



THE
NAVAJO
NATION

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VICE PRESIDENT

1 August 1994

Deborah Griswold (6H-EO)
U.S. Environmental Protection Agency Region VI
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

Subject: Enforcement Issues at the United Nuclear Corp. (UNC) Churchrock
Superfund Site (CERCLIS ID: NMD030443303)

Dear Ms. Griswold,

The Navajo Superfund Program, Navajo EPA, concurs with the enclosed letter from the New Mexico Environment Department (NMED). The Navajo Superfund Program has experienced the issues described in the letter, and would like to work cooperatively with U.S. EPA to ensure that the UNC Churchrock site is remediated to the best possible level, and to ensure that the Navajo Nation's best interests are represented.

The Navajo Superfund Program agrees that a meeting between the three agencies--U.S. EPA, NMED, and Navajo Superfund--is necessary to discuss these issues. Please contact me at (602) 871-6859 to discuss a meeting date. Your assistance in this matter is greatly appreciated.

Sincerely,

Diana Malone

Diana Malone
Program Director
Navajo Superfund Program, Navajo EPA

xc: Mark Satterwhite, U.S. EPA Region VI
Shawn Ghose, U.S. EPA Region VI
~~Joel Grimm, NRC, Region IV~~ Joseph Holonich, NRC
Kerrie Neet, NMED
Sadie Hoskie, Navajo EPA

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July 25, 1994

Ms. Debra Griswold (6H-EO)
U.S. EPA, Region VI
1445 Ross Avenue, Suite 1200
Dallas, Tx 75202-2733

Subject: Enforcement Issues at the United Nuclear
Corp. (UNC) Churchrock Superfund Site
(CERCLIS ID: NMD030443303).

Dear Ms. Griswold:

The New Mexico Environment Department (NMED) and the Navajo Environmental Protection Agency, Superfund Program (NSP) are concerned that our participation in the United States Environmental Protection Agency's (EPA) enforcement efforts at the UNC Churchrock Superfund Site are being hindered. Section 121 (f)(1) of the Comprehensive Environmental Restoration, Compensation and Liability Act of 1980 (CERCLA) as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA) requires "substantial and meaningful involvement by each State [including Indian Tribes per Section 207 of SARA]." Additionally, the Superfund Memorandum of Agreement between the State of New Mexico and EPA Region 6 states "Close cooperation and communication between EPA and the State in planning and carrying out response activities at NPL sites is necessary to obtain maximum effect and to avoid possible conflicts.." and, "The lead agency (in this case, EPA) is responsible for keeping the support agency informed of all important actions pertaining to the site." The requirement of meaningful and substantial involvement by NMED and NSP is being compromised at the UNC Churchrock site. Our main concerns include communication issues, community issues, and the Record of Decision (ROD)/Five Year Review. These issues are discussed in detail below with suggested solutions.

Bruce King
Governor

Judith M. Espinosa
Secretary

Ron Curry
Deputy Secretary

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1. Communication Issues

Efforts have not been made to include NSP and NMED in the decision-making process for some key issues affecting the enforcement at UNC Churchrock. For example:



STATE OF NEW MEXICO
ENVIRONMENT DEPARTMENT

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1190 St. Francis Drive
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- EPA and NRC made verbal agreements with UNC regarding proposed changes to the ARARs without concurrence from NSP and NMED.
- EPA has not solicited comments from NMED or NSP for amendments to License No. SUA-1475, despite the fact that the amendments include items such as decommissioning wells.

At times, NSP and NMED are not updated and/or kept informed by EPA and are, therefore, unable to significantly participate in the Superfund process. For example:

- The Five Year Review of remedial actions at the site is to be written this year and neither NSP or NMED have been informed of the process for inclusion of public, local government, and support agency comments.

Additional obstacles to effective communication between EPA and NMED/NSP include:

- Inconsistency in relaying documents and information to NSP and NMED. Our agencies are not being sent the same documents, and are not receiving all relevant documents, such as the NRC License Amendments.
- Documents are not received in a timely manner. Documents are often received within days of a meeting or response date.
- Telephone calls are often not returned.
- Meeting dates are set without regard to our staff schedules and without clear communication between other participating agencies.
- Updates on the status of communications between NRC, EPA, and UNC are not provided to NMED or NSP. While NMED and NSP do not expect to receive copies of all correspondence, we do expect to be briefed quarterly on the status of activities at the site.
- When comments are submitted by NMED and NSP on documents such as the Annual Reviews, no feedback is given by EPA.

Possible Solutions:

- NSP and NMED be included on the copy list by all parties for all significant documents related to the site.
- EPA solicit comments from the public, local government, and the support agencies to be included as part of the Five Year Review process.
- EPA include NSP and NMED in all negotiations regarding ARAR changes and license amendments.

2. Community Issues/Invoivement

The needs of the community are not being actively addressed. For example:

- There are nearby residents that are affected by the site remedial activities. No effort has been made by EPA to address the potential impact of dewatering the aquifers on the nearby residents' water supply.
- The risk of multiple exposure of residents has not been addressed.
- A public meeting or open house has not been held in the last 3 years. Residents are not updated on the current activities and proposed action at the site, such as the Five Year Review and proposed ARAR changes.
- The Risk Assessment recommended in the RI and the Health Assessment requested by the Navajo Nation have not been completed.

Possible Solutions:

- EPA plan a public meeting and solicit comment from the public, local government, and the support agencies regarding topics such as the change in ARARs.
- EPA approach the community again with information on the availability of TAG grants and what the process is to receive a TAG grant.
- EPA ease community tension regarding the dewatering of the local aquifer by amending the ROD to include as part of the remedy an alternate water supply.

3. ROD/ Five Year Review Issues

NSP and NMED are concerned that the objectives stated in the ROD have not been fully addressed in the subsequent site remediation. For example:

- UNC has not met the performance-based criteria of attaining ARARs, GWPS and/or dewatering of the aquifer.
- Contamination from the site is still present beyond the target areas.
- EPA has used wells designated as contaminated wells (the 600 series wells) in the RI/FS and ROD for use as background wells.
- The northern plume has not been fully addressed in the site remediation.

Possible Solutions:

- The Five Year Review provides the opportunity to review the remedial activities and the ROD.
- EPA require that UNC propose an alternative remedial solution to meet the stated objectives of the ROD.
- To address the northern plume, EPA amend the ROD to aggregate the Kerr McGee site as an operable unit of the UNC Churchrock site.
- Or, address the Kerr McGee site as a separate site and place the Kerr McGee site on CERCLIS for Region 9.

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NMED and NSP are committed to ensuring that the UNC Churchrock site is remediated properly. We are concerned about environmental justice issues at the site and want to work with EPA in an effective manner. We would like to arrange a meeting between our agencies as soon as possible. Please contact me at telephone number (505) 827-0184, to discuss a meeting date.

Sincerely,



Kerrie E. Neet
Program Manager
NMED, Superfund Section

KEN:DMT:dmt

cc: Mark Satterwhite, EPA, Region VI
Shawn Ghose, EPA, Region VI
Julie Curtiss, Navajo EPA
Joel Grimm, NRC, Region IV
David Trujillo, NMED, GWP & RB