



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

Via Facsimile and First Class Mail

February 12, 2008

Mr. Paul Michalak
Office of Federal and State Materials and Environmental Management Programs
U.S. Nuclear Regulatory Commission
11545 Rockville Pike
No. 2 White Flint, Mail Stop T7E-18
Rockville, MD 20852-2738

Re: License Amendment Request for
Discontinuance of Corrective Action in Southwest Alluvium
Groundwater Corrective Action Program
UNC Church Rock Superfund Site

Dear Mr. Michalak:

The U.S. Environmental Protection Agency (EPA) has concerns regarding the United Nuclear Corporation's (UNC's) August 15, 2007 License Amendment request under Source Materials License SUA-1475 (License) for the permanent discontinuance of corrective action in the Southwest Alluvium. As you know, EPA has directed UNC to perform a site-wide supplemental feasibility study (SFS) at the UNC Church Rock Superfund site (Site) to evaluate other remedial alternatives for ground water and support future EPA decision-making. The SFS, which is currently ongoing, will allow EPA to determine what alternatives, if any, can achieve EPA's Site cleanup criteria in the three ground-water aquifers outside of the tailings disposal area (Section 2) which are targeted for remediation under the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (CERCLA).

The EPA recognizes that the Southwest Alluvium extraction system was temporarily discontinued in 2001 because there was no continuing progress towards achieving the cleanup criteria for a few, non-hazardous, regulated constituents (*e.g.*, sulfate and total dissolved solids (TDS)). The system was also shut off to monitor the effectiveness of natural attenuation. The EPA further recognizes that ground-water quality at the performance monitoring wells, including the Point-of-Compliance (POC) wells established by the U.S. Nuclear Regulatory Commission (NRC), in the Southwest Alluvium have remained at or below the License standards for the last couple of years. However, TDS and sulfate are not regulated by the NRC and, therefore, there are no standards in the License for those constituents. They are regulated by the State of New

Mexico and have standards that are considered by EPA to be applicable or relevant and appropriate requirements (ARARs) for the CERCLA response action. As ARARs, these standards must be attained, or waived, for the CERCLA remedy to be deemed complete outside of the tailings disposal area. Currently, the cleanup standards for TDS and sulfate are being exceeded for the Southwest Alluvium, as well as Zone 1 and Zone 3 of the Upper Gallup Sandstone Formation. The SFS is intended to develop, screen, and analyze other alternatives that shall attain (or support a waiver of) those standards.

Additionally, as part of the ongoing SFS, UNC has been directed to review the cleanup criteria established by EPA in the 1988 Record of Decision and assess the appropriateness of changing some of those criteria to reflect newly promulgated federal and state standards and health-based criteria for ensuring the continued protectiveness of the remedy. The assessment will include the new federal Maximum Concentration Limit (MCL) for uranium of 30 micrograms per liter ($\mu\text{g/L}$), promulgated under the Safe Drinking Water Act. The current uranium standard established by the NRC in the License is 300 $\mu\text{g/L}$. The uranium concentrations measured in the seepage-impacted areas of the Southwest Alluvium are currently at or below the current NRC standard of 300 $\mu\text{g/L}$. However, they would exceed the 30 $\mu\text{g/L}$ MCL if selected by EPA as an ARAR for the CERCLA remedy.

It is noted that since background concentrations for uranium in the Southwest Alluvium also appear to exceed the new MCL, EPA has directed UNC to reassess background water quality for uranium, as well as the other constituents of concern (COCs), as part of the ongoing SFS. If the background level for uranium and other COCs are determined by EPA to be above the new MCLs or other standards, then EPA would select the background levels as the new cleanup criteria.

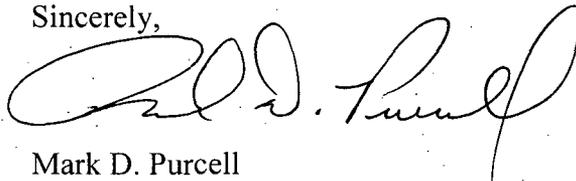
In light of these ongoing SFS activities, it is unknown at this time whether the operation of the existing Southwest Alluvium extraction system will be part of any modified remedy selected by EPA. Therefore, EPA considers any determination to permanently discontinue the operation of those wells prior to the completion of the SFS and future EPA decision making for the ground water outside of the tailings disposal area to be premature.

Finally, it is noted that under the Memorandum of Understanding between EPA and NRC, the reclamation and closure activities for the tailings disposal area are to be consistent with CERCLA requirements to allow the CERCLA requirements to be attained outside of the tailing disposal area. Should the NRC discontinue the corrective action program for the Southwest Alluvium before the SFS and any subsequent EPA decision-making is complete, it may not allow for continued consistency between the reclamation and remediation activities for ground water at the Site and the attainment of a CERCLA-quality remedy outside of the tailings disposal area.

Therefore, EPA recommends that NRC postpone its determination for discontinuing the corrective action program in the Southwest Alluvium until after the SFS and future EPA decision-making are complete.

If you have any questions, please contact me via telephone at 214.665.6707 or by e-mail at Purcell.mark@epa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark D. Purcell". The signature is fluid and cursive, with the first name "Mark" being the most prominent.

Mark D. Purcell
Remedial Project Manager
Superfund Division

Cc: D. Mayerson, NMED
J. Schoepner, NMED
D. Malone, NNEPA
L. Bush, UNC