Thornton, Marisa

From: Thornton, Marisa on behalf of Collections.SubW
Sent: Thursday, May 21, 2015 8:25 AM
To: Thornton, Marisa
Subject: Fw: EPA Response to High Levels of Radon from White Mesa Liquid Effluents

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From: Rosnick, Reid
Sent: Friday, May 1, 2015 8:53 AM
To: Collections.SubW
Subject: FW: EPA Response to High Levels of Radon from White Mesa Liquid Effluents

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From: Rosnick, Reid
Sent: Friday, April 24, 2015 3:39 PM
To: 'sarah@uraniumwatch.org'
Cc: Stahle, Susan; Peake, Tom; Schultheisz, Daniel; Jackson, Scott; Angelique Diaz
Subject: RE: EPA Response to High Levels of Radon from White Mesa Liquid Effluents

Dear Sarah,

This is in response to your email of April 7, 2015. Your first question is about Energy Fuels' (then Denison Mines) lack of response to a request for information under the Clean Air Act (also known as a Section 114 request). You are correct that EPA has enforcement authority to act if a facility chooses not to respond to a section 114 request. That enforcement authority is discretionary, and EPA decided not to use enforcement authority in this particular instance to obtain this information.

Your next question states that you would like to know how the EPA is going to address your concerns at the White Mesa Mill that are caused by the potential radon emissions from the liquid impoundments. You referenced calculations that were provided to EPA by the Ute Mountain Ute Tribe. We received a number of comments during the comment period from several members of the public that are relevant to this discussion. The comments we received regarding the amount of emissions from these impoundments suggest significantly different emissions rates, from zero emissions to large amounts of radon emissions. EPA must consider all of the comments submitted to the Agency in order to make a determination that can then be incorporated into the final rule. Because of this process EPA will not be able to address this question until we publish the final rule and response to comments document.

The remainder of your email contains enforcement-related questions rather than rulemaking-related questions. As such, these questions should be answered by the respective enforcement offices within Utah and EPA Region 8. I cannot answer enforcement-related questions because these questions are outside of my rulemaking-related responsibilities. Other offices within EPA and in Utah are delegated the enforcement authorities and therefore are the appropriate parties to answer these questions. In the future I request that you please direct your enforcement-related questions to Utah and Region 8. Thanks

Reid

From: sarah@uraniumwatch.org [mailto:sarah@uraniumwatch.org]
Sent: Tuesday, April 07, 2015 1:55 PM
To: Rosnick, Reid
Cc: Diaz, Angelique; Stahle, Susan; Peake, Tom; Flynn, Mike; Muellerleile, Caryn; Edwards, Jonathan; Zenick, Elliott; Blake, Wendy; Cherepy, Andrea; Benner, Tim; Ferris, Lena; Garlow, Charlie; Walker, Stuart; Hoffman, Stephen; Ginsberg, Marilyn; Brozowski, George; Hooper, Charles A.; McCabe, Janet; Garbow, Avi; Giles-AA, Cynthia; Michael Goo; Stanislaus, Mathy; Bob Dye; Phil Goble; rlundberg@utah.gov; Bryce Bird; Amanda Smith; Dan McNeil; Brown, Terry
Subject: EPA Response to High Levels of Radon from White Mesa Liquid Effluents

Dear Reid,

Sorry I missed the Subpart W quarterly call last week.

One question I had is why you and other Subpart W review staff have not contacted Energy Fuels Resources Inc. and again requested the information that the EPA requested in the May 2009. At that time the EPA informed Denison Mines that if they did not respond to the request for information, they would be subject to enforcement action. However, the EPA never followed through.

I understand that the EPA would not want information regarding the radium content of the liquid effluents at White Mesa as requested in 2009, but your failure to obtain that information is an egregious omission. Such egregious errors and omissions are adding up.

Also, I would like to know how the EPA is going to address the current health and safety concerns at the White Mesa Mill that are caused by the high levels of radon emissions from the liquid impoundments. The Ute Mt. Ute Tribe and Uranium Watch have brought these concerns to the EPA, yet the EPA has taken no action. The Ute Mt. Ute Tribe recently expressed those concerns in a February 10, 2015, Calculations Brief. *See* attached.

