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VIA ELECTRONIC MAIL

July 27, 2021

Lance Hauer (lance.hauer@ge.com)
President, United Nuclear Corporation
Legacy Site Team Leader & Project Manager
GE Global Law & Policy

RE: Clarification of Agencies Position Regarding Closure Plan Submittal, St Anthony Mine

Dear Lance Hauer,

The New Mexico Environment Department (NMED) and the Mining and Minerals Division (MMD), collectively the Agencies, are sending this letter to clarify the Agencies' position regarding differences between the February 2015 Modified Stage 2 Abatement Plan approved by NMED on May 7, 2015, and the unapproved, conceptual St Anthony Mine Closeout Plan that United Nuclear Corporation (UNC) submitted to MMD dated March 29, 2019. The Agencies have learned through recent conversation between legal counsel representing the Agencies and UNC that the Agencies' position on the two above-referenced plans would benefit from clarification.

In the February 2015 Modified Stage 2 Abatement Plan, UNC proposed "Alternative E3 – Partial Pit Backfill with Geochemical Stabilization of Sediments and AASs" as the preferred alternative for closure of Pit 1 at the St. Anthony Site. It was the Agencies' understanding based on the diagrams presented in the initial Stage 2 Abatement Plan, the Modified Stage 2 Abatement Plan, Alternative Abatement Standards (AAS) petition, and during the Multiple

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Accounts Analysis (MAA) process that the partial backfill proposed and approved by NMED would result in a condition whereby surface water runoff from the reclaimed surface of Pit 1 would flow away from the pit. The image labeled “Figure 2.5” in this letter is from the approved Stage 2 Abatement Plan and depicts a pit backfill to a level that will result in surface flow off the reclaimed surface and away from the pit. There is also a text box stating, “Pit is partially backfilled above groundwater and free draining away from pit.” Subsequent documents including the May 7, 2015 NMED approval of the Stage 2 Abatement Plan and the Water Quality Control Commission (WQCC) approved Alternative Abatement Standards Proposed Findings of Fact, Conclusions of Law, and Final Order dated September 29, 2017 include statements regarding “positive drainage away from the backfilled pit” and “positive drainage” respectively. UNC refused to provide NMED with an engineering design as a component of the Stage 2 Abatement Plan, arguing that the engineering design would be provided through the Mining Act process. Instead of pressing UNC for an engineering design, in a good faith effort, the Agencies relied on the figures presented by UNC during the MAA process and reproduced in the Stage 2 Abatement Plan.

In UNC’s March 29, 2019 submittal to MMD titled “St. Anthony Mine Closeout Plan” the proposed engineering design for Pit 1 was not consistent with the figures previously provided to the Agencies and other participants in the MAA process and the Stage 2 Abatement Plan. The proposed engineering design that UNC submitted in the St. Anthony Mine Closeout Plan would not result in surface water “free draining away from the pit” or “positive drainage.” Instead, the proposed engineering design will result in a closed basin with surface water being contained in a topographic low within the pit boundary. This is shown in figures in this letter taken from the St. Anthony Mine Closeout Plan labeled “Figure 3.1” and “Figure 3.2.”

In subsequent conversation following submittal of the St. Anthony Mine Closeout Plan, UNC notified the Agencies that the water table in the Jackpile Sandstone would rise above the level of the top of the Jackpile Sandstone and potentially drain downdip into the Dakota Sandstone. UNC discussed several possible mechanisms with the Agencies to address this potential, including construction of an engineered barrier within the pit backfill to restrict upward migration of water from the Jackpile Sandstone, modeling and monitoring to show that any existing downdip saturation in the Dakota Sandstone would not be affected by water from the Jackpile Sandstone, or petitioning the WQCC for AAS within a limited area of the Dakota Sandstone.

NMED provided comments to UNC on the St. Anthony Mine Closeout Plan in a letter dated August 16, 2019. In that letter, NMED stated that the St. Anthony Mine Closeout Plan pit backfill proposal did not meet the requirements of the approved Stage 2 Abatement Plan, and also mentioned the concern raised by UNC regarding the potentiometric surface of the Jackpile Sandstone following backfill. It was the Agencies’ expectation that UNC would provide a closeout plan that met the requirements of the Stage 2 Abatement Plan for positive drainage, and that the plan would also address the concerns regarding the Jackpile Sandstone potentiometric surface following one of the paths that UNC had discussed in conversation with the Agencies, as summarized above.

