



CONFERENCE OF RADIATION CONTROL PROGRAM DIRECTORS, INC.

RESOLUTION

Relating to: Regulation of 11(e)2 radioactive material, and the transfer of the Formerly Utilized Sites Remedial Action Program (FUSRAP) to the U.S. Army Corps of Engineers (USACE)

WHEREAS: A major focus of the CRCPD is assuring that the public is not unnecessarily exposed to radiation and all radioactive materials (RAM) are adequately controlled; and

WHEREAS: Title I of the Energy and Water Development Appropriations Act, 1998, Public Law 105-62, transferred the FUSRAP program from the US Department of Energy (DOE) to the USACE; and

WHEREAS: Price-Anderson Act indemnification of DOE and its contractors was not transferred to the USACE and its FUSRAP contractors by PL 105-62; and

WHEREAS: Under the Atomic Energy Act of 1954 the DOE is predominately self regulating in the radiation area and the USACE lacks this authority; and

WHEREAS: To date the Nuclear Regulatory Commission (NRC) has not accepted jurisdiction over the 11(e)2 radioactive byproduct material processed prior to the enactment of the Uranium Mill Tailings Radiation Control Act (UMTRCA), which amended the Atomic Energy Act, and NRC has stated that the Agreement States (AS) do not have jurisdiction over pre 1978 11(e)2 byproduct material under the AS Program (but may have such authority under state law); and

WHEREAS: The USACE has stated the Corps intends to accelerate the FUSRAP cleanup, including 11(e)2 byproduct material processed before UMTRCA became law in 1978; and

WHEREAS: 11(e)2 byproduct material processed prior to 1978, has been, and is currently being transported to and disposed of at a disposal site in Utah under an NRC 11(e)2 license; and

WHEREAS: Under the provisions of CERCLA the USACE is not required to have a radioactive materials license for the 11(e)2 byproduct material on FUSRAP sites on the NPL, but needs one for the majority of FUSRAP sites which are not on the NPL;

NOW BE IT RESOLVED:

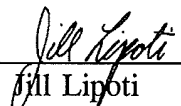
That CRCPD formally convey to the USACE its concern over its lack of a radioactive material **(RAM)** license to possess and use 11(e)2 byproduct material; and

BE IT FURTHER RESOLVED:

That the CRCPD formerly convey to the NRC a request for the NRC to reconsider its position on their lack of jurisdiction over 11(e)2 byproduct material processed before the enactment of UMTRCA in 1978; and

BE IT FURTHER RESOLVED:

That CRCPD formally convey to 1) the House and Senate Appropriations Committee, and their Subcommittees on a) National Defense Appropriations and b) Energy and Water Development, 2) the House and Senate National Defense Committees, 3) the Senate Energy and Natural Resources Committee, 4) and the House Commerce Committee, the above CRCPD concerns and request that the regulatory jurisdiction of the USACE's 11(e)2 byproduct material be clarified to assure that this material be regulated under a **RAM** license and appropriate regulations by the NRC or Agreement States.



Jill Lipoti
CRCPD Chairperson

Approved by the CRCPD Membership May 20, 1998

