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Via Email (Rulemaking.Comments@nrc.gov)

Ms. Annette Vietti-Cook, Secretary
ATTN: Rulemakings and Adjudications Staff
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Subject: Comments on Resuming Rulemaking for Groundwater Protection at Uranium In-Situ Recovery Facilities (NRC Docket ID NRC-2008-0421)

Dear Ms. Vietti-Cook,

On behalf of the Nuclear Energy Institute's (NEI)¹ uranium recovery members, we appreciate the opportunity to provide comments to the Nuclear Regulatory Commission (NRC) as it considers resuming rulemaking to amend the regulations under 10 CFR Part 40. This rulemaking would codify general requirements to address groundwater protection at uranium in-situ recovery (ISR) facilities. The NRC initiated an ISR rulemaking in 2006 to provide regulatory predictability and consistency to the licensing process for ISRs. The rule was intended to improve regulatory efficiency and make the NRC's review process for ISR license applications and amendments more consistent and transparent to the public and industry. This rulemaking was deferred in 2010 due to an Environmental Protection Agency (EPA) rulemaking effort to issue generally applicable standards for ISRs. The EPA rulemaking was withdrawn in 2018.

NEI is supportive of an expedited, limited scope, and risk-informed rulemaking. It is important to note that ISR licensees implement comprehensive and effective regulatory programs that address groundwater protection and that there are no safety or environmental protection problems that require rulemaking. The regulations under Part 40 were created for conventional mining. The NRC has applied these rules to ISR mining through various license conditions, guidance documents, generic communications, and enforcement letters. ISR is the predominant method for uranium recovery in the United States and the regulations must be updated to reflect this reality.

ISR operations are substantially different from conventional uranium mining. ISR facilities are responsibly managed and the risks associated with these facilities are very low, particularly the risks to groundwater. In fact, the historical data from all existing ISR facilities indicate that there have been no observed impacts

¹ The Nuclear Energy Institute (NEI) is responsible for establishing unified policy on behalf of its members relating to matters affecting the nuclear energy industry, including the regulatory aspects of generic operational and technical issues. NEI's members include entities licensed to operate commercial nuclear power plants in the United States, nuclear plant designers, major architect and engineering firms, fuel cycle facilities, nuclear materials licensees, and other organizations involved in the nuclear energy industry.

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attributable to an ISR facility. Given the operational records of the currently licensed facilities, this rulemaking must be limited in scope to address the gaps for ISR.

On May 23, 2018, the NRC Executive Director for Operations signed a Commission paper titled "Achieving Modern Risk-Informed Regulation"². This rulemaking must be conducted in the spirit of that paper using risk and safety insights in decision making and be consistent with the overall standard of reasonable assurance of adequate protection. The process must not be hijacked by intervenors seeking to add burdensome requirements that are unwarranted and unjustified given the risk profile for these facilities.

This letter provides high level comments in support of rulemaking. NEI concurs with the detailed comments offered by the Wyoming Mining Association. Additionally, NRC lost a significant number of uranium recovery licensees when Wyoming became an Agreement State in 2018. NRC must address how this rulemaking will be funded as not to burden the remaining NRC ISR licensees.

Please contact me if you have any questions or require additional information.

Sincerely,



Nima Ashkeboussi

c: Mr. John Tappert, NRC/NMSS
 Mr. Andrew Carrera, NRC/NMSS
 Mr. Gary Comfort, NRC/NMSS
 NRC Document Control Desk

² SECY-18-0060, "Achieving Modern Risk-Informed Regulation" May 23, 2018, (ML18110A186)