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My comments are attached.

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Email: NRC-EJReview@nrc.gov

**Subject: Systematic Assessment for how the NRC Addresses Environmental Justice in its Programs, Policies, and Activities**

I am submitting my comments in response to NRC's request for public comment on how Environmental Justice is addressed in its programs, policies, activities and agency decision-making, in light of the agency's mission and statutory authority.

As a resident of a tribal community that is downwind and downstream of the Grants Uranium Mining District in northwestern New Mexico, I hope that the NRC will fully implement and expand its efforts to achieve environmental justice in impacted communities throughout the United States.

NRC's historical practice of approving Alternative Concentration Limits, or ACLs, at Superfund sites

NRC has historically approved Alternative Concentration Limits, or ACLs for the uranium industry, allowing them to terminate remediation of contaminated aquifers, all to the detriment of EJ communities like mine. If, in fact, contaminated drinking water aquifers at former uranium mills cannot be returned to background water quality standards, no new uranium mills should be licensed absent a showing that background water quality can be restored to pre-mining levels. Shrinking water supplies in the western United States can no longer be sacrificed to produce more water-intensive nuclear energy during a period of accelerated climate changes. We are currently experiencing extreme drought conditions in the West, from California to Texas and along the northern coastline from Oregon to Washington. Alternative energy sources requiring little to no water to produce and maintain need to be prioritized throughout the western United States.

Uranium mill tailings disposal

NRC's current regulatory practice has allowed mining companies to leave large unlined piles of untreated mill waste upstream of our EJ communities, effectively converting the waste piles into permanent waste disposal sites that need to be monitored forever.

Disposal of high level nuclear waste

Although the Department of Energy has failed to identify a permanent disposal site for the nation's nuclear waste, NRC is fast-tracking licenses for Consolidated Interim Storage (CIS) sites in Texas and New Mexico and DOE is trying to cram more nuclear weapons waste into New Mexico's Waste Isolation Pilot Plant. Once again, our EJ communities will be exposed to high level radiation along the waste transport routes running through the heart of our tribal communities and villages. Even worse, New Mexico could end up stuck with this lethal waste forever.

NEPA review process

NRC, the National Nuclear Security Administration, and even EPA, have all failed to take the necessary "hard look" at the destruction nuclear energy and weapons production have visited upon our EJ communities for more than 3 generations. And the unlined uranium tailings waste disposal sites within our watersheds pose an ever-present threat to our present and future groundwater supplies.

NRC and the National Nuclear Security Administration (NNSA) need to incorporate multiple opportunities for public comment during the NEPA review process in order to implement the outreach directive of EO 12898. Other public policy-making actions, such as the creation of a uranium reserve and consolidated interim storage of high level nuclear waste, should be widely vetted in EJ communities, with multiple and extended opportunities for robust debate and meaningful engagement.

Instead hasty processes designed to minimize public input on programs affecting EJ communities are often addressed in the Federal Register without additional outreach or presentations to tribal and EJ communities explaining how they could be impacted. Increased opportunities for public involvement in all phases of new uranium extraction and production, and the selection of associated waste disposal sites should ideally be accomplished through a Programmatic Environmental Impact Statement rather than through piecemeal reviews of individual projects. Ideally, the same broad brush is needed for larger nuclear energy production and nuclear weapons projects, which both encompass many moving parts – such as intensive water use in water-short basins, climate change, and environmental justice impacts.

A Programmatic EIS would allow more meaningful opportunities to involve the public in the environmental review and decision-making process for major federal actions that encompass multiple production phases across several geographic locations, as well as the environmental justice implications for the many underserved communities that are located near these facilities and along the transport corridors through which highly radioactive source materials will be moved.

#### No more categorical exclusions

The NRC has streamlined NEPA review for nearly all phases of nuclear power production, from *in situ leach* mining to the consolidated interim storage of high level nuclear waste in Texas and New Mexico. DOE's recent attempts to expand WIPP's mission to include the permanent storage of high level nuclear waste and to extend WIPP's closure date well beyond its designated 2024 closure date sheds some light on the contentious nuclear waste storage question. Public input into the decision of where to house the nation's highly toxic and radioactive nuclear waste should not be circumvented with short comment periods and the elimination of public meetings, especially along the nuclear waste transport routes where widespread public exposure to the extremely dangerous waste will occur.

A Categorical Exclusion (10 CFR 51.22) is "a category of actions (that) does not individually or cumulatively have a significant effect on the human environment." Like "generic safety issues" they are not allowed or required to be considered in NRC rulemaking, amendments or Environmental Impact Statements.

