

August 9, 2006

Mr. Roy Blickwedel  
Remedial Project Manager  
General Electric Company  
640 Freedom Business Center  
King of Prussia, PA 19406

SUBJECT: AMENDMENT 37 TO UNITED NUCLEAR CORPORATION'S CHURCH ROCK,  
NEW MEXICO, SOURCE MATERIALS LICENSE NO. SUA-1475 (TAC LU0117)

Dear Mr. Blickwedel:

The U.S. Nuclear Regulatory Commission (NRC) staff has completed its review of United Nuclear Corporation's (UNC) requests to revise ground water protection standards (GWPSs) in Source Materials License SUA-1475 for its uranium mill site near Church Rock, New Mexico. The proposed revisions include changing the current 0.001 mg/L chloroform GWPS to 0.08 mg/L for total trihalomethanes (THMs) in the Southwest Alluvium, Zone 1 and Zone 3; and revise the current combined radium-226 and -228 GWPS of 5 pCi/L to 5.2 pCi/L in the Southwest Alluvium and 9.4 pCi/L in Zone 1.

Staff has reviewed your proposed revisions with respect to relevant regulatory criteria (10 CFR 40, Appendix A, paragraph 5B(5) of Criterion 5 and NRC guidance documents (NUREG-1620, Standard Review Plan for the Review of a Reclamation Plan for Mill Tailings Sites Under Title II of the Uranium Mill Tailings Radiation Control Act (UMTRCA) of 1978) and has determined that the proposed amendments meet appropriate regulatory criteria. With respect to staff's technical evaluation, an assessment of the hydrogeologic and statistical basis for the proposed GWPSs indicated that the technical submittals related to your requests contained a rigorous and computationally accurate analysis. The staff's technical evaluation is provided in Enclosure 1. As a result, staff has determined that your requests to revise License Condition (LC) 30 of Source Materials License SUA-1475 are acceptable. Consequently, the UNC license has been modified to change wording in LC 30 to reflect the proposed revisions to GWPSs. The amended license is provided as Enclosure 2.

The NRC staff evaluated the potential impact of implementation of the proposed license amendment and prepared an Environmental Assessment (EA). A copy of the final EA was sent to you on July 21, 2006. The EA indicates that the staff concluded that there would be no significant environmental impact from the requested licensing action. A notice to this effect was published in the *Federal Register* on August 2, 2006 (Vol. 71, No. 148, pgs. 43822-23).

If you have any questions regarding this letter or the enclosures, please contact the NRC Project Manager for your facility, Paul Michalak, at (301) 415-7612 or at pxm2@nrc.gov.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice for Domestic Licensing Proceedings and Issuance of Orders," a copy of this letter will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of NRC's Agencywide Documents Access and Management System (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>.

Sincerely,

/RA/

Gary S. Janosko, Chief  
Fuel Cycle Licensing Branch  
Division of Fuel Cycle Safety  
and Safeguards  
Office of Nuclear Material Safety  
and Safeguards

Docket No.: 40-8907  
License No.: SUA-1475

Enclosures: Technical Evaluation Report  
License Amendment No. 37

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(Closes TAC LU0117)

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**TECHNICAL EVALUATION REPORT  
UNITED NUCLEAR CORPORATION  
REQUEST TO AMEND LICENSE SUA-1475  
CONDITION 30.B**

**DATE: August 2, 2006**

**DOCKET NO. 40-8907**

**LICENSE: SUA-1475**

**LICENSEE: UNC Mining and Milling  
United Nuclear Corporation  
P.O. Box 3077  
Gallup, New Mexico 87305-3077**

**FACILITY: McKinley County, New Mexico**

**PROJECT MANAGER  
AND TECHNICAL REVIEWER: Paul Michalak**

**ISSUE: Request to Revise Chloroform and Combined Radium-226 and -228 Ground  
Water Protection Standards**

**SUMMARY AND CONCLUSIONS:**

United Nuclear Corporation (UNC) has proposed revisions to License Condition 30 of License SUA-1475: revise the current 0.001 mg/L chloroform ground water protection standard (GWPS) to 0.08 mg/L for total trihalomethanes (THMs) in the Southwest Alluvium, Zone 1 and Zone 3 (GEEP 2005b); and revise the current combined radium-226 and -228 GWPS of 5 pCi/L to 5.2 pCi/L in the Southwest Alluvium and 9.4 pCi/L in Zone 1 (GEEP 2005c).

