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State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

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January 18, 1990

TO: File

FROM: Pamela Grubaugh-Littig, Permit Supervisor pgl

RE: Letter of Credit, Nuclear Fuels, Inc., Tony M Mine, M/017/001, Garfield County, Utah

Synopsis and Analysis

Nuclear Fuels, Inc., has proposed an irrevocable letter of credit as the form of surety for the Tony M mine. This irrevocable letter of credit will be issued by North Carolina National Bank (NCNB).

I checked with the Department of Financial Institutions and spoke to Mr. John Bronson regarding accepting letters of credit issued by banks not licensed to do business in Utah. He stated that this is legal. In regard to the size of a bank, it is possible for his agency to give us that information. He stated that NCNB has assets worth $16 billion. However, Utah law precludes his agency from sharing information about the condition of the bank with any other state agencies. However, the State Treasurer's Office subscribes to a bank rating service that rates banks.

According to R613-004-113.4.14, an acceptable form of surety is "an irrevocable letter of credit issued by a bank organized to do business in the United States." The drawback of not requiring the bank to be licensed to do business in the state of Utah would occur if the state had to sue the bank and would have to do so in their own jurisdiction.

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Recommendation

I recommend that the irrevocable letter of credit issued by North Carolina National Bank (NCNB) be accepted.

In the future, I also recommend that all irrevocable letters of credit issued by banks not licensed to do business in the state of Utah be checked with the Department of Financial Institutions and/or its rating checked with the State Treasurer's Office. If at all possible, the operators should be encouraged to have irrevocable letters of credit issued by banks licensed to do business in the state of Utah.

jb
cc: Dianne R. Nielson
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D. Wayne Hedberg
Tony Gallegos
Holland Shepherd
WMN7/3-4