



United States Department of the Interior

Bureau of Indian Affairs

Navajo Region

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MC 620: Division of Environmental, Cultural & Safety Management

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Chief, Rules Review and Directive Branch
Mail Stop T-6D59
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Subject: Scoping Comments for the Generic Environmental Impact Statement for Uranium Milling Facilities

Dear Mr. Park:

The Bureau of Indian Affairs (BIA), Navajo Region, has reviewed the notice published in the Federal Register on September 7, 2007, requesting comments on the U.S. Nuclear Regulatory Commission's decision to prepare a Generic Environmental Impact Statement (GEIS). The GEIS proposes to address the construction, operation, and decommissioning of an in-situ leaching (ISL) uranium mill. The intent of the GEIS is to address the common issues associated with environmental reviews of ISL milling facilities located in western United States.

Implementation of the proposed action would require the issuance of a NRC license under the provisions of 10 CFR 40. The NRC anticipates numerous license applications for (ISL) uranium milling facilities in the coming 2-3 years. The NRC staff will address common issues generically to aid in more efficient environmental review for each separate license application, if and when these applications are submitted.

We appreciate the opportunity for early participation in the evaluation of the environmental impacts associated with the proposed action. In response to your scoping request, we have identified several issues for your attention in the preparation of the GEIS. Our detailed comments are attached. Ms. Harrilene Yazzie, Regional NEPA Coordinator, has been designated the point of contact for Navajo Region, Bureau of Indian Affairs for the GEIS. She can be reached at 505/863-8287.

Sincerely,

Regional Director, Navajo

SOWSI Review Complete

E-R-FDS = ADM-03

Call = p. Michalak (pxm2)

Template = ADM-013

Bureau of Indian Affairs – Navajo Region
Detailed Scoping Comments for the Generic Environmental Impact Statement for
Uranium Milling Facilities
October 29, 2007

The comments submitted below are with the understanding that this is Generic Environmental Impact Statement and Environmental Assessments will be completed to address site specific issues.

Purpose and Need

A clear purpose and need set the stage for thorough consideration of a range of alternatives. The Generic Environmental Impact Statement (GEIS) should describe the purpose of the proposed action and how the purpose will be achieved by implementing the proposed action.

Alternatives

The NOI states that the minimum alternatives to be analyzed are the proposed action, no action, and the conventional milling process. While there may be other alternatives not listed identified during the scoping process, the National Environmental Policy Act (NEPA) requires evaluation of a reasonable range of alternatives, even those not within the jurisdiction of the lead agency (40 CFR 1502.14 (C)). The GEIS should identify and evaluate a reasonable range of alternatives for the proposed project and provide a clear discussion of the reasons for the elimination of alternatives which were not evaluated in detail.

Alternatives for the proposed action (with the exception of the no action alternative) should correspond to the basic project purpose and need. The document should discuss potential environmental impacts of the alternatives in comparative form, thus sharply defining the issues among the options for decision makers and the public (40 CFR 1502.12).

Scope

The GEIS should evaluate the proposed action and all connected actions (40 CFR 1508.25). Connected actions are interdependent parts of a larger action and depend on the larger action for their jurisdiction. The existing conditions and outputs of the in-situ leach (ISL) should be included, and all changes to accommodate the ISL mining should be identified.

Air Quality

The GEIS should provide a detailed discussion of air quality standards, ambient conditions (baseline or existing conditions), and potential air quality impacts of the proposed action, including cumulative and indirect impacts. These should include construction and transport impacts. The GEIS should specifically discuss the items below:

1. Discuss the National Ambient Air Quality Standards (NAAQS), the air quality within the Tribal land and in the surrounding areas. NRC needs to evaluate the contribution of radioactive airborne emissions from existing mine waste to the cumulative environmental impacts of any proposed ISL mining activity on the Navajo Nation.
2. The GEIS should summarize all existing air quality regulations and their implementing agencies for the Navajo Nation including required monitoring and enforcement activities.

