

April 22, 2014

Mr. Philip S. Strobel, Acting Director  
NEPA Compliance and Review Program,  
8EPR-N  
U.S. EPA Region 8  
1595 Wynkoop Street  
Denver, CO 80202-1129

SUBJECT: U.S. ENVIRONMENTAL PROTECTION AGENCY COMMENTS ON THE FINAL  
SUPPLEMENTAL ENVIRONMENTAL IMPACT STATEMENT FOR THE ROSS  
IN SITU URANIUM RECOVERY PROJECT

Dear Mr. Strobel:

The U.S. Nuclear Regulatory Commission (NRC) is in receipt of your April 4, 2014, letter commenting on the Final Supplemental Environmental Impact Statement (FSEIS) for the Ross In Situ Uranium Recovery (ISR) Project (Ross Project). In this letter, the U.S. Environmental Protection Agency (EPA) presents three comments for NRC consideration. First, the EPA recommends that the NRC clarify in the license or the Record of Decision (ROD) the requirement for EPA approval of the construction of surface impoundments under 40 CFR Part 61, Subpart W at the Ross Project. Second, the EPA states that monitoring to assure that ground water is not moving around the ends of the containment barrier wall (CBW) into the facility is advisable. Third, the EPA recommends that the NRC accurately depict in the license or the ROD the EPA's roles or actions related to underground injection control (UIC) and notes three instances where the information provided in Table 1.2 of the FSEIS should be clarified.

1. Ross Project Surface Impoundments and 40 CFR Part 61, Subpart W:

The NRC staff is aware that EPA regulations at 40 CFR Part 61, Subpart W address radon emissions from uranium recovery facilities. Enforcing these regulatory requirements is, however, outside the NRC's authority. Nonetheless, to ensure that licensees comply with other applicable rules, the NRC staff routinely includes a condition in licenses that prohibits the licensee from commencing operations until it obtains all necessary permits, licenses, and approvals from the appropriate regulatory authorities.

The NRC staff has revised condition 12.1 of the draft license, as recommended by the EPA, to state that "Prior to the commencement of operations, the licensee shall obtain all necessary permits, licenses, **and approvals** from the appropriate regulatory authorities," (emphasis added).

If the NRC finds that Strata Energy, Inc. (Strata) is in compliance with NRC regulatory requirements and grants a license, Strata must obtain all necessary Federal, State, and local permits or approvals before commencing operations. The NRC staff verifies that permits or approvals are obtained prior to commencement of facility operations.

## 2. CBW Monitoring:

Strata's request for a change to the design of the CBW was submitted to the NRC on October 14, 2013 (Agencywide Document Access and Management System [ADAMS] Accession No. ML13295A230) and the NRC staff's response was provided on January 23, 2014 (ADAMS Accession No. ML13365A227). In light of the new information provided in Strata's request, the NRC modified the discussion of the CBW in the FSEIS but did not have the revised figure depicting the change until after the FSEIS was published. Therefore, Figure 2.5 of the FSEIS includes a note indicating the proposed change to the design of the CBW. The replacement for Technical Report (TR) page 3-44 with the revised Figure 3.1-16 was received from Strata by email dated March 27, 2014 (ADAMS Accession No. ML14090A194).

The NRC staff understands the EPA's concern regarding the CBW and ground water monitoring. During the NRC staff's review process for Strata's initial license application, the NRC staff discussed with Strata design plans to manage the mounding of ground water behind the CBW as well as the diversion of surface water behind the CBW. Strata's design for the diversion channel was based on the flood stage and flow in the channel during the 100-year, 24-hour storm event. The NRC staff reviewed the design criteria and found them adequate. As can be seen on the revised TR Figure 3.1-16, Strata includes a French drain in the CBW design to collect ground water mounding behind the CBW and subsequently, in discussions with Strata about the proposed CBW design changes, Strata clarified that the ends of the CBW will be anchored into bedrock. The NRC staff finds that Strata's proposed design for handling of ground water and surface water is adequate.

Regardless of the source of ground water in the plant area, Strata will have to demonstrate, by several performance-based license conditions, that it can maintain control of the water table to eliminate potential impacts to the pond design, and that it will have an appropriate, robust monitoring program to ensure that a proper control is maintained throughout the life of the plant area.

## 3. UIC Roles:

The NRC staff agrees that the information in Table 1.2 of the FSEIS can be revised to better clarify EPA's role for the UIC Program. In lieu of providing these clarifications in the license or the ROD as the EPA has suggested, the NRC will include revisions to Table 1.2 in an errata to the FSEIS. A copy of the errata will be provided to the EPA.

P. Strobel

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The NRC staff appreciates your continued involvement in providing recommendations to assure protection of human health and the environment. We look forward to collaborating with you again in our future environmental reviews.

Sincerely,

**/RA/**

Aby Mohseni, Deputy Director  
Environmental Protection and  
Performance Assessment Directorate  
Division of Waste Management  
and Environmental Protection  
Office of Federal and State Materials  
and Environmental Management Programs

P. Strobel

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<b>OFC</b>	DWMEP	DWMEP	DWMEP	DWMEP	DWMEP	DWMEP	OGC	DWMEP
<b>NAME</b>	JMoore	JSaxton	AWalker-Smith	KHsueh	BVonTill	APersinko	RHarper	AMohseni
<b>DATE</b>	4/17/14	4/17/14	4/17/14	4/21/14	4/22/14	4/22/14	4/22/14	4/22/14

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