



DEPARTMENT OF THE ARMY

U.S. Army Corps of Engineers
WASHINGTON, D.C. 20314-1000

APR 13 2001

REPLY TO
ATTENTION OF:

Programs Management Division
Centralized Programs and Systems
Management Branch

Mr. David Geiser
Acting Director, Office of Long-term
Stewardship, EM-51
United States Department of Energy, Headquarters
1000 Independence Avenue, SW
Washington, DC 20585

Dear Mr. Geiser:

In March 1999 the U.S. Army Corps of Engineers (USACE) and the Department of Energy (DOE) signed a Memorandum of Understanding (MOU) with respect to the Formerly Utilized Sites Remedial Action Program (FUSRAP). This MOU provides for DOE to provide such assistance as may reasonably be necessary with respect to waste disposal matters to carry out the intent of the MOU. Recent Nuclear Regulatory Commission (NRC) guidance described below requires me to request your assistance. Specifically, I seek your written agreement, as the long term property custodian at NRC licensed uranium tailings disposal cells or impoundments, with our disposal of ore processing residuals from FUSRAP sites at NRC licensed uranium mills or disposal facilities with tailings disposal cells. Department of Energy agreement in this matter allows the Corps to locate the most suitable disposal facilities for a substantial percentage of the FUSRAP materials requiring offsite disposal. Furthermore, DOE itself utilized NRC licensed 11e.(2) disposal facilities for disposal of ore processing residuals from FUSRAP sites.

On November 30, 2000, the NRC Office of Nuclear Materials Safety and Safeguards (NMSS) issued NRC Regulatory Issue Summary 2000-23, "Recent Changes to Uranium Recovery Policy" (RIS 2000-23). It includes guidance on the disposal of non-Atomic Energy Act, Section 11e.(2) byproduct material in tailings impoundments licensed by the NRC. The RIS 2000-23 requires that before materials, which are not regulated 11e.(2) byproduct materials, can be disposed of at a NRC licensed 11e.(2) disposal facility the agency which is the long term property custodian for the licensed cell(s) be consulted and requested to provide its concurrence with the planned disposal. Because the Department of Energy (DOE) is the long term property custodian for 11e.(2) disposal facilities at Envirocare of Utah, at International Uranium Corporation USA in Utah, and at other NRC licensed uranium mills with tailings disposal cells, DOE concurrence is required in order to satisfy this requirement of the new NRC guidance.

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A large percentage of the contaminated materials at FUSRAP sites are the residuals of processing ores for their source material content that have not been under license from the Atomic Energy Commission or the NRC on or after November 8, 1978. In the December 13, 2000, denial of the petitions filed pursuant to 10 CFR 2.206 by the Snake River Alliance and Envirocare of Utah, Inc., the Director of NMSS found that these types of materials are not regulated under the Atomic Energy Act of 1954. These materials are chemically and physically very similar to regulated 11e.(2) materials that are already allowed to be disposed of at the NRC licensed 11e.(2) disposal facilities, except that some of them have been mixed with clean soils and are generally of lower concentration than 11e.(2) materials directly from the ore processing lines. Though not regulated by the Atomic Energy Act, it is most appropriate to dispose of some of these materials in NRC licensed facilities. I am happy to provide site history and materials characterization information for your review and/or to meet with you to discuss specific materials prior to disposal, at your request.

Please provide the written concurrence of DOE that ore processing residuals from FUSRAP sites that were originally processed prior to 1978 and have not been licensed by the NRC or an Agreement State on or after November 8, 1978, may be disposed of at NRC licensed 11e.(2) disposal facilities for which DOE is the long term property custodian. Your cooperation in this matter would be consistent with Article IV of the MOU and would be of great assistance to USACE in continuing to complete the necessary environmental restoration at these sites.

If there are any questions regarding these sites, please contact Hans Moennig at (202) 761-4113. Thank you in advance for cooperating with us on this matter.

Sincerely,



Thomas F. Caver, Jr., P.E.
Deputy Director of Civil Works

Copies Furnished:

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