

**STATE OF NEW MEXICO
ENERGY, MINERALS AND NATURAL RESOURCES
MINING AND MINERALS DIVISION**

**IN THE MATTER OF THE APPLICATION BY
RIO GRANDE RESOURCES CORPORATION TO CHANGE
THE STATUS OF ITS EXISTING MINE PERMIT FOR THE
MT. TAYLOR MINE FROM STANDBY STATUS TO ACTIVE STATUS,
REVISION 13-2, PERMIT NO. C1002RE**

HEARING OFFICER REPORT

Applicant Rio Grande Resources Corporation (RGR) submitted to the Energy, Minerals and Natural Resources Department (EMNRD) an application to revise its mine permit for the Mt. Taylor Mine to return to active status from standby status with an updated closeout plan and financial assurance. Mt. Taylor Mine has been in standby status since October 12, 1999. (Additional procedural history is evident in the record and will not be set out in this Report.)

On December 4, 2015, the undersigned Hearing Officer accepted testimony and public comment in the Cibola County Commission Meeting Room in Grants, New Mexico as part of continued information gathering necessary for the Director of the EMNRD Mining and Minerals Division (MMD) to reach a decision on the permit revision application, updated closeout plan and updated financial assurance under Section 19.10.5 NMAC.

The hearing was conducted pursuant to Section 19.10.9.905 NMAC, Hearing Procedures. All comment was taken under oath and subject to questioning by others present. Written comment and testimony was also submitted and accepted. The hearing, which was recorded and transcribed by Denise Kopan of Kathy Townsend Court Reporters, started at 10:00 a.m. and ended shortly before 5 p.m., including lunch and a

few short breaks. Nearly seventy people signed in; not everyone who was present is reflected on the sign-in sheets. EMNRD staff distributed a Fact Sheet with information about the mine and permitting process.

Counsel present for RGR included Stuart Butzier, Larry Ausherman and Christina Sheehan of Modrall, Sperling, Roehl, Harris and Sisk. Counsel present for the Multicultural Alliance for a Safe Environment (MASE) included Eric Jantz and Jaimie Park of the New Mexico Environmental Law Center. Counsel present for the Pueblo of Acoma included Ann Berkley Rodgers of the Chestnut Law Offices.

All information to be considered by the Director is maintained in the Division's Santa Fe offices; primary documents are also available on the Department's webpage.

Notice of the hearing and opportunity to provide comment was sent by mail, email and posted on the EMNRD webpage. The Hearing Officer also announced that following the hearing, written comment would be accepted by the Division through January 4, 2016.

The Director did not request a recommendation for action from the Hearing Officer under Section 19.10.9.905.A(3). This Report includes only a review of written and oral comments submitted before, during and after the hearing; it does not include a review of the written post-hearing submittals from RGR or MASE or any other part of the Department's administrative record.

Hearing Testimony For Applicant RGR

Joe Lister, Mt. Taylor Mine Manager for RGR since 1991. Mr. Lister worked in the uranium industry as a summer hire for Kerr McGee in 1969, returned to school before working for other mining companies, and has been working at the Mt. Taylor Mine in a

variety of positions and for a number of companies since early 1978. Mr. Lister gave a brief history of the Mine and RGR's plans in bringing the mine units off standby status.

The Mine is located about a mile northeast of San Mateo at the end of Highway 605. The exploration and discovery of uranium at the Mine was made mostly by Gulf, through drilling holes and acquisition. The Mine has become known as the largest high-grade source of uranium in the United States. In 1982 Gulf placed the Mine in inactive status. Chevron and Gulf then merged, and in 1985 Chevron opened the Mine and operated it for 4-5 years. In 1991, the mining equipment was removed, the Mine was allowed to flood, and Chevron sold the property to RGR. The Mine has not been completely inactive since 1991; they have tested water treatment technology, added reserves, and maintained the property and its permits in status quo. Tr. pp. 14-19.

Mr. Lister spoke to RGR's objectives in pursuing active status for the Mine: RGR believes a more favorable market is in the future, and that the time is right to begin the lengthy process necessary to come off standby status. Some of the activities necessary to be ready when the market improves are inconsistent with standby status, and they do not want to risk significant sums of money without assurance that an active status permit is available. Further, reclamation activities will be shaped by permit conditions. Exploration and development work, both on the surface and below ground, come prior to production, and there is a long lead time. The original lead time at the Mine was 16-17 years. The application to come off standby status was filed in 2013 following 3-5 years of consideration. Tr. pp. 19-22.

Each mining unit will require engineering; some more than others. Each time they break ground, cultural surveys will be made, and if anything is found they will mitigate.

The Mine will employ a lot of people; one of their challenges is workforce development. They want to work with the local college to train workers in radiation, worker safety, MSHA, and a variety of trades. Equipment procurement is a big question for a mine that is 3,000 feet deep and requires very large hoists; that study has just begun. Other systems to be procured and installed include pumps, generators and compressors. Tr. pp. 23-24.

Mr. Lister described the functions and planned upgrades for each of the mine units. The mine shaft service support area includes a 14-foot diameter shaft and a 24-foot diameter shaft, hoist house, service administration building, warehouse, electrical substation, security gate, guard office and ambulance building. Plans for this area include depressurizing through a series of cleaned dewatering wells, placing pumps, building a pipeline to discharge water into the water treatment area, cleaning and repair of shafts, rehabilitating the underground facility and bringing the buildings up to electrical code.

The water treatment area includes eight ponds and facilities to remove certain constituents from water: uranium, molybdenum-selenium and radium. Plans for this area include expanding the existing IX plant to handle anticipated maximum flow rate, and the addition of a molybdenum-selenium treatment plant. All of the ponds will be rehabbed by removing all sediment and installing double-lining with leak detection. The 24-inch pipeline which receives water will also be lined. Tr. pp. 25-28.

The existing ore pad will be upgraded: the clean fill on top will be removed and the liner will be replaced to stop the downward movement of uranium. A truck wash will be added, and the wash water will be piped into retention ponds. The waste rock pile includes a storm water system they upgraded. A new cell will be constructed to receive the deposit of existing sediment and then covered. Tr. pp. 28-30.

Dr. Alan Kuhn is a consulting engineer to RGR. Dr. Kuhn has a Ph.D. in engineering geology and 48 years of professional experience. He is a professional geologist and a licensed professional engineer. He was one of two industry members appointed to the Technical Advisory Committee to EMNRD for rulemaking subsequent to the passage of the 1993 Mining Act. Dr. Kuhn has consulted on the whole spectrum of operations for 17 uranium mining and milling sites throughout the country, and has been providing his services to the Mt. Taylor Mine since 1994. Dr. Kuhn offered a permitting history for the Mine, an overview of permits and licenses, highlights of the changes identified in the application to return to active status, changes to the Closure/Closeout Plan (CCP), an estimated schedule for the closeout phase, and testimony about financial assurance. Tr. pp. 30-32.

After the New Mexico Mining Act was passed, existing mines that were still operating were required to submit an application for a permit. That permit was issued in 1995. The uranium market was poor in the 1990s, largely due to the U.S. deal to purchase Russian materials, so Mr. Lister and RGR decided to put the Mine on standby status, and the permit was so revised in 1999. The Mining Act allows for four five-year periods of standby. The first renewal of standby status was granted in 2005, and although RGR applied for a second renewal period of standby in 2010, an appeal and rehearing means that decision is still pending. RGR applied to come off standby in April 2013, and as a precaution in the event it is not approved, applied for third renewal of standby in October 2014. Tr. pp. 33-35.

A variety of permits must be maintained throughout the operating life of the Mine, including the Mine permit at question from EMNRD; a ground water discharge

permit from the New Mexico Environment Department (NMED), DP-61, which was recently approved; two NPDES permits from the Environmental Protection Agency (EPA), one for discharge water and the other for stormwater discharges; a radiological source material license from NMED's Radiation Bureau; a special use permit from the Forest Service for the pipeline that crosses Forest Service land; and a landfill permit from NMED's Solid Waste Bureau. Dr. Kuhn noted that the entire application file for the Mine is available on the EMNRD website. Tr. pp. 35-36.

Dr. Kuhn described the changes that will occur at the Mine as they return to active status, which is a very time-consuming, costly process. They will search the world for the right equipment. Pond sediments will be removed from the water treatment ponds and placed in a lined disposal cell to be constructed on the waste pile. This will concentrate all the radiologically contaminated waste in one spot, which is preferred at the state and federal levels. After the sediment is removed the ponds will be lined with a very robust system. The depressurizing wells will be rehabbed so they can enter the mine space, and the existing IX plant will be upgraded with modern equipment and expanded to include molybdenum-selenium treatment. Those two analytes do not exceed human health standards now, but will likely increase and concentrate with time; they are planning ahead for when standards are exceeded. Tr. pp. 36-38.