It appears that the EPA has no intention of taking any action, and would rather have the whole problem go away. One way to make the problem of radon emissions to go away is for you to claim that the gross radium alpha in the recent White Mesa Mill Annual Tailings Wastewater Reports represents other radionuclides besides radium. However, given the high gross alpha radium levels in 2014, there is no way that you can explain how those levels do not result in high levels of radon emissions: far beyond the 20 pico Curie per square meter per second standard and far beyond "zero."

The Division of Radiation Control staff informs me that the gross radium alpha in those reports accounts for radium and does not include uranium or radon. Putting the EPA formula for determining the radon emissions from White Mesa liquid effluents with the data for Cells 1, 4A, and 4B, you have an immediate health and safety concern that is not going to go away.

When I talk with staff at Region 8, I am referred to you. Therefore, I would like to know what, exactly, is the EPA response to the high levels of radon emissions from the White Mesa Mill liquid effluent impoundments.

The proposed Subpart W rule would, in fact, do nothing to correct the problem. The is because the EPA, contrary to the provisions of the CAA, has not proposed a radon emission limit for "new" or "existing" impoundments and continues to maintain that the emissions from liquid effluents are "zero," despite evidence

to the contrary.

There must be a timely response to this new information regarding the radon emissions from 135 acres of White Mesa liquid effluents. The community in the vicinity of the White Mesa Mill cannot wait until the completion of the Subpart W rulemaking for these radon emissions to be addressed, if they would be addressed at all.

Sincerely,

Sarah Fields
Program Director
Uranium Watch
PO Box 344
Moab, Utah 84532

435-260-8384

Thornton, Marisa

From: Thornton, Marisa on behalf of Collections.SubW
Sent: Thursday, May 21, 2015 8:25 AM
To: Thornton, Marisa
Subject: Fw: NTF and Rad
Attachments: NTF2015-DRAFTAgendaV6.docx

From: Rosnick, Reid
Sent: Friday, May 1, 2015 8:54 AM
To: Collections.SubW
Subject: FW: NTF and Rad

From: Harrison, Jed
Sent: Monday, April 20, 2015 10:34 AM
To: Edwards, Jonathan; Perrin, Alan; Peake, Tom; Rosnick, Reid; Rosencrantz, Ingrid
Subject: NTF and Rad

Hi All-

I wanted to fill you in on the National Tribal Forum (NTF) on Air Quality agenda (draft version attached). While I have been focused primarily on the IAQ track (as a planner for that session), there are some Rad topics and presenters (and other stuff) you should be aware of:

Oil & Gas Extraction Plenary Session:
While this is an "Air " conference, this session was planned in response to demand from tribal environmental staff that want to know" what they should be worried about" (or not). This topic (fracking) crosses over so many program or media boundaries

Richard Graham will be on this panel talking about the radiation aspects of fracking . . . a reprise (to an extent) of his October presentation at the ORIA meeting in DC, but tailored more to this audience.

There is also a session on "Mining" that will likely have two presentations related to Uranium . . . one by Scott Clow (Ute Mountain Ute), and one by Twa-Le Abrahamson (Spokane). This will be in the "Air Quality Policy" track (I honestly hadn't paid much attention to this track as I am not involved in the planning).

Given the experiences with UMU over the past year, it may be a good idea to have someone from RPD or R8 in the room to represent EPA . . . I will be in a parallel session on IAQ at the same time. I have seen in the past where EPA's activities and responsibilities can be mischaracterized, leading to misunderstandings. There will also be a "mining" discussion at the "Networking session." This is an opportunity for tribal folks with interest in specific topics to gather, form relationships and share experiences information (similarly there will be a session on IAQ that I participate in).

