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Michael Lesar
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U.S. Nuclear Regulatory Commission
Mail Stop T6-D59
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NRCREP.Resource@nrc.gov

RE: Draft Generic Environmental Impact Statement for In-Situ Leach Uranium Milling Facilities, NUREG-1910

Dear Mr. Lesar:

Thank you for the opportunity to submit comments on the draft Generic Environmental Impact Statement (GEIS) for In-Situ Leach (ISL) Uranium Milling Facilities. We appreciate the opportunity to participate in this process.

Audubon Wyoming's mission is to be a strong, unified voice for an ethic of conservation in Wyoming, focusing on birds, other wildlife and their habitats, for the benefit of present and future generations. Many of our approximately 1000 members are rural landowners in Wyoming and many of them will be impacted by uranium exploration and production.

In the pages below, we present comments on several different areas of concern. Although we believe the Nuclear Regulatory Commission (NRC) must consider these topics in this over-arching "generic" document, to the extent that NRC determines that the issues brought up in this letter are better addressed at the site-specific level, please consider these comments scoping comments for future NEPA documents for Wyoming projects.

In short, based on the reasons presented below we believe this Draft GEIS needs to be substantially improved and re-circulated for public comment.

1. Wildlife Exposure to Toxic Solutions

According to the GEIS there are three options for water/solution waste disposal that are currently being employed by ISL operations: evaporation ponds, deep disposal wells and land application. Each method should be thoroughly analyzed in the GEIS to determine which method is the most ecologically beneficial.

Audubon Wyoming Vision

Open spaces rich in birds and other wildlife, and citizens who value that richness.

SUNSI Review Complete
Template = ADM-013

E-REDS = ADM-03
Add = J. Park (JRP)

All disposal methods have very different environmental impacts. For instance, evaporation ponds may create other impacts, such as a breeding ground for mosquitoes carrying West Nile Virus, causing impacts to Greater Sage-grouse and other species. Additionally, toxic mining solutions such as selenium and arsenic present in ponds can impact migratory birds, wildlife and livestock. NRC has characterized impacts from "waste management" as small. Is this description valid for all disposal alternatives? Wouldn't impacts be significant if some of the methods were used as the preferred or the sole disposal method? An analysis of the different types of waste disposal would help clarify this issue. One recommendation for future construction of ISL uranium milling facilities is to employ the use of fine mesh screens to cover open mining ponds. One of the potential Best Management Practices (BMPs) in the GEIS is covering evaporation ponds with netting to keep waterfowl and other avian species out. These same BMPs could be considered for keeping West-Nile virus vectors from breeding in these ponds.

1. Potential Impacts on Greater Sage-grouse

Audubon Wyoming is concerned with the impacts that potential and current ISL uranium milling facilities will bring to Greater Sage-grouse nesting/lek areas. Wyoming currently contains 2/3 of the world's population of Greater Sage-grouse in the eastern range. According to the Wyoming Game and Fish Department, there has been a 20% decline in the overall Wyoming sage grouse population since 1952. Some populations may have declined more than 80% (Christiansen, 2000).

Such declines are due to oil and gas development, road-building, the upswing of West Nile Virus and the encroachment of exotic species and habitat fragmentation. Energy development has been one of the leading causes of sage-grouse declines in Wyoming. In one study in the Upper Green River Valley, it was shown that male lek attendance decreased with distances to nearest drilling rigs, gas well and haul roads within 5 kilometers of a lek, with noise being a predominant contributing factor. (Holloran et al. 2005). Many grouse researchers have asserted that lek buffers are needed to ensure that booming sage-grouse are audible to conspecifics during the breeding season. At the very least, a .6 mile buffer zone around leks needs to be implemented.

The construction of road networks for an ISL uranium milling facility would likely have similar impacts to Greater Sage-grouse as roads constructed for natural gas development. One study by Lyon and Anderson (2003) suggested that, "traffic disturbance of 1-12 vehicles per day during the breeding season might reduce nest initiation rates and increase distances moved from leks during nest-site selection. This pales in comparison to the possible 400+ vehicles projected in the GEIS.