The pipeline for the mine water discharge will be lined; the waste pile will be reshaped and its outcrops will be covered. They will improve the stormwater runoff controls and reactivate a number of support facilities needed to make the Mine run. Dr. Kuhn showed slides of each mine unit area with notations as to the activities expected to reactivate the Mine and activities that would be required at closure/closeout. Because

EMNRD and NMED share jurisdiction over certain aspects of mining operations, RGR approached both agencies to request a single, comprehensive closure/closeout document. At the end of mine life, most of the deep wells at the site will be plugged and abandoned according to NMED and State Engineer rules. The wells in the shallowest aquifer will be kept in service for the post-mine land use, which will be grazing. The headframes towering above the mine will be demolished and the shaft openings will be plugged. The wells going down to the Point Lookout aquifer, a clean drinking water aquifer, require no treatment, and will be used during and after mining. The wells going deeper to the strata containing the ore body, the Dakota to Westwater aquifers, contain radium and uranium above drinking water standards. They have been treating and will continue to treat this water. Tr. pp. 38-43.

Support structures and buildings will be brought up to present day code, and a sewage treatment plant there will be reactivated. At the end of mining it will be removed. In addition to lining the pond basins, the hydraulic control structure on the ponds will be rehabbed. The liners and design will meet the nearly universal EPA requirements for pond systems. The original application had included a second waste pile to the north. RGR determined they no longer need it due to mine design and changes in backfill technology. They will evaluate the vegetation in a test plot over several years to check performance of the slope cover as a structural system. A final or second waste disposal cell will be placed just at closure, and the whole thing will be capped by a clay cover and revegetated. The stormwater pond will not be removed entirely but will be converted to a stock watering tank after the sediments are removed. Tr. pp. 43-49.

The stormwater pollution prevention planner (SWPPP) will be implemented, and contaminated soil found at the site will be placed in the waste pile disposal cell. At closure all surfaces will be graded for efficient runoff control, the whole area will be reseeded and passive erosion controls will be placed to protect against erosion. The date of closure is not yet known and will depend on whether new or richer ore bodies are discovered. They expect mine life to be decades long. Closure activities will take about 18 months. Dr. Kuhn believes the closure plan meets all EMNRD Mining and Minerals Division (MMD) and NMED requirements. The best post-mining land use is a return to pre-mining land use, grazing, which is consistent with a self-sustaining eco-system appropriate for the life zone of the surrounding area. The financial cost estimate prepared for closeout is approximately 7.2 million dollars, slightly higher than the 6.8 million dollars estimate if the Mine were not to be reactivated. Tr. pp. 50-52.

On questioning, Mr. Lister expanded on his duties as Mine Manger and described some of the Mine activities in standby: raising the fence from 6 feet to 8 feet high to preclude jumping animals; treating water from a mine pool under a temporary discharge permit to test different ion resins for uranium removal; maintaining and repairing the property and structures; and engaging a Stage 2 abatement plan to address contaminated ground water. Although it takes a long time to reactivate a mine, they anticipate the market being recovered by the time they are ready to mine the uranium. In 1994, the application for an existing mine may have included a statement that mine production would occur no later than 2010, but many things have changed since then. A federal program allowed Soviet-made weapons to be downgraded, which produced a large part of uranium supply. There was a run-up in the uranium market between 2005 and 2010,

where uranium spiked at about \$130 a pound. RGR saw that as a bubble, and would not invest then; RGR looks at long-term contracts. The spot price is currently \$36 a pound. Since the down-lending program ended in 2013, the market has gone up and down, between \$32 and \$47 a pound. RGR would not be investing millions of dollars at the site if it did not believe it could produce profitably. Mr. Lister is unsure about whether increasing demand from China and India is currently affecting the spot price; RGR does not sell into that price. Tr. pp. 53-60.

Assuming the application to go to active status is approved in the first quarter of 2016, Dr. Kuhn believes that getting the wells into operating condition would be one of the early things that would have to happen, and that it would take about a year and a half. Water can't be pumped from the wells until the ponds are lined; that activity would take place in parallel. Multiple activities would be scheduled along a critical path. The reactivation activity that will probably take the longest is finding the long-lead equipment items such as the shaft hoists. Mr. Lister noted that they have located one or two that could work at the Mine with some refurbishment, but there are other long-lead items such as underground pumping plants. [During the hearing, Mr. Lister stated that these pumps had a 48-month delivery date. Following the preparation of the transcript, he filed a correction page as part of RGR's post-hearing submittal that it should have read 48 weeks.] Tr. pp. 62-67.

Dr. Kuhn and Mr. Lister do not yet know what the critical path is for dewatering the Mine and bringing it back into operation. RGR is still inquiring of manufacturers and the permit has not yet been approved. There will be long lead times on a lot of the equipment, including the submersible pumps and the copper-filled electric cable, and

required engineering. RGR is in the preliminary stages of applying for a milling facility. Mt. Taylor is a large enough deposit to sustain the capitalization of its own mill. Although RGR told the Nuclear Regulatory Commission (NRC) that it can expect a milling application by the first quarter of 2020, Dr. Kuhn's experience with the NRC is that he does not expect approval in less than five years. Tr. pp. 69-75.

Dr. Kuhn confirmed that the current waste pile is unlined. In returning to active status, the slopes would be reduced to a five-to-one gradient, material would be pushed up onto the pile to form berms surrounding a lined waste disposal cell; all pond sediments and contaminated soils would be placed there before a clay cap would cover it all. The cell would not contain waste rock; waste rock zones for waste rock brought to the surface are marked on the maps. The detection of additional or potential contamination from the current waste pile has already been covered in the Waste Pile Characterization Study conducted pursuant to DP-61. They have no data showing contamination from existing waste rock and do not expect any from future waste rock. It is important not to let water pond there, and to place cover quickly once the material is in place. Tr. pp. 75-79.

Mr. Lister confirmed that the mine permit area is around 4,000 acres, and the disturbed area, which is privately owned land, is approximately 140 acres. Very little of it is unpatented claims on Forest Service land, and some is Bureau of Land Management (BLM) land. There are currently about 60,000 tons of ore or mineralized rock on the existing ore bed, covered with about three feet of clean soil. The ore will be moved offsite to be milled, and a liner placed beneath. Tr. pp. 79-81.

Mr. Lister repeated that no groundbreaking will take place without a cultural survey. They plan to hire experts to handle those activities, and would welcome

consultation with tribal communities, local land grant communities. Payment for the costs of participation would have to be covered by a memorandum of understanding. No permit applications are pending at the State Engineer's Office. The mine was active prior to the Mine Dewatering Act, and RGR believes they are grandfathered in under that Act, with pre-basin rights to some of the water. They have spoken briefly with the State Engineer's Office about this. Twenty years ago, RGR and Mr. Lister participated in a planning process for the City of Grants and its 40-year water supply. Mr. Lister is not aware that the Morrison Formation was identified as a future water source for the City of Grants in that plan. RGR has considered discharging water into the Rio San Jose Basin, but the beneficial use of surplus water is yet to be determined. RGR would like to open that discussion to the community. Tr. pp. 81-85.

Hearing Testimony For MASE

William Paul Robinson is the Research Director at Southwest Research and Information Center (SRIC) in Albuquerque, New Mexico. He has worked at SRIC for the past 40 years, and taught environmental assessment methods at the University of New Mexico at the undergraduate and graduate level. His resume is included with his written statement; his experience goes back to participating in the radioactive materials and discharge permitting plans for the Mt. Taylor Uranium Mill in 1981, other proceedings related to the mine, and other uranium facilities along with other resource management facilities in New Mexico. Mr. Robinson has also provided testimony before regulatory bodies and other panels, including a recent inquiry into uranium at Quebec City, which included consideration of uranium technology as well as uranium market conditions.

Mr. Robinson provided technical testimony in the DP-1712 proceeding, for the Mine Water Treatment Test Project, and in several cycles of the DP-200 discharge permit for the Homestake facility as far back as 1984. He participated as a technical witness in proceedings for mines in the San Mateo Creek when jurisdiction of the Clean Water Act was being challenged. Recent work has included peer review publications assessing mine waste quality and mine waste impacts on water in the Southwest. Past testimony has included testimony about uranium markets, including the invited statement before the Quebec Environmental Inquiry. During licensing proceedings for the Crow Butte In Situ facility in 2006, the assessment of the resource and its viability as a producible commodity in the market was an important consideration. Tr. pp. 123-125.

