

From: [Eric Jantz](#)
To: [UNC-ChurchRockEIS Resource](#)
Subject: [External_Sender] Docket ID NRC-2019-0026; Red Water Pond Road Community Association EIS scoping comments
Date: Friday, April 19, 2019 11:22:15 AM
Attachments: [RWPRCA UNC License Amendment Scoping Comments FINAL.pdf](#)
[Scoping comments Attach A.pdf](#)

Dear Sirs/Madams:

Please find attached the Red Water Pond Road Community Association's EIS scoping comments in the above matter.

Please do not hesitate to contact me if you have any questions.

Regards,

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U.S. Nuclear Regulatory Commission
Office of Administration
Mail Stop TWFN-7A60M
Washington, D.C. 20555-0001
ATTN: Program Management, Announcement,
and Editing Staff

Re: Docket ID NRC-2019-0026; Scoping comments on License Amendment for UNC Uranium Mill, License Number SUA-1475

April 19, 2019

Dear Sirs/Madams:

On behalf of the Red Water Pond Road Community Association ("Association") please accept the following scoping comments in the above matter.

Introduction

The Red Water Pond Road Community Association is a grassroots organization of Diné (Navajo) families who have experienced and lived with the impacts of uranium mining and milling in northwestern New Mexico since the 1960s. Indeed, the Red Water Pond Road Community is located in the middle of three uranium development related Superfund sites: the Northeast Churchrock Mine, the UNC Uranium Mill and the Quivira Mine. The Association's mission is "to restore the land and water contaminated by uranium mining, improve the health of community members, and protect and preserve the natural and cultural environment in which we live." The Red Water Pond Road Community Association is a nonprofit organization recognized under Navajo Nation laws, including Fundamental Laws of the Diné, Title 1, Chapter 2. Members of the Association are submitting their signatures in support of these comments as Attachment 1.

Substantive Comments

The Association submits the following substantive comments.

A. *Mitigation Measures*

The Association is concerned that the scope of mitigation measures in General Electric's Supplemental Environmental Report ("SER") is too narrow. The SER discusses several measures intended to mitigate the impacts of moving mine waste from the Northeast Churchrock Mine to the UNC Uranium Mill such as dust suppression and revegetation (p. 207); constructing drainage channels and ponds (pp. 207-208); and buffer zones for archaeological sites (p. 212).

However, no mention is made of the sole mitigation measure that would mitigate all environmental and public health impacts associated with the proposed license amendment: permanent community relocation to a culturally appropriate site. The SER only briefly mentions voluntary temporary relocation of community members as mitigation for noise, dust and radiological impacts. SER at 212, 213, and 215. The Environmental Protection Agency and U.S. Corps of Engineers, however, have implemented temporary and permanent relocation in a way that fractures the community and does not consider important cultural values such as community cohesiveness and ties to a particular place.

The scope of the Environmental Impact Statement for the proposed license amendment should include a thorough discussion of mitigation measures that would definitively and permanently protect Red Water Pond Road community members from all the impacts of the proposed project. Such a discussion should include the cultural appropriateness of any relocation, in terms of location, community cohesiveness and consistency with cultural traditions. The most obvious relocation mitigation measure would be to relocate the community to Standing Black Tree Mesa located approximately two miles north of the current community. However, because neither the SER nor any other document in the current license amendment application meaningfully discloses or discusses *any* culturally appropriate relocation as a mitigation measure, the draft EIS must include such a discussion.

B. *Waste Volume Estimates*

The EIS should also discuss waste disposal alternatives in the event that the volume of waste has been underestimated. The estimated waste volume of 1 million cubic yards (84 Fed. Reg. at 2935) may be significantly underestimated and more

mine waste will likely have to be disposed across more surface area of the tailings pile. The estimated waste volume is based largely on the area believed to have radium-226 concentrations greater than 2.24 picoCuries per gram, and to a lesser extent, on a limited number of soil/waste samples from the “high activity” areas in and around Ponds 1, 2 and 3 at the NECR site.

The EPA’s Engineering Evaluation/Cost Analysis (EE/CA) admits that “there is insufficient data to confidently define the depth of contamination”, but states further that the volume estimate is “conservative.” EE/CA at 13. Inputs to the volume estimate are shown in Table 3.1 of the EE/CA. Table 3.1 indicates that the estimated depth of the mine wastes in Ponds 1 and 2 is 10 feet. Yet a close inspection of the plan-view and cross-section diagrams for Alternatives 3 and 4 (Figures 3.1 through 3.4, respectively) shows that the existing profiles of the ponds range from about 20 feet to more than 60 feet deep.

Furthermore, MWH, UNC’s and GE’s technical consultant for the EE/CA, collected soil samples from borings up to 45 feet deep in Ponds 1, 2 and 3.5. This information suggests that waste depths may be much greater than the 10 feet depth used to calculate the waste volume in Table 3.1. The EIS scope should include a discussion of alternatives if the waste volume is substantially more than the 1 million cubic yards that is currently estimated.

