

June 15, 1998

Mr. John C. Hoyle, Secretary
Office of the Secretary of
the Commission (SECY)
U.S. Nuclear Regulatory Commission (NRC)
Washington, D. C. 20555-0001

40-3453
40-8681
40-8698
40-8968
STPRG-ESGWA
(Dawn Mining)

Dear Mr. Hoyle:

This member of the public (interested person) has been informed by announcements regarding "Commission Meetings" (at 415-1292, absent an announcement on the NRC Public Document Room [PDR] bulletin board) and from various other appropriate contact persons that a briefing of various NRC Commissioners by the National Mining Association (NMA, formerly American Mining Congress) will occur at 10 am on Wednesday, June 17, 1998, at NRC headquarters.

Would respectfully request to audit via telephone conference connection such June 17 briefing of various NRC Commissioners. Would request such access to the June 17 Commission meeting via 1-800-368-5642, or other dedicated WATTS line.

This interested person cannot afford access via National Narrowcast Network (202-966-2211). Such exclusive use arrangement appears to have been proffered in a telcon on June 15 with the Office of the Secretary.

Would respectfully request that the Secretary of the Commission make the necessary arrangements allowing this interested person access, as explained above, to the June 17 Commission meeting, thus exercising the SECY's authority pursuant 10 CFR 2.808 "Authority of the Secretary [of the Commission] to Rule on Procedural Matters".

To the best of this interested person's knowledge, the subject matter (inter alia) of the June 17 meeting is proposed to be "Recommendations for a Coordinated Approach to Regulating the Uranium Recovery Industry", which appears to be a legal memorandum prepared by various persons representing NMA and Shaw Pittman Potts & Trowbridge (SPPT), and which, rumor has it, "was received by Commission assistants" on April 22, 1998 (980422:9805080194)*. However, see letter from Mr. John C. Hoyle to Mr. John Darke, dated June 3, 1998.

Apparently, the April 22 has subsequently been received for review by various other NRC staff persons (ONMSS, DWM, URB).

*(Date of document:NRC accession number of document).

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PDR COMMS NRCC
CORRESPONDENCE PDR

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Plainly, the subject matter of the April 22 legal memorandum described above is the subject matter of an Advanced Notice of Proposed Rulemaking (ANPRM) published in the Federal Register on October 28, 1992 (57 FR 48749), as reflected, in part, by SECY-94-074, dated March 18, 1994 (940318:9404110418), which encloses such ANPRM.

A review of such NRC records and, particularly, the April 22 (supra), and such documents as are referenced by the April 22 NMA/SPPT legal memorandum would reveal that the subject matter of the June 17 Commission meeting bears heavily upon a proposed Subpart H Rulemaking Proceeding, as reflected at page 2, "Areas of Support From the Office of General Counsel", bullet 1 - "New Rulemaking", of the November 7, 1997 memorandum from J. Holonich, ONMSS, to S. Treby, OGC (971107:9711130134).

In any event, numerous NRC records scattered among Waste Management files in the PDR attest to the fact that the proposed subject matter of the June 17 meeting should be considered interrelated, interdependent, and interconnected to the "New Rulemaking" mentioned by the cited November 7 memorandum. For example, records pertaining to meetings between the NRC and various "professional association representatives" occurring on December 13-14, 1996 (a document package containing 222 pages), on January 28, 1997, and June 3-5, 1997 (a 422 page package) are available, although woefully inaccessible, in the PDR.

However, warehousing such NRC official records at the PDR does not "thrust the material into the public domain", particularly to this interested person who more often than not finds himself "a resident in the wilds of" Southeastern Utah or Central New Mexico. See *Pitzgibbon v. Agency for International Development*, 724 F. Supp. 1048, 1051 (D.D.C.) and also see *Natural Resources Defence Council v. Lujan*, 768 F. Supp. 870, 889 n. 35 (D.D.C. 1991), where the court held, as is particularly relevant to the remedy requested of the Secretary herein, "It cannot be that the only relevant information on this matter comes from industry, especially where this is a question of great public controversy and where there are identified organizations that have been actively engaged in the debate over [the project]".

Beyond the immediate remedy requested by this interested person at page 1 above, would also respectfully request that: In the event that the Secretary determines that the NRC/NMA/SPPT interaction consummated or approached by the 10 am June 17 Commission agenda item bears heavily, or otherwise, upon a 10 CFR Part 2, Subpart H Rulemaking Proceeding, that the Secretary request, at the behest of this interested person, that the NRC Executive Director of Operations (EDO) make such

determinations as are necessary and appropriate pursuant to 10 CFR 2.802 (entitled "Petition for Rulemaking"), given the circumstances described herein, to mitigate the effect of the in camera proceeding which has accrued to the "New Rulemaking" mentioned in the November 7, 1997, Holonich/Treby memorandum cited above.

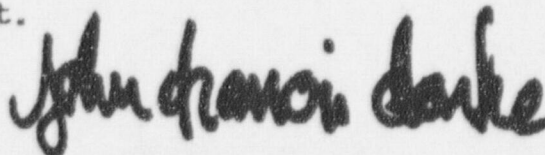
In order for this person to meaningfully participate in the rulemaking proceeding contemplated by the November 7, 1997, Holonich/Treby memorandum (the "New Rulemaking" which has elsewhere been characterized as the proposed "Part 41 Rulemaking"), such person would require access to NRC official records in a coherent rulemaking docket. The NRC's failure to date to create such a docket (see 10 CFR 2.802(e)) and, further, the OGC's failure to list such proceeding on the published Regulatory Agenda is prejudicial to the "New Rulemaking" referenced above.

At a minimum, the abandoned ANPR proceeding cited above should be reopened and the various AMC/NMA/SPPT/NRC interactions be appropriately documented on such docket.

Further, would respectfully request that this letter be docketed at the various PDR file locations listed herein at the top of page 1.

The present interested person does so recognizing that the April 22, 1998, legal memorandum cited above and the foundering ANPR dated October 28, 1992, as revived by the "New Rulemaking" contemplated by the NRC staff, review, or would review, ISL, ISL waste, direct and indirect disposal (alternative feed) of various waste(s) at UR facilities, and DOE planned future disposal sites (after termination) at various UR facilities. Such criteria would be particularly applicable to such dockets.

Thank you for your prompt, thorough attention to (consideration of) the present request.



John F. Darke
P.O. Box 603
Moab, Utah 84532-0603