



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

40-3453

October 7, 1998

The Honorable Randy Cunningham  
United States House of Representatives  
Washington, DC 20515-0551

Dear Congressman Cunningham:

I am responding to your September 14, 1998, letter to Mr. Dennis Rathbun. In that letter, you provided the names of two constituents who had contacted you to express some concern about a uranium mill tailings pile near the Colorado River in Moab, Utah. The individuals were advocating that either the U.S. Nuclear Regulatory Commission (NRC) or the U.S. Department of Energy (DOE) be required to move the tailings from their current location. Your letter also provided a copy of a recent *San Diego Union Tribune* article about the site.

To respond to your letter, I would like to start by providing some background information on the tailings pile, and NRC's regulatory authority over the site. The site is owned by Atlas Corporation, which holds NRC license SUA-917. As the licensee for the site, Atlas is the party responsible for the reclamation of the facility and the long-term stabilization of the tailings. The Uranium Mill Tailings Radiation Control Act of 1978 (UMTRCA), as amended, established the NRC regulatory authority over the uranium mill tailings at the Atlas site. In accordance with UMTRCA, the U.S. Environmental Protection Agency (EPA) promulgated standards for the reclamation of tailings piles, and NRC conformed its regulation to those EPA standards. The NRC regulations appear in 10 CFR Part 40, Appendix A (which include the EPA standard), and require that the tailings reclamation be designed to be effective in controlling radiological hazards for 1000 years.

In implementing its UMTRCA responsibilities, NRC's mission is to judge licensee proposals for the reclamation of uranium mill tailings to determine if they meet the requirements contained in Part 40, Appendix A. As you may be aware, Atlas filed for bankruptcy protection on September 22, 1998. NRC is currently assessing with Atlas the impact of the bankruptcy filing on reclamation of the tailings. However, NRC has no legislative authority to undertake any reclamation work at the Atlas site. NRC has been evaluating the Atlas proposal for on-site reclamation over the last several years to determine if the Atlas plan complies with the applicable regulations. Under the existing regulatory framework, NRC's options are limited to either: (1) accepting the Atlas proposal; (2) accepting the Atlas proposal with modifications; or (3) denying the application. If NRC were to deny the Atlas proposal, and mandate that Atlas move the tailings, Atlas could request a hearing, under the NRC rules of practice in 10 CFR Part 2, or decide to modify the denied proposal and resubmit it to NRC. Although UMTRCA gave DOE the responsibility of reclaiming a number of abandoned uranium mill tailings sites, DOE has no authority to reclaim the Atlas site. As noted above, Atlas, as the current NRC licensee, is the party responsible under UMTRCA for reclaiming the Moab tailings.

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PDR ADOCK 04003453  
C PDR

150020

980204

NRC FILE CENTER COPY

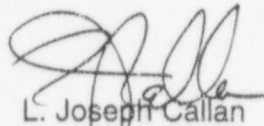
\*

The Atlas reclamation strategy to stabilize the tailings along the Colorado River north of Moab is similar to that employed by other licensed mills, and by DOE in carrying out its responsibilities under UMTRCA. The NRC review of the Atlas proposal has included two equally important aspects: a safety review to determine compliance with NRC requirements in Part 40, Appendix A, and an environmental review to determine if the impacts from the proposal are acceptable. In March 1997, NRC completed its safety review, and concluded that the proposed on-site stabilization met Part 40, Appendix A. This is documented in NUREG-1532, "Final Technical Evaluation Report for the Proposed Revised Reclamation Plan for the Atlas Corporation Mill." We are currently finishing our environmental review, and expect to publish a Final Environmental Impact Statement in the first quarter of 1999. NRC published NUREG-1531, "Draft Environmental Impact Statement Related to Reclamation of the Uranium Mill Tailings at the Atlas Moab Site, Moab, Utah," in January 1996. Copies of both NUREG-1531 and 1532 are provided for your use and information.

In closing, I want to assure you that NRC recognizes that the Colorado River is a vital natural resource that must be adequately protected. Toward that end, NRC staff will ensure that the reclamation plan proposed by Atlas Corporation provides reasonable assurance that public health and safety and the environment are protected. If Congress were to decide that the Federal government should move the tailings, then NRC would work within that legislative framework to ensure reclamation of the Atlas tailings in a manner that protects the public and the environment.