Mr. Robinson provided a statement on behalf of MASE and Amigos Bravos, who requested a hearing on RGR's Application for active status with a letter in May of 2013: The revised Application provides very little information regarding changes in uranium market conditions that support the proposed change from standby to active status. Only on page two of the revised Application is there discussion of the market, where it is noted that "The mine remains on standby after mining operations were suspended due to the depressed uranium market" conditions, and the mine has been on standby since 1991, when Rio Grande acquired it. There are several actions that are described as occurring in the plan upon return to operating status, and these include mine dewatering. The functions and overall dimensions of the mine remain the same from 1990, when the existing mine permit Application was filed. The Mining Act reclamation regulations define "standby" as "a temporary cessation of a mining operation which is expected to resume," and the regulations that address converting from standby status for a permit

require an analysis of anticipated future economic viability of the units proposed. The MMD Director is required to determine that such an analysis was conducted.

The revised Application includes a "Schedule" at page 48, which identifies a series of activities that RGR says it will begin upon approval of the mine activation permit. Mine water pumping facilities will be placed into operation, and dewatering sufficient to enable access is expected to take two to three years. With shafts accessible, the mine may be ready to enter and rehabilitate in approximately four to five years after revision; ore production will begin soon after that. Standby status is defined as "a temporary cessation of mining operations exceeding 180 days" at Part 19.10.7.701.A, and based on that description, operational status is understood as conducting mining operations without cessation exceeding 180 days. If cessation occurs, standby status is attained, according to the rule, and if the operation proceeds without cessation for that six-month period, then it would be in operation. Tr. pp. 126-128.

The term "anticipated future economic viability" is not defined in the regulations. Mr. Robinson cited the Merriam-Webster Dictionary of "viable," which is "capable of living; capable of growing and developing; capable of working and functioning, or having a reasonable chance of succeeding, financially sustainable." The Application before the Director was filed notwithstanding continuing depressed conditions in the uranium industry. In the U.S., market prices are below the cost of production of the commodity, and there is low production versus operating capacity. Tr. pp. 128.

Mr. Robinson's first slide provides information about the uranium price that was identified as necessary for profitable operation by Energy Fuels Company, which has the Roca Honda project a few miles west of the Mt. Taylor site. The report shows profitable

projections at \$65 pound. The report was prepared according to the Canadian Securities Administration Guideline N143-101, a well-known international standard of mineral resource evaluation, which publicly traded companies in the Canadian markets must comply with. RGR is a wholly owned subsidiary of General Atomics, which is a privately held firm, does not trade shares, and is not subject to that kind of disclosure. Since the Roca Honda Mine is close to Mt. Taylor, it is also a deep underground mine, and would need a mill or transport to a mill. It's a rough comparison. "PEA" is a Preliminary Economic Assessment, a specific type of study mandated under the N143-101 guidelines used to determine whether a resource is recoverable at a profit.

The second slide includes a comparison of the current price of uranium to the \$65 price in the 2015 Technical Report. Roca Honda uses the spot market price as a uranium price. The current contract price is in the \$45 range and has been below 50 for the last five years. The price peaked above \$70 pound, but evaporated as quickly as it rose, and fell in February 2015, the month before Fukushima, which helped the price fall further. Although the price peaked in 2007 above \$130, and there was a second peak in 2011, the market has never sustained a price above \$40 for more than six months in the last twenty years -- the price is still depressed relative to the cost of production.

Many factors affect uranium price and sales. The prices in the Preliminary Economic Assessment are higher than the February 24, 2015, spot market prices cited. He is aware of no estimates of the profitable uranium price that RGR would need for its operation to compare to the Roca Honda; none of that information is provided to the Canadian Securities Administration. Tr. pp. 129-132.

A second demonstration of the continued long-term depressed conditions in the uranium market is the low uranium production from licensed uranium production facilities, illustrated beginning with slide three. A chart that shows the amount of uranium produced from uranium operations in the U.S. during the last 20 years; in 2014, 4.9 million pounds of uranium were produced. [See the U.S. Energy Information Administration's U.S. Domestic Uranium Production Report.] U.S. production is only 21 percent of licensed production capacity. There are 15.3 million pounds of licensed production capacity in situ mines and eight million pounds of capacity at the one licensed mill in the country, the White Mesa. That's a very low production capacity. U.S. uranium demand is about 18,000 tons of uranium per year, or about 36 million pounds, and the U.S. had licensed capacity for more than half of that, 11,000 tons, but only produced at 20 percent. There are 9,000 tons of uranium production capacity licensed by the NRC, Texas, or Colorado, that are not being used. That's a substantial amount that reflects market decisions since the permits are in place and that's a lot of production capacity to come on-line before new production is needed, another 9.7 million pounds of in-situ production capacity in the permitting pipeline, according to the NRC. That would get the U.S. up to 80 percent of its uranium demand if it all had to be met by mines.

The U.S. has several trading partners it has a long history of getting uranium from, including countries where U.S. operating companies exist. Canada and Australia are quite prominent among the producing companies, Kazakhstan is the most rapidly growing producing country. In summary, the U.S. produces at a very low percentage of its operating capacity. There are plenty of licensed uranium production facilities out there

that are not being used, and depressed production versus capacity is an important measure of a depressed market. Tr. pp. 132-134.

The next slide lists all licensed facilities in the DOE report, and a quote from the Energy Fuels annual information form for 2014 mentioning eight million pound production capacity, but only 900,000 pounds produced in 2014. The next slide lists all of the uranium mills; only the White Mesa Mill is licensed and operating. There are two standby facilities, Shootaring Canyon and Sweetwater, that are not licensed to produce and have not submitted Applications for renewal. The Pinon Ridge facility in Colorado is licensed and has been acquired by Energy Fuels, which has stated it has no plans to construct that facility. At the time Energy Fuels acquired Roca Honda Mine from Strathmore Minerals, Strathmore had initiated a mill licensing application for a facility between the Mount Taylor Mine and the El Segundo Coal Minority of San Mateo using fully below-grade tailings disposal methods. The Application was withdrawn when Strathmore and Energy Fuels merged. Tr. pp. 134-135.

Slide eight is from a publication called the "Uranium Red Book," which is a publication of the Organization for Economic Cooperation and Development and Nuclear Energy Agency Global Report produced every two years for 40 years, and it projects world uranium supply and demand through the year 2035. The red dotted line going from left to right is the actual uranium demand from 2005 to 2015. Uranium demand is then projected on a high- and low-scenario basis through the year 2035. The darkest blue line is actual uranium production through 2015, the medium blue line is the existing and committed production capacity, and the lightest blue line is planned or prospective production. Between 2008 and 2015, there is more production capacity than there is

demand, and there is more production capacity than there is projected demand for the high scenario through the year 2024. There is enough capacity out there to meet demand for the next eight or nine years. At the low scenario, there is enough capacity all the way through the end of the projection, to the year 2035. This indicates a very difficult market to inject new production and is a very important aspect of the excess capacity versus production in the U.S., where we have much more uranium capacity than we can use based on price. Even though the country needs more than the U.S. industry currently produces, it can meet that through international purchases and uranium reuse. Continuing long-term depressed conditions in the uranium market have been demonstrated through uranium prices depressed below the cost of production and uranium production depressed at licensed facilities operated only one-fifth of capacity. There is adequate capacity around the world for the next ten years and perhaps the next 20. Tr. pp. 136-137.

The Application identifies a series of activities which must be conducted for reactivation of the Mine. The Mine was not operated in a standby status in the sense that standby meant ready to go; standby was maintaining the facility in a condition where it could be refurbished. The Mine is not ready to go; there is a great deal of activity identified and a lot of plans mentioned. It is appropriate for the MMD Director to require a demonstration that the reactivation is begun within 180 days and is continuing. In the Schedule, there are a number of steps Dr. Kuhn discussed, for each of which there should be a demonstrable procurement process, bids offered, bids accepted, contracts issued, and work plans issued. Those are milestones by which you can tell a project is proceeding. The plans are not themselves the reactivation activities. It is not clear why reactivation is required to clean out the water treatment ponds, or treat the south waste pile area. There

is a backlog of work. If reactivation is permitted the actions to upgrade the south waste pile should be initiated upon activation of mining activities. Tr. pp. 137-139.

