

**STATE OF NEW MEXICO
WATER QUALITY CONTROL COMMISSION**



**IN THE MATTER OF THE PETITION FOR
ALTERNATIVE ABATEMENT STANDARDS
FOR THE FORMER ST. ANTHONY MINE,
CIBOLA COUNTY, NEW MEXICO**

No. WQCC 16-05 (A)

**UNITED NUCLEAR CORPORATION,
Petitioner**

**JOINT MOTION TO INCLUDE CERTAIN MONITORING REQUIREMENTS IN
ALTERNATIVE ABATEMENT STANDARDS ORDER**

Petitioner United Nuclear Corporation (“UNC”), the New Mexico Environment Department (“NMED”), and Intervenor Pueblo of Laguna (“Laguna”), by and through their counsel, hereby jointly move the Water Quality Control Commission to require, as part of any order it issues approving Alternative Abatement Standards at the St. Anthony Mine, that UNC cause certain monitoring to be conducted, the specifics of which and the grounds therefor are as follows:

1. UNC seeks an order from the Water Quality Control Commission (“WQCC”) in this proceeding approving alternative abatement standards (“AAS”) for certain specified contaminants of particular concern (“COPCs”) in the groundwater in the vicinity of the former St. Anthony Mine (the “Mine”), situated on the Cebolleta Land Grant in Cibola County, New Mexico, immediately north of Laguna’s lands.

2. The primary justification for the AAS, according to UNC’s petition and the testimony and exhibits it proposes to present in this proceeding, is that the concentrations of COPCs in the groundwater in the immediate vicinity of the Mine are and will continue to be well above

otherwise applicable WQCC standards, due to the highly mineralized quality of the Jackpile Sandstone, the primary (or possibly only) water-bearing formation in the vicinity of the Mine, and due to evapoconcentration and geochemical processes resulting from the mine operation, and that it is technologically and economically infeasible to bring the groundwater into line with those otherwise applicable standards.

3. NMED supports UNC's petition.

4. UNC will present expert testimony supporting its position that, in general, once its proposed reclamation plan (consisting primarily of backfilling the Mine's large pit) is completed, groundwater subject to the AAS would take nearly 400 years to reach the nearest surface drainage downgradient from the pit, an arroyo known as Meyer Draw, and that any such water that reached Meyer Draw would soon evaporate or be lost to evapotranspiration by tamarisk and other plants in Meyer Draw.

5. In the course of the studies that led to the preparation of the reclamation plan and the proposal for the AAS, UNC or its contractor drilled several monitoring wells in the vicinity of the Mine, including three wells, designated in exhibits submitted in this proceeding by UNC as "MW-11," "MW-12A," and "MW-12B," that are situated just north of the Laguna boundary and two of which are in or very close to Meyer Draw.

5. Laguna takes no position on the merits of UNC's petition, but does not oppose it, and agrees to the granting of AAS for the area of the Mine and its immediate surroundings, as shown by UNC's exhibits, but Laguna seeks assurance that its lands will not become contaminated by COPCs from the Mine vicinity. Its assent to the granting of UNC's petition is therefore given solely on the condition that certain monitoring requirements be part of any order approving the

AAS, as set forth herein, and UNC and NMED agree that the monitoring proposed by Laguna is reasonable and warranted, and should be included in an order granting the relief sought in the petition.

6. Specifically, UNC, NMED and Laguna agree to the following terms, to be included in any order of the WQCC granting the petition, in whole or in part, in this proceeding:

A. No less than annually, in late summer or early fall, for as long as any monitoring of the site is required by NMED or WQCC, UNC shall cause wells MW-11, MW-12A and MW-12B to be monitored, for a determination whether any of them contains water.

B. In the event water is found in any of those wells, a properly collected sample of such water from each such well will be tested for the presence of COPCs by a qualified independent testing laboratory.

C. A report on each year's monitoring, including detailed results of any analysis carried out under paragraph B, above, shall be filed with NMED, and Laguna will receive a copy of each such report.

7. Laguna agrees that it will, on reasonable written request to the Office of the Pueblo Secretary, provide access over and across its lands to UNC or its contractor for the purpose of conducting the monitoring of wells MW-11, MW-12A and MW-12B, as set forth in the terms of this stipulation and an order of the WQCC.

8. UNC and NMED agree that in the event a monitoring report filed with NMED as set forth at paragraph 6(C), above, shows the presence of COPCs at concentrations in excess of the applicable WQCC standards, neither of them will oppose an application by Laguna to reopen this proceeding, to determine whether additional measures should be taken to address the situation,

and if so, what measures are warranted.

9. In the event Laguna wishes to conduct its own monitoring of wells MW-11, MW-12A or MW-12B, UNC will, on reasonable request, accommodate such monitoring, by allowing qualified Laguna persons or contractors access to the wells and any necessary assistance in the monitoring process.

WHEREFORE, UNC, NMED and Laguna jointly move the WQCC that any order granting UNC's petition include, at a minimum, the terms set forth in paragraphs 6 through 9, above.

Respectfully submitted,

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