RE: Policy Statement on the Treatment of Environmental Justice Matters in NRC Regulatory and Licensing Actions

The intention of this Nuclear Regulatory Agency proposed policy statement ignores the existing inherent racism within the nuclear industry whether military or civilian in nature. It is our contention that because of this internalized racism within the nuclear industry there must be a generic Environmental Justice assessment of the nuclear industry particularly, if the Nuclear Regulatory Commission intends to have generic policy and licensing rules.

As documentation of this contention, Nuclear Racism is illustrated by an examination of historical and current activities of Northern States Power Company (NSP now Xcel Energy), a local Minnesota electric utility and other corporations and the Federal Government.

NSP built its Prairie Island nuclear reactors on the ancestral burial grounds of the Prairie Island Mdewakanton Dakota. Local newspapers advertised archeological bone digs of these ancestors. This project began in 1958 and the corporation concealed the truth from the Prairie Island Community about what kind of power plant they intended to construct. NSP simply said it was to be a steam plant, inferring coal as a fuel, not a nuclear plant.

The site approval and construction were done at a time when the Prairie Island Community was a ward of the United States federal government, in a state of extreme poverty, and with no independent right to legal self-representation. The US federal government betrayed its trust responsibility when the Bureau of Indian Affairs approved an easement through the reservation to allow the construction of the nuclear plant on Prairie Island.

For this desecration, the Prairie Island Community was paid a nominal amount of $164.00 and given a swing set under a large powerline. The City of Red Wing (ten miles downstream on the Mississippi River), however, through township consolidation and rezoning, ended up with $14 to $22 million dollars per year in property tax revenue paid by the utility.

Seventy percent of the world's uranium is on Indigenous lands. The largest open pit mine, now closed, is
Anaconda’s Jackpile mine on Laguna Pueblo (New Mexico) land. Other uranium mines are on Navajo lands throughout the Grants Mineral Belt (Arizona and New Mexico) including Crownpoint NM, Cree and Dené lands in Northern Saskatchewan, and Anishinabe lands in Ontario. Uranium mines are also located in South Africa and the Aboriginal lands in Australia.

Uranium ore must be milled into yellowcake before it is shipped to a fabrication plant to be made into fuel pellets. Uranium mill tailings, a fine-grained debris, retain about 85% of the radioactivity of the original ore. Tailings have generally not been reclaimed because of the quantity and nature of the tailings themselves.

There are four pathways for exposure from tailings: inhalation; whole body doses; ingestion of contaminated food or water; and use of tailings for building materials and fill. For example the roads in Laguna Pueblo were paved with uranium tailings, and low income housing in Edgemont, South Dakota was constructed with cement blocks made from uranium tailings from the Edgemont mill. United Nuclear’s uranium mill at Churchrock, NM is historically (1979) the site of an enormous accident spilling 100 million gallons of highly radioactive water in the Rió Puerco River impacting more than a 1,700 Diné by contaminating their only source of water and killing over 1,000 head of livestock.

The next link in the nuclear chain is to take the yellowcake and process it in an enrichment plant. One such plant, now closed, was the Kerr McGee Sequoyah Fuels Corporation located in Gore, Oklahoma on Western Cherokee lands.

NSP was lead owner in a consortium, Louisiana Energy Services, (LES) attempting to site the first privately owned uranium enrichment plant in Homer, Louisiana. LES began the license application before the Nuclear Regulatory Commission in 1991.

Nuclear power plants produce nuclear waste and by 1988 NSP knew it would soon be out of storage space for its waste. They then began administrative procedures to increase waste storage capacity in 1989. Their proposal was to store high level nuclear waste in 48 steel casks outside on a concrete pad on an island in the Mississippi River.

In 1994 the Minnesota State Legislature approved the use of 17 dry casks, and an additional 12 were authorized in the Minnesota Legislature in 2003. The Prairie Island Tribe finally received a financial settlement in exchange for accepting these 12 additional casks, but the dump is only three blocks from the Prairie Island Community Center and Day Care. Cask storage therefore adds to a cancer death risk for the Prairie Island Community that is already six times the Minnesota State Health Department’s policy guideline of 1 in 100,000 over a lifetime of exposure from a single source, due to routine radioactive emissions from the Prairie Island reactors.