Water Resources

1. The GEIS should estimate the water quantity and quality that the project will require for the industrial water uses. The GEIS should describe the water sources and the potential effects upon existing water users and natural resources that depend on the proposed industrial water source in the project's area of influence. The GEIS should clearly depict reasonably foreseeable direct, indirect and cumulative impacts to groundwater resulting from the ISL mining. Specifically, the potentially-affected local and regional groundwater basins should be identified and any potential for subsidence, impacts to springs, other open surface water bodies, and effects on biologic resources should be analyzed.
2. There should also be a discussion on the implementing and enforcing Navajo Nation water standards within the exterior boundaries of the Navajo Nation. Such as the Navajo Nation Water Quality Standards for surface waters and if potential drinking water sources are affected then the Navajo Nation Drinking Water Standards must be met.
3. The GEIS should address the potential effects of surface and underground injection discharges, on surfaces and ground water quality. The specific discharge(s) should be identified and the potential discharge effects on designated current and future community uses on the affected water bodies should be analyzed and described. The GEIS should note that a National Pollutant Discharge Elimination System (NPDES) permit would be required for discharges to the waters of the United States. Since potential project locations could be within the existing boundaries of the Navajo Nation, NRC should coordinate efforts with the Navajo Nation Environmental Protection Agency to ensure that water quality and drinking water standards are met.
4. Identify the procedures to restore the surface and ground water quality levels by the operator(s). The GEIS should address the reasonable foreseeable surface and below ground environmental impact(s) of proposed action. It is important to note that existing groundwater sources in the Eastern Agency, part of the Navajo Nation located in northwestern New Mexico, is a widely used aquifer for municipal and agriculture purposes.

Waste Management

The GEIS should identify waste materials generated during the construction, operation and decommissioning activities and explain handling and disposal practices. The GEIS should discuss and characterize all waste generated from the operations and from associated activities. Discuss the environmental impacts associated with management and disposal of waste including the volume project annual amount, disposal location, waste transportation routes, regulatory requirements associated with storage and disposal, and whether it would be considered hazardous under Federal and Tribal environmental laws.

Environmental Justice

Consistent with the Executive Order (EO) 12898, "Federal Action to Address Environmental Justice in Minority Populations and Low-Income Populations," the GEIS should describe measures taken by NRC to: (1) fully analyze the environmental effects of the proposed action on minority and low income populations within the Navajo Nation exterior boundaries; (2) present opportunities for affected communities to participate in the NEPA process. This should include information and participation materials in the Navajo language. The Council on Environmental Quality (CEQ) environmental justice guidance to Federal agencies should be addressed in the GEIS. Please refer to the CEQ's *Environmental Justice Guidance Under the National Environmental Policy Act* (CEQ, December 1997).

Environmental Justice considerations may play an important role in this GEIS, both from the standpoint in the anticipated benefits and the adverse impacts from the ISL project. In the context of "affected environment," the GEIS should document existing human health and environmental risks (sources of pollution) to which people and their livelihood in the project areas are exposed both externally and internally. The document should also explore potential mitigation measures for any adverse environmental justice effects, such as displacement, relocation, changes in existing transportation routes and water access (municipal and agricultural uses), and/or community disruption.

Cumulative Impacts

According to the CEQ regulations implementing NEPA, a cumulative impact is "...the impact on the environment which results from the incremental impact of the action when added to other past, present and reasonable foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time." (40 CFR 1508.7).

Vegetation and Wildlife

NRC should work closely with the Navajo Nation Department of Fish and Wildlife and the U.S. Fish and Wildlife Service to determine potential impacts of the project on plant and wildlife species.

Historic Preservation

The GEIS should document compliance with the National Historic Preservation Act, relating to protection of historic properties on tribal lands. The GEIS should demonstrate that there has been consultation with the Navajo Tribe and that appropriate steps have been taken to identify and protect any properties of historic, cultural or religious significance.

Invasive Species and Landscaping

Executive Order 13112 on Invasive Species calls for the restoration of native plants and tree species. If the proposed project will entail new landscaping, the GEIS should describe how the project will meet the requirements of Executive Order 13112.

Transportation

Many paved roads on the Navajo Nation are constructed to accommodate 18-wheeler vehicle (76,000 lbs.) at the maximum. The heavy traffic count is 2% of the average daily traffic count. This threshold is used to develop road specifications. The road life span, based on the 2% heavy traffic count, is 20 years. If you increase the heavy traffic, in terms of repetition and increased weight, then the lifespan of the road will be compromised. In addition, repetition and traffic counts on roads would have to be identified and evaluated to ensure that the project's impacts to roads structural integrity and safety are not compromised. Lastly, the GEIS should include evaluation of drainage structures (i.e. bridges and culverts) and identify necessary modifications for increased weight and traffic.