I trust that this letter will help you in responding to the concerns of your constituents, and clarifies our position.

Sincerely,



L. Joseph Callan  
Executive Director  
for Operations

Enclosures: As stated

October 7, 1998

The Honorable R. Cunningham

-2-

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Sincerely, **Original Signed by**  
**L.J. Callan**  
 L. Joseph Callan  
 Executive Director  
 for Operations

Enclosures: As stated

DISTRIBUTION: G19980580

FILE CENTER	PUBLIC	NMSS r/f	URB r/f	DWM r/f-t/f	EDO r/f	NMSS Dir. Off. r/f
ECY-CRC-98-0872	CPoland	PTressler	HThompson	WTravers	SBurns	EMerschhoff/RIV
Spitzberg/RIV	RBangart	MWeber	CAbrams	MFliegel	MLayton	KCyr/OGC
Hickey						

DOC NAME: S:\DWM\URBWJH\DUKE.MHF

\*See previous concurrence

CP/PROOFED/SEPTEMBER 30, 1998

OFC	URB*	TECH ED*	DWM*	NMSS*	DEDR
NAME	JHolonich/bg	EKraus	JGreeves	CPaperiello	HThompson
DATE	9/28/98	9/25/98	9/29/98	10/01/98	10/15/98
OFC	EDO	OCA			
NAME	LJCallan	DRathbun			
DATE	10/5/98	10/17/98			

OFFICIAL RECORD COPY

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Executive Director  
for Operations

Enclosures: As stated

TICKET NO. **G980580** (CRC-98-0872)

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SECY-CRC-98-0872M		JHickey				

DOCUMENT NAME: S:\DWM\URB\JJH\DUKE.MHF

**\*See previous concurrence**

OFC	URB*	TECH ED*	DWM	NMSS	DEDR
NAME	JHolonich/bg	EKraus	JGreeves <i>W for</i>	CPaperiello	HThompson
DATE	9/28/98	9/25/98	9/29/98	9 / /98	/ /98
OFC	OCA	EDO			
NAME	DRathbun	LJCallan			
DATE	/ /98	/ /98			

OFFICIAL RECORD COPY

Regarding the status of the NRC review, over the past five years, the staff has been thoroughly reviewing the Atlas proposal to reclaim the tailings at its current location along the Colorado River. The Atlas reclamation strategy proposed is similar to that employed by other licensed mills, and by DOE in carrying out its responsibilities under UMTRCA. The NRC review of the Atlas proposal has included two equally important aspects: a safety review to determine compliance with NRC requirements in Part 40, Appendix A, and an environmental review to determine if the impacts from the proposal are acceptable. In March 1997, NRC completed its safety review, and concluded that the proposed on-site stabilization met Part 40, Appendix A. This is documented in NUREG-1532, "Final Technical Evaluation Report for the Proposed Revised Reclamation Plan for the Atlas Corporation Mill." We are currently finishing our environmental review, and expect to publish a Final Environmental Impact Statement in the first quarter of 1999. NRC published NUREG-1531, "Draft Environmental Impact Statement Related to Reclamation of the Uranium Mill Tailings at the Atlas Moab Site, Moab, Utah," in January 1996. Copies of both NUREG-1531 and 1532 are provided for your use and information.

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*g 9/28*

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\*SEE PREVIOUS CONCURRENCE

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\*SEE PREVIOUS CONCURRENCE

OFC	URB*	TECH ED*	DWM	NMSS	DEDR
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DATE	9/18/98	9/25/98	9/ /98	9 / /98	/ /98
OFC	OCA	EDO			
NAME	DRathbun	LJCallan			
DATE	/ /98	/ /98			

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DATE	9/1/98	9/25/98	9/ /98	9 / /98	/ /98
OFC	OCA	EDO			
NAME	DRathbun	LJCallan			
DATE	/ /98	/ /98			

OFFICIAL RECORD COPY

The Honorable R. Cunningham

-2-

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NAME	JHolonich/bg	EKraus	JGreeves	CPaperiello	HThompson
DATE	9/ /98	9/14/98	9/ /98	9/ /98	/ /98
OFC	OCA	EDO			
NAME	DRathbun	LJCallan			
DATE	/ /98	/ /98			

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(6)

