconnaissance level and describe disposal alternatives in strawman fashion, and will not be making any commitments. (R. Campbell of DOE agreed to send a letter to NRC, following this meeting, to further define the scope of the concept paper.)

DOE will also prepare a draft EIS (or EA where applicable) on the remedial actions at each site. NRC will review and comment on these documents. In addition, NRC stated that it is interested in participating as a cooperating agency in the preparation of the EIS's to fulfill the NRC responsibilities under NEPA, in order to avoid unnecessary delays and duplications which may result if NRC proceeded separately. NRC took the position that it should be intimately involved early in the scoping phase of developing remedial action plans and EIS's; NRC intends also to involve its consultants early in the process of scoping the environmental assessment. DOE stated it welcomes NRC participation and agreed to confirm such involvement with its NEPA affairs office. Steve Miller (DOE) will be in touch with NRC regarding the confirmation.

- b. Following the NRC review of the concept paper and draft EIS, DOE will prepare the final EIS and draft remedial action plans. NRC will have an opportunity to review and comment on the draft plans and also on the subsequent final remedial action plans. NRC concurrence with the final plans is needed before they can be implemented by DOE.
- c. NRC described the process which it intends to carry out in licensing DOE in the maintenance of the disposal sites. NRC stated that in this respect its licensing actions will be essentially similar to the procedures with which it licenses active mills. NRC described in general these procedures, and agreed to provide, following the meeting, a guidance package to DOE for submitting to NRC the necessary information.

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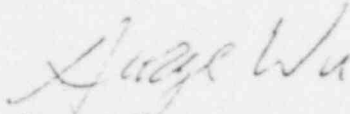
Under the provisions of the UMTRCA, the NRC has regulatory authority to make a determination, upon completion of the remedial actions, that DOE has complied with applicable requirements and to regulate DOE's management of tailings disposal sites in its custody for the protection of the public health and the environment.

In exercising this licensing authority over DOE in the maintenance of the disposal sites, NRC will impose the standards to be issued by EPA. It is expected that this will involve essentially the same criteria as are used in licensing active mills. The NRC staff will review any proposed further use of a tailings disposal site to determine whether release of the site for such use can be allowed without undue risk to the public health and safety or the environment. For example, it may be possible to permit some grazing at certain sites. The NRC staff considers, however, that as a supplementary measure, there should be some continued monitoring and control of land uses at such sites to confirm that there is no disruption of the sites due to these uses. It is expected that maintenance and monitoring conditions would be specified for all sites. The NRC staff would perform a similar review for proposals under section 104(h) of the UMTRCA regarding subsurface mineral extraction.

5. DOE described its progress in establishing cooperative agreements with the affected states. The agreements will be in two parts. Part one includes all of the basic terms and conditions for remedial actions at any given site, and would permit acquisition of property where required. Part two consists of the detailed Remedial Action Plan. Phase one agreements are now being negotiated with several states.
6. The licensing of tailings sites for reprocessing was discussed briefly. DOE will determine the feasibility of reprocessing and the compatibility of such reprocessing with remedial actions (DOE will dispose of the ultimate tailings from reprocessing), and solicit interested parties before seeking concurrence from NRC for reprocessing. In addition, any reprocessing performed privately (that is, not under UMTRCA Section 108(b)/DOE auspices) will be subject to source material licensing by NRC or an agreement state. The exercising by NRC of its licensing authority over remilling performed under DOE auspices as part of the remedial action program will be primarily through NRC concurrence and consultation in DOE remedial action plans, rather than formal applications of regular licensing procedures (see Attachment D).

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7. The following summarizes the agreements reached at the meeting for further action:
- a. DOE will transmit a letter to NRC explaining the contents and scope of the remedial action concept paper identified in 4a above to allow defining more clearly how DOE envisions NRC will be involved.
 - b. DOE will confirm with its NEPA affairs office the NRC involvement as a cooperating agency with the preparation of EIS's. Steve Miller (DOE) will be in touch with NRC regarding the confirmation.
 - c. NRC stated it recommended that DOE should immediately investigate the possible actions that can be taken to provide interim stabilization of the piles at a number of sites. More specifically, DOE should pursue the possibility of providing interim stabilization at these sites under research and development programs.
 - d. NRC will forward to DOE a guidance package to assist DOE in providing the necessary information in support of its license application under terms of the UMTRCA.



George Wu
Uranium Recovery Licensing Branch
Division of Waste Management

Attachments:
As stated