The proposed THM GWPS of 0.08 mg/L is a Safe Drinking Water Act (SDWA) Maximum Contaminant Level (MCL). Chloroform does not currently have an independent SDWA MCL; however, it is included in the SDWA MCL for total THMs. Consequently, as a SDWA MCL, the proposed total THM standard represents a vetted maximum allowable drinking water concentration that is considered to be safe by the U.S. Environmental Protection Agency (EPA).

For the proposed combined radium-226 and -228 GWPSs, both are background water quality concentrations derived from large data sets taken from appropriately located wells. An evaluation of the licensee's hydrogeologic and statistical basis for these proposed GWPSs indicated that the licensee had performed a rigorous and accurate analysis to derive the values.

A review of UNC's proposed amendments with respect to relevant regulatory criteria (10 CFR 40, Appendix A, paragraph 5B(5) of Criterion 5, and Nuclear Regulatory Commission (NRC)

guidance (NUREG-1620, Rev. 1, Standard Review Plan for the Review of a Reclamation Plan for Mill Tailings Sites Under Title II of the Uranium Mill Tailings Radiation Control Act (UMTRCA) of 1978) (NRC 2003) indicates that the proposed amendments meet applicable regulatory criteria.

Consequently, based on the detailed technical and regulatory review, as provided herein, the staff concludes that the proposed GWPSs satisfy the requirements of 10 CFR Part 40, Appendix A and are acceptable.

## **BACKGROUND**

The UNC Church Rock Uranium Mill (the Site) is located approximately 17 miles northeast of Church Rock, New Mexico, in McKinley County. The Site operated from May 1977 to May 1982 under Source Materials License No. SUA-1475 issued to UNC. The mill, designed to process 4,000 tons of ore per day, extracted uranium using conventional crushing, grinding, and acid-leach solvent extraction methods. The Northeast Church Rock mine site is located approximately 2,400 feet north of the mill facilities area. Uranium milling and tailings disposal were conducted on-site and an estimated 3.5 million tons of tailings were disposed in the tailings impoundments.

Tailings at the Site are located within three contiguous cells: the North, Central and South Cell disposal areas. Seepage from all three cells, as well as infiltration of pumped mine water, appears to have contributed to saturated conditions in three units associated with the Site: Southwest Alluvium, and Zones 1 and 3 of the Gallup Sandstone (NA WaterSystems 2005). Reportedly, an estimated five million gallons of tailings derived liquids were previously available to migrate into the Southwest Alluvium and Zone 3 from the North Cell disposal area (EPA 2003). In addition, infiltration from two Borrow Pits (Nos. 1 and 2) is suspected to be a source of acidic seepage into the Southwest Alluvium, Zone 1 and Zone 3.

### **Hydrogeology**

There are three saturated units at the Site: the Southwest Alluvium, Zone 1 and Zone 2. The Southwest Alluvium is composed of Quaternary Age unconsolidated materials located along Pipeline Canyon. Effluent from the Northeast Church Rock mine site was discharged to the Pipeline Arroyo, which infiltrated into the Southwest Alluvium (EPA 2003). This mine-discharge water is referred to as post-mining, pretailings water. In addition, seepage from tailings disposal cells and associated borrow pits (May 1977 through May 1982) also appears to have recharged the Southwest Alluvium. Ground water flows in the Southwest Alluvium to the southwest along the Pipeline Arroyo.

Zones 1 and 3 are the lower and upper hydrostratigraphic units of the Cretaceous Age Upper Gallup Sandstone. Ground water in both zones flows to the northeast. Like the Southwest Alluvium, the source of water in Zones 1 and 3 is, in large measure, historical infiltration of Northeast Church Rock mine-discharge water (EPA 2003). The source of contamination appears to be either infiltration from the Southwest Alluvium or tailings disposal cell (Zone 3) or seepage from a borrow pit (Zone 1).

