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Jan. 5, 1982

Ross Scarano, Chief  
Uranium Licensing Section  
Office of Nuclear Materials Safety and Safeguards  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555

Dear Mr. Scarano:

Please find enclosed a copy of Southwest Research and Information Center's comments on the SOHIO Western Mining Co. application for renewal of its New Mexico Radioactive Materials License and accompanying discharge plan.

We thought NRC might be interested in this particular state-licensing activity, at least on an informational basis, as it presents some unique problems for uranium milling regulators in New Mexico. The issue involves a licensed mill currently in a state of temporary shutdown. We have asked the State to clarify how it will deal with an application for a fully operating facility when the Applicants' operations are closed.

We would appreciate any helpful comments you may have or your impression of the legal and regulatory issues involved in the case, perhaps to the extent of how NRC treats requests for license renewals from facilities temporarily shut down in non-agreement states.

Please feel free to call or write if you have any questions.

Sincerely,

*Chris Shuey*

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COMMENTS OF SOUTHWEST RESEARCH AND INFORMATION CENTER ON  
SOHIO WESTERN MINING CO. AND RESERVE OIL AND MINERALS CORP.  
LICENSE RENEWAL APPLICATION (NM-SOH-ML) AND DISCHARGE PLAN (DP-  
150). SUBMITTED DEC. 18, 1981.

I. INTRODUCTION

SRIC is in possession of or has knowledge of the existence of the following documents pertinent to this matter:

1. "SOHIO L-Bar Uranium Project License Renewal Application, NM-SOH-ML," SOHIO Western Mining Co. and Reserve Oil and Minerals Corp., September 1980 (hereinafter referred to as "Application").
2. "L-Bar Uranium Project Groundwater Discharge Program," SOHIO Western Mining Co. and Reserve Oil and Minerals Corp., October 1980 (hereinafter referred to as DP-150, "Discharge Plan," or "Plan").
3. "Groundwater Hydrology Near the L-Bar Tailings Reservoir," Hydro-Engineering, Casper, WY, July 1981 (hereinafter referred to as "Hydro-Engineering" or "Hydro report").
4. Various correspondence between SOHIO Western Mining Co. and NMEID, Radiation Protection Bureau and Groundwater Section.

INTRODUCTION

The comments which follow are based on SRIC's preliminary review of the SOHIO Application (SOHIO, September 1980), the state-required Discharge Plan (SOHIO, October 1980) and its appendices, and the Hydro report (Hydro-Engineering, July 1981), which we understand constitutes SOHIO's answers to questions raised by NMEID in its January 19, 1981 letter to Mr. Sam Shaw III, vice president for uranium operations, SOHIO Western Mining Co. (Baca, January 1981).

A copy of the Application was available at NMEID offices in Albuquerque and SRIC obtained a copy of the Application at its own expense. Contrary to correspondence between NMEID and SRIC (Baca, November 1981), a copy of the Discharge Plan and attendant appendices was not available at NMEID Albuquerque offices. SRIC's review of the Discharge Plan, therefore, was limited to one afternoon of visual inspection at NMEID Santa Fe offices. We request at this time that NMEID secure from SOHIO an extra copy of the Discharge Plan and appendices for delivery to NMEID Albuquerque offices. A copy of the Hydro-Engineering report was not available at NMEID Albuquerque offices prior to Dec. 16, 1981 and was available on that date only after SRIC requested that it be made available. At the present time, we have not completed our review of the full Hydro report.

Additional comments and questions will be forwarded to your office at a later date after a more extensive review of the important documents, an improvement in their availability,

further interviews with NMEID staff on the relevant issues, and clarification of the relationship of the Discharge Plan to the Application as discussed below in the General Comments section.

Some of the comments below contain questions or requests for documents directed toward NMEID in general, its specific sections and the Applicants (SOHIO and Reserve Oil). We request written response from the appropriate agency to these questions.

## II. GENERAL COMMENTS

A discharge plan is required by the New Mexico groundwater regulations (NMHED, July 1981) at Secs. 3.104 and 3.106.A. ~~It is our understanding that an application for a Radioactive Materials License (RML) or renewal of an existing license cannot be approved without an approved discharge plan.~~

Sec. 4.3 of the Application references the title of the Discharge Plan. Based on the comments below, we believe DP-150 in its current condition is not approvable by NMEID or any other state agency. As a consequence, the Application also is not approvable and cannot be approved until the Discharge Plan is approved.