If there is interest in RPD attending NTF, I recommend registering and reserving a hotel room ASAP.
http://www4.nau.edu/itep/conferences/confr_ntf.asp
http://www4.nau.edu/itep/conferences/confr_ntf.asp

Jed

Jed Harrison Senior Advisor For Tribal Affairs
U.S. Environmental Protection Agency
Office of Radiation & Indoor Air
(702) 784 8218 mobile: (702) 494 7050

4220 S. Maryland Parkway
Bldg. D, Suite 800
Las Vegas, Nevada 89119

NTFAQ 2015 DRAFT AGENDA

View the most recent list of Presentation Abstract submissions here:
https://docs.google.com/spreadsheets/d/1h32svEhi9TqiJMDUCSIBctGJCVBYq6AJyaZhIF72U7w/edit?usp=sharing

Pre-Conference	Monday, May 18, 2015	NOTES:
	Optional Training Sessions & Site Visits (pay on own/limited travel support)	
	Tuesday, May 19, 2015	
7:30-8:00 am	Registration & Breakfast ***Climate Change Video (repeating)***	
8:00-8:45 am	**Invocation & Welcoming Remarks** Ann Marie Chischilly (ITEP), Bill Thompson (NTAA), Robert Kaplan (EPA R5), Tribal Representative (NHBPI)	
8:45-9:30 am	**Introduction of Conference Participants**	
9:30-10:00 am	**Keynote Address**	*Winona LaDuke?*
10:00-10:15 am	Break	
10:15-11:30 am	**National & Regional Tribal Priorities (NTAA)** *NTAA Executive Committee members will discuss priorities for each region's tribes and solicit feedback from NTF attendees.*	*Reduce by 15 mins to accommodate EPA panel time*
11:30 am-12:30 pm	**A Conversation with EPA Leadership** Robert Kaplan (R5), Janet McCabe (OAR), Jane Nishida (OITA), Matthew Tejada (OECA)	
12:30-2:00 pm	**LUNCH (on your own)** ***NTAA Working Lunch (Principle Member Tribes)***	
2:00-3:30 pm	**Breakout Sessions**	
	• **Air Quality Policy** ♦ CPP rule update - William Niebling ♦ Regional Haze Program – Ralph McCullers(?) ♦ Ozone – Laura McKelvey ♦ Oklahoma Decision – Laura McKelvey/Gregory Green ♦ Other? ♦ Tribal Case studies	*Moderator Craig Kerman*
	• **Climate Change** ♦ Discussion with panel of federal agency "Climate Change Champions"	*Moderator: Bill Thompson*
	• **Air Quality Technical and Outreach** ♦ EJSCREEN – Matthew Tejada, USEPA ORD (60 min) ♦ Developing an Assessment Tool and Prioritizing Tribal Air Quality Concerns – Troy Ritter, ANTHC	*Moderator Chris Lee*
	• **Indoor Air Quality** ♦ Implementation of IAQ projects: Erin McTigue, USEPA R10 Gillian Mittelstaedt, THHN ♦ Panel Session of successful IAQ projects and programs: Brandy Toft (Invited) Twa-le Abhamson (invited) Angela Benedict (invited) Johna Boulafentis (invited) Tom Eadie (invited) Kent Scheid (invited)	
3:30-3:45	Break	
3:45-5:00 pm	**Networking Clubhouse & Day 1 Raffle Drawing** *Discover the power of networking! Meet and interact with other attendees interested in similar issues as yourself. This unique session was conceived by Tribal professionals to*	*Winona LaDuke?*