## **Ground Water Protection Standards**

The current chloroform GWPS of 0.001 mg/L was established by the NRC as a background concentration in 1989 (NRC 1989a and 1989b). In its analysis of existing monitor well data for the Site (circa 1989), staff determined that a majority of the data set was below the lower (analytical) limit of detection for chloroform (i.e., 0.001 mg/L). Consequently, the lower analytical limit of detection for chloroform was utilized as the background GWPS.

The present combined radium-226 and -228 GWPS is 5 pCi/L. This single value is currently applied to all three aquifers at the Site: Southwest Alluvium, Zone 1 and Zone 3. It was established by the NRC as a background concentration in 1989 (NRC 1989a and 1989b). In its analysis of several site related constituents, including combined radium-226 and -228, NRC staff utilized a graphical method to determine background ground water concentrations from up-gradient monitor wells. The graphical method plotted the water quality analysis values from lowest to highest values, and noted where the plot deflected. The deflection point, 5 pCi/L for combined radium, was assumed to represent the background concentration. Wells from all three hydrostratigraphic units were used in the analysis: Southwest Alluvium - wells GW4, 622, EPA27 and EPA28; Zone 1 - wells 515A, 516A, 604, 619, EPA2, EPA4, EPA5, EPA7, and EPA8; and Zone 3 - wells 9-D, 106D, 411, 420, 501B, 502B, 504B, 517, 518, EPA9, EPA11, EPA13, EPA14, EPA15, EPA17, and EPA18 (NRC 1989a).

### **Proposed Revisions to License Condition 30.B**

In correspondence dated May 26 and July 14, 2005, General Electric Environmental Programs (GEEP), on behalf of UNC, submitted a revised request to amend Condition 30.B of License SUA-1475 to bring the GWPS for chloroform into agreement with the SDWA MCLs (GEEP 2005a and 2005b). GEEP stated that under the SDWA, chloroform is regulated in the group of THMs which have an established MCL of 0.08 mg/L. Specifically, GEEP requested that the current 0.001 mg/L chloroform GWPS at points of compliance (under Condition 30.B of License SUA-1475) be amended to 0.08 mg/L for THMs.

By letters dated September 30, 2005 and February 22 and April 7, 2006, GEEP submitted an amendment request and supplemental information to revise the GWPS for combined radium-226 and -228 in the Southwest Alluvium and Zone 1 saturated units (GEEP 2005c, 2006a and 2006b). This proposed amendment would revise the current combined radium-226 and -228 GWPS from 5 pCi/L to 5.2 pCi/L in the Southwest Alluvium and from 5 pCi/L to 9.4 pCi/L in Zone 1.

## **TECHNICAL EVALUATION**

### **Regulatory Basis**

The regulatory basis for the UNC's license amendment request is provided in 10 CFR 40, Appendix A, paragraph 5B(5) of Criterion 5, and discussed in Section 4.2.3 (page 4-23) of NRC (2003). Three options for establishing GWPSs for hazardous constituents are provided:

- Commission-approved background concentrations,

- Maximum concentration limits as specified in 10 CFR 40, Appendix A, paragraph 5C of Criterion 5, or

•Alternate concentration limits.

The proposed THM GWPS is a SDWA MCL. As such, it was submitted under the second option. The proposed combined radium GWPSs (5.2 pCi/L for the Southwest Alluvium and 9.4 pCi/L for Zone 1) are the 95<sup>th</sup> percentile concentrations from their respective background data sets. As such, they are submitted under the first option and an evaluation of their hydrogeologic and statistical basis is discussed below.

### **Trihalomethanes**

THMs are a group of four chemicals that are formed along with other disinfection byproducts when chlorine or other disinfectants used to control microbial contaminants in drinking water react with naturally occurring organic and inorganic matter in water. The THMs are chloroform, bromodichloromethane, dibromochloromethane, and bromoform. In December 1998, the EPA published the Stage 1 Disinfectants/Disinfection Byproducts Rule that requires water systems to use treatment methods to reduce the formation of disinfection byproducts and to meet certain disinfection byproducts water quality standards. Among these water quality standards is a concentration limit of 0.08 mg/L for total THMs, which are measured as the sum concentration of chloroform, bromoform, bromodichloromethane, and dibromochloromethane.

