

HARRISON SCHMITT
NEW MEXICO

COMMITTEES:

COMMERCE, SCIENCE, AND
TRANSPORTATION

APPROPRIATIONS

BANKING, HOUSING, AND
URBAN AFFAIRS

INTELLIGENCE

United States Senate

WASHINGTON, D.C. 20510

May 27, 1981

The Honorable John Ahearne
Chairman
Nuclear Regulatory Commission
Washington, D.C. 20555


Dear Mr. Ahearne:

Please find attached a copy of a letter which I have received from Thomas Baca, Director of the Environmental Improvement Division of the State of New Mexico.

The letter is self-explanatory. I would appreciate your responding to the issues raised by the letter as to the intent of the Nuclear Regulatory Commission on the issue of State assuming regulatory authority over uranium milling operations.

It does appear that the time constraints place the State in an impossible position. Would you support legislation extending the time limit imposed by the Uranium Mill Tailings Radiation Control Act of 1978?

Sincerely,


Harrison H. Schmitt

HHS/LM/d
Attachment

8110150596 810928
PDR COMMS NRCC
CORRESPONDENCE PDR



STATE OF NEW MEXICO

ENVIRONMENTAL IMPROVEMENT DIVISION

P.O. Box 968, Santa Fe, New Mexico 87503

(505) 827-5271

Thomas E. Baca, M.P.H., Director

Bruce King
GOVERNOR

George S. Goldstein, Ph.D.
SECRETARY

Larry J. Gordon, M.S., M.P.H.
DEPUTY SECRETARY

April 30, 1981

The Honorable Harrison H. Schmitt
United States Senator
248 Russell Senate Ofc. Bldg.
Washington, D.C. 20510

Dear Senator Schmitt:

New Mexico's regulatory authority over uranium milling is approaching a crisis which may require Congressional action if New Mexico is to continue such regulatory authority after November, 1981.

This situation arises from Section 204(h)(3) of the Uranium Mill Tailings Radiation Control Act of 1978, as amended, the last sentence of which states:


If, at the end of such three-year period, a State has not entered into such an agreement with respect to byproduct material, as defined in Section 11 e(2) of the Atomic Energy Act of 1954, the Commission shall have authority over such byproduct material.

It is clear from Dr. Ahearn's letter of January 29, 1981, appended herewith, that the U.S. Nuclear Regulatory Commission (NPC) intends to comply with the quoted provision of the Act. Although the Act gave states three years to achieve an amended agreement, the NPC consumed two of the three years before establishing regulations defining minimum standards. Elements of the uranium industry believe that the technical basis for adoption of the NPC regulations is deficient and have filed suit in the 10th Circuit U.S. Court of Appeals. We have asked the NPC for relief as indicated by the attached letter of April 15, 1981.

It appears questionable whether the additional regulations appropriate for New Mexico can be adopted and an amended agreement accomplished by November, 1981, particularly in light of the pending litigation challenging NPC's regulations.

Therefore, I ask that you give urgent consideration to legislation changing the quoted section to read five rather than three years, or such other relief as you may find appropriate so as to preserve New Mexico's regulatory authority over uranium milling rather than lose it to the NPC.

Sincerely,


Thomas F. Baca
Director

TEB/lv

EQUAL OPPORTUNITY EMPLOYER

MAY 6 1 51 PM '81

U
S
S
E
C
R
E
T
A
R
Y