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October 14, 1993

Chairman Ivan Selin
United States Nuclear Regulatory Commission
One White Flint North
11555 Rockville Pike
Rockville, Maryland 20852

Re: Uranium Recovery Field Office

Dear Chairman:

On September 9, 1993, the Nuclear Regulatory Commission (NRC) Transition Oversight Team (TOT) met with uranium fuel cycle licensees to discuss closure of the Uranium Recovery Field Office (URFO) and NRC's transition plans for handling URFO's responsibilities.

On behalf of the American Mining Congress (AMC) and its member company licensees, I would like to take this opportunity to thank NRC for providing an opportunity to meet to discuss URFO transition issues. The panel of NRC staff led by Malcolm Knapp were forthcoming and appeared genuinely interested in a meaningful dialogue with industry to ease the burdens associated with closure of the URFO office.

It is important to note, however, that the discussions held at that meeting and Mr. James M. Taylor's memorandum (SECY-93-207) handed out at the meeting, indicate that the Commission's understanding of licensee concerns about the practical problems associated with the regulation and licensing of uranium fuel cycle facilities is seriously lacking.

Additionally, as the Chairman of AMC's Uranium Environmental Subcommittee (UES), William Ferdinand commented at the meeting, AMC and its member company licensees would have appreciated being involved in the process that led to the Commission's apparently final decision to split licensing and enforcement between headquarters and Region IV. Instead, the above-referenced memorandum of July 26, 1993, which announced the decision, was presented to the licensees at the meeting as a fait accompli.

Since you have previously taken the time to personally address URFO closure with us and, as noted above, the meeting and SECY-93-207 have

demonstrated a lack of understanding and appreciation for the realities of regulating uranium fuel cycle facilities, I thought it would be useful to explain AMC's concerns to you.

In an effort to explain the decision to split licensing and enforcement, Mr. Callan of the TOT observed that the combination of licensing and inspection within URFO is an exception to normal NRC practice. The licensees, however, replied that the exception exists for very good reasons. To be effective, regulation of these facilities must take into consideration a wide variety of highly site-specific, naturally occurring factors that require detailed knowledge of the site -- needless to say, a very different regulatory model than that required for nuclear reactors.

Instead of a thoughtful analysis reflecting appreciation for these circumstances, SECY-93-207 relies on conclusory statements that are unsupported and assumptions that are inaccurate. For example, it discusses the benefits of bringing Title I and Title II management together at headquarters. It says these benefits could include the potential for future full-time equivalent savings as the Title II workload "declines" and holds promise of additional efficiencies from using uranium fuel cycle licensing personnel for other Nuclear Material Safety and Safeguards (NMSS) tasks including management of low-level radioactive waste, site decommissioning and high-level waste. There is no analysis associated with these conclusions and even a cursory analysis would reveal that they are inaccurate. These inaccuracies are discussed below.

First, as the Commission is aware, during the past two years, there have been extensive negotiations between conventional uranium production facility licensees, the Environmental Protection Agency (EPA) and the Environmental Defense Fund (EDF) to eliminate Clean Air Act regulations in 40 C.F.R. Part 60, Subpart T, that have resulted in a settlement agreement and forthcoming regulatory proposals. The net result is a regulatory program designed to accelerate closure of inactive Title II sites on a scheduled basis and to place all regulatory authority over these activities in NRC or Agreement States. Thus, the majority of the 26 Title II sites will be striving to meet scheduled milestones along the way and final closure dates to terminate licenses essentially within the next seven to ten years. No Title II site has ever been finally closed and its license terminated. The difficulties associated with that task and regulatory resources required cannot be minimized.

Second, the Commission's past record in addressing Title II licensing issues, including such paramount issues as approval of reclamation plans, could not possibly lead to the conclusion that uranium staff resources can be diverted to other activities within NMSS. The Commission's history in approving reclamation plans is a

prime reason why the final Subpart T Settlement Agreement expressly provides that "factors beyond the control of the licensee" includes:

delays beyond the time reasonably required in obtaining necessary governmental permits, licenses, approvals or consent for activities described in the tailings closure plan proposed by the licensee that result from agency failure to take final action after the licensee has made a good faith, timely effort to submit legally sufficient applications, responses to requests (including relevant data requested by the agencies), or other information, including approval of the tailings closure plan by NRC or the affected Agreement States.

Some proposed reclamation plans have languished at NRC for as long as five to eight years without final decisions. The assumption that Commission staff located at headquarters in Rockville will somehow now be able to more efficiently address highly site-specific licensee issues and have time to work on other NMSS projects is fatuous.

Mr. Taylor's memorandum also addresses what it suggests is industry's apparently mistaken "perception" that somehow accessibility and efficiency will be diminished by moving licensing to Washington, D.C., and inspections to Region IV in Dallas. It assumes that retaining licensing and inspection capabilities in Region IV would only marginally enhance efficiency and accessibility, since licensing staff from headquarters can accompany inspectors.

In response, it should be noted that Mr. Callan admitted there is no Title II inspection experience currently available in Region IV. And, the memorandum is advocating sending Washington, D.C., licensing staff who may or may not have relevant experience, but who certainly will not have necessary site-specific knowledge, to accompany Region IV inspectors who have no experience -- all at licensee expense at the rate of \$132/hour per person plus airfare and lodging. It should come as no surprise that AMC's member company licensees do not view this as a paradigm of efficiency and accessibility.