It is understood that the total THM MCL is based on balancing the hazards of inadequate domestic water supply disinfection vs. the potential risks of reproductive and developmental health effects and cancer associated with disinfection byproducts including THMs. Nevertheless, it represents a vetted maximum allowable drinking water concentration that is considered to be safe by the EPA. In addition, the current New Mexico Water Quality Control Commission Ground Water Standard for chloroform is 0.1 mg/L. As such, the proposed 0.08 mg/L total THM standard is lower than the New Mexico regulatory standard for chloroform.

### **Combined Radium-226 and -228**

Since the proposed combined radium-226 and -228 GWPSs are actually revisions to the original 1989 background concentration, a technical evaluation of the proposed values should address the hydrogeologic and statistical components of the proposal.

#### Hydrogeologic

The hydrogeologic component of the present technical evaluation addresses four primary issues:

- Are there a sufficient number of wells in each aquifer/saturated unit to properly characterize background ground water quality?
- Are the wells truly hydraulically upgradient of the Site or correspondingly are they located in areas that represent ambient water quality conditions (i.e., locations uninfluenced by historical or current Site activities)?

- Have the wells been evaluated over a sufficiently long time period and are the corresponding data sets large enough?
- Are the wells actually located within the aquifer/saturated zone for which they are designated?

Background water quality is defined primarily as water that does not exhibit evidence of the chemical effects of tailings-derived fluids. NA WaterSystems (2005) provided time series graphs and maps of indicator parameter concentrations to identify well data that could be considered to have background quality.

The key indicator of tailings seepage impact in the Southwestern Alluvium is bicarbonate at levels greater than 1,000 mg/L (Earth Tech 2000a). A set of 12 wells are identified as representing background water quality in the Southwest Alluvium: 029A, 624, 627, 639, 642, 644, 645, EPA22A, EPA25, EPA27, EPA28, and SBL-01. All the wells appear to be properly designated as Southwest Alluvium wells and, with the exception of well EPA28, all designated wells are outside the Southwest Alluvium Remedial Action Target Area (i.e., impacted area). Wells 639, 642, 644, and 645 are located in alluvial material along the northern boundary of the site. With the exception of well 624, which contained bicarbonate at concentrations slightly above 1,000 mg/L, all the designated Southwest Alluvium background wells contained bicarbonate below 1,000 mg/L (NA WaterSystems 2006). From these designated wells, a total of 354 ground water quality measurements, collected from July 1989 through October 2005, was used in NA WaterSystems analysis of background water quality. This is a sufficient number of wells over an acceptably long time period.

For Zone 1, the key indicator of tailings seepage impact is chloride at levels greater than 50 mg/L (Earth Tech 2000b). For Zone 1, a set of four wells is designated as background: 619, EPA2, EPA4, and EPA8. All four wells appear to be properly designated as Zone 1 wells; however, they are located north and outside the two small areas designated by the licensee as Zone 1 Remedial Action Target Areas. In general, all four wells exhibit chloride at levels at or below 50 mg/L (NA WaterSystems 2006). From these designated wells, a total of 227 ground water quality measurements, collected from July 1989 through October 2005, was used in NA WaterSystems analysis of background water quality. This is a sufficient number of wells over an acceptably long time period.

#### Statistical

For the Southwest Alluvium, NA WaterSystems compared 536 measurements of water quality from compliance wells against 354 background measurements (NA WaterSystems 2006). Current point of compliance (POC) monitoring wells in the Southwest Alluvium are: 509D, 632, EPA23, EPA27, GW1, GW2, and GW3. In the analysis, original data was not transformed. For the compliance data set, 194 non-detects (36% of the measurements) were replaced with a value equal to one-half the detection limit. For the background set, 87 non-detects (25% of the measurements) were replaced with a value equal to one-half the detection limit. For the background data set, the median combined radium value was 0.7 pCi/L, while the 95<sup>th</sup> percentile combined radium concentration was 5.2 pCi/L.