In its Advance Notice of Proposed Rulemaking, <https://www.regulations.gov/document/NRC-2018-0300-0001>, NRC proposed to greatly expand existing categorical exclusions, making it nearly impossible for the public to intervene on over a dozen dangerous and controversial environmental impacts, such as:

- Letting nuclear waste go to regular garbage landfills or be recycled into consumer products, such as belt buckles, baby toys and building supplies
- Licensing nuclear waste casks, canisters and systems that are not designed or tested for real-world storage and transport conditions
- Closing uranium mills, nuclear power reactors, and other nuclear sites without environmental review
- Doing away with decommissioning funds for nuclear power reactors, irradiated ('spent') fuel storage, uranium sites and, other nuclear fuel facilities
- Excluding uranium mills, nuclear sites, both high and low level radioactive wastes from environmental and safety regulations

These categorical exclusions would be insulated from public review and meaningful engagement with EJ communities on the most important environmental issues affecting our public health and safety.

#### Assessment of public health, welfare and environmental impacts

Comprehensive health and epidemiological studies of impacted EJ communities that have borne the brunt of past uranium mining and processing activities are long overdue. Now these same communities have ended up becoming permanent disposal sites for the hazardous waste that was generated without their informed consent. Human health and the environment cannot be protected without the necessary studies to assess ALL the known and potential health and environmental hazards, both short-term and long-term, of nearby uranium extraction developments and hazardous tailings disposal sites.

#### Health studies and remediation before new uranium production

Funds must be sought from Congress to conduct investigations and fully assess the health and the environmental impacts of historical uranium legacy activities before any new uranium developments or new nuclear waste storage is licensed. Without this much needed background information, meaningful regulation of uranium production sites to address all significant health and environmental risks cannot occur. Best practices to avoid continuing releases to ambient to air, soil & water at uranium legacy sites must be updated beyond current practices that elevate expediency over long-term protectiveness and safety.

Additional funds must be appropriated by Congress to fully assess and remediate all uranium legacy sites to protect EJ communities from current and future releases to ambient air, soil, and water before any new uranium mills or in situ leach mining sites are licensed, or existing facilities are allowed to re-activate or expand operations.

The restoration of degraded ecosystems around uranium legacy sites will benefit wildlife, improve air and water quality, and create jobs. Congress in turn can require existing mining companies to contribute to a fund for the cleanup of toxic legacy sites that will put people to work restoring abandoned production wells, mines and tailings disposal sites.

#### Radiation Exposure Compensation Act (RECA)

The compensation program covers workers who became sick as a result of the radiation hazards of their jobs and some of those who lived downwind of the Nevada Test Site, where the federal government conducted several hundred nuclear explosive tests over four decades. Excluded are residents near the

Trinity Site in New Mexico, others who were downwind in Nevada and Arizona, miners who worked in the industry after 1971, veterans who cleaned up radioactive waste in the Marshall Islands and others.

Failure to assess the background health of uranium workers, nuclear industry workers, and host communities during the Cold War rush to develop atomic weapons resulted in licenses that failed to adequately regulate the resulting health and environmental exposures. The most egregious environmental injustices were unfairly thrust on our communities through ignorance and haste.

Now new classes of exposed workers and their families, downwinders, and host communities continue to emerge as historic releases are brought to light. Open air atomic weapons tests released radiation and other hazardous materials over vast swaths of territory without the knowledge or consent of exposed populations. Even today, low levels of radiation from uranium degradation, wind-blown tailings, long-term tailings seepage from unlined tailings waste piles, and past releases to air, soil and waterways remain constant.

Navajo Nation President Jonathan Nez estimates that more than 30 million tons of ore were extracted from Navajo lands to support U.S. nuclear activities, and that Navajo mine workers had no knowledge of the dangers posed by their work. He also pointed to a massive uranium tailings spill near Church Rock, New Mexico in 1979 that spewed radioactive tailings and wastewater onto tribal lands.

As a result, RECA compensation must be expanded to cover additional classes of workers and exposed populations.

#### Justice 40 Initiative

As pointed out above, nuclear energy does not qualify as a sound climate investment that can lay the foundation for a more just and equitable future. Therefore, nuclear energy cannot be used to distribute benefits pursuant to the President's Justice 40 Initiative – a plan to deliver 40% of the benefits of climate investments to communities that have been subjected to environmental harm because uranium production does not conserve our finite mineral and freshwater sources. Nor does the widespread contamination resulting from uranium production deliver economic justice for communities who were subjected to environmental harm during the last uranium “boom” of the twentieth century. Renewable energy sources that do more to conserve our finite fresh water sources will better serve our future energy needs.

#### The path forward

The NRC has much work to do to ensure that EJ communities, tribal governments, and the public are fully informed of the risks involved in any new uranium production project, including exploration activities. In addition to complete disclosure of all the risks, including long-term health risks, accountability for any past failure(s) to meet the licensing standards must be established before the NRC approves any new source material licenses.

Finally, informed community consent for all future projects, especially those near EJ communities, should be acquired.

Submitted by:

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