

ENCOURAGING RESPONSIBLE DEVELOPMENT TODAY ~ FOR TOMORROW

934 N. MAIN ST. SHERIDAN, WY 82801 (307) 672-5809 FAX (307) 672-5800
INFO@POWDERRIVERBASIN.ORG WWW.POWDERRIVERBASIN.ORG



Via Electronic Mail

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Johari A. Moore
Environmental Review Project Manager
U.S. Nuclear Regulatory Commission
FSME/DWMEP/Environmental Review Branch
Mail Stop: T-8F05, Washington, DC 20555
johari.moore@nrc.gov

RE: Uranium One's proposed Antelope and JAB Uranium Project

Dear Ms. Moore,

On behalf of our approximately 1,000 members, the vast majority of whom reside in Wyoming, thank you for the opportunity to comment on Uranium One's proposed Antelope and JAB in-situ leach (ISL) uranium projects in Sweetwater County, Wyoming. NEPA's fundamental purposes are to guarantee that: (1) agencies take a "hard look" at the environmental consequences of their actions *before* these actions occur by ensuring that the agency has and carefully considers "detailed information concerning significant environmental impacts," *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 349 (1989); and (2) agencies make the relevant information available to the public so that it "may also play a role in both the decision-making process and the implementation of that decision." *Id.* NEPA emphasizes "coherent and comprehensive up-front environmental analysis" to ensure an agency "will not act on incomplete information, only to regret its decision after it is too late to correct." *Blue Mountains Biodiversity Project v. Blackwood*, 161 F.3d 1208, 1216 (9th Cir.1998) *quoting Marsh v. Oregon Natural Resources Council*, 490 U.S. 360, 371 (1989); *see also Foundation on Economic Trends v. Heckler*, 756 F.2d 143, 157 (D.C. Cir. 1985) (emphasis in original) ("The NEPA duty is more than a technicality; it is an extremely important statutory requirement to serve the public and the agency before major federal actions occur.").

In light of these requirements, we encourage you to comprehensively analyze the following issues in the environmental impact statement (EIS) for these projects:

1. Impacts to sage-grouse populations and habitat

It appears from the project map that the Antelope and JAB ISL projects will occur within the South Pass "core area" for sage-grouse breeding areas as designated by the Governor of

Wyoming. In the EIS, please describe the amount of sage-grouse habitat (breeding, nesting, and wintering) in and around the project area and disclose whether any leks are within four miles of the project. Many Wyoming citizens are greatly concerned about the economic ramifications of the greater sage-grouse becoming listed as threatened or endangered under the Endangered Species Act¹ and it is imperative that federal and state agencies protect breeding habitat and sage-grouse populations. We encourage the NRC to become familiar with the Wyoming Game and Fish Department's wildlife recommendations for oil and gas development and, in consultation with U.S. Fish and Wildlife Service and the Bureau of Land Management, apply the recommendations as license restrictions for this project. Uranium ISL projects have much higher well densities than oil & gas operations and we believe the oil and gas recommendations are a bare minimum to protect the species (absent studies specific to ISL uranium projects).

2. Alternatives

Please analyze various alternatives in the EIS, including various alternatives for waste disposal, water restoration, and wildlife protection.

3. Mitigation Measures

Please consider a wide range of mitigation measures in the EIS. NRC has a responsibility under NEPA to discuss and take a "hard look" at measures that are needed to mitigate adverse environmental impacts of proposed actions. 40 C.F.R. §§ 1502.14(f), 1502.16(h), 1508.25(b). In order to be considered proper mitigation, the measures must be enforceable and must reduce impacts.

4. Impact to existing land uses

Please describe current land uses and whether these uses will be impacted. Please discuss whether the project will be fenced off from grazing, recreation, or hunting. Please also describe land ownership of the project – both surface and mineral.

Please discuss surface reclamation for the projects, including seed mixes and whether certain types of vegetation (e.g. sage brush) will be present in the same variety and density after reclamation.

5. Impact to groundwater resources

To date, no ISL project has returned groundwater to pre-existing conditions. Please discuss NRC primary restoration goals and whether they will be met for this project. Please also discuss alternative restoration goals and how groundwater resources will be impacted if the project does not return groundwater to baseline conditions. Please also discuss groundwater consumption.

¹ Several petitions to list the greater sage-grouse have been submitted to the U.S. Fish & Wildlife Service (USFWS) and in late 2007, a U.S. District Court in Idaho remanded the listing decision to the USFWS "to conduct a new status review" of sage-grouse populations. EA at 21, referencing *Western Watersheds Project v. U.S. Forest Service*, 535 F. Supp. 2d 1173 (D. Id. 2007).

6. Cumulative Impacts

Please discuss past, current, and reasonably foreseeable future actions that will cumulatively impact resources in the study area. In particular, discuss oil and gas projects and impacts such as groundwater drawdown, roads and infrastructure, noise, air quality, and socio-economic impacts.

7. Purpose and Need

Please disclose the need for the project, where the uranium will be shipped (especially whether it will be exported), and how the project will implement NRC's objectives of ensuring safe and environmentally sound activities.

8. Abandoned wells

Please give a complete description of the area, including whether any abandoned exploration or production wells (for uranium or oil and gas) are present. Please disclose whether any of these abandoned wells are not properly plugged and would thus contribute to groundwater impacts.

9. Compliance history

Please discuss the company's past compliance history in the U.S. and internationally. Please also discuss the past compliance history of other ISL companies in the U.S. and detail past problems such as spills, excursions, and leaks. Please discuss whether mitigation measures could be implemented to prevent these problems.

10. Air quality

Please discuss air quality impacts, including particulates (from fugitive dust, increased traffic, etc.) and radon exposure. Please disclose receptors and modeling information for air quality impacts.

Finally, we believe you cannot properly "tier" to the "generic" environmental impact statement for ISL projects (NUREG-1910). The GEIS does not have a purpose and scope or level of analysis compliant with NEPA and is thus a legally insufficient document. To the extent the GEIS is used, it may only be used to "tier" off of analysis of impacts that are *identical* to this project.

Thank you for your time and consideration of these comments and we look forward to reviewing the draft EIS.

/s/

Shannon Anderson

Organizer, Powder River Basin Resource Council