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September 20, 2010

Behram Shroff, Project Manager
Environmental Review Branch-B
Office of Federal and State Materials
and Environmental Management Programs
Mail Stop T-8F5, U.S.
Nuclear Regulatory Commission
Washington, DC 20555-0001

Dear Mr. Shroff,

With the issuance of the Final Environmental Impact Statement for the Moore Ranch ISR Project in Campbell County, Wyoming, Supplement to the Generic Environmental Impact Statement for In-Situ Leach (“ISL”) Uranium Milling Facilities Final Report NRC-2009-0364 (“Moore Ranch FEIS”), the Nuclear Regulatory Commission (“NRC”) has triggered the legal requirement that a Record of Decision (“ROD”) be issued. 10 C.F.R. § 51.102(a). We respectfully urge the NRC not to move forward with this agency action. The FEIS – and the Final Generic Environmental Impact Statement for In-Situ Leach Uranium Milling Facilities NRC-2008-0420 (“Final GEIS”) that it supplements – are legally and technically deficient and should be withdrawn and improved in several ways before NRC issues this, or any other, ROD for an ISL uranium mining facility.

The Final GEIS left gaping questions about the environmental impacts of in-situ leach uranium mining in Nebraska, New Mexico, South Dakota, and Wyoming. NRC promised that the subsequent site-specific supplemental environmental impact statements (“SEIS”) would fill these yawning information gaps and present a meaningful basis for analysis of alternatives. However, despite searching questions from federal and state agencies as well as public interest groups, NRC’s Moore Ranch FEIS fails to adequately address the air, water, cumulative and other impacts of ISL uranium mining at the Moore Ranch facility. Like the response to comments on

the GEIS, the response to comments provided for the FEIS for Moore Ranch are seriously deficient.

NRC is required to include in any final environmental impact statement “responses to any comments on the draft environmental impact statement or on any supplement to the draft environmental impact statement.” 10 C.F.R. § 51.91. The Response to Comments section can be found in Appendix B, and here are just a few of the reasons the document is inadequate:

1. *Failure to respond to requests for relevant history of ISL mining either in the Final GEIS or in the FEIS for Moore Ranch.*

In response to a suggestion that NRC examine and present to the public a precise history of conditions at in-situ leach uranium mining operations both pre- and post-operation, NRC claims this issue is adequately addressed in the GEIS and out of the scope of the FEIS. The performance of other in-situ leach mining operations, especially given the failure of these mines to restore groundwater quality, is germane to the analysis of expected environmental impacts at Moore Ranch and at other ISL sites. It is incumbent upon NRC to provide the public with data by which it can adequately assess the health and safety impacts of this project. Moore Ranch FEIS at B-6, B-11, and B-23.

It is also worth noting that comments on the draft GEIS raised this issue with NRC only to be told that such issues were more appropriately addressed in a SEIS. The NRC made no changes to the Final GEIS based on these comments, stating instead that such issues necessitated, “a level of detail that is more appropriate to the site-specific review of individual ISL facilities.” Final GEIS at G-54.

2. *Failure to respond to comments regarding groundwater impacts.*

NRC defends its position that impacts to groundwater will be small. NRC points to the following document as support: SECY-2009-0016 - Staff Assessment of Groundwater Impacts from Previously Licensed In-Situ Uranium Recovery Facilities. However, that document contains an admission by NRC staff that not a single NRC licensed operation has restored groundwater in the effected aquifer to pre-mining conditions. NRC does not explain why elevated levels of constituents like uranium and radium-226 constitute only a “small” environmental harm. Moore Ranch FEIS B-23.

3. *Failure to explain use and environmental impact of ACLs.*

Several comments, including those of the Environmental Protection Agency (“EPA”), requested a meaningful explanation of the use of alternate concentration limits (“ACLs”). NRC’s response, a three page appendix describing ACLs, does not adequately address the

underlying issue – that ACLs are routinely granted. Though the response to comments makes clear that ACLs are available, NRC fails to clarify that ACLs have become the default standard for groundwater restoration rather than an exception. NRC offers no explanation why Moore Ranch will be different from all other ISL operations in terms of restoring groundwater. Indeed, the NRC never explains how or why ACLs may or may not be appropriate at Moore Ranch. NRC even admits, “The commenters are correct that, to date, restoration to background water quality for all constituents has proven to be not practically achievable at licensed NRC ISR sites (NRC, 2005; NRC, 2004; NRC, 2003).” If NRC has a reasonable expectation that groundwater will not be restored to baseline at Moore Ranch (as it should given that not ISL mine has ever returned groundwater to baseline), it must examine the environmental impact of the granting of an ACL. Moore Ranch FEIS B-35, B-36, and B-79.

4. *Failure to respond to comments regarding ISL mining in an unconfined aquifer and above USDWs.*

In response to comments asking for more information and analysis of ISL mining in an unconfined aquifer at Moore Ranch, NRC admits that this practice is a departure from the standard model which involves mining in a confined aquifer, but does not fully discuss how the unconfined nature of the aquifer will impact the expected environmental impacts. Moore Ranch FEIS at B-73 and B-74-75.

Likewise if the licensee intends to conduct ISL mining above an underground source of drinking water (“USDW), NRC must analyze any environmental impacts of that departure from accepted practice. Though NRC is correct that EPA, or state environmental agencies, has primary authority over underground injection, this fact does not absolve NRC from analyzing the environmental impacts of the licensee’s proposed actions. Moore Ranch FEIS B-118.

5. *Failure to adequately respond to comments regarding cumulative impacts.*

Though NRC lists coal bed methane, conventional uranium mining, other ISL projects, and oil and gas recovery sites within or very close to the project boundary, NRC fails to conduct a searching analysis of how each of these operations, in the aggregate, affect human health and the environment. Moore Ranch FEIS 5-1 to 5-46 and B-123-124

6. *Failure to adequately respond to federal agencies.*

EPA rated the draft Moore Ranch SEIS “inadequate” and questioned NRC’s analysis of wastewater disposal, air, groundwater, and greenhouse gas and climate change impacts. Though NRC devoted attention to EPA’s comments in its Response to Comments, the NRC fails to adequately address EPA’s underlying concerns. For example, though EPA’s

calculation of air emissions is higher than that of NRC, NRC dismisses EPA's finding out of hand and states that "additional detailed quantitative air analyses are not warranted."

Another example of NRC dismissing EPA's legitimate concerns occurred when EPA asked NRC to examine greenhouse gas emissions from other nuclear fuel cycle facilities in its cumulative impact analysis. NRC baldly states that such analysis is outside the scope of the current licensing action. *See e.g.* Moore Ranch FEIS B-48, B-97, B-99 to 104.

The Department of the Interior called attention to the short shrift the Draft SEIS for Moore Ranch gave to endangered and threatened species, specifically the bald eagle, mountain plover, and sage grouse. In response, NRC simply states that none of these species are found in the project area, though they are found in neighboring areas, and refused to require the licensee to make any sort of conservation plan. Moore Ranch FEIS B-86-88.

There are several other substantive flaws in the FEIS and we refer you to our original comments on the Draft SEIS for Moore Ranch for a detailed discussion. Further, we reiterate our longstanding objections to the inadequate Final GEIS, of which Moore Ranch FEIS is only the first progeny. Accordingly, we urge you to withdraw both documents for substantial revision and additional public review. We welcome the opportunity to discuss our concerns with you and your staff. Please feel free to contact me at (202) 289-2371 or by email at gfettus@nrdc.org. Thank you for your time and attention.

Sincerely,

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