Our view that the Discharge Plan is not approvable is shared by NMEID staff (Longmire, December 1981). However, we are not aware of any correspondence between the Applicants and NMEID in which an official position is taken by the State. We request copies of all correspondence and related documents not already noted above dealing with this question and ask that NMEID clarify in writing its official position on the current state of the Discharge Plan.

We also are not sure if NMEID has completed its review of the Discharge Plan or what constitutes "official" review. While we have been informed that it is NMEID's position that the Application is complete and in final form (Baca, November 1981), we wonder how this can be since, as noted above, the Discharge Plan is an integral and requisite part of the Application, but at the present time appears to be unapprovable. Again, we request that NMEID clarify in writing its position in this regard.

As discussed below in the Reasons for Requesting Public Hearings section, it is our position that consecutive public hearings should be held in this matter. By concurrent public hearings, we mean two separate public hearings similar to the Gulf/Mount Taylor licensing proceedings, the first to deal with the Discharge Plan and the second to deal with the Application. While we feel that it is not always easy, wise or practical to separate groundwater issues from radiological issues, there nonetheless are distinguishing characteristics to both, especially in a legal context.

In the event NMEID decides not to hold hearings in this matter because the Discharge Plan is not approvable, and therefore the Application unapprovable, we request NMEID clarify in writing its position on the state of the current extension of SOHIO's RML. Will the extension remain in effect? Will it be terminated? If the extension of the license is terminated, what is NMEID's position as to the need for reclamation of the SOHIO

mill site and tailings operation? We note that SOHIO was issued NM-SOH-ML in 1975 and that the current extension is now more than one year old. SRIC believes that the protection of the environment and the public's health and safety may be jeopardized by a continued extension of the existing SOHIO license in the event NMEID determines the Discharge Plan (and therefore the Application) is not approvable.

### III. COMMENTS ON DISCHARGE PLAN, DP-150

1. Seepage is occurring from the SOHIO tailings impoundment. The upstream method of tailings dam construction and the known fracturing underlying the site are primary causes. Rapid and drastic increases have occurred in the following "indicator" contaminants since tailings input into the impoundment began in mid-1976: sulfates, chlorides, specific conductance and total dissolved solids. Some of the increases are on the order of three orders of magnitude. Water quality data in the Hydro report supports this conclusion. Also, see: Baca, January 1981; Longmire, October 1981; Secs. 6, 7 and 8 of the Discharge Plan. Rapid increases in the water levels in monitoring wells in the Tres Hermanos sandstone also indicate "that the tailings disposal area is a groundwater source" (Discharge Plan, Sec. 8.2, Figs. 8.2.1 and 8.2.2). Has SOHIO altered the view of its Discharge Plan that the tailings area is a "groundwater source"?

2. Evidence indicates that seepage from the SOHIO tailings impoundment has left the SOHIO property boundary and presently is contaminating lands of the Cebolleta Land Grant (Longmire, October 1981). According to drawings accompanying the Hydro report, sulfate and chloride levels exceeding the state groundwater regulations for the two contaminants are residing in hypothetical plumes which extend past the property line. For sulfates, plumes of 5,000 milligrams per liter (mg/l), or parts per million (ppm), and 2,000 mg/l are shown extending beyond the SOHIO property line along its entire western course. For chlorides, plumes of 1,000 mg/l and 500 mg/l are shown extending beyond the property line in one spot northwest of the northern toe of the starter dam. A 500-mg/l plume directly west of monitoring wells 3A and 3B in the area of monitoring well 14 appears to be beyond the property line. These figures are based on drawings dated "June 1981." Has SOHIO or NMEID observed changes in these plumes since that date, and if so, what were they?

3. The state groundwater regulations at Sec. 3-103.B. limit sulfate concentrations to 600 mg/l and chloride concentrations to 250 mg/l in "domestic" water supplies. Monitoring wells drilled within the SOHIO property virtually on the property line give rise to the hypothetical extension of the contaminant plumes. Approximately half of these wells are drilled in the upper zone of the Tres Hermanos sandstone, a layer supplying water for domestic uses at the community of Moquino, about one mile west of



the tailings impoundment, Given the contaminant levels in the monitoring wells, the extent of the known and hypothetical plumes of the indicator contaminants sulfates and chlorides, the state limitations on those contaminants and the known domestic uses of water in the Tres Hermanos sandstone for a community nearby, seepage from the SOHIO tailings impoundment therefore appears to be in violation of state law. What is the State's (NMEID) position in regard to the apparent violation? Does SOHIO concur in this assessment?

4. Sulfates and chlorides are known indicator contaminants. Sulfates especially are typically highly mobile and tend to indicate that other contaminants of less rapid transport through geologic media may follow similar plume contaminant lines over time. Currently water quality data indicates that certain trace metals, other process chemicals and acids have moved from the tailings impoundment more slowly than sulfates and chlorides. Acidity, measured in pH, for instance, has remained low (between 7.6 and 8.5) in monitoring wells along the western property line. This may be due to influences of the clays underlying the tailings site which tend to act as a buffer to the trace metals and acids. However, as the clays and sands underlying the impoundment become increasingly saturated due to continued seepage, this buffering capacity may be reduced and other more toxic contaminants may begin to migrate off site as the sulfates and chlorides already appear to have done. Has SOHIO considered in detail the relationship between the clays and sands at the site with respect to geochemical mobility and hydraulic conductivity of the trace metals and other contaminants noted above?

5. The Discharge Plan speaks of the 500-foot depth of the Mancos Shale at the tailings site in several places. However, closer inspection of the Plan and NMEID staff drawings show that the Mancos certainly is not 500 feet deep at the tailings impoundment. The Tres Hermanos sandstone is comprised of three zones separated by thin layers of the Mancos and is known to occur at the base of the Mancos. The upper zone of the Tres Hermanos, as noted above, underlies the starter and tailings dam from depths of 0 at the southern end of the dam to about 100 feet north of the north toe of the dam, according to drawings by NMEID staff (Longmire, December 1981). The underlying beds tilt downward to the west and northwest indicating the path of hydrologic conductivity for seepage is being maintained in the direction of the monitoring wells. The geohydrologic structure, therefore, supports the view that seepage is migrating toward the property line. Does NMEID agree in this assessment? Are there other paths or patterns of movement other than those in a west-northwesterly direction?

6. Volcanic lenses infiltrate the region around the tailings impoundment. However, the Discharge Plan appears to have ignored the potential for fracturing due to volcanic processes. Lineaments formed by such fracturing may provide a means of

hydrologic conductivity for the seepage to the monitoring wells and past. Such fracturing also may not follow the known geologic structures, that is, the general west-northwesterly downdipping trend of the underlying beds. Fracturing may be causing contaminants to move in other directions, perhaps to the south or southwest. The farther southwest the contaminants move the greater the chance of transport of seepage through the Tres Hermanos to the domestic wells of Moquino where the Tres Hermanos outcrops. Has NMEID or SOHIO detailed the extent of fracturing due to volcanic activity? Has any movement of contaminants been detected in a south-southwesterly direction from the tailings dams?

7. Our understanding of the extent of SOHIO's program to attempt to control the seepage is as follows: (1) continue pumping water from the area around monitoring wells 1A, 1B, 8, 11 and 12 to create a "cone of depression" in which solutions flowing from the impoundment into the areas of wells 3A, 3B, 13 and 14 will be diverted to the area of lowest groundwater levels; and (2) install a series of nine additional monitoring wells "in the vicinity of the tailing area" (Discharge Plan, Sec. 9.2.1) and institute an "experimental program" (Discharge Plan, Sec. 9.2.2) of three recurrent periods of 45-day pumping tests of wells 1A, 8 and 10 and 15-day recharge periods for the same wells. What were the results of these tests? As noted above in Comment No. 6, such a recapture plan may not work if the seepage transport is in a direction other than west-northwesterly. Additionally, none of the nine proposed additional wells are outside the property which will continue to make determination of actual extent of the contaminant plume difficult. SOHIO should consider receiving permission from Land Grant Authorities to drill monitoring wells outside the property line and consider other methods of seepage control such as a grout curtain in the areas of known contaminant flow. Results of water capture through the new horizontal pipe drain system outlined in Fig. 3.5-6 of the Application also may give indications of the success of seepage control. Has installation of the system been completed? Are there results, and if there are, what are they?