If there is no action after 180 days, that's cessation, as Mr. Robinson understands the rules. Decades ago, when the Mt. Taylor Mine was constructed, operations were projected to reach 4,000 tons per year, yielding seven to eight million pounds of yellow cake per year, and that production capacity was the basis of a mill license Application. RGR provided a Letter of Intent to the NRC to indicate that it is planning a mill application. It did that in 2008, 2010, 2011, and 2012. [See Robinson Exhibit 4.] On November 18, the NRC wrote Joe Lister, "Can you provide NRC with an update to your plans for the Mount Taylor Mill application?" Joe Lister wrote back, "The Mount Taylor Mine has received the DP-61 Mine Water Discharge Permit from the State of New Mexico as of a couple of weeks ago and we are scheduled to have a public hearing on December 4, 2015, of the mine standby permit to active status. We anticipate receiving the active mine permit in the first quarter of 2016. The mill project will be accelerated once we receive the revision of the current standby permit to active status. The mill application is targeted for late 2019 to the first quarter 2020." That's an indication that there is not yet a mill reactivation process in place. The mill is a fundamental part of operation of the Mine, as it was back in the '80s, and the demonstrable progress on reactivating the mill is as fundamental to the Mine being able to operate as the mine site. It is reasonable, appropriate and necessary for the Secretary to demonstrate that mine activation is occurring and proceeding apace. Tr. pp. 140-142.

Robinson Exhibit 5 is a brief article called "Pathway to Uranium Mill License - An Industry Perspective," by Dr. Kuhn and a colleague from one of the NRC's National

Mining Association's Uranium Recovery Workshops. It provides a brief summary of the uranium mill licensing sequence and identifies a four- to five-year time frame as "rapid progress." It does not acknowledge the NRC requirement for compliance with the National Environmental Policy Act (NEPA), which, for uranium mills, typically requires an Environmental Impact Statement in addition to the process described, and requires years to prepare. Without progress on the reactivation of the mill license, there is not likely to be a place to mill the ore that would be produced. A complex set of activities is necessary for mine reactivation and the license of a mill to process the ore. Having a multi-factor schedule with milestones and reporting on the progress of those milestones is a reasonable business practice to expect from RGR. Tr. pp. 142-144.

Susan Gordon is the Coordinator for MASE. Regarding the economic benefits of jobs needed in this area, it is MASE's position that the most rapid way to bring jobs to Grants and to the Grants Mining District is to start a robust cleanup program for the abandoned uranium mines. That has to happen regardless of whether the Mt. Taylor Mine restarts, and the Mt. Taylor Mine is a perfect example of a 'zombie mine,' one that hasn't been operating and has been avoiding cleanup and reclamation. They are playing the New Mexico Mining and Minerals permitting process.

Regarding the conditions that would be attached to a restart, the time frame, and proof that they are actually going to mine, there should be a time limit for when the Mt. Taylor Mine has to be cleaned up. It can't just continue to contaminate the groundwater and San Mateo and the surrounding communities. If we are serious about bringing jobs to the area, clean it up; that's the best and quickest place to start. Tr. pp. 168-169.

Public Comment

Governor Virgil Siow, Governor for the Pueblo of Laguna, was present at the hearing with several members from the Pueblo Council and the Pueblo Environmental and Natural Resources Department. The Mt. Taylor Mine has been inactive without any remediation for 25 years. The environmental damage caused by uranium mining has them concerned about prolonging cleanup of the Mine. In the case of the Jackpile Mine, although the Pueblo started negotiating with ARCO after mine closure in 1983, and reclamation began in 1995, the Pueblo will continue to address environmental issues for years. In view of the potential impacts to nearby communities, it is difficult to view the delay to clean up the mine by Rio Grande Resources as responsible corporate behavior.

Additionally, the area contains cultural resources that are important to the Pueblo of Laguna and other tribes. The mine was permitted at a time when cultural resources did not have even the minimal protections they have now. The Pueblo remains concerned about the potential impact to these resources. Tr. pp. 86-88.

Ann Berkley Rodgers spoke on behalf of the Pueblo of Acoma, a federally recognized Indian tribe, and the oldest continually inhabited community in North America. Acoma looks at any proposed uranium mine with deep reservations due to the legacy mining issues the region is faced with and the abject failure of the mining industry to provide for the region that has given it so much wealth. In a perfect world, there would be no uranium mining, and it would not take place on a mountain of deep cultural significance to Acoma and surrounding communities. If the State of New Mexico does allow this activity, every care must be taken to prevent harm, and the contributions of the mining industry should be commensurate with what it is taking from the region.

The region has groundwater contamination that has not been capable of cleanup for decades, despite many efforts, as shown in EPA's Homestake Mining Company Superfund Site report. Acoma has concerns about levels of uranium in urine samples of people in the region that are six to nine times higher than the national average, shown in the 2020 Five-Year Plan to Assess and Address Health of Environmental Impacts of Uranium Mining and Milling. With today's technology, the contamination of the past may not happen again, but Acoma lives with that contamination today.

Will this project render useless existing water planning efforts that designate the Morrison formation as a source of future municipal water supply for the City of Grants noted in their 40-Year Water Plan published in 1999? The primary source of surface water on Acoma Pueblo comes from the same source that Grants is currently using, and that source is gravely over-appropriated at the present time. What has the mining industry done to improve the quality of life for the people of this region other than provide temporary employment for most? What has this industry seen as its responsibility to the area that is giving up its natural resources and the health of communities to safeguard, much less improve, the quality of life here? In almost any other nation, the mining industry would have to give back to those communities most affected by its activities, be it schools, hospitals, irrigation projects, or other regional means. It hasn't done that in the past, but it should be required to do that now. Acoma cannot pick up and move if the resources it relies on are destroyed by development such as the Mount Taylor Mine.

While RGR formally objects to consideration of any public offering that raises issues that may be under the "jurisdiction" of another agency, it also acknowledges that the New Mexico courts have held that the Director is required to independently consider

all those issues. If there is to be any review of the totality of effects on the people, the natural resources, and the environment of the region, someone must look at the large picture and determine whether or not this project is consistent with the public welfare of this region. Acoma submits that the Department is the agency best suited to do that. The present closure plan fails to take into consideration reasonably foreseeable contingencies that may be necessary to protect public health and safety and welfare of the region. The closure plan ignores the fact that it is reasonably foreseeable that Grants and other users in this basin will need that water that they are dewatering and sending over to another basin. The Homestake Mill plumes are moving closer to the Grants wells. Taking all factors into consideration, the proposed operation and closure plan is not adequate to address the reasonably foreseeable needs of the region, and the financial assurances probably do not take this into account or other reasonably foreseeable contingencies. There is no permitting application before the State Engineer which would allow him to take these matters into consideration.

Acoma is aware that its ability to prevent this proposed mine from going forward is significantly limited and has met with RGR to attempt to reach a resolution of its concerns. Acoma hopes that discussions will continue and that it will produce a result that benefits RGR and the region as a whole. Tr. pp. 88-94.

Melody Meyer is from the Pueblo of Laguna, and is the Vice President of the KIVA Club of the University of New Mexico, the oldest Native American student organization on campus, promoting cultural awareness and unity. Mining is a short-term solution for economic problems in Grants, which has a history of violence as a border town. The short-term solution that uranium provides is not enough to counter the long-

term consequences in damaged cultural resources and harm to the environment.

Reopening mines leads to the reopening of other mines in communities of indigenous people; a line needs to be drawn here. There has been a continued effect on people's health, not only physical health, but how it affects unique cultural identity. This is not the right way to build the community of Grants. Everyone needs to really consider the wishes of surrounding indigenous communities. Violence toward women has increased in many communities when mining corporations came into the lands, including near and on the Navajo Nation. Tr. pp. 95-97.

Michael Butler grew up in Gallup, New Mexico, and spoke on behalf of the Red Nation Coalition, a group organized to create a better future for people in New Mexico and the Southwest. One of their issues is environmental protection. He finds RGR's claim that they are going to invest in the community to be disingenuous based on previous history and historical rhetoric. He asks that MMD seriously look at whether the plan will be good for nearby communities, especially considering that reclamation is probably going to be a better long-term solution, especially in terms of employment. There is going to be cost to human life either way because uranium is a toxic substance and uranium mine workers will be affected. He would rather work as a cleanup worker than as a mine worker knowing that the potential damage is to the environment and to indigenous people. Up until this point the company says they are open to working with the communities, but they have not actually done that yet, so it seems disingenuous for them to say that they care about these communities. His other concern is that there is an ongoing rationalized and racist problem in Grants, systemic settlor colonial violence against indigenous populations. MMD is a public institution that should serve and respect the needs and

wishes of all people, in direct contradiction to a private company with private investments which does not serve the interests of the public. Tr. pp. 97-100.