For the Southwest Alluvium compliance data set, 3.5% of the measurements were above the current GWPS of 5 pCi/L, while only 2.4% of the measurements were above the proposed

standard of 5.2 pCi/L. As can be seen, there is little difference between compliance data set exceedances for the current and proposed standards. For the background data set, only 5.5% of the measurements exceed the current combined radium standard. In both cases, this is to be expected since there is virtually no difference between the standards (5 pCi/L versus 5.2 pCi/L). In reality, the 95<sup>th</sup> percentile has been proposed for the Southwest Alluvium's combined radium GWPS simply to be consistent with the Zone 1 proposal, where the current and proposed standards are significantly different.

In their Zone 1 analysis, NA WaterSystems compared 319 measurements of water quality from compliance wells against 227 background measurements (NA WaterSystems 2006). POC wells for Zone 1 are 614, 604, EPA4, EPA5, and EPA7. In the analysis, original data was not transformed. For the compliance data set, 3 non-detects (0.94% of the measurements) were replaced with a value equal to one-half the detection limit. For the background set, 2 non-detects (0.09% of the measurements) were replaced with a value equal to one-half the detection limit. The median combined radium value was 3.5 pCi/L, while the 95<sup>th</sup> percentile combined radium concentration was 9.4 pCi/L.

For the Zone 1 compliance data set, 41.4% of the measurements were above the current GWPS of 5 pCi/L. However, for the background data set, 26% of the measurements exceed the current combined radium standard. It appears that the current combined radium standard, which was based on data from all three hydrostratigraphic units, is inappropriate for Zone 1 since just over one-quarter of the background measurements were out of compliance with the current standard. Using the proposed 9.4 pCi/L combined radium GWPS, exceedances for the compliance data set dropped to 17%, with a majority of the exceedances occurring at well 604.

### PROPOSED LICENSE CONDITIONS

Based on UNC license amendment submittals concerning its proposed revision to GWPSs for chloroform and combined radium-226 and -228, the following changes should be made to License Condition 30 of Source Materials License SUA-1475:

#### License Condition 30 - EDIT

30. The licensee shall implement a compliance monitoring program containing the following:

A. Unchanged

B. Comply with the following ground water protection standards at point of compliance Wells GW-1, GW-2, GW-3, 632, EPA-23, EPA-28, and 509-D in the Southwest Alluvium; 614, 604, EPA-4, EPA-5, and EPA-7 in Zone 1; and 517, 613, 708, and 711 in Zone 3:

arsenic = 0.05 mg/l; beryllium = 0.05 mg/l; cadmium = 0.01 mg/l; ~~chloroform = 0.001 mg/l~~; gross alpha = 15.0 pCi/l; lead = 0.05 mg/l; lead-210 = 1.0 pCi/l; nickel = 0.05 mg/l; radium-226 and 228 = 5.0 pCi/l **in Zone 3, 5.2 pCi/L in the Southwest Alluvium, and 9.4 pCi/L in Zone 1**; selenium = 0.01 mg/l; thorium-230 = 5.0 pCi/l; **total trihalomethanes = 0.08 mg/L**; uranium = 0.3 mg/l; and vanadium = 0.1 mg/l.

**Should the ground water protection standard for radium-226 and -228 in the Southwest**

**Alluvium or in Zone 1 be exceeded in any compliance well, then a verification sample from the well shall be collected and analyzed within 30 days. If the verification sample also exceeds the ground water protection standard, the well shall be out of compliance. If the verification sample is below the ground water protection standard, the well shall be in compliance and shall revert back to normal monitoring.**

C.Unchanged

[Applicable Amendments: 2, 4, 5, 7, 11, 19, 21, 32, 37]

## **ENVIRONMENTAL REVIEW**

During its review of the amendment request, the NRC staff performed an EA as required under 10 CFR 51.21, for this licensing action. The requested activity does not meet any of the criteria in Part 51.20 requiring an environmental impact statement.

The draft EA was provided to the New Mexico Environment Department, U.S EPA, and Navajo Nation Environmental Protection Agency on May 10, 2006. Comments received were addressed in the final EA that was approved on July 21, 2006 (NRC 2006). The notice of a finding of no significant impact was published in the *Federal Register* on August 2, 2006.

