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April 22, 2002

Chief, Rules Review and Directives Branch
U.S. Nuclear Regulatory Commission
Mail Stop T6-D59
Washington, D.C. 20555-0001

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REGULATORY DIVISION

Re: Comments on NRC draft SRPs NUREG-1569 and NUREG-1620 Rev. 1.

The New Mexico Environment Department ("NMED") submits the following comments on the Nuclear Regulatory Commission's ("NRC") Standard Review Plans (SRPs) for NUREG-1569 for "In Situ Leach Uranium Extraction License Applications" and NUREG-1620 for "the Review of a Reclamation Plan for Mill Tailing Sites Under Title II of the Uranium Mill Tailing Radiation Control Act."

Within the last 18 months under the NRC's rule-making process, the NMED has submitted correspondence (12/22/00 to Mark Haisfield, 1/19/01 to the Commission, 3/7/01 to the Commission, 10/5/01 to the Commission). NMED requests that these NMED correspondence documents be included in the guidance development process in addition to specific comments included in this letter.

The NMED has a number of comments concerning NUREG-1569 and NUREG-1620.

Draft NUREG-1569 Rev. 1

1. In Section 6.1.3(4c) on page 6-10, the text mentions regulating non-radiological constituents such as total dissolved solids, sulfate, chloride and iron. What regulatory authority and water quality standards will the NRC use in a non-agreement state such as New Mexico? Will state water quality standards be

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Add = J. Wisher (JHL)

applicable if the state is an Underground Injection Control (UIC) primacy state under the EPA program?

2. In Section 6.1.3(6) on page 6-10, NRC is deferring to the EPA standards for drinking water and applicable state standards for other ground-water quality. "Ground-water quality should not exceed the appropriate state water-use standards for aquifers that cannot support a drinking water use." This supports NMED's continued regulatory authority over non-radiological constituents, which would conflict with NUREG-1620.
3. In Section 6.1.3(9) on page 6-11, the processes such as Alternative Concentration Limits (ACLs) and applicable state programs for Alternative Abatement Standards should be cross referenced.
4. In Section 6.1.4 on page 6-12 in the fifth paragraph, a revision is need for the last sentence, which reads: "Any likely adverse off-site effects of ground-water restoration are acceptable." A suggested revision is "The applicant has demonstrated that any likely adverse..."
5. In Section 6.2.3 (9) on page 6-15, the citation for non-radiological hazardous constituents (10 CFR Part 40, Appendix A, Criterion 6(7)) does not address other non-radiological constituents such as chloride, sulfate and nitrate that may contribute contaminants through leaching from the vadose zone to ground water. The NRC plans for reclaiming disturbed lands would potentially be less stringent than the New Mexico's requirements for abatement of soils.

Draft NUREG-1620 Rev. 1

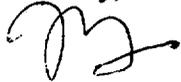
1. In Section 4.2.1 on page 4-21, ground water protection standards established do not incorporate state ground water quality standards. Moreover, the Commission is given authority to exclude a detected hazardous constituent without consideration for state authority. This issue needs to be further addressed.
2. In Appendix E2.4 on page E-3, NMED does not concur with NRC's assertion of exclusive jurisdiction over non-radiological hazards of 11e(2) byproduct material. This issue was addressed in a letter from the NMED to the Commission on October 5, 2001.
3. In Appendix E3.3.2(1d) on page E-7, the paragraph states, "Some constituents used in the mining process, but not listed in Criterion 13, such as ammonia and nitrate, must be addressed. Constituents should not be added just because an individual state regulatory body is concerned about that constituent. Having a state identify a constituent as one of concern is not necessarily a proper basis for NRC to include that constituent." This statement is unacceptable to NMED.

Furthermore, it is not clear what water quality standards NRC will use for nitrate and other non-radiological constituents. It is also unclear under what authority those standards will be applied by NRC.?

4. In Appendix E4.2 on page E-13, the first paragraph states, "NRC staff intends to make a good-faith effort in working with states on issues related to a licensee's completion of remedial action and preparation for license termination. ...Therefore, the NRC agrees that it will not terminate any site-specific license until the site licensee has demonstrated that all issues with state regulatory authorities have been resolved." Does NRC interpret this statement to mean that the licensee must demonstrate compliance with state water quality standards? Does the resolution of state issues conflict with Appendix E2.4?

The NMED appreciates the opportunity to comment of the draft NUREG-1569 and NUREG-1620. If you have any questions or comments about this letter, please contact Kevin Myers, 505-424-8009.

Sincerely,



Marcy Leavitt
Chief, Ground Water Quality Bureau
New Mexico Environment Department