Carleton Bowekaty spoke on behalf of the Governor, Tribal Council and people of Zuni Pueblo. Zuni recognizes that every community in New Mexico faces significant challenges when looking at economic and workforce development. Nevertheless, the Pueblo of Zuni is opposed to any actions on mining where significant traditional cultural properties are being affected, particularly Mount Taylor, and the Zuni Salt Lake. As a traditional cultural property, the area is rich in Zuni history, traditions and culture. Tomorrow, there is a significant religious activity in Zuni, the Shalako ceremony, and Mount Taylor will be named in the prayers. They consider Mount Taylor to be a living entity deserving of respect well beyond their own life spans. Their concern is that the Pueblo of Zuni and the affiliated tribes should continue to be consulted in cultural surveys to ensure that traditions and sites are respected, particularly the water that Zuni considers as the prime source of life and the blood of Mount Taylor. Pumping and transferring the water to another place is egregious. They recommend that MMD work with the New Mexico Indian Affairs Department to ensure that the rights and cultural properties of the tribes are respected. Tr. pp. 101-103.

Michelle LaFaye grew up in a contaminated area in St. Louis, and knew there was a reason there were no fish in the water; since then, her spirit has been indigenous also. Whether for good or for evil, our children reap what we sow. We must be wise and cautious. We sell the future of our children when we choose to repeat the actions which have already proved to be disastrous. Mt. Taylor is a sacred mountain for several tribes

and for many whites in New Mexico. The nuclear industry has been a destructive force on this planet. The life of future generations starts up on Mt. Taylor. Tr. pp. 103-104.

Mayor Martin Hicks is the Mayor of Grants. He submitted two resolutions:

1) Resolution 14-1455, passed in 2014, noting that outside special interest groups kill communities like Grants. Grants' legacy issues were created by the federal government when there was no regulatory oversight and the US was in a nuclear arms race. Since then, there is oversight, and they are doing it right. 2) Resolution 15-1506 supports a modern uranium industry and an environmentally friendly mine.

Mayor Hicks traveled to Utah in November, and in every little town, he saw building activity, ore cars, drilling, and great roads. Both Utah and New Mexico have coal, uranium and oil; the difference is they are using it up there and we are not. Some say mining is dangerous, but if a man goes for a job, he knows the risks when he takes that job, including police officers and Marines. This is a private company, private people with private money on private land, they are willing to invest millions of dollars to go back to mining and they are willing to follow the letter and spirit of the law. Why would we want to stop that? Tr. pp. 105-108.

Laura Watchempino offered comment as a member of the public, the Pueblo of Acoma, the Laguna/Acoma Coalition for a Safe Environment, and the Multicultural Alliance for a Safe Environment (MASE). The Rio San Jose Basin is composed of 55 water sheds, many of which emanate off Mt. Taylor. Regional water supplies are used for drinking, farming, livestock watering, cultural practices, and recreation, and are drawn from sources that took thousands of years to form. The San Mateo Creek sub-basin where the Mine is situated is an ongoing subject of investigation by both EPA and the USGS.

Most of the mines and mills around Mount Taylor have been identified as significant environmental threats to the community's health and well-being. Besides being susceptible to wind and water erosion over time, seepage from tailing material and mine waste will continue into the foreseeable future as long as these contaminants are stored on-site. None of the existing waste piles have been placed onto impermeable surfaces that would prevent leakage into subsurface soils and aquifers.

The Mt. Taylor Mine poses a potentially significant danger to the Rio San Jose because its impacts have yet to be assessed. As long as the mine remains open, seepage from the ore and waste rock piles, mine shafts, and vents will continue. An aging dewatering pipeline and clay-lined evaporation ponds have not been reclaimed, yet the mine has not been in operation for a quarter of a century. EPA estimates that extensive dewatering operations in the Grants Mining District from the 1950s to the 1990s significantly changed regional hydrologic conditions, resulting in widespread ground water contamination from the continuing influx of oxygenated groundwater during mine operations. (See the 2015-2020 Five-Year Plan to Address and Assess Health and Environmental Impacts of Uranium Mining and Milling in the Grants Mining District at Appendix A, p. 3.) Around 80 billion gallons of mine water was discharged to surface drainages during this period where it infiltrated the ground surface and saturated alluvium on a massive scale. Water levels were raised over 50 feet in some parts of the basin. This massive slug of mine water has been draining out of the basin alluvium and into the underlying bedrock aquifers that sub-crop against the alluvium for over half a century. EPA completed its aerial radiological assessment in 2009 and 2010 using its Gamma Emergency Mapper and an on-the-ground radiological survey to prioritize the Village of

San Mateo as the area with the highest probability for excessive radiological contamination.

MMD and NMED have jointly developed protocols for site characterization and cleanup goals at existing and new mine sites. These protocols should be followed in all related mine permitting and discharge permitting programs. (See the Joint Guidance for the Cleanup and Reclamation of Existing Uranium Mining Operations in the New Mexico Administrative Code, Title 19, Chapter 10, Parts 3 and 6.)

Prolonged stockpiling of uranium ore and waste ore poses a continuing radiological risk to the communities. 'Zombie mines' like the Mt. Taylor Mine have been inactive for extended periods with un-reclaimed waste ore piles and open mine shafts. They are the functional equivalent of other legacy mines in the Grants Mining District which continue to release radiological contaminants. Without a plan or policy for waste removal or storage at a licensed permanent repository, the stockpiles will become de facto waste repositories in need of reclamation and continual monitoring. Releases to air and groundwater will be difficult to contain and remediate. MMD should revise RGR's financial assurance to cover groundwater remediation and air quality impact adequately.

The "boom and bust" nature of the uranium industry does not lend itself to certainty. Mining companies like RGR are masters of speculation. RGR claimed that the market price of uranium did not support viable mining operations in its 2010 standby renewal application. RGR now claims that substantial investments in its mine property are based on a belief in the future economic viability of the Mt. Taylor Mine. There is no guarantee that the Mt. Taylor Mine will mine uranium in the near future and mine properties continue to change ownership. MMD should independently evaluate the long-

term foreseeable risk posed to air, soil, and groundwater from mining contamination by a private owner.

MMD should reevaluate the geo-hydrologic impacts that were outlined in the 1974 baseline study by the New Mexico Environmental Institute and the 1994 Geohydrology Associates Report in light of the more recent 2012 USGS report for the Upper San Mateo Creek Basin. The Mt. Taylor Mine is a conventional underground mine that will continue several practices that took place during the earlier mining boom which ended in 1990. The mine will continue to dewater massive amounts from the Morrison formation into the San Lucas Canyon, which mixes with the San Miguel Creek drainage system. Radon and other toxic mine gases will continue to be vented to the open air and recirculated in local backyards, school yards, and parks. Groundwater seepage from waste rock and abandoned sewage lagoons will continue to perpetuate unregulated releases to downstream communities. In short, discharges from mine dewatering will continue to inflict irreversible changes to the regional hydrology.

Uranium ore, if it's not stockpiled on-site, will be transported night and day along public roads and highways in haul trucks for hundreds of miles to a uranium mill for processing, posing a danger to nearby residents and commuters along the way. Incessant traffic to and from the mine site will contribute to the buildup of greenhouse gases in the atmosphere. Carbon emissions, in combination with radioactive releases from uranium mining and milling, water depletion and degradation, and the lack of a permanent repository for mine and mill waste all contribute to the large carbon and radioactive footprint of this portion of the nuclear fuel cycle. The Gold King Mine spill released large volumes of toxic metal contaminants to the Animas and San Juan Rivers, and could

be replayed at the long dormant Mt. Taylor Mine, posing potential threats to watersheds in the San Mateo Creek and San Miguel Creek drainages. MMD can require reclamation in tandem with the reactivation of Mt. Taylor Mine to mitigate the threat of accidental releases. The communities insist on clean water, clean air, and an end to contaminated soil in their backyards. Their concerns echo the mission of the NMED and its regulations, which are to protect the public health and the environment.

Secretary Flynn recently criticized the 2005 Consent Order for cleanup of radioactive materials at Los Alamos National Laboratory (LANL) as being unrealistic without deadlines or a set completion date. LANL's existing cleanup plan calls for investigation work plans that have led to the discovery of additional contaminants, requiring more investigation and suggested remedies. These examples confirm that there is no safe way to mine and produce uranium for nuclear weapons or for nuclear reactors. Every link in the nuclear fuel chain leaves a plume of radioactive and toxic metal pollution in its wake. Ms. Watchempino also submitted the Nuclear Free Zone Declaration for Northwest New Mexico and in the Grants Mineral Belt that was adopted by MASE, which endorses the development of renewable energy sources that sustain public lands, multicultural landscapes, and natural ecosystems. The Mining Act has two purposes: to regulate mining in New Mexico and to protect the public health, welfare, and environment. Tr. pp. 108-117.