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L. Joseph Callan  
Executive Director  
for Operations

Enclosures: As stated

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BSpitzberg/RIV	RBangart	MWeber	CAbrams	MFliegel	MLayton	KCyr/OGC
JHickey						

DOC NAME: S:\DWM\URB\JH\DUKE.MHF

\*See previous concurrence

CP/PROOFED/SEPTEMBER 30, 1998

OFC	URB*	TECH ED*	DWM*	NMSS	DEDR
NAME	JHolonich/bg	EKraus	JGreeves	CP <del>Callan</del>	HThompson
DATE	9/28/98	9/25/98	9/29/98	LB 11 / 98	1 / 98
OFC	EDO	OCA			
NAME	LJCallan	DRathbun			
DATE	1 / 98	1 / 98			

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## EDO Principal Correspondence Control

FROM:

DUE: 10/05/98

EDO CONTROL: G980580

DOC DT: 09/14/98

FINAL REPLY:

Representative Randy "Duke" Cunningham

TO:

Rathbun, OCA

FOR SIGNATURE OF :

\*\* GRN \*\*

CRC NO: 98-0872

Callan, EDO

DESC:

ROUTING:

POSSIBLE CONTAMINATION OF THE COLORADO RIVER  
(Tom Dawson and Tom White)Callan  
Travers  
Thompson  
Norry  
Blaha  
Burns  
Merschoff, RIV  
Bangart, SP

DATE: 09/22/98

ASSIGNED TO:

CONTACT:

NMSS

Paperiello

SPECIAL INSTRUCTIONS OR REMARKS:

DWM Action
Director's Office
9/30/98
rec'd 9/22/98

ACTION: Holmich  
Due to DWM  
Director's Office: 9/28/98cc: Greaves  
Weber

9/22-

-b4

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**Draft**  
**Environmental Impact Statement**  
**Related to Reclamation of the**  
**Uranium Mill Tailings at the**  
**Atlas Site, Moab, Utah**

Source Material License No. SUA 917  
Docket No. 40-3453  
Atlas Corporation

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**U.S. Nuclear Regulatory Commission**

**Office of Nuclear Material Safety and Safeguards**

January 1996



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# Final Technical Evaluation Report for the Proposed Revised Reclamation Plan for the Atlas Corporation Moab Mill

Source Material License No. SUA 917  
Docket No. 40-3453  
Atlas Corporation

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**U.S. Nuclear Regulatory Commission**

Office of Nuclear Material Safety and Safeguards

March 1997



204100773 10

# ACTION

## EDO Principal Correspondence Control

FROM:

DUE: 10/05/98

EDO CONTROL: G980580

DOC DT: 09/14/98

FINAL REPLY:

Representative Randy "Duke" Cunningham

TO:

Rathbun, OCA

FOR SIGNATURE OF :

\*\* GRN \*\*

CRC NO: 98-0872

Callan, EDO

DESC:

POSSIBLE CONTAMINATION OF THE COLORADO RIVER  
(Tom Dawson and Tom White)

ROUTING:

Callan  
Travers  
Thompson  
Norry  
Blaha  
Burns  
Merschhoff, RIV  
Bangart, SP

DATE: 09/22/98

ASSIGNED TO:

CONTACT:

NMSS

Paperiello

SPECIAL INSTRUCTIONS OR REMARKS:

OFFICE OF THE SECRETARY  
CORRESPONDENCE CONTROL TICKET

PAPER NUMBER: CRC-98-0872 LOGGING DATE: Sep 18 98  
ACTION OFFICE: EDO  
AUTHOR: REP. RANDY CUNNINGHAM  
AFFILIATION: U.S. HOUSE OF REPRESENTATIVES  
ADDRESSEE: DENNIS RATHBUN, OCA  
LETTER DATE: Sep 14 98 FILE CODE: MH&S 3-2 CONT.  
SUBJECT: CONCERNS REGARDING THE POSSIBLE CONTAMINATION OF  
THE COLORADO RIVER  
ACTION: Signature of EDO  
DISTRIBUTION: CHAIRMAN  
SPECIAL HANDLING: OCA TO ACK  
CONSTITUENT: TOM DAWSON/TOM WHITE  
NOTES:  
DATE DUE: Oct 5 98  
SIGNATURE: . DATE SIGNED:  
AFFILIATION: