



United States Department of the Interior

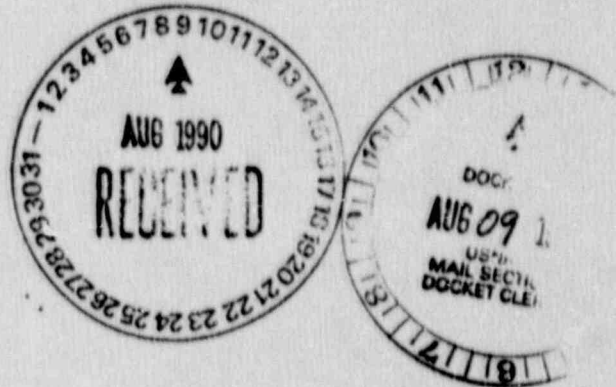
BUREAU OF LAND MANAGEMENT
SPOKANE DISTRICT OFFICE
EAST 4217 MAIN
SPOKANE, WASHINGTON 99202
(509) 353-2570

Be 8 WA
TAKE PRIDE IN AMERICA

RETURN ORIGINAL TO PDR, HQ
IN REPLY REFER TO:
14-20-0503-823
14-20-0503-824

August 6, 1990

Mr. Gary Robertson, Head
Waste Management Section
Division of Radiation Protection M/S LE-13
Washington State Department of Health
Olympia, WA 98504



Dear Mr. Robertson:

The purpose of this letter is to request your cooperation and technical assistance in resolving some important issues related to the disposal of filter cake generated from water treatment at the Midnite Uranium Mine. We are aware that the State of Washington is an Agreement State and has been delegated NRC authority by the NRC. Paul Lohaus, NRC, recently informed us that this State role includes the authority for enforcing NRC jurisdiction of commercial private companies operating within Indian reservations.

Recently Dawn Mining Company (DMC) has been evaluating both on-site and off-reservation alternatives for filter cake disposal. The State of Utah recently eliminated the option of transporting filter cake to Umetco's mill for processing.

Relative to these proposed actions it is important to cite the following Federal Regulations:

10 CFR 40.1 Purpose

(a) The regulations in this part establish procedures and criteria for the issuance of licenses to receive title to, receive, possess, use, transfer, or deliver source and byproduct materials, as defined in this part, and establish and provide for the terms and conditions upon which the Commission will issue such licenses. The regulations in this part also establish certain requirements for the physical protection of import, export, and transient shipments of natural uranium.

DESIGNATED ORIGINAL

00037

Handwritten initials/signature

90-0718

Certified By: [Signature]
9009040171 900806
PDR MISC
0171 PNU

10 CFR 40.3 License requirements

"No person subject to the regulations in this part shall receive title to, own, receive, possess, use transfer, or deliver byproduct material as defined in this part or any source material after removal from its place of deposit in nature, except as authorized in a specific or general license issued by the Commission pursuant to the regulations in this part."

10 CFR 40.4 Definitions

"Source Material" means: (1) Uranium or thorium, or any combination thereof, in any physical or chemical form or (2) ores which contain by weight one-twentieth of one percent (0.05%) or more of: (i) Uranium, (ii) thorium or (iii) any combination thereof."

The chemical analyses performed on two separate samples of filter cake processed by the Bureau of Mines and DMC indicate that filter cake contains 0.07% uranium. These samples, after filtering, contain approximately 15 percent solids and 85 percent water. Based upon these results it appears that the filter cake is source material as suggested by Paul Lohaus in a memorandum dated May 15, 1989.

Based upon recent conversations between our District Mining Engineer, Kelly Courtright, and Leo Wainhouse, Washington State Division of Radiation Protection, we are aware that the State of Washington is preparing a response to a letter written by Dawn Mining Company (DMC) dated March 17, 1989 (Attached). This letter concerns DMC's request for a mill license modification to place filter cake in the lined tailings pond at Ford, Washington.

We would appreciate your answers to the following questions:

1. What jurisdiction does the State have regarding review and approval of any plans prepared by DMC which address any aspects of filter cake disposal on or off the Spokane Indian Reservation? Disposal in this case is very broadly defined and refers to, but is not limited to, transportation, siting of an impoundment facility, environmental considerations including documentation, facility design, operations, monitoring, closure, etc. "Disposal" here also means the NRC definition (10 CFR 61.2), "the isolation of radioactive wastes from the biosphere inhabited by man and containing his food chains by emplacement in a land disposal facility."
2. On October 16, 1989 Lee Gronemeyer from the State of Washington informed Kelly Courtright in a phone conversation that the State of Washington would not have any involvement or jurisdiction related to filter cake disposal within the reservation. If DMC's mill license must be modified to place filter cake into the Ford mill wouldn't any disposal of filter cake on or off the reservation fall within the requirements of NRC or State licensing?
3. In the event that it is determined the State does not have jurisdiction regarding filter cake would the State be willing to review, comment, and make recommendations for approval of filter cake disposal? The BLM would appreciate your technical assistance with this project. A copy of DMC's on-site disposal alternative is attached.

Mr. Gary Robertson

P. 3

4. What is the status of the position paper that is being reviewed within the NRC that would allow filter cake like material to be placed into uranium mill tailings ponds?
5. In a memorandum dated May 15, 1989, Paul L. Lohaus, NRC, wrote to you stating that the filter cake "...does not constitute byproduct material." He also stated, "Finally, it should be noted that the analytical information you included in your transmittal indicates that the filter-cake residues may constitute source material, which may be licensable by the State of Washington."

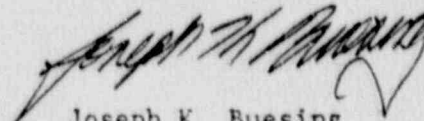
Would you please clarify for us specifically how the State classifies filter cake off the reservation, as well as on the reservation. For example, do you classify the filter cake as licensable material, byproduct material, source material, low level radioactive waste, NARM (naturally occurring or accelerator generated material), or what?

It is absolutely critical to our Trust Management Responsibility that we promptly obtain specific clarification on this issue so that all parties can have a technical as well as legal basis by which to evaluate proposals by DMC. We believe that classification of radioactive materials similar to the filter cake, or the radioactive components within the filter cake, is clearly within the responsibility of the Washington State Division of Radiation Protection and or/the NRC. These agencies are clearly recognized and delegated experts in this area and we would appreciate your coordination with the NRC in answering these questions.

Currently there is approximately 400 million gallons of contaminated water impounded at the mine site and BLM, as well as all other parties, would like to see the water treatment plant commence operation prior to the end of the 1990 construction season. Therefore, it would very much be appreciated if you could respond to our letter within two weeks, or by August 21, 1990. Attached is a copy the analytical results for the filter cake.

If you have any questions concerning the contents of this letter, or need additional information, please contact Kelly Courtright or Dave Sinclair at (509) 353-2570 or FTS 439-2570.

Sincerely yours,



Joseph K. Buesing
District Manager

cc: Eric Hoffman, BLM
Joe Flett, Spokane Tribe
Michael Whitelaw, BIA
Ed Hawkins, NRC
Colleen Kelly, Solicitors Office
Gary Robertson, State of Washington
Vandy Miller, NRC