



**State of New Mexico**  
**ENERGY, MINERALS and NATURAL RESOURCES DEPARTMENT**  
**and the**  
**ENVIRONMENT DEPARTMENT**

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**Re: Joint Agency Response to UNC/GE Letter Dated December 15, 2022 on Permit Requirements for the Section 27 Mine, McKinley County**

The New Mexico Environment Department (NMED) and the Energy, Minerals and Natural Resources Department-Mining and Minerals Division (MMD) (herein referred to as “the agencies”) sent a letter to United Nuclear Corporation/General Electric (UNC/GE) dated October 5, 2022 to initiate discussions to address outstanding permitting actions associated with the Section 27 mine. UNC/GE responded with a letter dated December 15, 2022. This letter is a response to the December 15, 2022 letter.

EPA Actions: Ongoing and Future – UNC/GE is under an Administrative Settlement Agreement and Order on Consent (ASAOC) with the Environmental Protection Agency Region 6 (EPA-6) to perform a Remedial Investigation/Feasibility Study (RI/FS) for the San Mateo Creek Basin Central Study Area (CSA). The CSA RI/FS is being performed for groundwater by three respondents under one agreement. NMED recognizes UNC/GE’s involvement in the CSA.

Section 27 is not located in the CSA.

Section 27 is located in what was previously called the West Study Area in early EPA-6 negotiations and is now referred to as the Ambrosia Lake Study Area (ALSA). A couple distinct characteristics of the ALSA differentiate it from the CSA. First, the ALSA is for surface clean-up only (excludes groundwater at this point in time), and second, the responsible parties and EPA-6 entered into negotiations on the ALSA, and were not able to reach a collaborative agreement, and thus would proceed only by individual agreements with each responsible party. The responsible parties stated this was necessary because their interests were not shared in a way that could be agreed upon. As of the date of this letter, per communications

with EPA-6, the only entity under agreement with EPA-6 for the ALSA is Homestake Mining Company. The agreement in the ALSA is for a Removal Site Evaluation (RSE). EPA-6 does not have any agreements with UNC/GE for work in the ALSA for Section 27, nor any other GE/UNC properties in the ALSA.

In the event UNC/GE enters into an agreement with EPA-6 for clean-up of surface and/or groundwater in Section 27 in the ALSA, all applicable or relevant and appropriate State of New Mexico requirements (ARARs) would need to be met under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). NMED would work collaboratively with EPA-6 throughout the life of the project to ensure the clean-up levels and remedial actions meet State ARARs. If the substantive requirements of the State permits are being met under an executed CERCLA implementing agreement (i.e., AOC, Consent Decree, etc.), the requirements under the State permits would defer to the requirements under the implementing agreement in order to prevent duplication. Considering the movement of groundwater, and its current exclusion from the ALSA, the Agencies reserve the right to require additional work be performed in any areas impacted by Section 27 activities.

UNC/GE's reference of N.M. Admin. Code § 20.6.2.4105(A)(2), is not applicable to Section 27 because UNC/GE is not currently abating groundwater under CERCLA. The possibility of entering into an abatement agreement with the EPA sometime in the future, does not exempt UNC/GE from meeting abatement requirements now. NMED will continue to require abatement under 20.6.2 NMAC, until the point at which all applicable substantive requirements of 20.6.2 NMAC are met under an implementing agreement under CERCLA.

Other Regulatory Agencies: Ongoing and Future – The Agencies recognizes the challenges associated with determining the nature and extent of impacts in the ALSA and the complexity of former mining and milling activities in the area around Section 27. The Agencies have multiple ongoing compliance activities at sites within Ambrosia Lake as a result of impacts associated with mining and milling activities. Section 27 is not regulated by the Nuclear Regulatory Commission (NRC) nor the Department of Energy (DOE). UNC/GE shall characterize all impacted material and groundwater on-site and address clean-up as part of the Stage 2 abatement process and Closeout Plan. The Agencies will work with UNC/GE to determine an appropriate remedy if the site investigations indicate that there is some apportionment of mill-related groundwater impacts that have come from off-site sources.

*NMED actions:* Ongoing and Future – NMED began the abatement process with UNC/GE for Section 27 with a letter dated August 26, 2004. The statements made in that letter and exceedances of 20.6.2.3103 NMAC standards have not changed. EPA-6 is not addressing groundwater at Section 27 in any of their proposed or ongoing actions. The state process of abatement began prior to EPA-6 actions and shall continue under the state process until a time when EPA-6 and UNC/GE enter an agreement to address groundwater at Section 27 and all State ARARs are addressed in an implementing agreement between UNC/GE and EPA-6

Section 27 is currently in Stage 1 abatement. NMED paused initiation of Stage 2 abatement while the negotiations between UNC/GE and EPA-6 commenced. Now that those negotiations have stalled, it is time for the abatement process to resume. Please refer to the conditions stated in the October 5, 2022 letter from the Agencies to UNC/GE. NMED is in support of UNC/GE moving forward with revising the supplemental closure plan. As part of the approval of a closure plan and prior to issuance of the Mining

Act permit, NMED must issue an Environmental Determination (ED) to MMD. The ED may be provided to MMD prior to the completion of the Stage 2 Abatement process.

*MMD actions:* Ongoing and Future - MMD approves UNC's schedule to revise the 2011 Supplemental Closeout Plan with the following conditions:

- UNC shall follow the Joint Guidance for the Cleanup and Reclamation of Existing Uranium Mining Operations (March 2016) in its Supplemental Characterization Workplan, and revised 2011 Supplemental Closeout Plan
- All surface reclamation efforts on the Sect. 27 Site will be coordinated with NMED to ensure the Supplemental Characterization Workplan and revised 2011 Supplemental Closeout Plan is coherent with the associated abatement process.

Sincerely,

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Mining, Environmental Compliance Section  
NMED

Holland Shepherd, Program Manager  
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JFHS:arcc

Cc:

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