UNC never formally submitted a revised closure plan to the Agencies that met the conditions of the approved Stage 2 Abatement Plan and included one of the alternatives for addressing the Jackpile Sandstone potentiometric surface to the Agencies. UNC instead insisted that it was never their intention to backfill Pit 1 to a level that would achieve positive drainage away from the backfilled pit as shown in the drawing provided in the Stage 2 Abatement Plan and MAA process. At this time UNC has not provided a plan that is consistent with the May 17, 2015, approved Stage 2 Abatement Plan.

The Agencies are available to discuss this as necessary to ensure UNC understands our position. During the recent discussions between legal counsel, the Agencies' counsel has indicated that UNC could move forward with an engineering design that is consistent with the approved Stage 2 Abatement Plan. If UNC decides to move forward with an alternate engineering design as has been discussed during technical meetings, then a modification of the Stage 2 Abatement Plan is required. This would require a formal application submittal to NMED to modify the Stage 2 Abatement plan, followed by submittal to MMD of a modification to the proposed Closeout Plan. As discussed during technical meetings, a 30% engineering design is the minimum level design required for both permitting processes.


Please contact Kurt Vollbrecht at (505) 660-9420 or kurt.vollbrecht@state.nm.us, or Holland Shepherd at (505) 490-0967 or holland.shepherd@state.nm.us if you have any questions.