## **REFERENCES**

Earth Tech, Inc. 2000a. Southwest Alluvium Groundwater Geochemistry Report and Request to Temporarily Shut Down the Southwest Alluvium Corrective Action System, United Nuclear Corporation Church Rock Site, Gallup, New Mexico. June 5, 1000 [Adams Accession No. ML003725923]

Earth Tech, Inc. 2000b. Zone 1 Groundwater Geochemistry, Volumes I and II, for the United Nuclear Corporation Church Rock Site in Gallup, New Mexico. May 31, 2000 [Adams Accession Nos. ML003720285, ML003720307, and ML003720321]

GEEP 2005a Letter from Roy Blickwedel to Gary Janosko, NRC, Fuel Cycle Licensing Branch concerning License Amendment Request, Source Materials License SUA-1475, Groundwater Corrective Action Program. May 26 [Adams Accession No. ML052310151]

GEEP 2005b. Letter from Roy Blickwedel to Gary Janosko, NRC, Fuel Cycle Licensing Branch concerning License Amendment Request for Changing the Chloroform Groundwater Protection Standard in Source materials License SUA-1475 (TAC LU0092) Groundwater Corrective Action Program July 14. [Adams Accession No. ML052100367]

GEEP 2005c. Letter from Roy Blickwedel to Gary Janosko, NRC, Fuel Cycle Licensing Branch concerning License Amendment Request for Changing the Method of Determining Exceedances of the Combined Radium Groundwater Protection Standard in Source Material License SUA-1475. September 30. [Adams Accession No. ML053010019]

GEEP 2006a. Letter from Roy Blickwedel to Gary Janosko, NRC, Fuel Cycle Licensing Branch concerning Revised License Amendment Request for Changing the Method of Determining Exceedances of the Combined Radium Groundwater Protection Standard in Source Material

- License SUA-1475. February 22. [Adams Accession No. ML060730043]
- GEEP 2006b. Letter from Roy Blickwedel to Gary Janosko, NRC, Fuel Cycle Licensing Branch concerning Revised License Amendment Request for Changing the Method of Determining Exceedances of the Combined Radium Groundwater Protection Standard in Source Material License SUA-1475. April 7. [Adams Accession No. ML061220286]
- NA WaterSystems 2005. Technical Analysis Report in Support of License Amendment Request for Changing the Method of Determining Exceedances of the Combined Radium Groundwater Protection Standard in Source Materials license SUA-1475 (TAC LU0092), Groundwater Corrective Action Program, Church Rock Site, Church, New Mexico. September 2005 [Adams Accession No. ML053010019]
- NA WaterSystems 2006. Revised Technical Analysis Report in Support of License Amendment Request for Changing the Method of Determining Exceedances of the Combined Radium Groundwater protection standard in source materials license SUA-1475 (TAC LU0092), Groundwater Corrective Action Program, Church Rock Site, Church Rock, New Mexico. February 2006 [Adams Accession No. ML060730043]
- NRC 1989a. Internal Memorandum from G. R. Konwinski (NRC Region IV) concerning establishing ground-water protection standards via Amendment 4 to Source License SUA-1475. January 3, 1989 [Adams Accession No. ML060260396]
- NRC 1989b. Letter to United Nuclear Corporation containing Amendment 4 to Source Materials License SUA-1475. January 3, 1989 [Adams Accession No. ML060260396]
- NRC 2003. NUREG-1620, Rev. 1, A Standard Review Plan for the Review of a Reclamation Plan for Mill Tailings sites Under Title II of the Uranium Mill Tailings Radiation Control Act of 1978", Rev.1, Final Report. Washington, DC: NRC. 2003
- NRC 2006. Letter from Paul Michalak to Roy Blickwedel, GEEP containing the Environmental Assessment for Issuance of a License Amendment for United Nuclear Corporation, Church Rock, New Mexico. July 21 [Adams Accession No. ML061870630]
- US EPA 2003. Second Five-Year Review Report for the United Nuclear Corporation Ground Water Operable Unit, Church Rock, McKinley County, New Mexico. Region 6, Dallas, Texas. September 2003 [Adams Accession No. ML0334402250]