UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS TX 75202-2733

JUL 1 2011

Susan Jablonski, Director
Radioactive Materials Division
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

RE: Application to Exempt a Portion of the Goliad Formation, Goliad County

Dear Ms. Jablonski:

This letter is in response to Texas Commission on Environmental Quality's (TCEQ) formal application received on May 27, 2011, for exemption of a portion of the Goliad aquifer for in situ uranium mining in Goliad County. EPA Region 6 has conducted a preliminary review of the application and found it to be incomplete.

EPA is required to examine an application for an aquifer exemption for compliance with the criteria at 40 CFR 146.4. The first criterion (40 CFR 146.4 (a)) requires that the aquifer does not currently serve as an underground source of drinking water. From the information provided in the application, Region 6 is unable to ascertain how the aquifer within the boundaries of the proposed exemption meets this criterion. The application indicates there are wells serving as sources of drinking water located in proximity to the proposed exemption boundary and completed in the same geologic zones. Since source water wells draw from aquifer(s) in which they are hydraulically connected, the areal reach of that draw must not include that portion proposed for exemption. This demonstration is necessary in order to show that portion in question meets the first criterion.

If TCEQ has not already conducted such a demonstration, the Region requires a ground water modeling analysis demonstrating the aquifer within the proposed exemption boundary either currently serves or does not serve as a source of drinking water. The time period for such an analysis should extend across all projected production and restoration phases of the proposed mining activity. To ensure efforts are productive, a ground water modeling work plan and conceptual model explaining how the model will be designed should be provided to Region 6 prior to performing the ground water modeling.

This letter does not represent the Region's final comments on the application submitted, rather just our preliminary review. Should the ground water modeling determine that the proposed exempted portion of the Goliad aquifer meets the first criterion, the Region will request additional modeling information for evaluation of the second criterion for an aquifer exemption for mining activities at 40 CFR 146.4 (b) (1). Additional comments may be forthcoming once the application is deemed complete. Until the application is deemed complete and results in EPA's approval of the exemption application, any in situ leaching operations by Uranium Energy

Corporation (UEC) may be considered a violation of the Safe Drinking Water Act. To clarify and expedite any technical issues involved in developing the work plan and models, my staff is available to meet with your staff and those of UEC in Waco if desired. If you have any questions regarding our requests above, please contact Mr. Philip Dellinger, Chief, Ground Water/UIC Section at (214) 665-8324.

Sincerely,

Miguel I. Flores
Director
Water Quality Protection Division

cc: Ben Knape, TCEQ
Diane Goss, TCEQ