#### IV. COMMENTS ON LICENSE RENEWAL APPLICATION

1. SOHIO recently revised the Application to include a Forward, the first paragraph of which says:

On May 15, 1981, Schio Western Mining Company and Reserve Oil and Minerals Corporation ceased operations at the L-Bar Mill. This was followed by the June 12, 1981, closure of the J.J. #1 Mine. The entire complex described in the following report has been placed in a stand-by mode. Operations will resume when uranium market conditions become more favorable.

We interpret "standby mode" to mean no uranium mining or ore-

processing operations currently are taking place at the L-Bar Uranium Project near Seboyeta, New Mexico. Since the operation, then, is shut down, why is NMEID considering an application for renewal of a Radioactive Materials License? SOHIO leaves no impression as to when operations will resume, other than the indefinite date of "when uranium market conditions become more favorable." Much has been written and said about the continuing problems in the uranium market; industry analysts seem to think these problems will persist for many years and that the market never will return to its pre-1978 boom (Mine Talk, 1981). Should the renewal requested in this matter be granted and the market conditions continue as they have for two years, the State of New Mexico and its people will be left with an untouchable environmental problem for five more years. NMEID should require SOHIO to quantify the length of its current shutdown and explain in detail how it will deal with current environmental problems associated with the mill's past operation before renewal of the mill license. Additionally, NMEID should consider the long-term environmental impacts (as outlined in our comments above on the Discharge Plan) of the project if the license renewal request is granted versus the short-term environmental impacts of immediate reclamation.

2. The Application is based on full operations at the L-Bar uranium facility. However, given the current market conditions as discussed above and the recent announcement of the cancellation of SOHIO's 1.6-million uranium contract with General Atomics (Nuclear Fuel, 1981), there is some doubt whether full operations will resume. NMEID should be considering granting a license for the level of operation reasonably anticipated for the next five years. Full operation in our view is not a reasonable expectation at this time. Is it reasonable in SOHIO's view? SRIC would propose NMEID consider issuing a five-year license covering temporary abandonment or continued site maintenance, or a combination of both, and address the possibility of an operational license when reasonable to do so.

*Important!*

3. The Application presents a wealth of information on the anticipated operation of the L-Bar mill and tailings facility, but lacks information in the area of past performance. For instance, how does the water quality data in Tables 2.3-4 through 2.3-6 relate to the seepage problem? What were the radionuclides and their quantities in gaseous and solid emissions from the plant stacks during past operations (Table 3.3-1)? How was starter and tailings dam stability, integrity and internal seepage monitored and reported during past operations? What were the results of such monitoring? How do the results relate to the elaborate system of monitoring outlined in Appendix H? What are the procedures for informing the applicable State agencies of problems in dam stability when they develop? How does the upstream method of dam construction relate to the seepage problem? Would the downstream method (that is, periodic raises in the starter dam) and/or lining of the tailings basin mitigate seepage potential? One should consider the answers to these



questions "background information" to help future operators choose the best and most environmentally protective methods of tailings operation and as verification of the Applicants' past operational performance.

4. No information was included in the Application to indicate SOHIO had considered backfilling as an alternative tailings management strategy. Backfilling is being used more frequently in uranium tailings management science as a way to reduce the amount of tailings deposited in unlined evaporation ponds. NMEID has reported that the United Nuclear backfilling operation seems to be working well. Has SOHIO considered such an alternative? What would be the cost savings for reclamation if backfilling was employed during operations?

5. In the ecological review (Sec. 4.4) at pp. 4-16 and 4-21, the author offhandedly mentions the extent of impact on native biota from "excavation of an open pit mine. . ." At no other place in the Application is the potential development of an open pit mine near ecological monitoring site 15 discussed. Diagrams included in a report by Jacobsen (Jacobsen, 1980), however, indicate that a major ore body exists in the general vicinity of monitoring site 15. What are SOHIO's plans for developing a surface mine at that site? What are the radiological and nonradiological impacts of such development?

