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April 24, 1995
UNC/ABQ-95-104M

U.S. Nuclear Regulatory Commission
Mr. Joseph J. Holonich, Chief
High Level Waste and Uranium Recovery
Projects Branch MS-T-7J9
Division of Waste Management
Office of Nuclear Materials Safety and Safeguards
11545 Rockville Pike
Rockville, MD 20852

Re: Docket No. 40-8907
License No. SUA-1475
License Request to Change Background
Water Quality Standards

Dear Mr. Holonich:

This letter transmits the documentation which you requested earlier this year regarding United Nuclear Corporation's pending request that the NRC amend our license for the Church Rock site to reflect background water quality values consistent with the data previously submitted beginning in October, 1992 as discussed in more detail herein. I apologize for not having submitted this information earlier. However, I have been much busier in the first quarter of 1995 than I anticipated.

You will recall that during your visit to the site in January we discussed the issue of background water quality and the role it plays in the possible formulation of an Alternative Concentration Limits (ACL) request for the Church Rock Corrective Action Plan (CAP). I indicated at that time that prior to the submittal of an ACL request, United Nuclear desires that NRC finalize a decision regarding an amendment request we have pending before NRC as to whether or not it concurred with our assessment of background water quality at the site. Your office is apparently unaware that there is such a license amendment request and you have asked that I provide you with documentation that shows that to be the case. Included herewith is that documentation.

More specifically, United Nuclear requested that amendment to its license in a letter to NRC dated August 17, 1993. However, discussions regarding such an amendment began with the submittal by United Nuclear of the Background Water Quality Report in November, 1992. The following is a chronology of the documents pertaining to this issue since November, 1992.

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1. A November 3, 1992 letter from United Nuclear to Mr. Ramon Hall, Director of the Uranium Recovery Field Office (URFO) in Denver transmitting five copies of the "Background Water Quality Report". A copy of this report is included for your use.

This report was submitted, as discussed in the November 3 letter, in response to representations made by both NRC and EPA that any additional information that might come to light providing a better understanding of background water quality conditions would be considered by the agencies. The letter requested review of the document and suggested a meeting to discuss the findings.

2. A November 13, 1992 letter from United Nuclear to Mr. Gary Konwinski, URFO's resident ground water expert, confirming the scheduling of a meeting for Friday, December 4, 1992 at which United Nuclear and its consultant, Canonic Environmental Services, would make a presentation summarizing the results of the background water quality investigation to EPA and its consultant Jacobs Engineering, NRC, and NMED. It was anticipated that this meeting would initiate a technical dialogue on the subject.
3. A copy of the list of attendees at the December 4 meeting.
4. A December 31, 1992 letter from United Nuclear to Mr. Hall of the URFO in which we transmit the 1992 Corrective Action Plan Annual Review Report. In this letter we again outline the findings of the Background Water Quality Report and recommend that the background water quality standards for nitrate, sulfate, and total dissolved solids (TDS) be changed. In this letter we also point out that the Annual Review Report discusses the impact of the recommended change in background water quality standards on the CAP. We also note that while we believe that our proposed modifications to the CAP are a logical extension of the progress made in remediation that there remains a question whether or not such modification requires a license amendment. We remind NRC that the December 4 meeting had resulted in our agreement to submit additional supporting information, i.e., a statistical analysis of the data used in the Background Water Quality Report, to NRC on this subject as a response to comments on the Annual Review to be provided by NRC and EPA.
5. A February 25, 1993 letter from NRC to United Nuclear transmitting comments on the 1992 Annual Review Report. In this letter NRC concludes several things about the background water quality issue. First NRC concludes that the requests made in the Annual Review Report would require a modification of the license. Further, NRC recommends that United Nuclear conduct a statistical analysis of the data presented in support of proposed background values for nitrate, sulfate, and TDS (i.e., Table 4.4)
6. An April 23, 1993 letter to Mr. Hall from United Nuclear transmitting the "Statistical Analysis of Alluvial Water Quality Report" in support of the Background Water Quality

