



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

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April 8, 1981

MEMORANDUM FOR: John B. Martin, Director, Office of Nuclear Material
Safety & Safeguards, Division of Waste Management

FROM: Edward S. Christenbury, Chief Hearing Counsel, Office
of the Executive Legal Director

SUBJECT: Preparation For Hearings In The U.S. Ecology Proceeding

As you know, on September 9, 1980, the Atomic Safety and Licensing Board in this proceeding identified the following issues for litigation:

1. Whether the Applicant "possesses" the source, by-product or special nuclear material at the Sheffield site.
2. Whether U.S. Ecology can unilaterally terminate License No. 13-10041-01 for activities at Sheffield without affirmative action by the Commission.
3. If U.S. Ecology cannot terminate its license without affirmative action by the Commission, what conditions, if any, are appropriate to impose in order to protect the public health and safety as well as the environment before U.S. Ecology may quit the site.

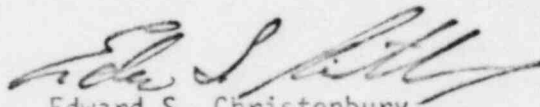
We are presently involved in extensive discovery regarding these issues. Upon completion of this discovery phase, which we estimate will take another one to two months, we will be required to respond to and prepare motions for summary disposition of this case. At the same time we will be required to prepare and then file our testimony on the above issues. While we are taking steps to settle this case and we will continue to vigorously pursue settlement, we must develop our case and be prepared for hearing.

The purpose of this memorandum is to indicate that we are not now prepared for either the summary disposition or hearing phase of this proceeding. To be prepared prompt action is required to: (1) identify the disciplines involved with the review and litigation of this case, (2) identify appropriate personnel with the necessary expertise, and (3) involve these personnel in the review, discovery and when appropriate the summary disposition and hearing phases of this proceeding.

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The Staff attorneys assigned to this case have been working with Jim Shaffner to identify the specific disciplines that are needed for preparation of this case. These discussions have led to the development of the following list. As you will note, an attempt has been made to identify a potential witness for each discipline. This was done mindful of the person's expertise as well as his experience in giving testimony. While this latter factor is not imperative, we consider it a prudent strategy since we anticipate that opposing counsel in this proceeding will launch a heavy attack on our witnesses' credentials through voir dire and their testimony through cross-examination. The list of disciplines and potential witnesses follows:

<u>Discipline</u>	<u>Witness</u>
Civil Engineer	Jim Shaffner, WMLL
Geologist	David Siefken, WMLL
Soil Mechanics Engineer	Ross Landsman, IE, Region III
Hydrologist	Richland Codell, NRR
Health Physicist	Frank Congel, NRR
Nuclear Engineer	Kitty Dragonette, WMLL
Agronomist	Donald Pretzsch, Soil Conservation Service, Department of Agriculture
Nuclear Wastes Forms and Behavior	Timothy Johnson, WMLL


Edward S. Christenbury
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Office of the Executive Legal
Director