

# THE NAVAJO NATION

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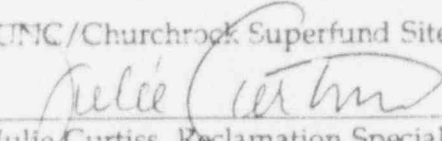
PETERSON ZAH  
PRESIDENT

MARSHALL PLUMMER  
VICE PRESIDENT

## MEMORANDUM

Date: 14 September 1994

To: UNC/Churchrock Superfund Site File

From:   
Julie Curtiss, Reclamation Specialist II  
Superfund Program, Navajo EPA

Re: 9 September 1994 Meeting between U.S. EPA Region VI, New Mexico Environment Department, and Navajo Superfund Program

This memo to the record is to commemorate the decisions reached at the above meeting. Present at the meeting were Deborah Griswold and Shawn Ghose (Remedial Project Manager), U.S. EPA Region VI; Kerrie Neet (Program Manager, NMED Superfund Section), Maura Hanning, and David Trujillo, NMED; and Ann Sasahara (Environmental Specialist III) and Julie Curtiss (Reclamation Specialist II), NSP. The meeting took place at the request of NMED and NSP, as a follow-up to the joint NMED/NSP letter sent to Deborah Griswold on 1 August 1994 (attached). The goal of the meeting was to focus on solutions to the concerns outlined in the letter, which were grouped into communication issues, community involvement/needs issues, and ROD/Five Year Review Report issues.

### Communication Issues

The point was made that many communication and other issues stem from the fact that the Nuclear Regulatory Commission (NRC) is the lead agency at the site, not the U.S. EPA. Management of the site has evolved since the U.S. EPA and the NRC signed their MOU for remedial action of the site in 1988<sup>1</sup>. At this time, all remedial action requirements are promulgated by the NRC through the NRC license issued to UNC, and its amendments. Any requirements that U.S. EPA may have are incorporated into the license amendments. The current issue is that NMED and NSP have not been asked to comment on the proposed

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<sup>1</sup>If remedial action is determined in a Record of Decision to be necessary, EPA intends to either enter into a Consent Decree with UNC under which UNC will conduct, with EPA oversight, remedial actions equal to or exceeding those outlined in an EPA Record of Decision ... Such actions may be conducted as part of the NRC's approval of the UNC plan or separately; but in any event EPA intends to coordinate its actions first with the NRC. (MOU at 4, 5)

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license amendments for some time, and have not even received copies of some amendments. Since remedial action is dictated and altered by the contents of the amendments, it was agreed that it is critical for NMED and NSP to be included in all license amendment negotiations.

The request was made that NRC send copies of relevant documents and correspondence directly to NSP and NMED rather than to U.S. EPA, which would ensure NSP and NMED receipt of the documents<sup>2</sup>. NSP and NMED agreed to send letters to Kenneth Hooks, NRC Project Manager for the site requesting this, and mentioning that U.S. EPA approves. All agencies would confirm receipt of the documents with U.S. EPA (methodology uncertain), and deadlines for comments would be set. If possible, a phone conference would be held to review comments; a physical meeting would be preferred for comments on major documents.

Comments submitted by NSP and NMED on the 1992 and 1993 Annual Ground Water Review Reports will be discussed at a meeting in October. The discussion about possible ARAR revisions will be based in part on the meeting results.

#### Community Involvement Issues

A public meeting will be held after a "final draft" of the Five Year Review Report is produced. Public comments will be collected at the meeting and during a comment period afterward, and a responsiveness summary will be included in the final document. This seemed to be most in keeping with the needs of the community, with the methodology of U.S. EPA Region VI, and with the direction of Superfund Reauthorization. U.S. EPA may hold a "Water Day" in conjunction with the meeting; containers will be distributed a few days before the meeting from the Chapter House. However, while there is no problem testing on-site for nitrates, sulfates, there is a problem with finding a simple test for radionuclides.

The idea of the community applying for a TAG grant was also brought up--no one was sure if they had received one already. If they have not, then conditions for such a grant will be discussed with Mark Satterwhite, Region VI Indian Coordinator.

A concern was raised about the Pinedale Chapter comments to the ROD, which were accidentally submitted late. The ROD and other documentation will be reviewed to determine whether they were included, and what the U.S. EPA response to them was.

