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"Base Camp to Adventure"

50 West 100 South Blanding, Utah 84511 (435) 678-2791 / Fax (435) 678-3312 / E-Mail - blandingcity@sisna.com

November 16, 1999

Dr. Dianne R. Nielson
Utah Department of Environmental Quality
P.O. Box 144850
Salt Lake City, Utah 84114-4850

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OSP

Re: Proposal to Amend Agreement with the NRC to Regulate Uranium Mills Tailings

Dear Board Members:

When you receive a letter of this length, you often ask yourself if it is worth the time. Please take the time to read our letter in its entirety, we feel it is of utmost importance. We are concerned as efforts by the State to stop the processing of alternative feed materials at the White Mesa Mill continue. It appears that this latest move by the State to amend the NRC agreement allowing Utah to become an "Agreement State", taking on the expense, liability and responsibility of regulating uranium mills tailings, is another move to this end. We believe that the matter involves two issues: 1) Should the Mill be subject to a State Groundwater Discharge Permit in addition to its NRC license? 2) What types of alternative feed materials may be processed at the Mill? It appears, however, that both issues can be resolved without the State taking the drastic move to become an Agreement State. Although we support the States right to regulate business and any environmentally sensitive processes that occur in the State, we feel it very important to consider the risk/return trade-offs. We understand the need to protect the States right to regulate these activities, even with our "big brother" federal government looking over our shoulder.

We have tried to be very objective in this matter, have done extensive research, and see two differing interests with potential conflict. First, we see the governments role and need to protect issues of public health, safety and environmental protection. Second, we recognize enterprises right to engage in legitimate business opportunities.

We ask ourselves then, "What are the issues of public health, safety and environmental protection that are applicable here?" We know that the Mill is heavily regulated by the NRC and under the Uranium Mill Tailings Radiation Control Act, is subject to stringent controls, (right down to the type of pencil that can be used to record and document results) regarding both radiological and non-radiological materials. We know that there has been no significant environmental violations in over 20 years of operations at the White Mesa Mill. We have had direct conversation with the NRC and are assured as City Government that the White Mesa Mill operations pose no threat to the public or the environment. What then are the States concerns? We know that one is the State Groundwater Discharge Permit request. When we approached the Mill regarding this, we were told that they are willing to comply with this request, although they feel they are not legally obligated to. Other than this, we know of no other environmental or public health concerns from the state. In addition, we were told by mill owners that if other concerns exist, that they are more than willing to work with the State to solve any other public safety or environmental concern. Whether the State of Utah is an Agreement State or not.

It seems then to boil down to the States desire to regulate what types of alternative feed materials can be processed at a uranium mill. The State is seeking to protect its right to govern versus the federal governments right to govern. The option the State has then, is to try and secure this right through those processes set by the federal government that allows them to do so, which is to become an Agreement State. The federal government has made the decision to give the White Mesa Mill license to process alternative feed material based on three conditions being satisfied, which are:

- 1) The alternative feed material meets the NRC definition of "ore" which is a natural or native matter that may be mined and treated for the extraction of any of its constituents or any other matter from which source material is extracted in a licensed uranium or thorium mill. This includes 11e.(2) by product material (i.e., uranium mill tailings) from other facilities, and other processing wastes from ores which have previously been beneficiated for other minerals.

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- 2) The proposed alternative feed material does not contain any "listed hazardous wastes" as defined under the Resource Conservation and Recovery Act. However, potential alternative feed materials that exhibit only "characteristics" of hazardous waste may be processed as alternative feed materials at uranium mills.
- 3) The alternative feed material must be processed "primarily" for its source material content.

Currently, the NRC policy requires that a specific license amendment must be obtained for processing each proposed alternative feed material.

Because these conditions have been met by the White Mesa Mill, licenses have been issued, and all operating regulations have been met. The State has challenged these license amendments and an ASLB judge upheld the license. The State has appealed this decision to the commission itself. It seems that if the commission upholds the ruling, the State will not be able to set a different standard regarding these alternative feed materials whether they are an Agreement State or not. The question of where the line should be drawn on this issue will be determined by the NRC. They will resolve the jurisdiction issue. Regardless, we do not see any reason for the State to impose different standards regarding alternative feed materials since no issues of public health, safety or environmental concerns exist. Why would the state want to change these standards? It would only hamper enterprises right to engage in legitimate business opportunities. In this case the change would benefit Envirocare, thus the often heard accusation that some one at the state level is being bought off or is responding to pressures from Envirocare. No, we do not believe that anyone is being bought off, however, we do feel that DEQ and Radiation Control staff are responding to pressures from Envirocare. We can only hope that we are wrong.

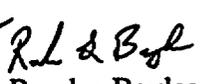
With the jurisdictional issue being resolved outside the "Agreement State" issue, why should the state accept the additional expense and liability to amend the agreement? We see several reasons why they should not.

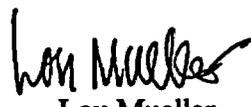
- 1) The State will assume increased regulatory burdens without the assurance of adequate funding.
- 2) DEQ says it will need additional engineering, administrative, physics, and hydrological staffing.
- 3) Adequate funding, regardless of the source, is inadequate to finance this additional program, only costing us as tax payers more money.
- 4) This would only be a duplication of a federal program which is specialized and already has the expertise in this area where the State does not.
- 5) State assumption benefits only Envirocare.
- 6) Utah is benefited by the independent oversight and review by the NRC.
- 7) The liability of the Atlas site clean up would now fall on the State. The NRC will not allow an exception.
- 8) The States attempt to change regulation standards regarding alternative feed materials will end up in expensive litigation battles with the Mills and the Federal Government, and for what?
- 9) The State should be trying to preserve the uranium industry in Utah not force closure of the mills.
- 10) The White Mesa Mill and the Shooting Canyon Mill are both critical to the economy in Southeast Utah.
- 11) Concerns regarding public health, safety, and the environment can be resolved without taking this desperate step.

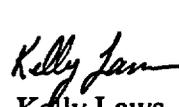
We hereby request a formal response be drafted to the City of Blanding from the Radiation Control Board explaining your position, regarding our concerns and the issues raised. We appreciate the time and efforts spent by each of you and hope that you can see this as clearly as we feel we do. Please do not get caught up in the bureaucracy and the authoritarian egos surrounding this matter. It is too important to just go with the flow.

Respectfully,
City of Blanding


Calvin Balch
Mayor


Randee Bayles
City Council


Lou Mueller
City Council


Kelly Laws
City Council


Clisbee Black
City Council


Don Smith
City Council

xc: Bill Sinclair
Rep. Merrill Cook
Dick Meserve
Harold R. Roberts
Paul H. Lohau

Rep. Christopher B. Cannon
Governor Michael O. Leavitt
Joseph J. Holonich
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