6. The Application's treatment of a major tailings dam failure due to structure failure rather than "natural occurrences" or "acts of nature" is woefully inadequate (pp. 5-15 to 5-16). The State was under the impression that a "state-of-the-art" tailings impoundment at the Church Rock mining complex had been built and was impervious to breaching. However, history has shown that the facility was not state-of-the-art from either a siting, design or operational point of view. Some of the same monitoring and structural programs proposed by SOHIO were part of the license conditions under which United Nuclear was to have operated. However, company failure to perform under those conditions contributed to the dam's failure. What guarantees are there that SOHIO will perform up to the program outlined in Appendix H? How has SOHIO performed in this area in past operations of the L-Bar uranium facility? What are the reporting procedures required by NMEID or the State Engineer for dam structural integrity? The Application should analyze a major dam failure due to structural causes by addressing, but not being limited to, the following factors: extent of internal and external starter dam cracking (has any been observed to date and if so what action was taken?); the potential for cracking due to fracturing of the underlying beds, including the potential for or extent of differential settling; degradation of the starter dam due to infiltration of tailings solutions from the saturated tails of the tailings dam; extent of saturation of the northern toe of the starter dam (see Note 2 to Fig. 3.5-7); evidence of any other stability problem identified during and after past operation.



7. The claim at p. 6-2 that there has been no "subsurface" releases of radioactive liquids to unrestricted areas cannot be substantiated on the basis of the lack of knowledge of the seepage problem, the extent of the fracture system underlying the tailings basin and dams, and the mechanism for hydrologic conductivity between the shallow alluvium and Tres Hermanos sandstone. On the basis of the evidence of seepage to date and the transmissivity rates of the underlying beds (see blueprint accompanying Hydro report), it may be only a short time before radionuclides and trace metals join the indicator contaminants in the monitoring wells to the west of the downstream face of the starter dam. Does SOHIO still ascribe to the view that there will be no subsurface releases of radioactive liquids to unrestricted areas? What is the basis of this view?

8. The frequency of collection of certain soil and water samples should be increased (see pp. 6-4 to 6-5). Soil samples should be collected and analyzed quarterly; all water samples should be collected and analyzed at least quarterly. Consideration should be given to increasing collection and analysis of water samples to monthly, especially for samples from domestic wells, until more is known about the extent of the seepage problem. Consideration also should be given to increasing the data reporting frequency to NMEID from semi-annually to quarterly, and in the case of water quality information, to as soon as such information is available.

9. Significant accumulation of windblown tailings was observed east of the restricted-area fence along the northeast corner of the tailings impoundment by SRIC staff on Dec. 10, 1981. The Application does not extensively address the impact of windblown tailings. Such tailings are a direct source of external radiation exposure to individuals from gamma rays and a potential source of internal exposure through the inhalation pathway. All areas within the property and outside it exhibiting evidence of deposition of windblown tailings should be detailed, doses to individuals exposed to such tailings determined, remedial action to remove windblown tails from unrestricted areas outlined and performed, and mitigation measures to prevent future deposition discussed. SOHIO should continue to monitor the extent and degree of contamination of surrounding areas from windblown tailings after cleanup is completed.

10. RECLAMATION. The following comments and questions pertain to Appendix L of the Application, "Reclamation Plan":

a. We note that SOHIO has made certain assumptions in its reclamation plan that may be subject to revision based on "the actual requirements that will be in effect at the time of final site reclamation" (Appendix L, p. L-3). The State of New Mexico recently made revisions to its Radiation Protection Regulations which now apply to this case. Included in those revisions was a provision for bonding or "surety" to ensure that companies engaged in uranium processing fulfill the requirements of reclamation of facilities at the conclusion of operations.

The reclamation Plan, therefore, should be revised in accordance with the recent revisions of the Radiation Protection Regulations to include, but not be limited to, the following: methods for compliance with the Regulations; how surety will be provided; how proposed methods of stabilization meet or do not meet the stabilization requirements of the Regulations. The NMEID/Radiation Protection Bureau should address how the revision meet the stabilization requirements of the Regulations. The NMEID/Radiation Protection Bureau should address how the revision meet the stabilization requirements of the Regulations. The NMEID/Radiation Protection Bureau should address how the revisions of the Regulations apply to the Application and respond to SOHIO and all other interested persons, including SRIC. Is it NMEID's position that the new regulations apply to SOHIO?

b. The tailings area currently covers about 160 acres and the Application estimates that the final area to be reclaimed (outside of mill-site facilities, mine adits and radon vents) will be between 180 and 200 acres. Is the 2.2 million cubic yards of designed excavation material (Appendix L, p. L-3) adequate to meet the cover and stabilization needs of the entire 200-acre tailings basin including addition of abandoned mill-site facilities?

