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July 17, 1998

D BYDLE Shirley A. Jackson, Chair
Nuclear Regulatory Commission
Washington, D.C. 20555-0001

A 98 Dear Dr. Shirley:

Enclosed with this letter is a an article that I wrote recently for the Canyon Country Zephyr of Moab, Utah.

Many of us are extremely concerned about the movement of nuclear waste to the White Mesa Mill by the International Uranium Corporation.

As having long worked with the Ute and Navajo people, I also note their great concern which is covered in my article. At the Navajo Utah Commission meeting on July 9, these Indian commissioners adamantly opposed the haul and were angry that they had not been included as stakeholders or even consulted in the matter.

In addition, my company, Pack Creek Ranch, is located in San Juan County. Our guiding, outfitting, and tourist operations take us along the highways and into many of these areas of great concern. The hauling and dumping of such nuclear waste at the White Mesa mill would be highly detrimental to us.

So along with the Indian peoples, I speak out in the name of the small-business community and as a citizen. There needs to be immediate public hearings and meetings regarding this matter in our communities before any waste is shipped to the White Mesa mill. This is of grave importance to all of us.

Your help in this regard would be highly appreciated.

Ken Sleight, Owner/manager
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THE MAKING OF A NUCLEAR WASTE DUMP AT WHITE MESA

- by Ken Sleight

Canyon Country Zephyr, July 1998

Thousands of tons of radioactive waste, from construction of the first atomic bomb during the Manhattan Project, are scheduled to be moved from the Tonawanda, New York dumpsite to White Mesa.

On April 27, 1998, the U.S. Army Corps of Engineers announced a \$38 million cleanup of the New York waste.

The material is far from being regular uranium ore. It is so hazardous that an environmental group (FACT) in New York filed a federal lawsuit raising questions about the clean-up project's safety. The group asked the judge to halt the cleanup pending more research as the plan would not remove all traces of radioactivity from the site.

The cleanup is now in progress and could take two construction seasons. The shipments could begin in July.

The waste matter will be put into large containers and loaded onto flatbed railroad cars and shipped west to the railroad sidings of Cisco or Green River, Utah.

As it stands now, the waste would then be hauled by truck from the railroad to the White Mesa mill south of Blanding near the community of White Mesa. It would pass through the communities of Moab, Monticello, and Blanding. It would entail some sixty truck loads of waste hauled per week through these communities.

At the mill site, the waste material would be emptied from the containers and stockpiled. It would be processed alone or commingled with conventional ores, and processed in the same manner as that used to process conventional ores.

One has to closely examine the permitting procedure to further grasp the problem. Let's follow its trail.

On May 8, 1998, the International Uranium Corporation (IUC) requested that its "NRC Source Material License SUA-1358" be amended to allow the receipt and processing of alternate feed material (i.e., material other than natural uranium ore) at its White Mesa uranium mill.

Whereupon, the Nuclear Regulatory Commission (NRC) then suddenly approved the Tonawanda radioactive wastes as an "alternate uranium mill feed 11e.(2) byproduct material," and approved the IUC application to run this radioactive material through the White Mesa mill as "ore" in order to be able to categorize the output as mill tailings.

The discussion of these alternate feed materials is not new. The State of Utah has been very interested in any proposed changes to current NRC policy and notes the danger of circumventing the public process regarding such license amendment requests.

The State reports that such requests have been handled on a case-by-case basis by the NRC with opportunity for input by interested parties. This process allows evaluation in accordance with existing policy concerning these materials.

Utah believes that the acceptance and processing of these materials should be the exception for a uranium mill as they are designed to process and recover uranium from ores.

It is feared that the White Mesa mill will perform "sham recycling" so it can dispose of the nation's radioactive waste. This even though the recoverable uranium content of the waste material would not support the cost of recycling the waste as ore. The primary goal is to receive the recycling fee, "a disposal fee in disguise" from the government.

The April 1998 Record of Decision for the waste sites, issued by the U.S. Army Corps of Engineers, has identified that the selected remedy for this waste is that the material is to be "excavated and shipped offsite for disposal at an appropriately licensed or permitted facility."

The problem here is that the chosen site, the White Mesa mill, is not an appropriately licensed or permitted facility for this new material.

But the NRC, in its approval, did not follow its own internal guidance on making its determination.

The guidance addresses ten items that must be evaluated before determining whether such material can be disposed in a tailings impoundment. These items include such issues as "the radiological nature of the material, existing regulation of the material, hazardous nature of the material, potential environmental impacts, approval from affected low-level radioactive waste compacts, the concurrence by the State or DOE to take title to the tailings after closure..."

It failed to follow its own requirements including notifying the affected compacts to determine if they approve of the shipments to Utah, contacting the State of Utah and the Department of Energy (DOE) to determine if they agree to take title to the waste after closure, and determining whether NRC or the State of Utah would exempt the waste material from disposal regulations.