2. Specific Reclamation Procedures Are Needed

It will be important for there to be timely reclamation, mitigation and weed control so that forage is available for wildlife and livestock. The FGEIS and Record of Decision (ROD) should reflect a performance-based approach to ensure environmental monitoring throughout the life of these projects. This plan should ensure timely and successful reclamation of disturbed areas and fix set standards that are measurable, quantifiable, time-sensitive and verifiable through monitoring. Additionally, these mitigation measures must be enforceable. Voluntary practices are not substitutes for enforceable license requirements. No Surface Occupancy buffers around stream banks will be important and the NRC should prevent drilling in ephemeral drainages.

3. The GEIS does not have a purpose and scope compliant with NEPA.

In public meetings, the NRC asserted that this is a “generic” document and not a “programmatic document.” From our analysis, it is fairly clear that this is a “generic” document that in no way meets the requirements for a programmatic analysis. In general, programmatic NEPA documents present a reasonably foreseeable development scenario (RFD scenario). A RFD scenario is a long-term projection of exploratory activities, development, production, and reclamation activity in a defined area for a specified period of time. This scenario allows agencies to properly analyze and plan for projected environmental and socio-economic impacts at site-specific and programmatic levels. Instead of identifying a scope of analysis similar to a RFD scenario, NRC chose to analyze impacts of ISL projects in the abstract. NRC has not provided information to the public in the GEIS specifying a projected number of projects, well fields, evaporation ponds, access roads, processing centers, exploration wells – the list goes on. In other words, the public, or in fact the agency itself, has no idea of the true extent of impacts that will actually occur from this programmatic action. Responding to such an abstract statement through the public comment process is, to say the very least, is extremely difficult.

We believe that a true programmatic EIS is required in this case. NRC’s individual licensing activities for ISL projects in the four identified geographic areas should not be viewed in isolation. The combined and cumulative impacts of licensing 20-30 new ISL projects will be significant and must be disclosed in a programmatic document. CEQ regulations require “cumulative” actions to be considered in a single EIS, particularly when actions “have similarities that provide a basis for evaluating their environmental consequences together, such as common timing or geography.” 40 C.F.R. § 1508.25. Federal Courts have affirmed this requirement: “In many ways, a programmatic EIS is superior to a limited, [project]-specific EIS because it examines an entire policy initiative rather than performing a piecemeal analysis within the structure of a single agency action.” *Northcoast Env’tl. Ctr. v. Glickman*, 136 F.3d 660, 668 (9th Cir. 1998), quoting *Ass’n of Pub. Agency Customers v. Bonneville Power Administration*, 126 F.3d 1158, 1184 (9th Cir. 1997).¹ Many of the individual licensing actions will occur within a short time period and will be in close geographic proximity to each other. Therefore, the actions will create cumulative impacts that should be considered in a programmatic document. This is essential so that NRC can consider management alternatives commensurate with the context and intensity of impacts and, accordingly, consider and, if necessary, adopt management alternatives that would reduce such impacts to acceptable levels. All of this proper NEPA analysis must be done *prior to* “any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.” 42 U.S.C. § 4332(2)(C)(v).

On the other hand, if this document remains “generic,” its usefulness in future NEPA analysis will be significantly curtailed. Although NEPA does allow “generic” environmental impact statements,² these statements are *only* appropriate for analyzing impacts that will be *identical* or, as the NRC has identified, “common.” As discussed in detail below, it is extremely difficult, if not impossible, for the public to determine what the “common” elements are that can be appropriately incorporated by reference into site-specific analyses. It would be better, and perhaps more efficient in the long run, to explicitly limit this “generic” document to the “common” elements so the agency, the public, and other stakeholders will know what can and cannot be tiered to future NEPA documents.

5. Conclusion

The DGEIS is lacking on a number of levels. In addition to the above-mentioned issues, Audubon Wyoming requests that the NRC put as one of their main priorities the ecological health of the landscapes that will be impacted by future uranium milling activities, in particular the health of the sage-brush steppe ecosystem. By some accounts, the sagebrush steppe habitat has declined by 50% from its original levels. (Connelly et al. 2004). Already besieged by oil, deep gas and natural gas development, this ecosystem is in grave peril from the energy boom already gripping the American West. Please take steps to protect its ecological integrity and well-being.

Thank you for the opportunity to comment on this timely and important issue.

Sincerely,

A handwritten signature in black ink, appearing to read 'A Holloran', with a long horizontal flourish extending to the right.

Alison Holloran
Deputy Director
Audubon Wyoming