C. *Climate Change*

GE’s license amendment and SER make no mention of how climate change may impact the proposed waste consolidation project. Climate change is likely to increase the intensity and frequency of storms, which in turn would affect erosion rates, runoff velocity and volume and other variables critical to the integrity of the waste pile covers. The EIS’s scope should include disclosure and analysis of the impacts of climate change on the proposed project.

D. *Project Completion Date*

GE’s license amendment application anticipates that the mine waste consolidation project will be completed by December 2026. License Amendment, Vol. 1 at 1-2. However, the application does not indicate the basis for that completion estimate. Because the EPA’s remediation schedule estimates have proven wildly inaccurate for this project, the Association urges the NRC to disclose and consider the impacts of waste consolidation if the estimated completion date is not met.

E. *Meteorological Data*

GE's license amendment application relies on meteorological data from Gallup rather than local data. License Amendment, Vol. 1 at 2-2. The Association urges the NRC to rely on local meteorological data rather than regional data. Regional meteorological data do not take into account local topographical features that may aggravate or mitigate variables such as wind speed or precipitation amount and frequency. The Association believes that local meteorological data will better inform GE's and the NRC's engineering designs and better protect the Red Water Pond Road Community.

GE's SER claims that local meteorological data taken between 1977 and 1978 is sufficiently analogous to regional meteorological data such that regional data can serve as an accurate basis upon which to make decisions about the impact of weather on the waste consolidation project. SER at 63. However, these limited local meteorological data do not take into account the intervening 40 years of climate change and are exceedingly limited in any event. The Association urges the use of more accurate local data.

F. *Financial Assurance*

GE's license amendment application indicates that financial assurance for the waste consolidation project will not be provided until 90 days prior to construction beginning. License Amendment, Vol. 1 at 4-21. The scope of the EIS should disclose the amount of the financial assurance and evaluate the impacts if a third party contractor is forced to rely on the financial assurance to complete the proposed waste consolidation project.

Procedural Comments

The Association's substantive comments notwithstanding, the Association has concerns about the process that the NRC has implemented to evaluate GE's license amendment application. While the Association appreciates the seventy days the NRC has provided for submitting scoping comments, the Association is nevertheless concerned that this period of time is insufficient to provide meaningful comments given the size and technical nature of the license amendment application. GE's license amendment application consists of twenty-seven volumes, comprising thousands of pages. For the communities most immediately impacted by GE's proposed mine waste disposal plans, who have few resources at their disposal, a ninety day comment period would have been more appropriate.

More problematic, however, is the NRC's requirement that an affected person or community must request a hearing or file for leave to intervene in the license amendment proceeding by May 13, 2019. 84 Fed. Reg. 9148 (March 13, 2019). The NRC's requirement that affected communities intervene before there is even a draft Environmental Impact Statement puts impacted communities in the untenable position of having to comment on an incomplete administrative record and making compliance with 10 C.F.R. 2.309(f), which requires a prospective intervenor to state with specificity his or her contentions, impossible. While the NRC's adjudicatory regulations allow party to amend its contentions, this provision places an additional procedural obstacle on already overburdened communities. *See*, 10 C.F.R. 2.309(c)(i) - (iii). Moreover, this provision allows the presiding officer broad discretion to reject a proposed amendment, making its acceptance far from certain. In order to ensure the meaningful participation of impacted indigenous communities and other communities of color, the NRC should only require intervention after it has published the Draft Environmental Impact Statement for the proposed license amendment.

Conclusion

In sum, the scope of the current environmental and public health inquiry for GE's proposed license amendment is unreasonably narrow. The NRC should broaden its environmental review consistent with the above comments.

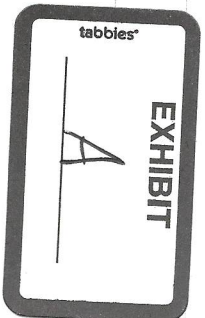
Sincerely,

A handwritten signature in blue ink, appearing to read "Eric Jantz", with a long horizontal flourish extending to the right.

Eric Jantz
Staff Attorney

RED WATER POND ROAD COMMUNITY ASSOCIATION
Comments to the Nuclear Regulatory Commission
April 19, 2019

PRINT NAME	SIGN NAME
Bertha Neez	Bertha Neez
Edith Hood	Edith Hood
Bradley Menio	Bradley Menio
Grace Adams	Grace Adams
Larry J Kins	Larry J Kins
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Jacquelyn Bell Jefferson	Jacquelyn Bell Jefferson
Rose Bell	Rose Bell
Thompson Bell	Thompson Bell
Silas Bell	Silas Bell
Ezekiel Bell	Ezekiel Bell
Adoniyah Bell	Adoniyah Bell
TERACITA KEYANNA	TERACITA KEYANNA
KARA J. FROTT	KARA J. FROTT
KRANW X KEYANNA	KRANW X KEYANNA



RED WATER POND ROAD COMMUNITY ASSOCIATION
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PRINT NAME

SIGN NAME

KATHERINE KEYANNA
KEE R. KEYANNA JR.

Katherine Z. Keyanna
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