The waste is not currently regulated under the Atomic Energy Act. The guidance states that these types of radioactive materials "shall not be authorized for disposal in an 11e.(2) byproduct material impoundment."

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In a letter of June 10, 1998, Dianne R. Nielson, Executive Director of the Utah State Department of Environmental Quality, wrote that a "policy decision which shifts "reprocessing" to "waste disposal in disguise" will trigger several issues - including the need for state siting approval, need for a Part 61 license for waste disposal of non-11e.(2), payment of appropriate waste disposal fees to the state, and acceleration of the need for a state groundwater discharge permit."

Envirocare in northern Utah has been receiving alternate feed materials. The company is fully licensed to receive the product and receives extensive oversight review. This same licensing and oversight review has not yet been accomplished for the White Mesa mill.

There comes now an enhanced interest by other companies and facilities to receive and process waste materials from the Department of Energy. So in the face of this demand, as uranium mills expand their operations to receive primarily alternate feed instead of ores, it is urgent that a separate standard for such "reprocessing" facilities be adopted.

The NRC's position in approving the license amendment is a step closer to giving uranium operators the go ahead to find that any "11e.(2) byproduct material," regardless of uranium content, can be approved for processing and disposal in the tailings impoundment. It appears a "waste disposal in disguise" and it becomes a radioactive waste dump instead. It becomes simply a matter of moving waste from one point to another with the government picking up the bill.

The NRC, through this license amendment, has opened a troubling door. The White Mesa mill could now become a de facto disposal facility without addressing the important issues that are of great concern to the State and the public.

And there needs to be new rules or laws that recognize the difference between processing of traditional ores and reprocessing of waste materials that resemble ores.

Furthermore, the health effects and other environmental concerns have not yet been fully addressed.

No public comments were solicited by the NRC before it made its decision. No public hearings or meetings were held. The public remains in the dark.

On July 6, I met with the San Juan Commission and asked whether or not it had been in contact with NRC, the State or the International Uranium Corporation regarding this important matter. The answer was in the negative. Time will tell of their involvement, but it's hard to believe that they had no communication at all with these entities.

I requested the Commission to ask NRC or the State to conduct public hearings or meetings regarding the waste haul and subsequent deposit. Commissioners Ty Lewis and Bill Redd quickly vetoed the request. They felt that the public in San Juan County didn't need to be informed or be allowed to make comments regarding the matter in such a forum. The issue would only produce emotion. And the public wouldn't understand it even if the information was provided. Commissioner Mark Maryboy was the lone commissioner that stated that he would welcome a public meeting.

Then I asked the commissioners' support in helping assure that the White Mesa mill be properly licensed if they were to accept the waste. This the two commissioners would not do.

The Navajo Utah Commission in their meeting on July 7, asked for public hearings and meetings on the matter. The Navajo officials had not yet been consulted. Once again we find the Indian peoples in southeastern Utah neglected and shunted aside.

NRC and other government entities need to remember that on Feb 11, 1994, President Clinton issued Executive Order 12898, which purpose was to focus the attention of federal agencies on the human health and environmental conditions in minority and low-income communities. These agencies are to adopt strategies to address environmental justice concerns within the context of agency operations.

I don't know how the Nuclear Regulatory Commission defines Environmental Justice, but the EPA Office of Environmental Justice defines it this way:

"The fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. Fair treatment means that no group of people, including racial, ethnic, or socioeconomic group should bear a disproportionate share of the negative environmental consequences resulting from industrial, municipal, and commercial operations or the execution of federal, state, local, and tribal programs and policies."

The Navajo and Ute concerns have been partially documented in past matters involving waste material hauled to White Mesa. Health matters are of great concern. Aboriginal land issues are also of great concern. Why are not these same concerns relevant now?

The Executive Order explicitly called for the application of equal consideration for Native American programs. This should be done before the transport of any waste to White Mesa. Native Americans living in San Juan County deserve a voice. They have that right, but they have not been given the "fair treatment" called for in the Executive Order.

I feel it is the right of every citizen to hear and to be able to study information pertaining to a waste dump that is to be placed in their midst. And it is the responsibility of government (federal, state, and county) to see the information is provided. Otherwise we will again invite such disasters as the tailings dumps at Monticello and Moab.

At this immediate time, the NRC should review the issuance of this license amendment and prohibit International Uranium Corporation from receiving any of the subject waste material at White Mesa.

My good friends, Norman and Shirley Begay, able Native American activists, of White Mesa, are surely missed. They fought hard to keep dangerous nuclear waste from piling up in their homeland at White Mesa in seeking environmental justice. They were tragically killed in Shiprock, New Mexico not long ago when someone rammed their car.

And if there are no public hearings or meetings and a satisfactory solution, in the memory of Norman and Shirley Begay, I am for one going to be out on that road leading to the White Mesa mill, as Norman and Shirley and their loyal followers would have done, as they have done before, to protest that next cargo of radioactive waste.