At the same time NSP was running out of nuclear waste storage so was every other nuclear power plant in the country. Some place just had to be found to put this waste. The Office of the Nuclear Waste Negotiator was created in 1987. The United States federal government thought states and tribes might be willing to temporarily host a Monitored Retrievable Storage (MRS) facility for high level nuclear waste in exchange for economic development while waiting for a permanent repository site to be developed.
In October of 1991 the Nuclear Waste Negotiator wrote to every local unit of government and every tribal leader, offering $100,000 to study the potential of hosting a MRS facility. Three counties and seventeen tribes responded. $100,000 was to just educate the community and discuss the potential for hosting the nation's waste. Additional phases promised more money with the development of an actual site giving the host community up to $5 million annually.

To secure its own nuclear waste storage project, early in 1994 NSP led the formation of a utility consortium to privatize an interim nuclear waste storage site. NSP had to convince Minnesota legislators any nuclear waste stored at Prairie Island was only a temporary situation. They first approached the Mescalero Apache Nation, one of the 17 MRS applicants, just two weeks before the beginning of the 1994 legislative session. This 33 utility consortium lasted long enough for NSP to get legislative approval in Minnesota for dry casks on Prairie Island and then the consortium collapsed in February of 1995.

After the collapse of the Mescalero Apache agreement NSP formed another utility consortium, Private Fuel Storage and went immediately to the Skull Valley Band of Goshutes in Utah, another MRS applicant, with their proposal. Other efforts to secure an interim storage site include the Pangea Corporation currently looking at the outback in Australia, and sites in Canada. All other MRS applicants are also candidates for a private dump with the Ft. McDermott Paiute next on the list.

The only site the United States’ federal government is developing for a permanent high level nuclear waste repository is Yucca Mountain, Nevada which is located on Western Shoshone Lands included in the Treaty of Ruby Valley 1863. Yucca Mountain is a volcano with activity documented in the last 4,000 to 10,000 years and an earth quake fault (Ghost Dance) zone. A quake in 1994 caused a million dollars worth of damage to the Department of Energy facilities located there.

The Shoshone are also the site of the Nevada Nuclear weapons test site and are the most bombed Nation (over 1,000 nuclear detonations) on Earth, with the Marshall Islanders in the South Pacific a close second. The Marshallese in the Bikini Atoll were not warned or evacuated by the United States prior to the Bravo Test in 1954 and are still suffering today with women giving birth to jellyfish babies who soon die from the massive deformities. The failure of the Nuclear Test Ban Treaty will ensure that the atrocities of war continue to impact Indigenous Peoples and other People of Color.

Other examples of environmental racism in the nuclear industry include the projects proposed for Ward Valley and Sierra Blanca, the Hanford Nuclear Reservation immediately adjacent to the Yakima Nation, and the Savanna River Nuclear Facility surrounded by a large African American community.

The examples that are illuminated here are not exhaustive nor are they coincidental. One could justify such a statement, if perhaps one or two facilities were sited on Indigenous lands or in communities of color. The absence of a commitment to perform a generic Environmental Justice Analysis as a vital component of a generic policy and licensing protocol by the Nuclear Regulatory Commission ignores the racism of the Nuclear Industry and is of and in itself racist behavior. The existing Corporate policy and government approval is very clear. This new proposed action by the NRC does not address the racism inherent in the Nuclear Industry or the unacceptable health effects caused to those impacted by the nuclear sites whether existing or under future consideration. This action ignores the Trust Responsibility that the US Government
is required to exercise with Indigenous Nations. The Government-to-Government Relationship is clearly abused and Treaty laws ignored. In fact the proposed policy statement supports the status quo of environmental racism which Executive Order 12898 is intended to address. The essence of Nuclear Racism is at the heart of the proposed policy statement, which would systematically thwart the intent of the Executive Order.

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