Pamela Mahooty is a member of the Pueblo of Zuni. She works with a firm that works with all the tribal entities in some way. It concerns her that RGR did not consult with tribes. They have been in progress for two-and-a-half years, and since the Mining Act was passed, another Act was passed in 2009: the "State Tribal Collaboration Act."

RGR has had some time to consult with tribes via MMD, NMED, and the Indian Affairs Department. There has been no consultation, and this is something that needed to happen prior to any of this happening. Although RGR has spent a significant amount of money for things they are planning to do, especially the purchase of mining equipment, they have to fight to get tribal infrastructure funds and capital outlay dollars. Mt. Taylor is very precious to them; they cherish it like a mother. RGR is killing the blood of Mother Earth, and especially Mount Taylor. Tr. pp. 118-121.

Petuuche Gilbert is the Vice President of Laguna/Acoma Focus for a Safe Environment (LAFSE), a small group of individuals from Laguna Pueblo and Acoma Pueblo. He wants to emphasize the needs of the tribes, and add a concept that's been developed by indigenous people at the United Nations, which is free, prior, and informed consent. The U.S. supported this declaration in 2007, and several articles are there regarding consent and the need of federal and State agencies to consult with indigenous people. The five tribes for which the State of New Mexico set aside Mt. Taylor as a traditional property especially need to be consulted. Other tribes in New Mexico or Arizona that have concerns about development on Mt. Taylor should be consulted as well. LAFSE is opposed to the request for an active permit. Tr. pp. 121-123.

Janet Greenwald is the Co-coordinator of Citizens for Alternatives to Radioactive Dumping (CARD), a mostly volunteer, statewide organization. She knows several families in Laguna and Acoma Pueblos, and although the Mayor spoke of choosing an occupation and weighing the risks, in the families she knows, the miners were never told about the risks of uranium mining. In one family, the grandmother and father were uranium miners; they both died of cancer, and the children became ill shortly

after birth. The people of Acoma and Laguna have been beleaguered by uranium mining. They have suffered greatly, and now there is a prospect of new mining. A number of communities in our nation have been beleaguered this way, mostly communities which are resource light. State and federal government have taken steps to protect those communities through environmental justice mandates. She has heard nothing today about the Applicant considering those mandates when this is an environmental justice (EJ) issue. Ms. Greenwald urges NMED to require an EJ analysis from the Applicant, which is as important as any other part of putting together a dangerous project.

Ms. Greenwald has been involved with nuclear projects since she was 20, about 40 years, and she doesn't know of a nuclear project without problems, usually contamination. Another issue that does not have any regulatory backing is that the regulations for radionuclides in drinking water are based on the reference man, young to middle age, Caucasian male. Years of research since these tangents were promulgated in the 1970s have shown that these standards are not protective of the fetus or the young child. [See the article "Healthy From the Start" on ieer.org.] She urges compassion for the unborn on the part of State agencies. Tr. pp. 145-148.

Edwin Dickens worked in the local uranium mines for a little over ten years, his dad worked in them for 22 ½ years, and his brother worked in them for a couple of years; he and his brother are still alive. He was State Mine Instructor for six ½ years. He has a mining engineer degree, and was a mine shift boss. As the years passed, the regulations changed and the mining industry got safer. When Mr. Dickens was Mine Inspector, he inspected the Mt. Taylor Mine, and they had a very good safety record. There were never violations there. If they were to reopen tomorrow, he might consider going back. Grants

would like to have the jobs. He is a Grants City Councilman, and he voted for the resolution to bring mining back to Grants. In the original uranium industry, things were bad, but they learned from their mistakes, and things got better. Tr. pp. 148-150.

Tony Hood is from Church Rock, New Mexico and the Red Water Pond Community Association, five miles northeast of Church Rock, where they live between two abandoned uranium mines that were operated by Kerr-McGee and United Nuclear Corporation. They disturbed the atmosphere, the hydrosphere, the lithosphere, and most of all, the biosphere, and they have violated nature's law. They destroyed the environment. In the Dine way, you make an offering to all animals, plants, mountains. You ask for permission to take. You make an offering and you state a purpose, and then you use it wisely and give back. So far, he has not seen any of that. The corporations just take and take and take with no regard for human life. Life is sacred. It's not expendable. They refer to Mt. Taylor as sacred. They call it the "South Mountain." It is associated with the blue sky at noon, and represents blue sky youth.

Mr. Hood worked in the uranium mine for 11 years for Kerr-McGee, and saw miners pass on. His dad was working in the mine; he is gone now. His mom is gone, too. They live close to the mine. As grassroots representatives, they say, "No Uranium, No Nukes." The first use of nuclear energy was for genocide, and nobody has apologized for that. Today uranium is still working negatively, affecting the people, the land, the water, the air. He lives in a holy place, and the mountain tops are holy places. All of this is sacred, which the mining industry does not understand. He says no way. Tr. pp. 150-152.

Jonathan Perry is a member of the 23rd Navajo Nation Council residing in Crownpoint, New Mexico. He sits on the Eastern Agency Council, is a member of the

Eastern Lands Commission, and a member of the Navajo Nation Sacred Sites Committee. They question these operations and plans. They do recognize fundamental law, which includes natural law. The Navajo Nation is a sovereignty and operates on government-to-government relations. They ask for the respect to be consulted, and to be involved in discussions as they proceed. Mount Taylor is a sacred mountain. For their religious and cultural rights, and rights as indigenous people, they ask to be involved, and that their life be respected. When these operations began in the mid 1940s, nuclear weapons were used across the world. Dine oppose any destruction of life. They understand that we need jobs, but we need safe jobs, careers that young people can continue to build on and not worry if the water and air quality is going to be good in 50 years. Boom and bust economic development only endangers us in the long term; all other avenues should be explored, including community development and resource management. Be very careful in decision-making and look at the entire picture. Tr. pp. 152-154.

Lytle Tzosie is Dine from the Navajo Nation, and he disagrees with all of this. The mountain is a sacred site; he cannot envision drilling there. Although he and his friends have no money, they came to the hearing because they care about the land and the people; they oppose all fracking and all uranium development. A group of young Dine individuals have been on a quest from mountain to mountain taking offerings, strong beliefs and prayers to each mountain. Those who want to open this mine are blinded by money, which is not helping the Navajo Nation. He opposes this permit. Tr. pp. 154-156.

Lane Cleveland hitchhiked to the hearing with friends, without funds, upon hearing about it at the last minute. Evaluating land for mining and extraction takes a long time, but it takes only two years to close it up. What's that about? The company's

priorities are evident. It's really scary that we have to be afraid of what's outside. Youth are going to have to live with this decision longer than the company will, and it's terrifying. Why don't youth have a say in their future as far as the land goes? Why are their prayers second to profits? Money is limited, that's why the company is trying to get more of it. Their prayers are infinite. Tr. pp. 156-158.

Ann Ayze, Dine, is with a group that translates to Walk for Existence. The group has been walking since January, over 1400 miles to six sacred mountains. They have seen and felt the desolation of the oil mines, coal mines, and uranium mines. 'Dine' translates to the people and our way of life. Water is life and what happens to the land happens to the people. These mountains are their identity, and everything they have. It hurt earlier to hear the Mayor talk. Her people aren't here because they don't have any hope; tribal leaders are trying to turn over their land for these mines. Many of her people don't have an education, money, or verbal linguistics to stand up. That's why she is here. If we don't draw the line here, more mines are going to keep on opening. There is no safe way to open a uranium mine. Tr. pp. 158-159.

Laura Jaramillo grew up in Grants, and lived there most of her life. Her dad worked for Kerr-McGee as an electronics logger. She remembers playing close to where he was working, near the yellow cake pits where he was probing. He handled uranium directly with his hands. Her dad is now 81 years old; he has some health issues because he is 81 and because he smoked. She has seen no direct evidence with her family or any others that their health issues are truly related to uranium exposure. Uranium permeates the air. The area has a lot of sun exposure, too. Should we move away and not do anything outdoors? We have safe ways to mine uranium today, just as we have safe ways

to travel in our vehicles. It's not about money, it's about energy and world overpopulation. We need to explore all options in safe, environmentally friendly ways. The mountain is precious to her and her family; they are there almost on a weekly basis. She has never seen the others up there. Her father-in-law is 92 years old and was a miner; his health issues are not related to mining. Her husband is almost 60 and was a miner. She supports safe mining. Tr. pp. 160-162.

