

THE STATE



OF WYOMING

In reply refer to:

## Attorney General

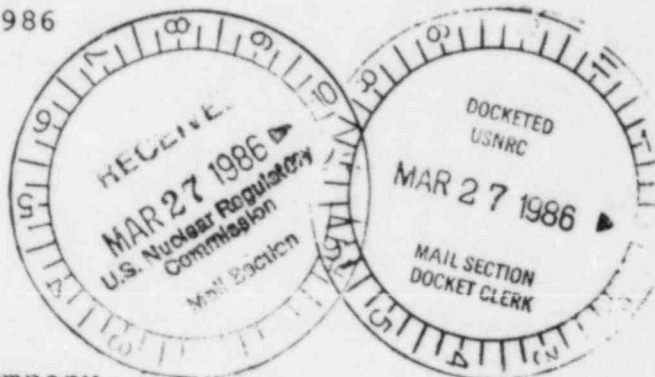
CHEYENNE, WYOMING 82002  
PHONE 307 777-7841

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ED HERSCHLER  
GOVERNOR

A.G. McCLINTOCK  
ATTORNEY GENERAL

March 25, 1986

Mr. Harry E. Eakin  
Insurance Commissioner  
Department of Insurance  
509 State Office Building  
Indianapolis, Indiana 46204



Re: Allied Fidelity Insurance Company

Dear Mr. Eakin:

You may or may not be aware that that the State of Wyoming is involved in litigation with the Allied Fidelity Insurance Company which was ordered into rehabilitation on March 5, 1986, by Marion County Circuit Judge John M. Ryan. I have obtained a copy of that order and believe it is appropriate to inform you of the situation here in Wyoming.

Enclosed for your information is a copy of an order by the Wyoming Insurance Commissioner suspending Allied's certificate of authority to do business in this state. These developments are of immediate concern because my office is attempting to collect \$441,000 from Allied on a reclamation performance bond for an in-situ uranium mine which has been abandoned by its owners and operators. The abandonment of the mine threatens radioactive contamination of the groundwater and of any persons who may come into contact with materials at the surface facilities unless adequate security is maintained and proper reclamation and disposal are accomplished. Allied has so far resisted paying on the bond despite an order of the Wyoming Environmental Quality Council declaring the bond to be forfeited in accordance with the procedures set out at Wyoming Statute 35-11-421 (copy attached).

The litigation involves a petition for judicial review of the Council's ruling that Allied did not have standing to object to the forfeiture proceedings. (The statute provides that the surety is to receive notice, but only the operator can demand a hearing; and no operator appeared in protest.) The Department of Environmental Quality has responded with a petition for declaratory judgment on Allied's bond and with a motion for

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Certified By Mary C. Hood

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Mr. Harry E. Eakin  
March 25, 1986  
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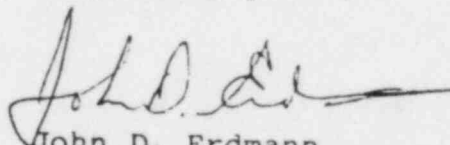
summary judgment. Allied has filed a motion to dismiss and a motion to strike the documents offered by the Department. A hearing on some (and perhaps all) of the motions will be held at 9:00 a.m., on April 7, 1986, before State District Judge Leonard McEwan, at the Laramie County Courthouse in Cheyenne, Wyoming.

In view of the fact that your office now has control over Allied's assets and exercises management authority over the company under court supervision, I ask you to consider your position in the Wyoming Litigation. Do you intend to pursue the course initiated by Allied's local counsel in the case, who is John A. Sundahl, of Godfrey & Sundahl, 2020 Carey Avenue, Suite 403, P.O. Box 328, Cheyenne, Wyoming 82003 (telephone 307-632-6421)? Would you please inform me of your decision before April 7.

To assist you in reviewing this matter, I am also enclosing copies of the notice and order of forfeiture, the petition for judicial review, and the State's response, together with a copy of Allied's bond, but without many of the offered exhibits. It is my opinion that Allied was stalling for financial reasons, and not because of any lack of due process, nor for any of the other grounds of objection it has attempted to raise.

It would be my hope that you will recognize the lawful actions of the Wyoming Department of Environmental Quality and the Wyoming Environmental Quality Council.

Very truly yours,



John D. Erdmann  
Senior Assistant  
Attorney General

JDE:jcs

Enclosures

cc: The Honorable John M. Ryan,  
Marion County Circuit Judge  
Mr. John A. Sundahl,  
Attorney for Allied Fidelity Insurance Company  
(before Order for Rehabilitation)  
Mr. Randolph Wood, Director,  
Department of Environmental Quality  
Mr. Rober Shaffer,  
Land Quality Administrator  
Wyoming Environmental Quality Council  
Dr. Harry J. Pettengill,  
U.S. Nuclear Regulatory Commission, Denver, CO  
Mr. William M. Brown,  
Regional Counsel, USNRC, Arlington, TX