NTFAQ 2015 DRAFT AGENDA

	help initiate conversations and facilitate connections between conference attendees so that everyone participating walks away with new relationships and fresh ideas. This is not an instructional or content-driven session but a dynamic, interactive networking session that introduces attendees to others with similar interests and concerns, as well as to more experienced professionals.	
5:30-7:30 pm	***Virgil Masayesva Award Ceremony & Buffet Dinner***	
Wednesday, May 20, 2015		
8:00-8:30 am	Registration & Continental Breakfast ***Climate Change Video (repeating)***	
8:30-10:00 am	**Plenary Session—Oil and Gas Extraction (Fracking)** Panel discussion to include: 1) EPA(McKelvey) – over view of the industry, 2) Rosemary Ahtuangaruak –invited, 3) Four corners study – Tom Moore – invited, Radiation - . Richard Graham RVIII, 4) Southern Ute – invited, 4) Upcoming Regs – Tribal NSR, NSPS, CTG – Greg Green	*Moderator: Andrew Baca*
10:00-10:30 am	Networking Break	
10:30 am-1:00 pm	**Eco-Café & Poster Session** *A one-on-one interactive outreach session where participants can network, exchange ideas, and get additional information and resources from a variety of presenters. Lunch will be provided to all* Eco-Café *participants and presenters.* **Working Lunch (provided) & Day 2 Raffle Drawing**	*Winona LaDuke?*
1:00-1:30 pm	Networking Break	
1:30-3:00 pm	**Breakout Sessions**	
	• **Air Quality Policy – Hands-on/Interactive Session** ♦ How to Submit Comments to EPA: A presentation by Bob Gruenig ♦ Round table discussions to brainstorm comments, concerns and issues surrounding key rules open for public comment including ♦ Clean Power Plan guidance on developing State plans, regional haze rule and guidance updates, Oil and Gas NSPS and more! ♦ Each topic will be co-facilitated by tribal and EPA	*Moderator: Andy Bessler*
	• **Climate Change** ♦ Protecting the use of Traditional Knowledges--Ann Marie Chischilly (ITEP); Joe Hostler (Yurok Tribe)	
	• **Air Quality Technical and Outreach** ♦ Open Dump Fires on Indian Reservations still exist, Why? – Kathy Moses, Confederated Tribes of the Colville ♦ Quinault Indian Reservation Smoke Management Plan – Carolyn Kelly, Quinault Indian Tribe ♦ 10 Yrs of FARR Implementation – Andrea Boyer, Nez Perce	*Moderator: Chris Lee*
	• **Indoor Air Quality** ♦ Radon Resistant New Construction--Kent Scheid, Meskwaki Tribe ♦ Tribal Radon Program: Mitigation Success on a Shoestring Budget--Ben Tenney, Jack Bullard, Amy Boetcher (NHBPI) ♦ Radon in Schools--Richard Kelsey, E W Wells Groups LLC (BIE Contractor)	
3:00-3:30 pm	Networking Break	
3:30-5:00 pm	**Breakout Sessions**	
	• **Air Quality Policy – Mining** ♦ Uranium -- Twa-le Abrahamson-Swan (confirmed) and Scott Clow– invited ♦ Brandy Toft – Taconite mining (confirmed) ♦ Craig Kreman – Pb Mine/superfund site (confirmed) ♦ AK Mining - ???	*Moderator: Pat Childers*
	• **Climate Change** ♦ Quinault Indian Nation's Department of Natural Resources Climate Change Efforts--Carolyn Kelly, Quinault Indian Nation ♦ Reducing Our Carbon Footprint—NHBP Substainable Building and Renewable Energy Programs--Patrick Bullard, Skasgé Power, LLC; Ben	

