

August 6, 2009

Ms. Patricia Jensen, President
Sacred Circle
900 Wood Road
P.O. Box 2000
Kenosha, WI 58144

Dear Ms. Jensen:

I am writing in response to your letter, dated July 10, 2009, to U.S. Nuclear Regulatory Commission (NRC) Chairman Gregory Jaczko, regarding the NRC's authorization of uranium mining on tribal land.

First, let me clarify that the NRC does not authorize or regulate the mining of uranium on tribal lands (i.e., those areas defined as Indian reservations, or Indian Country) or in any location in the United States. The responsibility for regulating underground or surface uranium mining rests with individual State agencies, and/or other Federal agencies, such as the Office of Surface Mining in the U.S. Department of the Interior and the Mine Safety and Health Administration.

The NRC regulates the milling of uranium bearing material. Mining is the extraction of uranium bearing ore from the Earth (either in open pits or underground mines), while conventional milling involves processing the ore to concentrate uranium at a surface facility. *In-situ* recovery is essentially milling underground, where the ore is chemically treated in-place and uranium is recovered. The NRC regulates *in-situ* recovery operations because they are considered milling, as opposed to mining. The distinction between mining and milling is that the NRC becomes involved in uranium recovery operations when ore is processed and chemically altered. This happens either in a conventional uranium mill or during *in-situ* recovery.

NRC also regulates the management of wastes or "tailings" from these milling operations. In some States (called Agreement States), the State has entered into a written agreement with NRC to assume regulatory authority over these uranium milling activities under provisions of the Atomic Energy Act of 1954 and the Uranium Mill Tailings Radiation Control Act of 1978 (UMTRCA). After milling operations are completed, and the site has been reclaimed and stabilized, the U.S. Department of Energy (DOE) or the State can assume long-term care responsibility for the site, with NRC approval.

Currently, there are no actively operating uranium mills located on Indian reservations. In addition, NRC has not received any letters of intent from the uranium recovery industry, to locate future uranium recovery facilities on Indian reservations. One active uranium recovery facility, the Hydro-Resources Inc. facility in New Mexico, is on Indian allotted land and adjacent to other Indian lands. A recent 9th Circuit Court ruling regarding this facility has defined some of this site to be located in "Indian Country." There are also several inactive sites that are undergoing reclamation on, or near, the Navajo Reservation and other Indian Reservations. As indicated above, these facilities will be turned over to the DOE for long-term care and maintenance when reclamation activities are complete.

In your letter you also expressed concern about the potential harm to individuals residing near these facilities. NRC enacted regulations, based on standards established by the U.S. Environmental Protection Agency, to ensure that the operation and long-term control of the milling sites are conducted in a manner that is protective of public health and safety, and the environment. NRC reviews the license applications, environmental reports and issues licenses to uranium recovery facilities and conducts periodic inspections to ensure compliance with these regulatory requirements. The NRC's licensing and regulatory process provide opportunities for public and stakeholder participation.

NRC has also developed an outreach and communication strategy for tribes that may be potentially affected by uranium recovery sites. This strategy was developed to ensure that individuals and tribes that could potentially be affected by NRC-licensed uranium milling sites are afforded every opportunity to be informed of, and participate in, the licensing process. I've included a copy of this strategy for your review with this letter.

Additional information about the NRC's uranium recovery licensing program can be found at <http://www.nrc.gov/materials/uranium-recovery.html>. If, after reviewing the information on this website you have further questions, please contact Mr. Bill von Till, Chief of the Uranium Recovery Licensing Branch at 301-415-0598 or at bill.vontill@nrc.gov

Sincerely,

Charles L. Miller, Director **/RA/ Cathy Haney for**
Office of Federal and State Materials
and Environmental Management Programs
U.S. Nuclear Regulatory Commission

Enclosure:
NRC Strategy for Outreach and
Communication with Indian Tribes
Potentially Affected by Uranium
Recovery Sites

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