Sincerely,

For the New Mexico Environment
Department

For the New Mexico Energy, Minerals
and Natural Resources Department

Kurt Vollbrecht
Program Manager,
Mining Environmental Compliance Section



Holland Shepard
Program Manager
Mining Act Reclamation Program

CC – Annie Maxfield, Legal Counsel, NMED
Dana David, Legal Counsel, MMD

Figure 2.5 – Alternative E: Pit Closure II

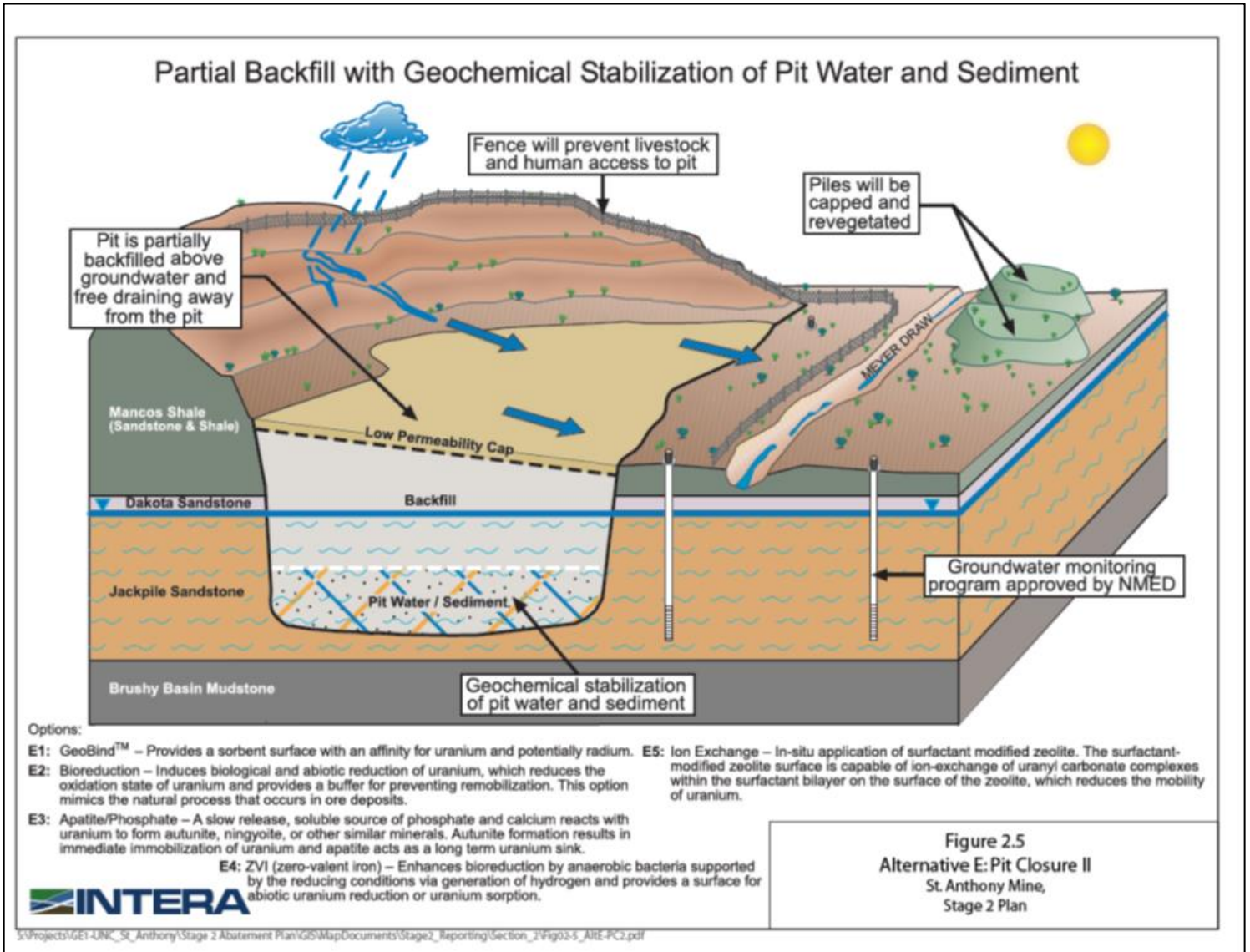


Figure 3.1 Pit 1 Backfill Surface Contours

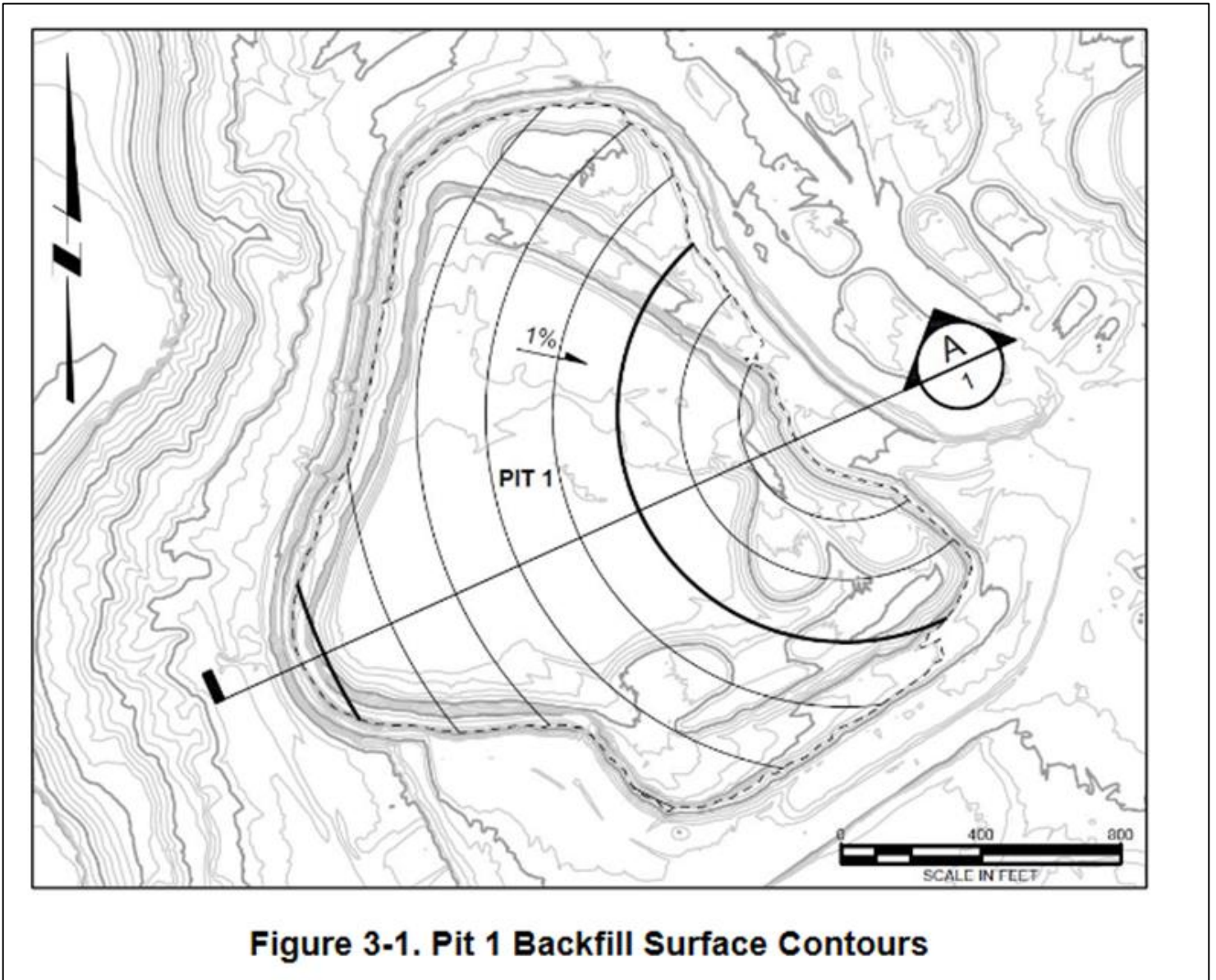


Figure 3-1. Pit 1 Backfill Surface Contours

Figure 3-2 Pit 1 Backfill Profile

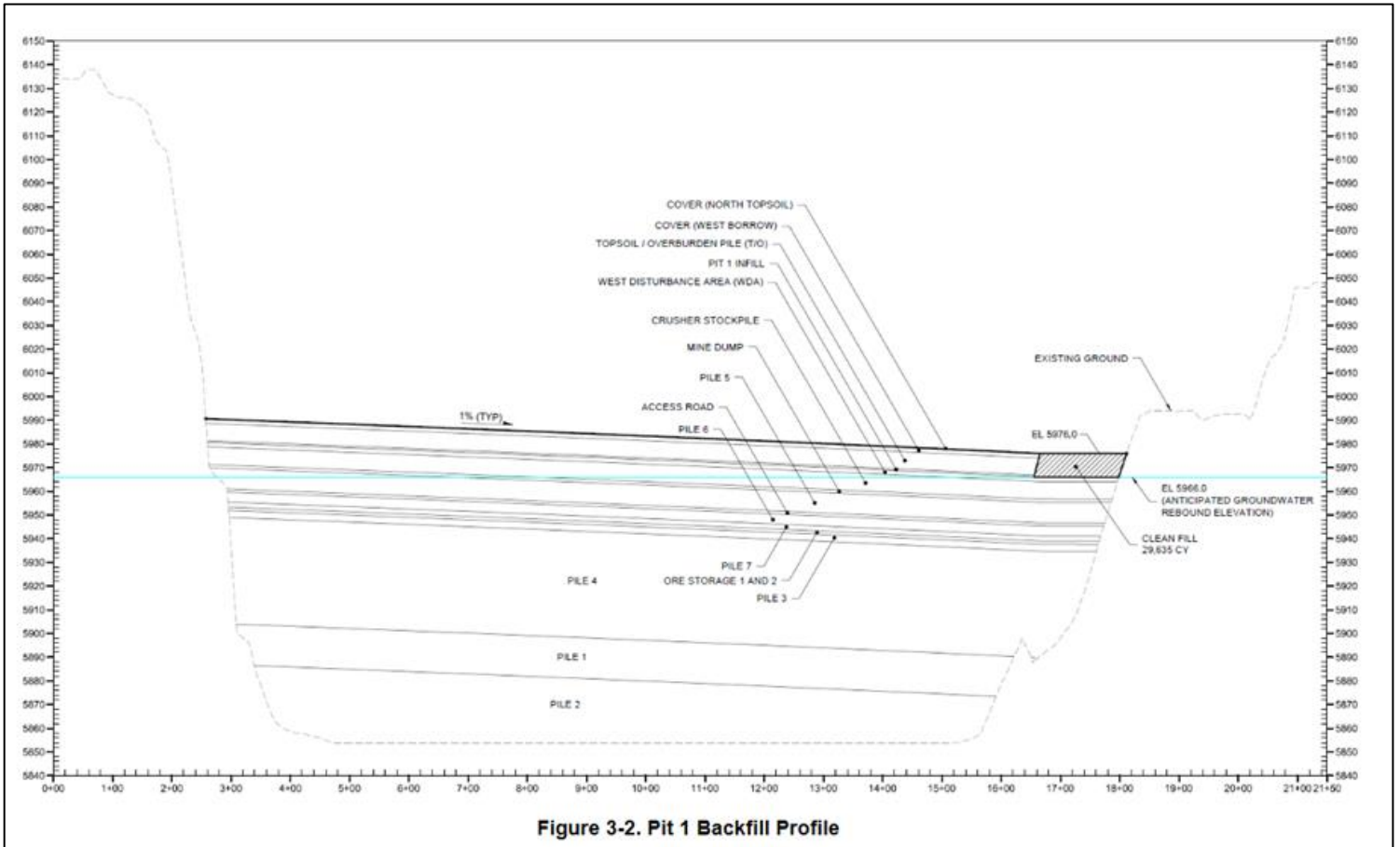


Figure 3-2. Pit 1 Backfill Profile