NTFAQ 2015 DRAFT AGENDA

	Tenney, Nottawaseppi Huron Band of the Potawatomi	
	• **Air Quality Technical and Outreach** ♦ Evaluating NOx and Oxidation Pathways Impacting Aerosol Production on the Southern Ute Indian Reservation and the Navajo Nation Using Geochemical Isotopic Analysis – Michael King, Navajo Nation ♦ TAMS Support Tools Air Quality and GIS Mapping – Glenn Gehring, TAMS Tribal Data Toolbox 3.0, AQS Videos, TurboQAPP – Melinda Ronca-Battista, TAMS TAMS Overview – Chris Lee/Farshid Farsi, TAMS	*Moderator: Kris Ray*
	• **Indoor Air Quality** ♦ Innovative and Practical Approaches to a Widespread Indoor Air Quality Hazard--Tom Eadie, Tulalip Tribe ♦ Using Tribal Housing Resources to address mold issues--Lisa Stewart, HUD ♦ Air Matters Overview--Gillian Mittelstaedt, THHN	
6:30 pm	***NTAA EC & TAMS SC Closed Caucus – TENTATIVE*** ***EPA TAC Closed Meeting/Call – TENTATIVE***	
Thursday, May 21, 2015		
8:00-8:30 am	Registration & Coffee	
8:30-9:15 am	**TAMS Steering Committee Update**	
9:15-9:45 am	Break	
9:45-11:15 am	**Breakout Sessions**	
	• **Air Quality Policy – Mobile Sources** ♦ EPA Rules *o* DERA *o* Aviation Fuel *o* Tier III ♦ Tribal Case Studies o AK road dust study –Tracy (confirmed) o Marine vessel DERA case study	*Moderator: Rosalva Tapia*
	• **Climate Change** ♦ Climate Health Assessment: Erika Wilson and Lesley Jantarasami, USEPA ♦ OAP Listening Session	
	• **Air Quality Technical and Outreach** ♦ Tribal Permitting Programs Panel – Raju Bisht, Navajo Nation and Ryan Eberle, Gila River Indian Community ♦ CNEP Air Monitoring Program – April Hathcoat, Cherokee Nation	*Moderator: Chris Lee*
	• **Indoor Air Quality** ♦ Tools to Improve Indoor Air Quality in the Home--Angela Benedict, SRMT ♦ A Multi-Faceted In-Home Intervention to Improve Respiratory Health and Indoor Air Quality in Rural Alaska Communities--Alaska Native Tribal Health Consortium (ANTHC) ♦ How the Bristol Bay Region in Southwest Alaska is Addressing Indoor Air Quality--Susan Flensburg, Bristol Bay Native Association and Tina Tinker, Aleknagik Traditional Council	
11:15-11:30 am	Break	
11:30 am-12:30 pm	**Plenary Session – Health Effects** **Janice Nolene - American Lung Association (Confirmed)**	
12:30 pm-1:00 pm	**Closing Ceremony & Final Raffle Drawing**	
1:30-5:00 pm	**Optional Training Sessions & Site Visits (tentative)**	

Thornton, Marisa

From: Thornton, Marisa on behalf of Collections.SubW
Sent: Thursday, May 21, 2015 8:25 AM
To: Thornton, Marisa
Subject: Fw: Mass mail campaign discovered for EPA-HQ-OAR-2008-0218

Follow Up Flag: Follow up
Flag Status: Completed

From: Rosnick, Reid
Sent: Friday, May 1, 2015 8:54 AM
To: Collections.SubW
Subject: FW: Mass mail campaign discovered for EPA-HQ-OAR-2008-0218

From: Akram, Assem
Sent: Thursday, April 16, 2015 1:57 PM
To: Rosnick, Reid
Subject: Mass mail campaign discovered for EPA-HQ-OAR-2008-0218

Hi, Reid –
Per our conversation earlier today, we've processed and posted the mass mail campaign sample. The ID is EPA-HQ-OAR-2008-0218-0189.
Again our apologies for the late notification about this.
Many thanks!
Assem

>>>>>>>>><<<<<<<<<<
ASSEM AKRAM
Docket Manager
USEPA Docket Center
Operated by ASRC Primus

(202) 566-0226
akram.assem@epa.gov
>>>>>>>>>><<<<<<<<<<

Thornton, Marisa

From: Thornton, Marisa on behalf of Collections.SubW
Sent: Thursday, May 21, 2015 8:25 AM
To: Thornton, Marisa
Subject: Fw: EPA Response to High Levels of Radon from White Mesa Liquid Effluents
Attachments: UMtUtr_CalculationsBrief.150210.pdf

From: Rosnick, Reid
Sent: Friday, May 1, 2015 8:55 AM
To: Collections.SubW
Subject: FW: EPA Response to High Levels of Radon from White Mesa Liquid Effluents

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From: sarah@uraniumwatch.org [mailto:sarah@uraniumwatch.org]
Sent: Tuesday, April 07, 2015 1:55 PM
To: Rosnick, Reid
Cc: Diaz, Angelique; Stahle, Susan; Peake, Tom; Flynn, Mike; Muellerleile, Caryn; Edwards, Jonathan; Zenick, Elliott; Blake, Wendy; Cherepy, Andrea; Benner, Tim; Ferris, Lena; Garlow, Charlie; Walker, Stuart; Hoffman, Stephen; Ginsberg, Marilyn; Brozowski, George; Hooper, Charles A.; McCabe, Janet; Garbow, Avi; Giles-AA, Cynthia; Michael Goo; Stanislaus, Mathy; Bob Dye; Phil Goble; rlundberg@utah.gov; Bryce Bird; Amanda Smith; Dan McNeil; Brown, Terry
Subject: EPA Response to High Levels of Radon from White Mesa Liquid Effluents

Dear Reid,

Sorry I missed the Subpart W quarterly call last week.