AMC recognizes that the NRC and other federal agencies have been required to reassess allocation of their resources. AMC also recognizes that, with that as a justification, the decision has been made to close URFO and that that decision likely will not be changed. AMC would like to go on the record, however, to state the following:

(a) The explanation and analysis supporting closure of URFO has been poorly communicated;

(b) The lack of understanding of the issues involved with licensing of uranium fuel cycle facilities is significant and disturbing;

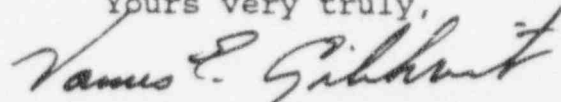
(c) It will take more than the best intentions of the TOT to make the new allocation of responsibilities between Headquarters and Region IV work effectively;

(d) As a result of the new Title II closure schedules, licensees will be looking to NRC to effectively discharge its licensing responsibilities;

(e) Where delays result from Agency inefficiency licensees will need extensions of milestone and final radon barrier emplacement dates; and

(f) Licensees are hopeful that you and your colleagues on the Commission will not forget, as has happened on occasions in the past, the concerns of the front-end of the fuel cycle, but rather will monitor the progress of the new regulatory scheme and remain personally involved with it in the future.

Yours very truly,

A handwritten signature in cursive script, appearing to read "James E. Gilchrist".

James E. Gilchrist
Vice President



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John A. Knebel
President

MEMORANDUM

October 22, 1993

TO: Uranium Environmental Subcommittee and
Consultants

FROM: Jim Gilchrist, Vice President
Gloria Kim, Legal Assistant

RE: Uranium Recovery Field Office

Enclosed for your consideration is a letter written by AMC to Chairman Ivan Selin of the Nuclear Regulatory Commission (NRC) regarding closure of the Uranium Recovery Field Office (URFO). On September 9, 1993, NRC's Transition Oversight Team (TOT) met with uranium fuel cycle licensees to discuss the closure and NRC's transition plans for handling URFO's responsibilities. Discussions held at the meeting indicated that NRC's understanding of licensee concerns about the regulation and licensing of uranium fuel cycle facilities is seriously lacking, and AMC felt that it was necessary to reiterate some specific concerns.

AMC recognizes that the decision to close URFO is not likely to change, but wanted to add to the record that: 1) the explanation and analysis supporting URFO closure has been poorly communicated; 2) it will be very difficult to make the new allocation of responsibilities between Headquarters and Region IV effective; 3) as a result of the new Title II closure schedules, licensees will be looking to NRC to effectively discharge its licensing responsibilities; 4) where delays result from Agency inefficiency, licensees will need extensions of milestone and final radon barrier emplacement dates; and 5) licensees hope that Chairman Selin will remember the concerns of the front-end of the fuel cycle and monitor the progress of the new regulatory scheme by remaining personally involved.

Enclosure



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John A. Knebel
President

MEMORANDUM

July 20, 1993

TO: Uranium Environmental Subcommittee
and Consultants

FROM: Jim Gilchrist, Vice President
Katie Sweeney, Esq.

RE: NRC Letter Confirming Closure of the Uranium
Recovery Field Office

By memorandum of June 3, 1993, we sent you AMC's letter to the Chairman of the Nuclear Regulatory Commission (NRC) regarding the closure of NRC's Uranium Recovery Field Office (URFO) in Denver. The letter requested that the NRC reconsider its decision to close the URFO. Enclosed for your information is NRC's response to AMC's request.

In the NRC letter, Robert M. Bernero, Director, Office of Nuclear Material Safety and Safeguards states that the NRC recently approved an URFO closure plan under which the URFO would be closed by August 1, 1994. The letter also announces that the Transition Oversight Team, formed to ensure a smooth transition during the closure period, plans to meet with uranium recovery industry representatives early this fall to discuss transition planning issues. As you may recall from our June 22 memo, the Transition Oversight Team will also be considering ways to streamline NRC regulatory oversight at uranium recovery facilities, so the meeting this fall will give industry an excellent opportunity to provide input on streamlining issues as well as transition issues.

Enclosure

cc w/out enc.: Uranium Policy Council and Consultants



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

JUL 12 1993

Mr. James E. Gilchrist
Vice President
Environmental Affairs
American Mining Congress
1920 N Street NW, Suite 300
Washington, DC 20036-1662

Dear Mr. Gilchrist:

Thank you for your letter to Chairman Selin dated May 28, 1993, regarding closure of the Uranium Recovery Field Office (URFO) in Denver, Colorado. As you are aware, the President directed all Federal agencies to reduce staffing and as a result the Nuclear Regulatory Commission decided to close URFO in 1994.

The Commission recognizes and is sensitive to the substantive concerns of industry and states that are involved in the uranium recovery program, particularly with respect to the need to ensure continued constructive and effective communication and interaction with the NRC. These concerns and related issues have been addressed in a detailed URFO closure plan that was approved by the Commission on June 28, 1993. The plan indicates that the final closure of URFO will occur August 1, 1994. An NRC Transition Oversight Team has been formed to ensure as smooth a transition as possible. Interaction with this group will allow continued input by both industry and state officials, as the plan is implemented. One responsibility of the Transition Oversight Team is to assure that licensing reviews and the conduct of inspections will not be disrupted during the transition period.

The Transition Oversight Team is currently planning to meet with uranium recovery industry representatives and interested state officials early this fall to discuss transition planning issues. Thank you for identifying Mr. Ferdinand and Mr. Alberts as industry points of contact. Richard Bangart, Director of the Division of Low-Level Waste Management and Decommissioning, heads the NRC's Transition Oversight Team and can be reached at (301) 504-3340.

The decision to close URFO was primarily driven by projected resource limitations. However, be assured that NRC's interest in the areas covered by URFO will not be diminished by the closing.

Sincerely,

Robert M. Bernero, Director
Office of Nuclear Material Safety
and Safeguards

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