



40-3453

RETURN ORIGINAL TO PDR, HQ.

ATLAS CORPORATION

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RICHARD E. BLUBAUGH
Vice President of Environmental
and Governmental Affairs

January 19, 1994

VIA FACSIMILE

Mr. Ramon E. Hall, Director
U.S. Nuclear Regulatory Commission
Uranium Recovery Field Office
730 Simms Street, Suite 100
Golden, CO 80401

DOCKETED
JAN 24 1994
USNRC
MAIL SECTION

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USNRC
REGISTRATION

Re: License No. SUA-917
Docket No. 40-3453
Notice of Violation/Surety Update

Dear Mr. Hall:

This responds to your December 28, 1993 letter concerning the Notice of Violation (NOV) which you state is a result of Atlas' failure to submit an annual surety update as required, in part, by License Condition No. 42. Your letter further states that Atlas failed to submit the required surety update at least three months prior to the anniversary date of December 31. I believe there has been a misunderstanding.

Last year, when we were going through the annual surety update process, Atlas submitted that it does not have the resources that affords unwise expenditures, and that expending funds for surety costs and indebting the Company further on an outdated reclamation plan does not make economical sense. We petitioned the NRC to work with Atlas to complete the reclamation plan as soon as possible so we both know what the correct surety is. At this point in time, any adjustment to the existing surety is simply arbitrary and capricious. In fact, Atlas submitted that due to the decommissioning efforts, a reduction in the existing surety is justifiable. The existing approved reclamation plan is just not a suitable basis from which to adjust surety.

In its October 16, 1992 letter to Atlas, NRC stated, "The existing reclamation plan...is outdated and will be superseded once [the] revised reclamation plan is approved by the NRC. Until that time, the existing plan and cost estimate must serve as the basis for the surety amount." However in the January 11, 1993 letter we find the following statements:

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Certified By *Mary C. Hood*

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Mr. Ramon E. Hall
NRC-NOV Surety Update
January 12, 1994
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"In recognition of the ongoing review of your revised reclamation plan and the schedule for its completion, we will not require an increase in the \$6,500,000 surety amount at this time." Further, it was stated: "The wording of the surety instrument, establishment of a Standby Trust, and an updated reclamation cost estimate must be addressed within 3 months after approval of the revised reclamation plan."

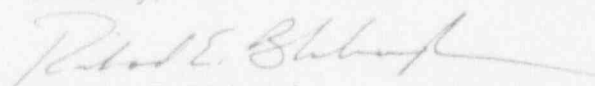
Atlas' understanding of the NRC's January 11, 1993 letter is that the NRC acknowledged that any adjustment to the existing surety would be arbitrary and that such an adjustment would not be necessary until a revised reclamation plan had been approved by the NRC. Also, there was acknowledgement that Title X of the Energy Act would be considered in future surety adjustments.

Additionally, Atlas' surety arrangement with the Bank of America was terminated November 30, 1993, and NRC was provided notice as required. During our discussions concerning the replacement of the existing surety, there was no mention of an adjustment of the \$6,500,000 amount. This amount was discussed in the November 8, 1993 meeting at the NRC Headquarters and there was no indication by anyone that we were in noncompliance with License Condition 42. We believed our understanding of the January 11, 1993 letter to be affirmed by the acceptance of the \$6,500,000 replacement surety.

We have recently learned that the establishment of a Standby Trust may be necessary in order for the NRC to take into consideration the reimbursement provision of the Energy Act. Atlas is in the process of reviewing the language found in Appendix E of the "Technical Position on Financial Assurances for Reclamation, Decommissioning, and Long-Term Surveillance and Control of Uranium Recovery Facilities", October 1988. Atlas will explore this instrument and its need with independent parties as expeditiously as possible. It may be necessary to discuss this matter further with you and/or your staff.

We trust that you will understand our surprise at the December 28, 1993 Notice of Violation and our assertion that we believe there has been a misunderstanding, and, that the Notice of Violation should be reconsidered and subsequently withdrawn. Please review the circumstances surrounding this matter and our petition to withdraw the Notice of Violation. We would be willing to discuss this matter with you and staff if you have additional questions.

Sincerely,



Richard E. Blubaugh

cc: M. Gross, S. Manz