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Also, I would like to know how the EPA is going to address the current health and safety concerns at the White Mesa Mill that are caused by the high levels of radon emissions from the liquid impoundments. The Ute Mt. Ute Tribe and Uranium Watch have brought these concerns to the EPA, yet the EPA has taken no action. The Ute Mt. Ute Tribe recently expressed those concerns in a February 10, 2015, Calculations Brief. *See* attached.

It appears that the EPA has no intention of taking any action, and would rather have the whole problem go away. One way to make the problem

of radon emissions to go away is for you to claim that the gross radium alpha in the recent White Mesa Mill Annual Tailings Wastewater Reports represents other radionuclides besides radium. However, given the high gross alpha radium levels in 2014, there is no way that you can explain how those levels do not result in high levels of radon emissions: far beyond the 20 pico Curie per square meter per second standard and far beyond "zero."

The Division of Radiation Control staff informs me that the gross radium alpha in those reports accounts for radium and does not include uranium or radon. Putting the EPA formula for determining the radon emissions from White Mesa liquid effluents with the data for Cells 1, 4A, and 4B, you have an immediate health and safety concern that is not going to go away.

When I talk with staff at Region 8, I am referred to you. Therefore, I would like to know what, exactly, is the EPA response to the high levels of radon emissions from the White Mesa Mill liquid effluent impoundments.

The proposed Subpart W rule would, in fact, do nothing to correct the problem. The is because the EPA, contrary to the provisions of the CAA, has not proposed a radon emission limit for "new" or "existing" impoundments and continues to maintain that the emissions from liquid effluents are "zero," despite evidence to the contrary.

There must be a timely response to this new information regarding the radon emissions from 135 acres of White Mesa liquid effluents. The community in the vicinity of the White Mesa Mill cannot wait until the completion of the Subpart W rulemaking for these radon emissions to be addressed, if they would be addressed at all.

Sincerely,

Sarah Fields
Program Director
Uranium Watch
PO Box 344
Moab, Utah 84532
435-260-8384

February 10, 2015

Air and Radiation Docket
Environmental Protection Agency
1200 Pennsylvania Ave., NW
Washington D.C. 20460

SUPPLEMENT TO CALCULATION BRIEF (JULY 7, 2014)

INTRODUCTION

On July 7, 2014, the Ute Mountain Ute Tribe (Tribe) submitted a Calculation Brief to the Environmental Protection Agency (EPA) as part of a larger effort to prepare for a government-to-government consultation meeting regarding the EPA's 40 C.F.R. Part 61, Revisions to National Emission Standards for Radon Emissions from Operating Mill Tailings (Proposed Rule). In the Calculation Brief, the Tribe discussed its initial radon flux calculations for Tailings Cell 1 at the White Mesa Mill using the actual radium pond concentration reported to the Utah Division of Radiation Control in 2013. The Tribe initially determined that Tailings Cell 1 at the White Mesa Mill is a significant source of radon-222 emissions and expressed concern that the EPA was proposing to use a 1 meter liquid cover as the only control on radon-222 emissions from non-conventional impoundments based on a finding that keeping 1 meter of liquid on existing impoundments "has been sufficient to limit the amount of radon emitted from the ponds, in many cases, to almost zero." 79 Fed. Reg. at 25,398. At the July 10, 2014 consultation meeting between the Tribe and the EPA, the EPA was not prepared to substantively respond to issues raised in the Calculation Brief.

On October 29, 2014, the Tribe submitted written comments on the Proposed Rule. The Tribe's comments included a section regarding the EPA's proposed use of a 1-meter cover as the sole work practice standard to control radon emissions from non-conventional impoundments. In that Section, the Tribe used the site-specific analysis at the White Mesa Mill (from the Calculation Brief) to demonstrate that the placement of a 1-meter liquid cover (especially if that liquid is radium-laced process water from conventional milling activities) will not sufficiently control radon-222 emissions from non-conventional impoundments to near zero, and it may allow some non-conventional impoundments to exist with annual mean radon flux numbers that grossly exceed the 20 pCi/(m^2s) numerical flux standard.