Don Begay, young and Dine, is a part of the walking group. They saw the legacy of uranium mining on the land. They walked through the Cameron area, with over 300 abandoned open pit uranium mines yet to be cleaned up, breathing toxic waste into the air and seeping into the groundwater. He walked into a canyon, an open pit, without signs or warning, and felt the hair on his arms stand straight up, his eyes began to burn, and his fingers tingled. If you believe uranium is safe and can be cleaned up, take a trip out to Cameron, Arizona, to drink the groundwater there, and to experience what the people have to live with on a day-to-day basis. Think about the mountain and the buffalo. He has never seen buffalo, a direct result from industry and colonialism moving into the area. Projects like these seek to destroy in the name of profit. Tr. pp. 163-164.

Sister Rosemarie Cecchini commented on behalf of Concerned People of Faith. People in faith communities in New Mexico, including Grants, Milan, Bluewater Valley, San Rafael, San Mateo, Laguna, and Acoma Pueblos, have suffered adverse health and environmental impacts from abandoned uranium mine sites, radioactive waste piles, and festering water pools that continue to spread radioactive toxic contamination further into the surrounding environment. Their many concerns regarding the Mt. Taylor Mine are heightened by hearing Pope Francis' recent appeal: "The urgent challenge to protect our

common home includes a concern to bring the whole human family together, to seek a sustainable and integral development for we know that things can change. I urgently appeal then for a new dialogue about how we are shaping the future of our planet. Climate change is a global problem with grave implications, environmental, social, cultural, economic, political, and for the distribution of limited goods. It represents one of the principal challenges facing all humanity in our day." Underscoring this challenge, there are 140 world leaders and 190 national delegations gathered at the UN Climate Change Conference in Paris to take bold action to limit the greenhouse gas emissions and mitigate the consequences of global warming trends worldwide.

In New Mexico, they are deeply concerned about the deliberations on whether the Mt. Taylor Mine can move from standby to active status, and concerned that this consideration is being carried out in an isolated vacuum, without serious consideration of the impending impacts from climate change in the state, including science-based predictions of increasing droughts of longer duration, and decreasing snowfall annually. Another grave concern is the legacy of un-remediated abandoned mines in New Mexico, such as the Mt. Taylor Mine, and the threats posed, as evident in the disastrous Gold King Mine toxic spill. Bureau of Land Management records show that half of more than 13,000 abandoned mines in New Mexico have contaminated waste rock piles, and pits festering water that need to be analyzed for environmental dangers. At the State level, we see the need to take responsibility for the cleanup of our common home. There is a need to create jobs and there is ample opportunity to create jobs to assess the environmental impacts of these abandoned mines and clean them up rather than leaving the burden on local communities and taxpayers.

Sister Cecchini was very heartened to hear of the plea for new forms of energy; New Mexico is sometimes called the "Saudi Arabia of solar energy," and new solar farm projects are cropping up throughout New Mexico, but there are far more in other parts of the United States. We have an untapped resource here that we can all creatively look toward because we all want to sustain development. We all want quality of life for all people in our communities. As concerned New Mexico citizens, they call upon MMD to give adequate consideration to the larger picture of challenges from climate change and how it will impact all of us, whether we like it or not. Tr. pp. 164-167.

Leona Morgan is Dine, and is working with other Dine folks in a group called "Dine No Nukes." They oppose new development of uranium mining operations and other nuclear facilities. They oppose this project, and ask MMD to deny the permit to go back to active status. The company has been on standby longer than they have been in active status, and she does not see what benefit there is to the State if they are not producing. They don't stand to be producing anytime soon, and if they do, there is no profit, so there is no economic gain for jobs or to the state of New Mexico. There is prolonged exposure to the communities who are suffering. If uranium is mined here, there are a couple other facilities the State has to consider, like Roca Honda. Considering the amount of water needed for all of these operations, it's just not possible. MMD should not look at this permit in a vacuum; look at all pending permits and current projects and consider the amount of water needed for Grants and Milan, and for the local communities for the future. The State needs to consider long-term solutions for water security; this project is a threat to New Mexico water security.

Without a mill, RGR has nowhere to take the uranium; that is another reason for the State to deny the permit. The project just simply will not work. Any damage to the mountain means the integrity as a whole will be compromised; that goes directly against the cultural property designation. This project is bad for New Mexico, not just for water, but economically and for public health. For indigenous people, it violates their First Amendment right to freedom to practice spirituality. Native people do ceremonies on the mountain, and do not do them in public. As a Native American person, she never goes to the mountain for recreation out of respect. To mine and to contaminate the water, earth, and air, will affect the people who practice traditional ways up there. Tr. pp. 169-173.

Ed Becenti is Dine and has lived his life on the Navajo Nation. He has gone to school with a lot of the pueblo people, and has an idea of what they are going through. Uranium has a bad legacy with his people's health, loss of culture, and loss of language. It is hard for them to convey without interpretation their way of life, beliefs, cultural values, and spirituality. They have been 'grandfathered' into this tradition. The company is asking for approval to wake up a monster again, and destroy more lives for profit. He agrees that Grants and other border towns need jobs, and he feels for all the people who don't have a job, have families, and need income to survive, but why do we have to resort to natural resources? There has to be some other way of creating jobs even for the Navajo people. Some tribal leaders do not recognize their constituents when it comes down to natural resources, even water; it's given away for free to corporations. Forty years, and they still have no electricity or running water. They are struggling trying to find a place in society trying to survive. Native people have a way of life, and have been here for a long time. If uranium were a good industry, they wouldn't be here to object. MASE is here, No

Nukes is here; they want to be heard. He urges the company to visit their neighbors in Grants for discussion. We need to respect one another's views and opinions. If there is no water, there is no life. Tr. pp. 174-178.

Written Comments

Prior to the December 4, 2015 hearing, written submittals and public comment included a May 10, 2013 Request for Hearing from the New Mexico Environmental Law Center on behalf of MASE and Amigos Bravos, and the following correspondence:

Pre-Hearing Written Opposition to the Permit Revision Application

1. Don Hyde's letter opposing the permit application on the grounds that massive dewatering will have an impact on well water sources for Crownpoint and other communities; uranium mining is not an appropriate use of New Mexico's ground water; RGR has not remediated or proved itself to be a good corporate citizen; he doubts RGR would be financially capable of remediation for decades following permitted activities; he fears radionuclide exposures from the transportation of ore.
2. Leroy Buster Silva's email noting that he is from the Laguna Pueblo community, and they have had first-hand experience with uranium mining on their land. The Jack Pile Mine has been closed since the 1980s, but still affects their community members, who have died or live with various ailments because they worked in the mine. Workers are being compensated for their health problems, but you cannot put a price tag on a person's health. There is no safe way to mine for uranium, and there will always be environmental impacts. Health is more important than money. Mt. Taylor has always been and always will be sacred to the tribes in New Mexico and surrounding states.

3. Nearly sixty similar emails making the following points: The Mine has been closed since 1990 and has had three standby permits. RGR has not been required to reclaim the area or protect the ground water. Local communities, wildlife and water have suffered as a result; it is time for RGR to remediate. The price of uranium is insufficient to sustain operations and is unlikely to increase any time soon. The request to go to active status appears to be RGR's attempt to avoid reclamation requirements. MMD should deny RGR's request, and require RGR to start creating real jobs by initiating reclamation activities. Some included reference to the Gold King Mine spill into the Animas, or encouragement to MMD to consider respect for the land and people of New Mexico.

Pre-Hearing Written Support for the Permit Revision Application

4. Stephen Buggle's letter supporting reactivation of the Mt. Taylor Mine by RGR as a boost to the local economy; and because the federal mining law of 1872 gives RGR the right to develop the property and nuclear energy is part of America's long-term future.

Pre-Hearing Correspondence Neither in Support nor Opposition

5. White Mountain Apache Tribe Historic Preservation Office letter noting that they have determined RGR's proposed plans will not have an impact on the Tribe's cultural properties; regardless, ground disturbing activities should be monitored if there are reasons to believe that remains or objects are present, and if encountered, shall be treated with respect and repatriated to the affiliated tribe.