#### ROD/Five Year Review Issues

U.S. EPA will produce a draft of the report by early December, with comments due back from NRC, NMED and NSP within 3-4 weeks. If necessary, a meeting will be held to reach consensus on the comments; then a final draft will be prepared. After that, the draft will be presented at the public meeting.

The ROD may be revisited as a result of the discussions and the Five Year Review Report. While completely rewriting the ROD is not preferred, an Explanation of Significant

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<sup>2</sup>It is presumed that U.S. EPA will copy all relevant correspondence to NMED and NSP. Any confidential documents will be treated as such by NMED and NSP.

Differences (ESD) can be added, which would redirect the remediation.

UNC completed a As Low As Reasonably Achievable (ALARA) demonstration for Zone 1 in the 1993 Annual Ground Water Review Report. This is part of the requirement to receive an Alternative Concentration Limit (ACL) waiver from NRC. Final regulations on ACL permits should be released by NRC by the end of the year. However, ARAR changes should be done through EPA if they are for contaminant levels in ground water<sup>3</sup>.

UNC can apply for a Technical Impracticability waiver from U.S. EPA based on low or no recovery over a long period of time if they can demonstrate that the wells are located properly, that the correct pumping is being done, and that pulsing the wells still produces no change or recovery. However, since UNC did postulate a 35-year remediation period, and since contaminants of concern are still being recovered, then remediation will continue.

Questions were raised about whether a Risk Assessment or Health Assessment were completed for the site. The Risk Assessment was probably called a Hazard Assessment. There was some discussion about the RA having been begun, but not finished. These issues need to be researched further.

The issue of the northern plume was raised. This plume was identified in the Feasibility Study; U.S. EPA will attempt to locate the original data that went into that determination. The U.S. EPA feels that determining the true source will not matter that much. The suggestion was made that the sites be aggregated due to their impact on a common body of ground water. The possibility of pursuing remediation of the northern plume through U.S. EPA Region IX was discussed.

Another concern was raised about the lack of information being gathered about the current status of the tailings; there are no piezometers or sampling wells within the tailings. Some concerns were about whether the interim cap on the tailings is thick enough to prevent infiltration of unevaporated water from mister system which ponds on South Cell surface.

#### Follow-up

- NSP and NMED agreed to send letters to Kenneth Hooks, NRC Project Manager for UNC site, requesting that copies of documents and correspondence be sent directly to them.
- Meeting between U.S. EPA, NRC, NMED and NSP in October to discuss the comments on the last two annual review reports.

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<sup>3</sup>NRC will assume the role of lead regulatory agency for the byproduct material disposal area reclamation and closure activities and EPA will monitor all such activities and provide review and comments directly to NRC. The objective of EPA's review and comment will be to assure that activities to be conducted under NRC's regulatory authority allow attainment of applicable or relevant and appropriate requirements [ARARs] under ... CERCLA ... outside of the byproduct material disposal site ... EPA development and implementation of its own site action requirements for groundwater contamination outside of the disposal area will be conducted in accordance with CERCLA and the ... NCP. (MOU at 1, 2)

- Draft due out from U.S. EPA in early December of Five Year Review Report. U.S. EPA provided a copy of the guidelines for Five Year Review Reports to NSP; NSP provided comments to U.S. EPA on a Five Year Review Report that U.S. EPA was considering using as a template. Comments are due back from the agencies within 3-4 weeks. If necessary, a meeting will be held to reach consensus on the comments; then a final draft will be prepared.
- NSP agreed to provide a copy of the Pinedale Chapter comments on the ROD and all associated documents to NMED and U.S. EPA.
- A public meeting will be held early in 1995, after a final draft of the Five Year Review Report is prepared. Public comments will be collected at the meeting and during a comment period afterward, and a responsiveness summary will be done.
- NMED and NSP will be included in future license amendment negotiations.
- The ROD and other documentation will be reviewed to determine whether the Pinedale Chapter comments were included, and what the U.S. EPA response to them was.

attachment

xc: Deborah Griswold, U.S. EPA  
 Shawn Ghose, U.S. EPA\*  
 Mark Satterwhite, U.S. EPA  
 Kerrie Neet, NMED  
 David Trujillo, NMED  
 Sadie Hoskie, Director, NNEPA  
 Diane Malone, Program Manager, NSP  
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