The purpose of this Supplement to the July 7, 2014 Calculation Brief is to update the Tribe's July 2014 calculation work using the 2014 Annual Tailings Wastewater Monitoring Report (which reflects the most recent tailings cell chemistry data—collected in August of 2014).

SUMMARY OF THE 2014 ANNUAL TAILINGS WASTEWATER MONITORING REPORT

The 2014 Annual Tailings Wastewater Monitoring Report (2014 Report) shows a large increase in the Gross Radium Alpha content in Tailings Cells 1, 4A, and 4B, and a decrease in the Gross Radium Alpha content in Tailings Cell 3. *See* Table 1.

TABLE 1: Increase in Gross Radium Alpha, 2013-2014

Cell	2013 Gross Radium Alpha	2014 Gross Radium Alpha
Cell 1	32,700 pCi/L	331,000 pCi/L
Cell 3	81,900 pCi/L	19,700 pCi/L
Cell 4A	15,800 pCi/L	240,000 pCi/L
Cell 4B	14,600 pCi/L	148,000 pCi/L

Source: 2013 Annual Wastewater Monitoring Report; Groundwater Quality Discharge Permit UGW370004, White Mesa Uranium Mill, November 2013. Web Access 2013; 2014 Annual Wastewater Monitoring Report; Groundwater Quality Discharge Permit UGW370004, White Mesa Uranium Mill, November 24, 2014. Web Access 2014.

In the 2014 Report, the White Mesa Mill owner explained the observed increase in Gross Radium Alpha activity by correlating it to an increase in total dissolved solids (TDS) and asserting that the increase in both TDS and Gross Radium Alpha were caused by drought conditions and a decrease in the amount of fresh water added to the Mill process. However, past increases in measured concentration of TDS in the White Mesa Mill tailings impoundments have not resulted in the kind of increases in Gross Radium Alpha that were observed between 2013 and 2014, and the White Mesa Mill owner's explanation for the marked increase in Gross Radium Alpha remains speculative.

UPDATED CALCULATION OF ANNUAL MEAN RADON FLUX, WHITE MESA MILL

Using the Gross Radium Alpha content from the 2014 Report, the Tribe was able update its July 2014 initial calculation of the annual mean radon flux for Tailings Cell 1. Using the 2010 EPA Risk Assessment formulas for determining radon emissions and an annual wind speed of 2.7 m/sec collected at the White Mesa Air Monitoring Station, the Tribe also calculated the annual mean radon flux for Tailings Cells 3, 4A, and 4B.

TABLE 2 Initial Calculations of Annual Mean Radon Flux Using 2014 Data

Cell	2013 Calculated Annual Mean Radon Flux (Initial)	2014 Calculated Annual Mean Radon Flux (Initial)
Cell 1	125.8 pCi/(m^2s)	1,257.4 pCi/(m^2s)
Cell 3	311.1 pCi/(m^2s)*	74.8 pCi/(m^2s)*
Cell 4A	60.0 pCi/(m^2s)*	911.7 pCi/(m^2s)*
Cell 4B	55.5 pCi/(m^2s)	562.2 pCi/(m^2s)

* Calculated Radon Flux for liquid-covered regions of these impoundments

The Tribe believes that additional work assessing the radon flux of these Tailings Cells will likely yield even higher annual mean radon flux numbers for the reasons noted in Section 1.3 of the Calculation Brief.

UPDATED CALCULATED ANNUAL MEAN RADON FLUX AND NON-CONVENTIONAL IMPOUNDMENTS

In the Calculation Brief and in the October 29, 2014 comments, the Tribe urged the EPA to reconsider its finding that a 1-meter liquid cover will reduce radon emissions from liquid covered impoundment "in many cases to almost zero." The Tribe's revised calculations using the 2014 tailings cell chemistry data more clearly demonstrate why the EPA cannot move forward with the Proposed Rule without evaluating control technologies or emissions limits other than a 1-meter liquid cover to address significant emissions off liquid-covered impoundments at the White Mesa Mill.

