

NRCREP - Ltr.NRC.Uranium.11.21.07.pdf

From: "Tompkins, Hilary C., GOV" <Hilary.Tompkins@state.nm.us>
To: <NRCREP@nrc.gov>
Date: 11/30/2007 5:38 PM
Subject: Ltr.NRC.Uranium.11.21.07.pdf
CC: "Cottrell, Sarah, GOV" <Sarah.Cottrell@state.nm.us>

Please submit this letter from Governor Bill Richardson of New Mexico into the official record regarding "Uranium Recover GEIS."

Sincerely,

Hilary C. Tompkins, Chief Counsel
Governor Bill Richardson
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State of New Mexico

Office of the Governor

Bill Richardson
Governor

November 21, 2007

Chairman Dale E. Klein
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Dear Chairman Klein:

As outlined in my letter dated July 31, 2007, the U.S. Nuclear Regulatory Commission's (NRC) proposed Generic Environmental Impact Statement (GEIS) for newly proposed uranium recovery operations in the western United States concerns me greatly. This proposal will directly impact New Mexico, a state rich in uranium reserves but with an unfortunate history of environmental degradation from past uranium mining and milling.

The NRC's decision to pursue a GEIS is highly questionable since it is not clear that there is a wide-ranging federal program that is concerted, systematic, and connected which would warrant the use of a "programmatic" approach as opposed to separate, site-specific environmental reviews. The State of New Mexico requests that the NRC reconsider its decision to use a GEIS approach. A GEIS results in a more "generic" review on a broader scale of general concepts without taking into consideration that there are unique issues related to specific sites within each specific geographical area. Moreover, a GEIS often is used as a tool in the "tiering" process to serve as a master document whereby subsequent, site specific environmental reviews only amount to an environmental assessment with heavy reliance on the "generic" document. This means that instead of performing a comprehensive, in-depth environmental review at each site in New Mexico for each license application, the NRC would only conduct an environmental assessment and rely on the GEIS for a large portion of its site-specific analysis. Given the unique environmental, geographical, cultural, historical, economic, and regional aspects of New Mexico, it is contrary to the goals and purposes of the National Environmental Policy Act (NEPA) for the NRC to use a GEIS approach in this instance.

A significant issue pertains to the unique cultural and historical factors in the State of New Mexico. The majority of uranium resources in New Mexico are located in the Grants Mineral Belt in the northwestern portion of the State. This area includes large portions of "Indian Lands." Consequently, any proposed uranium recovery and processing operations in New Mexico will pose unique cultural and environmental justice issues that the GEIS process will not adequately address.

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Likewise, a GEIS unduly limits the ability of local communities and citizens to voice specific concerns regarding the licensing of potential operators in their neighborhoods and communities. Given the concerns of many citizens in New Mexico about the public health, environmental, and cultural impacts of new uranium mining actions, a process that forces the public to comment on an environmental document that only considers broad-based issues for a large regional area undermines the purposes and intent of NEPA to ensure that specific major federal actions do not adversely impact the environment. The use of a generic, general, programmatic approach instead of ensuring an in-depth evaluation at the site specific level is disrespectful of the general public's right to have a meaningful voice in decisions of such magnitude and importance.

In addition, a "generic" approach is contrary to the principles of government-to-government consultation with the many sovereign Native American Tribes and Pueblos in New Mexico. Some thirty-five Native American tribes claim cultural affiliation with historic properties in New Mexico, including archaeological sites, landscapes, traditional cultural properties and sacred sites. In many cases, traditional Native American cultural properties consist of cultural landscapes and special landforms with spiritual relationships that could be affected by this proposed undertaking having long-term adverse impacts or potentially detrimental effects to the very existence of the people.

Potential impacts on New Mexico's sovereign Tribes and Pueblos will undoubtedly result in a "finding of significant impact" in the National Environmental Policy Act (NEPA) evaluation, which will require the NRC to perform an Environmental Impact Statement (EIS). In this context, the NRC should abandon the GEIS process and adopt the full Environmental Impact Statement (EIS) process for reviewing any proposed activity that will occur at specific sites within our state. A full EIS process will give the state and the public the opportunity to address site-specific and cultural concerns unique to proposed operations in New Mexico. While the NRC may claim that site specific evaluations will occur with each license application in New Mexico at a later stage, there is no guarantee that such evaluations will be beyond an environmental assessment.

The GEIS proposal also is contrary to the State of New Mexico's commitment to full public participation in its state permitting process in which each permit is evaluated on a case-by-case manner. This individual review is particularly important for uranium operations due to the extensive history of environmental degradation and public impacts as a result of past uranium mining and milling practices, the varying hydrologic, geologic, and ecologic conditions of each particular site, and cultural resources unique to New Mexico. A full EIS process is also consistent with the NRC's decision to complete an EIS for new nuclear reactor applications rather than following a GEIS process.

Unlike the Navajo Nation, the State of New Mexico currently has not taken a broad policy position on uranium mining. However, if uranium mining and milling are to resume in New

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Mexico, the state must be sure that the public is given a robust opportunity to participate in the decisions and that all environmental, water resource, and potential public health issues are thoroughly examined for each operation. The State of New Mexico is committed to an open, transparent and thorough review process of all uranium permits and we implore the NRC to commit itself to the same level of public involvement.

Overall, the State of New Mexico believes that the proposed GEIS is contrary to NRC's duties and obligations under NEPA and that the generic analysis of the proposed action of "construction, operation, and decommissioning of an ISL uranium mill" will fall far short of assessing and identifying all possible environmental impacts in the western United States. The west is a diverse, unique, and vast area where one size does not fit all. As such, the State of New Mexico does not support the scope and approach of the proposed GEIS.

Lastly, the State of New Mexico wishes to reiterate the importance of holding public meetings in affected communities on an ongoing basis. Such meetings are vital to the public participation process. The meetings held in August and September earlier this year were helpful and productive in establishing a dialogue with the NRC and we hope that the NRC will continue to hold such meetings in the future.

Please submit these comments as part of the official record regarding this matter. I hope that the NRC will weigh these comments heavily and provide the public with a genuine opportunity to review and evaluate individual EIS's for all proposed in situ leach (ISL) and conventional mill operations in New Mexico.

Sincerely,



Bill Richardson
Governor of New Mexico

cc: Chief, Rulemaking, Directives and Editing Branch
Mail Stop T-6D59
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001