



RYAN SITTON
TEXAS RAILROAD COMMISSIONER

May 26, 2015

Attn: Docket ID No. EPA-HQ-OAR-2012-0788
Health and Environmental Protection Standards
for Uranium Mill and Thorium Mill Tailings
Air and Radiation Docket
U. S. Environmental Protection Agency, Mailcode 2822T
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

RE: 40 Code of Federal Regulations (CFR) Part 192, Health and Environmental
Protection Standards for Uranium and Thorium Mill Tailings; Proposed Rule

Dear Sirs and Madams:

As Commissioner of the Railroad Commission of Texas (RCT) and appointed to be the Texas representative to the Interstate Mining Compact Commission (IMCC), I wish to voice support for the comments from the Texas Commission on Environmental Quality (TCEQ), regarding the proposed rules published in 80 *Federal Register* 4156, on January 26, 2015. The RCT fully supports the positions and facts set forth in the TCEQ's letter dated May 12, 2015, urging withdrawal of the proposed rules and conducting an in-depth study of the historic uranium *in situ* recovery (ISR) sites and associated ground-water data amassed over the past several decades.

Besides regulating uranium activities involving surface mining methods, the RCT has, since 1975, conducted effective regulation of uranium exploration drilling activities, including post-leach test-hole and delineation drilling within *in situ* mining areas. Over this 40-year period, the Commission has gained superior knowledge, insight and experience through permitting and inspection activities regarding the geologic and hydrologic environment of the targeted resources and the technology for recovery of those resources. Backed by this body of knowledge, I summarize in the following some of the salient points described in the TCEQ's May 12th letter.

- EPA determined in 1983 that *in situ* uranium recovery activities were appropriately regulated via an Underground Injection Control (UIC) program established under the authority of the Safe Drinking Water Act. To now propose regulation under the Uranium Mill Tailings Radiation Control Act of 1978 (UMTRCA) is redundant and unnecessary. Further, the TCEQ's ground-water protection regulatory program is an EPA-approved regulatory program--one that is already sanctioned by EPA to address the purported ground-water issues.
- TCEQ correctly identifies that, at least in Texas, byproduct materials are not generated at ISR sites. Since, as described in the TCEQ letter, "UMTRCA was enacted to provide EPA with the legal authority to develop standards associated with the processing, possession, transfer and disposal of byproduct material from inactive and active uranium recovery operations" and was

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intended to facilitate radiation protection from and cleanup of contaminated facilities, chief among them uranium milling operations. In contrast, ISR activities do not involve milling and hence do not have associated byproduct materials. EPA does not adequately explain its jurisdiction under UMTRCA to regulate these byproduct materials prior to processing in a uranium ore mill.

- The best indicator of the need for additional regulation of ISR sites under UMTRCA would be the track record of the current regulation. As identified in the letter from TCEQ, EPA states in the proposed rulemaking preamble (page 4165) that it has not examined the behavior of a restored ISR wellfield, citing a lack of available information. EPA should conduct these studies before any rules promulgation.
- TCEQ indicates that there is no evidence that uranium ISR operations in Texas have contaminated an underground source of drinking water. EPA claims that a potential exists for these activities to cause changes in ground water at significant distances downgradient from the operations; however, it offers no data or other information to support this claim and does not fully explain the nature and significance of those changes.

I urge EPA's consideration of the TCEQ comments and its recommendation of withdrawal of these proposed rules as described above, as well as the numerous other very important points contained in TCEQ's May 12th letter. Several of TCEQ's additional comments address the failure of EPA to adequately consider the economic and water resource impacts affecting the public, industry and regulatory authorities, which would result from this unnecessary regulation. It is the consideration of the Railroad Commission of Texas that the proposed rules would not in any significant way result in added protection to ground-water resources in Texas or any other state, and would only have the effect of additional regulatory burdens on the energy industries and added regulatory costs and responsibilities for the agencies involved.

The Railroad Commission of Texas agrees with the TCEQ in that these propose rules should be withdrawn and appreciates this opportunity to comment.

Sincerely,