c. The Reclamation Plan gives no timetable for completion of stabilization and reclamation of all areas including the mill site, mine sites and radon vents. Is such a timetable available now and how does it fit into the company's current temporary shutdown? Is the Reclamation Plan designed for permanent shutdown, that is, reclamation after completion of operations? Is the State (NMEID) prepared to require an interim Reclamation Plan based on temporary shutdown? Does SOHIO anticipate some form of interim reclamation pending resumption of operations?

d. Fig. L-3, a cross-section of the reclaimed tailings area, shows that no effort will be made to excavate the bottom of the tailings basin after all solutions have evaporated, toward the goal of reaching an unsaturated zone, some type of impermeable bedrock or for placement of some type of clay liner. Attention to the condition of the underlying strata at the time of reclamation will have a bearing on whether reclamation will be successful or unsuccessful. Unsuccessful reclamation may put SOHIO in jeopardy of being in violation of applicable State rules. Successful stabilization of mill-site facilities and stabilization of the tailings themselves may necessitate excavation to suitable geologic media or placement of a clay liner. Has SOHIO considered this alternative? What are the projected additional costs? Has the State considered requiring such alternatives?

e. Given the current seepage problem, reclamation by covering only, as proposed in the Reclamation Plan, does not address the problem of the underground movement of contaminants

emanating from the tailings area. Downward migration of contaminants through seepage of runoff will leave the reclaimed tailings site, as solution from the active tailings operations already have, degrade water supplies in the immediate area of the reclamation and may eventually degrade domestic water supplies downgradient if no adequate protection is given. Additionally, it is conceivable, considering the lack of thorough knowledge of the fracturing under the site, that contaminants already beneath the tailings basin may migrate upward and be flushed away as runoff over the surface of the reclaimed site. Surface drainage of contaminants may degrade surface waters downgradient or recharge potable water supplies at some point remote from the tailings area. Has SOHIO considered these possibilities? What will be the rate, flow and chemistry of seepage to both ground and surface water and the impact on the qualities of those waters if no attempt is made to line or excavate to impermeable materials? Has NMEID considered these possibilities in its review? What is its view of the potential for degradation of water resources after reclamation if such mitigating measures are not taken?

f. ~~The Reclamation Plan calls for revegetation of the surface of the tailings area after application of 6 feet of overburden composed of fragmented shales and basalt cobbles. No intermediate layer of clay or other pseudo-impermeable cover material is proposed. Erosion potentials are discussed only in the context of an initial mulch covering. How will erosion be prevented by the proposed cover? How much extra protection against erosion (a clay layer may facilitate runoff) and infiltration of runoff as surface seepage is likely to result from installation of an intermediate clay layer? Has NMEID asked SOHIO to provide such an analysis? What is SOHIO's view of this alternative?~~

g. The objective of the Reclamation Plan is to return the area to its original condition, or at least to as close to its original condition as possible. However, the proposed reclamation methods leave little assurance that the area above the reclaimed tailings area will be safe for livestock grazing or human habitation. The potential for contaminants reaching the surface by upward movement through the reclaimed tailings has not been addressed. Correspondingly, no judgment as to the condition of the site after reclamation and its suitability for supporting livestock grazing can be made. The U.S. Nuclear Regulatory Commission, in its draft environmental statement on the decommissioning of the Edgemont, South Dakota uranium complex, advances the theory that no livestock grazing be permitted in the area over the reclaimed tailings site (USNRC, 1981). It should be noted that the proposed action in reclaiming the Edgemont tailings site will be to install a clay layer and other materials to afford to a minimum 10-foot cover and to excavate the bottom of the tailings disposal area to a layer of generally impermeable clays. In absence of such requirements for reclamation of the SOHIO L-Bar tailings area, consideration should be given to

old site  
mulch



reaching an agreement with the Land Grant Authorities that the area over and for some distance around the reclaimed tailings be cordoned off from future access by livestock or humans in exchange for adequate compensation of the lost use of the land. However, this should be considered an alternative of last resort and all efforts to adequately reclaim the site to a condition supportive of future use should be considered.