- Report of October, 1992 in response to NRC's February 25, 1993 request. A copy of the report is enclosed for your use.
7. An August 17, 1993 letter to Mr. Hall of URFO formally requesting that our license be amended in part to reflect the background water quality conditions as represented by the October 1992 Background Report. This letter also transmits a "Technical Support Document" which provided additional justification for the proposed modifications. A copy of this document is enclosed for your use.
 8. An October 22, 1993 letter from NRC to United Nuclear responding to our license amendment request. On page two of this letter NRC informs United Nuclear that the NRC and the EPA "are currently pursuing the issue of appropriate background water quality in the alluvial materials. . . [U]ntil modified values for nitrate, TDS, and sulfate are derived, no modifications to the corrective action in this area can be made".
 9. A December 31, 1993 letter to Mr. Hall transmitting the 1993 Ground Water Corrective Action Plan Annual Report and requesting certain license amendments, including one to discontinue operation of the Southwest Alluvial pumping system based on the results of the background water quality investigation completed in 1992. In this letter we also requested an update on the background issue.
 10. A January 17, 1995 letter to yourself from United Nuclear transmitting the 1994 Ground Water Corrective Action Plan Annual Report and requesting certain license amendments.
 11. A January 27, 1995 letter from NRC to United Nuclear transmitting NRC's Technical Evaluation Report (TER) responding to United Nuclear's license amendment request of December 31, 1993. The letter also acknowledges the receipt of the January 17, 1995 letter and commits to making a determination on the requests contained therein.

Review of the above chronological litany of events clearly shows a change in the manner in which the NRC was administering its responsibility to United Nuclear as a licensee. Through December of 1993 there was clear communication between the URFO staff and the Company. Mr. Konwinski and Mr. Hall were aware of the importance of the background water quality issues to evaluating the success of remediation at the site. As late as August, 1993 the URFO was still very much involved in reviewing the Background Water Quality Report. However, this was the approximate time frame in which it was determined by NRC that the URFO would be closed.

Since October, 1993 we have had little communication with NRC regarding the background water quality issue. It is apparent to us that the focus and priority of the staff has changed significantly since URFO closed and the headquarters staff has taken over the responsibility of administering our license. Somewhere in the transition the focus on the background water quality

issue was lost.

In the past we have had certain comfort that the NRC staff was attentive to our concerns and well informed of our position. Since the URFO closed we have been increasingly concerned that the technical staff is not focused on the issues at our site. More importantly, there is no longer any interactive communication between the NRC staff and the licensee. This, we believe, has contributed significantly to the lack of progress in resolving the background issue.

After we submitted our 1993 Annual Report it was over a year before we heard from NRC as to its position regarding the progress of ground water remediation. In the interim there was no communication or comment on the technical content of the report. We submitted our 1994 report in January, 1995 and have yet to hear from NRC as to any progress made in reviewing this document.

In it's January 27, 1995 TER, NRC "concludes that the background for nitrates, sulfates, and TDS can be reconsidered and possibly revised by the EPA based on 1977 data and considering newly obtained information" by United Nuclear. There is no indication, however, that NRC has considered further United Nuclear's request of August 17, 1992 to amend the license to reflect the background water quality proposals for nitrate, sulfate, and TDS. As noted earlier in chronology item No. 8, NRC acknowledged that until those proposed changes could be evaluated no change to the operating status of the Alluvial system could be approved. It was our belief until your visit in January that NRC was continuing this evaluation.

NRC's January 27, 1995 TER did not address this issue further except to reconfirm that it should be looked at. NRC notes in its TER that staff have discussed and communicated this position to EPA while it represents the 1992 Background Water Quality Report of 1992 as "newly acquired data". Yet we are concerned that NRC has not discussed its position with United Nuclear since October of 1993. Additionally, NRC's recent technical evaluation leaves us with the impression that NRC may be proceeding independently of EPA rather than working together to obtain a mutually acceptable remediation. This is exactly the opposite of how the NRC and EPA agreed to proceed six years ago when the EPA Record of Decision (ROD) and the Memorandum of Understanding (MOU) were published. We hope that this is not the case.

In light of the information contained herein, we request that NRC carefully review the Background Water Quality Report submitted in 1992 together with the Statistical Analysis submitted in February, 1993 and the Technical Support Document submitted in August, 1993 and provide United Nuclear with a determination regarding its request to amend its license. The documentation provided demonstrates that the NRC URFO in Denver was proceeding with such an evaluation until the office was closed. Somewhere in the transition process our amendment request was overlooked and the evaluation process was discontinued.

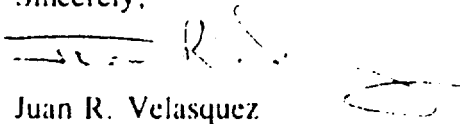
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If you have any questions or require additional information please do not hesitate to call as this is an item of critical importance to us. If you find it desirable, we would be happy to meet with you and your staff to discuss this issue further.

Sincerely,

A handwritten signature in dark ink, appearing to read "Juan R. Velasquez", is written over a horizontal line. The signature is stylized and somewhat cursive.

Juan R. Velasquez

cc: Shawn Ghose - EPA w/out enclosures
Ed Morales w/out enclosures