

1/26/2010
RDB Beed



12/11/09
74FR 65806
74FR 65808
74FR 65804

4

January 15, 2010

Via Electronic and First Class Mail

Michael T. Lesar
Chief, Rulemaking and Directives Branch
Division of Administrative Services
Office of Administration
Mail Stop: TWB-05-B01M
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

RE: Extension of time for public comment on Draft Environmental Impact Statements for In-Situ Leach Uranium Mining Facilities, Docket ID Nos. NRC-2008-0391, NRC-2009-0364, and NRC-2008-0339

Dear Chief Lesar:

Representing over a million members and online activists nationwide, the Natural Resources Defense Council ("NRDC") writes today to respectfully request that the Nuclear Regulatory Commission ("NRC" or "the Commission") significantly extend the deadline for public comment on the following: (1) *Draft Environmental Impact Statement for the Moore Ranch ISR Project in Campbell County, Wyoming*; (2) *Draft Environmental Impact Statement for the Nichols Ranch ISR Project in Campbell and Johnson Counties, Wyoming*; (3) *Draft Environmental Impact Statement for the Lost Creek ISR Project in Sweetwater County, Wyoming* (hereinafter "Draft EISs") 74 Fed. Reg. 65804-65810 (December 11, 2009). A lengthy extension of time is necessary for the following reasons.

First, the Draft EISs are documents that could allow for major federal actions that will have a significant impact on the environment and affected communities. As these are the first "tiered" documents from the *Generic Environmental Impact Statement for In-Situ Leach Uranium Milling Facilities* ("GEIS") (May 2009), any reasonable review will need to address underlying issues with the GEIS as well as concerns or inadequacies in the three Draft EISs.

SOVSI Review Complete
Template = ADM-013

E-RIDS = ADM-03
Add = B. Shroff (BPS2)
I. Yu (IWy1) A. Bjersén (ABB5)
A. Kock (AAK) P. Swain (PBS2)
W. Ford (WHF)

As you know, NRDC and many others found the NRC's GEIS wanting. Adequately responding in a constructive and meaningful fashion to an extensive set of documents will require a significant investment of time and energy. To address just the basic impacts to groundwater, surface waters, soils, and the local communities, the public and NRDC will need to collect a huge number of documents and information that have merely been cited (and not hyperlinked or otherwise made widely available via the Internet) in the draft documents. Examples of documents that will need to be reviewed by the public include a host of EISs prepared by other federal agencies. See, e.g., the listing (but with no meaningful associated analysis) of numerous agency documents listed in Chapter Five of the Draft EIS for the Lost Creek ISR Project in Sweetwater County, Wyoming. NRDC has been collecting relevant documents since the release of the Federal Register Notice, but finding all of the relevant sources in this short time frame for public comments is simply not feasible. The 51 day comment period (that included the holiday season) is insufficient time to gather and thoroughly review all the relevant documents to constructively address whether three separate EISs (and the underlying Generic Final EIS) meet the requirements of the National Environmental Policy Act ("NEPA"), 42 U.S.C. § 4321 *et seq.*

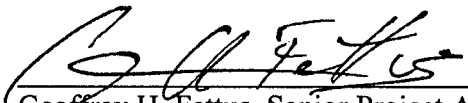
Additionally, in late December, we requested from NRC Staff hard copy versions of the Draft EISs that would allow us reasonable clarity of several visual images used in the document. (See the attached email description and exchange between Dr. Thomas B. Cochran and Alan Bjornson of the NRC, December 2009). In short, NRDC found that the versions of the Draft EISs that the public could print from the NRC website produced inadequate clarity of figures and graphics and the information was not useful for the purpose intended. (See, e.g., Figure 2-2 on page 2-3 and Figure 2-3 on page 2-4). The NRC Staff kindly complied with our request for hard copies, but the figures in the copies we received were no better in terms of clarity. We again renew our request for either hard or electronic copies with legible figures and graphics. Depending on when the public has access to useful visual information, this issue alone merits a significant extension of time.

Finally, and equally important, we renew our oft-made request for the public to have an opportunity to review the NRC's proposed rulemaking on groundwater protection at uranium ISL facilities. As long ago as late 2008, the NRC Staff was to have submitted a proposed groundwater protection rule to the Commission and to the public. In December 2008 and in early 2009, NRDC requested that the public have an opportunity to review the NRC's draft rule. We fully expect that any such proposed rulemaking would require independent and searching NEPA analysis. We also fully expect that any such proposed rule would necessarily have broad, nationwide impact and would entail significant involvement, collaboration, and comment from a number of participating federal, state, and tribal entities. It is not clear to us how, or why, the draft groundwater protection rule has simply fallen off the table while the agency proceeds with a Final GEIS and subsequent site-specific EISs, unless it was done purely for the timing and convenience of an industry that wishes to proceed with materials licensing under a less than protective regulatory framework. Until we have a sense of the timing, scope, and coverage of the proposed groundwater rule and any associated NEPA process, the current early February 2010 date for final comments is a tremendous burden on the public and arbitrarily

separates a matter that should be considered as a whole. We strongly urge at least a 120-day extension of the comment period from the current deadline and for NRC to promptly release its associated draft groundwater protection rule so that the documents can be reviewed in a concurrent time frame.

For the aforementioned reasons, a thorough response cannot be accomplished by February 1, 2010 and we suggest at least a 120-day extension of time from the current deadline. Please do not hesitate to contact me if you have questions or concerns. Thank you for your attention and consideration of this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "G. H. Fettus", is written over a horizontal line.

Geoffrey H. Fettus, Senior Project Attorney
Natural Resources Defense Council
1200 New York Avenue, NW, #400
Washington, D.C. 20005
(202) 289-6868
gfettus@nrdc.org