

THE NAVAJO NATION

JONATHAN NEZ | PRESIDENT MYRON LIZER | VICE PRESIDENT



April 12, 2021

John R. Tappert, Director
Division of Rulemaking, Environmental, and Financial Support Office of Nuclear Material Safety
and Safeguards
U.S. Nuclear Regulatory Commission
Washington D.C. 20555-0001

RE: Statement on DEIS for Disposal of NECR Mine Waste at UNC Mill Site

Dear Mr. Tappert,

We submit our comments regarding the Draft Environmental Impact Statement (DEIS) prepared by the U.S. Nuclear Regulatory Commission (NRC) proposing to amend a source material license held by United Nuclear Corporation (UNC). The proposed license amendment would allow UNC to transfer the uranium mine waste currently at the Northeast Church Rock (NECR) abandoned uranium mine on the Navajo Nation and dispose of it on top of the neighboring uranium mill tailings impoundment at the UNC Church Rock Mill Site (UNC Mill Site). My comments are general in nature; the Navajo Nation also will be submitting more detailed comments on the DEIS.

The UNC Mill Site is immediately adjacent to the formal Navajo Reservation and less than one mile from the NECR mine site. It is within the Eastern Navajo Agency and is surrounded by Navajo trust lands and Navajo communities. In particular, the Red Water Pond Road Community is situated between the NECR mine and the Kerr-McGee Quivira mines (additional abandoned uranium mines in the vicinity of the NECR Mine and the UNC Mill Sites) and is within 0.22 km (0.14 miles) of the UNC Mill Site. DEIS at xviii. It is closer than any other community to the site. DEIS at xxiv.

The Red Water Pond Road Community and many other Navajo communities have been severely impacted by the legacy of uranium mining on the Navajo Nation. The DEIS finds that there were serious impacts to groundwater, public and occupational health, and historic and cultural resources from past uranium activities at the NECR mine and UNC Mill Site. *See id.* at xxiii. Indeed, the largest hazardous waste spill in U.S. history occurred at the UNC mill site, when the earthen dam to the pond holding UNC Mill uranium tailings was breached.¹ The spill released over 1,000 tons of radioactive mill waste and 93 million gallons of acidic radioactive tailings solution into the Puerco River and traveled downstream through the Navajo Nation to the community of Sanders, AZ.² The negative consequences of this spill are still being felt today by residents in the immediate vicinity and in surrounding communities.

Clearly the radioactive mine waste left abandoned at the NECR site must be removed; leaving it in

¹ Community Involvement Plan (2016), https://www.epa.gov/sites/production/files/2017-11/documents/cip_northeast_churchrock_kerr-mcgee_quivira.pdf. *See also* DEIS at xvii - xviii.

² Community Involvement Plan, *supra* n. 1; DEIS at xvii - xviii.

NAVAJO NATION OFFICE OF THE PRESIDENT AND VICE PRESIDENT

POST OFFICE BOX 7440 · WINDOW ROCK, AZ 86515 · PHONE: (928) 871-7000 · FAX: (928) 871-4025

place would have “large” health and environmental impacts, *see, e.g.*, DEIS Table ES-1 (xx-xxi); DEIS at xxiii-xxiv. Even removal of the waste will have “disproportionately high and adverse environmental impacts” on nearby Navajo communities, due to transportation-related effects, impacts to air quality, increased noise levels, and visual disturbances, *id.* at xix; Section 4.12, but those impacts will last a few years only, in contrast to the decades of harms from leaving the waste in place. The DEIS also recognizes that these nearby communities are environmental justice communities (minority and low-income populations). *Id.* at xix, xx (Table ES-1). We owe them the best solution possible, which in their minds and my own is to remove the waste to an appropriate repository away from the Navajo Nation.

The Navajo Nation has asked USEPA in the past to require the radioactive uranium waste currently at NECR to be transported to an offsite waste repository away from the Red Water Pond Road Community and other communities in the area. USEPA requires the removal of Principal Threat Waste (PTW), the most toxic or highly mobile waste, to an off-site facility, but the Navajo Nation also asked, and continues to ask, for off-site removal of mine waste exceeding USEPA’s “action level” but not qualifying as PTW. This waste remains a threat to human health and the environment, as noted in the DEIS and as discussed above.

While I appreciate it is very costly to transport such waste off-site, that cost cannot compare to the costs borne by the local communities – and indeed, the Navajo Nation as a whole – over the past 70 some years. As is now recognized, the Navajo Nation and its people have suffered disproportionately from the legacy of uranium mining and processing on Navajo lands.³ Many Navajo uranium workers and their families became ill, and many died, from diseases associated both with the uranium work itself and with living near uranium mines, mills, and waste dumps. The Navajo Birth Cohort Study has revealed that uranium and toxic metals remain in the Navajo environment and continue to be a significant concern.

It is also my obligation to support the local communities under Dine’ Fundamental Law. Dine’ Fundamental Law requires that we engage respectfully through our identifiable clans as Navajo people. We extend that respectful approach to those with whom we share our environment, and especially to the communities who have been directly impacted by the uranium mining activities and uranium waste that are at issue here.

The Navajo Nation therefore remains steadfast in its position that all NECR radioactive mine waste registering above USEPA’s action level should be removed from the community; simply transporting it to a facility less than one mile away from the reservation boundary, while it technically is removing it from the Navajo Nation, in reality is just taking it from one side of the road to the other. Since the United States led the effort to conduct uranium mining on the Navajo Nation, which resulted in approximately 30 million tons of uranium ore being extracted from Navajo lands from 1944 to 1986,⁴

³ *See, e.g.*, Health and Environmental Impacts of Uranium Contamination in the Navajo Nation: Hearing Before the House Comm. on Oversight and Legislative Reform, 110th Cong. (Oct. 23, 2007) (Opening Statements of Rep. Waxman, Chairman, and Rep. Davis, Member, H. Comm. on Oversight & Legis. Reform).

⁴ Navajo Nation: Cleaning Up Abandoned Uranium Mines (April 12, 2019). <https://www.epa.gov/navajo-nation-uranium-cleanup>

NAVAJO NATION OFFICE OF THE PRESIDENT AND VICE PRESIDENT

POST OFFICE BOX 7440 · WINDOW ROCK, AZ 86515 · PHONE: (928) 871-7000 · FAX: (928) 871-4025

it would seem appropriate for the United States to support the complete removal of the uranium waste that was improperly left behind from that effort. If additional funding is needed to achieve that goal, such appropriations should be considered as well.

Sincerely,



Jonathan Nez, *President*
THE NAVAJO NATION



Myron Lizer, *Vice President*
THE NAVAJO NATION

Cc: US EPA Region 9 - Pacific Southwest
The Honorable Tom O'Halleran