#### V. REASONS FOR REQUESTING PUBLIC HEARINGS

1. A public hearing on the SOHIO Discharge Plan should be held for the following reasons:

a. Seepage of mill tailings contaminants is occurring at the site and is emanating from the tailings basin.

b. Evidence indicates that such seepage has left the SOHIO property and entered lands not possessed or controlled by SOHIO or Reserve Oil.

c. Contaminants, including sulfates and chlorides, are present in the seepage in concentrations in excess of the limits of Sec. 3-103.B. of the New Mexico Water Quality Control Commission regulations.

d. The appearance of a violation of the New Mexico groundwater rules is a significant issue for treatment in a public forum in which the Applicants would have an opportunity to refute the charge and the appropriate State agencies an opportunity to defend any contemplated action or non-action against the Applicants regarding the apparent violation.

e. Seepage onto lands of the Cebolleta Land Grant could constitute a serious degradation of the domestic water supplies of persons of the Grant and should entitle such persons to a reasonable airing of their grievances in the form of a public hearing.

f. There is sufficient "public interest" in the Discharge Plan from individuals and groups in and near the effected area to warrant the holding of a public hearing.

2. A public hearing on the SOHIO L-Bar Uranium Project License Renewal Application should be held for the following reasons:

a. The Application is for licensing of a fully operating facility, yet the evidence suggests that the facility in question will not be operating at full capacity at any time in the near future. The facility presently is in a state of "standby" and the Applicants should be called upon to clarify what constitutes "standby" and how it relates to possessing a license for radioactive materials. A public hearing would afford the Applicants an opportunity to present their views and the State a chance to defend why it is considering issuing such a license to a non-operating facility and why it is not considering issuing a license covering only the operation in its present form.

b. The Application will be the first uranium-mill license renewal decision made by NMEID on an existing mill



license. As discussed in the General Comments section, there is much confusion regarding the relation of other state-required documents to a Radioactive Materials License and some confusion over the State's jurisdiction over uranium-processing facilities temporarily shutdown or in "stand-by mode." A public hearing would determine the importance of these issues and set a clear pattern for the handling of future applications for license renewals.

c. The Application will be the first test of New Mexico's recently adopted revisions to its Radiation Protection Regulations, particularly in the area of surety, to ensure proper and adequate reclamation at the close of operations. A public hearing would allow all interested persons to observe how the State will apply these new rules and what, if anything, in the Application does not comply with them.

d. The State-required groundwater discharge plan (DP-150 for this case) is referenced at Sec. 4.3 of the Application. The discharge plan is an integral and requisite part of the license renewal application process in the State of New Mexico. As discussed in Sections II and III above, SRIC does not believe the Discharge Plan filed in this case is approvable because to approve it would give State sanction to the possible pollution of groundwaters of the State. Since the Discharge Plan is not approvable, neither is the Application. A public hearing would afford all interested persons opportunities to present the evidence for their individual cases regarding the relation of the Discharge Plan to the Application and give the State a chance to defend why it is considering the Application in absence of an approvable Discharge Plan.

e. The Applicants' proposed Reclamation Plan may not adequately protect the public health and environment from the long-term impacts of releases of toxic and radioactive pollutants.

f. There is substantial "public interest" in the Application from individuals and groups in and near the effected area to warrant the holding of a public hearing.

## REFERENCES

- BACA, JANUARY 1981: Thomas E. Baca, NMEID, letter to Sam Shaw III, SOHIO Western Mining Co., January 19, 1981.
- BACA, NOVEMBER 1981: Thomas E. Baca, NMEID, letter to Chris Shuey, SRIC, November, 12, 1981.
- HYDRO-ENGINEERING, JULY 1981: Hydro-Engineering, Casper, Wyoming, "Groundwater Hydrology Near the L-Bar Tailings Reservoir," July 1981.
- JACOBSEN, 1980: L.C. Jacobsen, "Sedimentary Controls on Uranium Ore at L-Bar Deposits, Laguna District, New Mexico," in Geology and Mineral Technology of the Grants Uranium Region 1979, compiled by Christopher A. Rautman, New Mexico Bureau of Mines and Mineral Resources, Memoir 38, 1980, pp. 284-291.
- LONGMIRE, OCTOBER 1981: Patrick Longmire, NMEID, letter to Dean Sares, SOHIO Western Mining Co., October 29, 1981.
- LONGMIRE, DECEMBER 1981: Patrick Longmire, NMEID, personal communication, December, 15, 1981.
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