During the hearing, and subsequently, the following comments were timely received prior to the January 4, 2016 comment deadline:

Hearing/Post-Hearing Written Opposition to the Permit Revision Application

6. Pueblo of Laguna Press Statement, which contains the text of Governor Siow's hearing testimony, above.
7. Pueblo of Acoma Written Statement, with the noted attachments on a CD, which formed the basis for Ms. Ann Berkley Rodgers' hearing testimony, above.
8. Resolution of the Ramah Navajo Chapter, No. 051306, unconditionally opposing the development or resumption of uranium mining and processing on Ramah Navajo ancestral lands, including Mt. Taylor/Tsoodzil, with specific reference to the Roca Honda Mine.
9. Zuni Tribal Council Resolution, No. M70-2016-P003, opposing RGR's permit revision from Standby to Active Status for the Mt. Taylor mine, based on the Mt. Taylor's designation as a Traditional Cultural Property, and the legacy of uranium mining in New Mexico of environmental contamination and declining health of workers and residents.
10. William Paul Robinson Written Statement, with attached Exhibits 1 through 5, which formed the basis for his hearing testimony, above.
11. Laura Watchempino Written Statement, containing the text of her testimony, above. Ms. Watchempino submitted additional comment after the hearing, noting that no demonstrable progress has been made on RGR's mill license application necessary to process uranium for sale on the open market. MMD must not

- compromise the environment and public safety by permitting mining operations that are unlikely to produce a marketable commodity in the foreseeable future.
12. A Nuclear Free Zone Declaration for Northwest New Mexico/Grants Uranium Belt adopted by MASE in 2012, and submitted by Ms. Watchempino.
 13. Office of Peace, Justice & Creation Stewardship Written Statement, which contains the text of Sister Rosemarie Cecchini's hearing testimony, above.
 14. Y-M Lee letter, urging MMD to deny RGR's request to return to active status, and to require them to begin reclamation immediately.
 15. John Boomer letter, noting that the current market does not support uranium mining right now, and encouraging remediation and clean-up jobs.
 16. Richard Greene and Mary Ownby letter, noting they live within 2 miles of the mine, and opposing active status for the mine primarily for concern about continuing environmental damage and delay in cleanup and closeout of the mine. If the mine actually became productive, they have concerns about the lack of information on the use of ground water for dewatering, the discharge of treated water, and the negative impact of the mine on surrounding cultural resources.
 17. Maria Balbuena letter, opposing reactivation of the mine on moral and ethical grounds, as again subjecting people and local water resources to hazards, including increased rates of cancer, learning disabilities, birth defects, suicide rate, drug abuse and alcoholism.
 18. George Brodie email; Mr. Brodie worked at the mine and lost a lot of his co-workers to radiation. People and water need to be guarded against contamination.

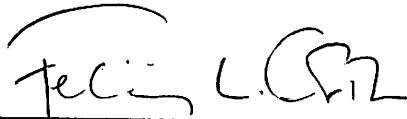
19. Susan Elizondo, M.D., email opposing the reopening of the mine based on severe health concerns for several generations, including neurological impairment and radiation poisoning.
20. Uranium Watch letter, with lengthy comments on the public record and the application: the whole regulatory history of the mine is not available online as it would be in Utah or Colorado; the application cites documents not available for review; the application does not contain real information about past, present and future environmental impacts on the local communities; MMD has not presented for public comment a draft permit showing applicable mitigating measures for mine operation. As to the contents of the application, Uranium Watch offers several comments: The Mt. Taylor Mine has been on standby for 25 years. During the recent uranium boom (2007-2012), a number of mines were in operation; all of them were owned or subsequently purchased by the owner of the White Mesa Mill. The Mill is currently on indefinite standby, and with one exception the operating mines were put on standby or are in the process of closing. It appears that RGR, without further extensions, must place the mine on active status and hope for the best. RGR has not provided meaningful information on improving market conditions or recovery technologies. The fact that reclamation is uneconomical is not a reason to approve the change in mine status. Among several other permit conditions, approval for the disposal of resins and waste should be in place and stockpiled ore should be removed before the mine is returned to active status. Considering adverse impacts to public health and the environment, and the lack of economic justification, Uranium Watch urges MMD

to reject the application to return the mine to active status, and to direct RGR to commence closure and reclamation.

21. Additional emails, 46 of them, similar to the nearly sixty emails above, from individuals and from the Nuclear Information and Resource Service, an environmental organization. In addition to the points noted above, some raised the possibility that if RGR were to go bankrupt pursuing an unmarketable commodity, the taxpayers would be left with the costs of remediation.

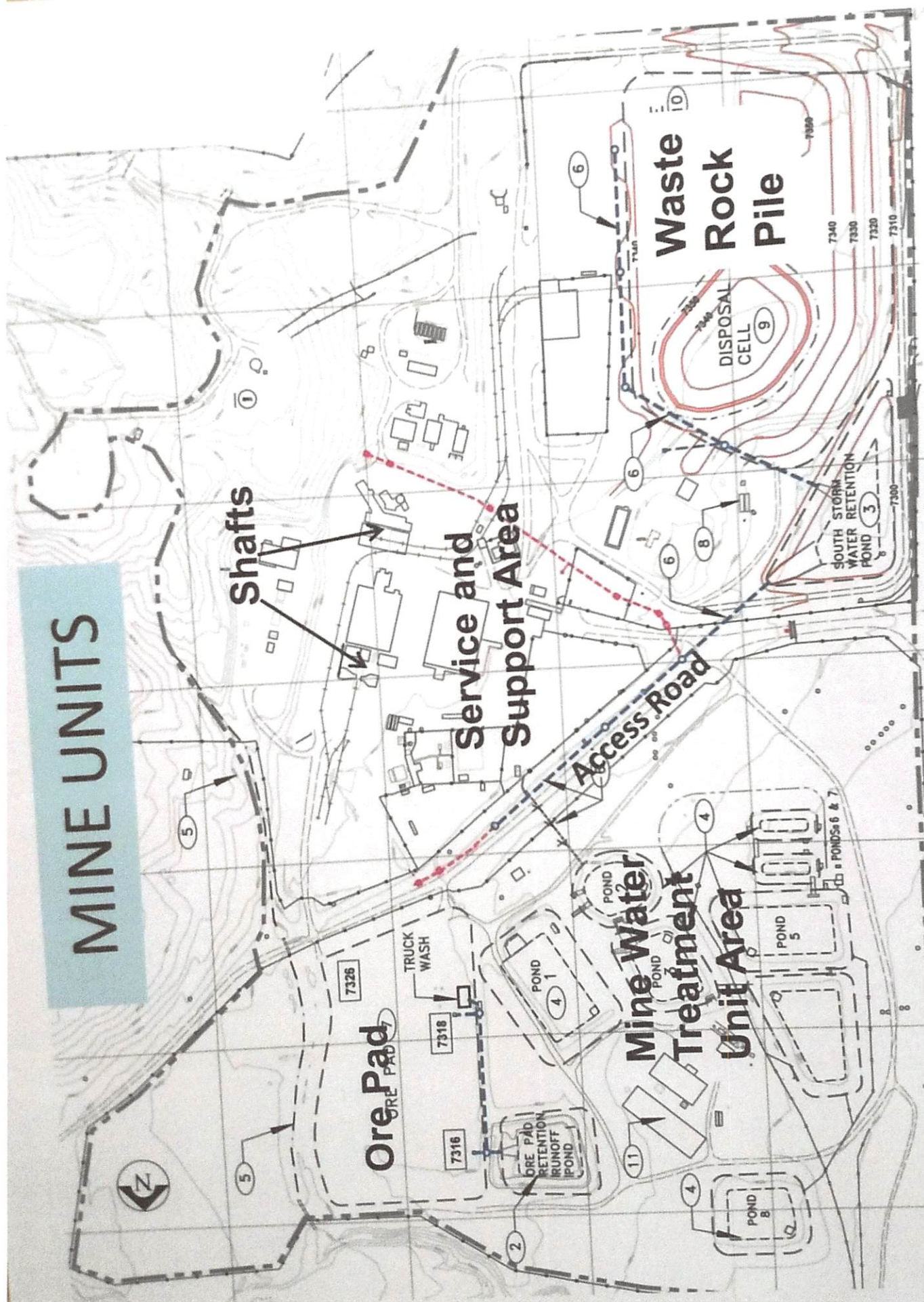
No other comment, testimony or exhibits were offered. The slide presentations, hearing sign-in sheets and written public comment submitted during the hearing have already been delivered to the Department. Attached find an image of the oversized poster that was displayed during the hearing by RGR, titled "Mine Units."

Respectfully submitted,



Felicia L. Orth, Hearing Officer

MINE UNITS



Excerpted from MT13-AC-14 Rev 2 and revised with additional labels for clarity.