UPDATED CALCULATED ANNUAL RADON FLUX AND CONVENTIONAL IMPOUNDMENTS

The Tribe's calculations for Tailings Cells 3 and 4A at the White Mesa Mill also raise additional concerns about the efficacy of Method 115 Monitoring for conventional impoundments and about the EPA's assumption that the acreage limitations in the phased disposal work practice standards are adequately controlling radon emissions for conventional impoundments.

Concerns Regarding Method 115 Monitoring for Conventional Impoundments

When facilities like the White Mesa Mill use Method 115 to monitor the radon flux from "existing impoundments", *see* 40 C.F.R. §§ 61.252(a), 61.253, those facilities are currently allowed to assume that the radon flux from liquid-covered regions of the existing, conventional impoundments is zero. Method 115, 2.1.3(a). Section 2.1.7 of Method 115 allows those facilities to calculate the mean radon flux of the conventional impoundment using the total area of the impoundment (including the area of the liquid-covered regions). Section 2.1.3(a)'s assumption of a zero radon flux and 2.1.7's calculation equation including the total impoundment area result in the dilution of the radon flux measured in other regions of the impoundment. When the emissions from the liquid-covered areas of the impoundment are above zero, Sections 2.1.3(a) and 2.1.7 of Method 115 also result in a dilution or a decrease in the mean radon flux for the entire impoundment.

The Tribe's calculation of the radon emissions from the liquid-covered region of Tailings Cell 3 demonstrates that the actual radon emissions from this Tailings Cell, taking into account the measured emissions from the other (dry or saturated) areas of this impoundment and the calculated emissions from any liquid-covered region of the impoundment, are much higher than the emissions reported by the White Mesa Mill owner to the Utah Division of Air Quality. Accordingly, the Tribe requests that, as a part of the EPA's evaluation of emissions from liquid-

covered regions of tailings impoundments, the EPA reconsider Method 115's assumption that liquid-covered regions of conventional impoundments are assumed to have zero emissions.[1]

Concerns Regarding Phased Disposal Work Practice Standard Efficacy

In the Proposed Rule, the EPA assumed that the phased disposal work practice standard acreage limitation was working to control radon emissions from newer conventional impoundments like Tailings Cell 4A at the White Mesa Mill. *See* October 29, 2014 Comments at 17. In the October 2014 Comments, the Tribe asserted that the EPA could not determine whether the 40-acre limitation on tailings impoundments was working to control radon-222 emissions because the current work practice standard does not require Method 115 or other monitoring on these impoundments. However, the Tribe was able to calculate the annual mean radon flux from the liquid in Cell 4A, and that calculation shows that the anticipated annual mean radon flux, at least from the liquid-covered areas of the impoundment, is 911.7 pCi/(m^2s). Accordingly, the Tribe requests that, as a part of the EPA's evaluation of emissions from liquid-covered tailings impoundments, the EPA reconsider whether the 40-acre limitation on tailings impoundments is sufficient—without additional monitoring or measurement of radon emissions—to control radon emissions to 20 pCi/(m^2s) and to control adverse impacts to the environment and human health near these tailings impoundments.

IMMEDIATE CONCERNS ABOUT PUBLIC HEALTH NEAR THE WHITE MESA MILL

When the Tribe performed its initial calculation of the annual radon flux from Tailings Cell 1 using the 2013 tailings cell chemistry data, the Tribe immediately expressed its concern to the EPA that the radon emissions from the White Mesa Mill were at unsafe levels for White Mesa community members and to human health in other areas of southeastern Utah. The drastic increase in the calculated emissions between 2013 and 2014 has elevated the Tribe's concerns about the health and safety of Ute Mountain Ute Tribal members living close to the White Mesa Mill, and the Tribe believes that the EPA should consider taking emergency actions to protect human health and the environment in southeastern Utah.

CONCLUSION

On January 13, 2015, the Tribe sent the EPA administrator a request for a second government-to-government consultation meeting regarding the Subpart W rulemaking activity. At that consultation meeting, the Tribe will expect the EPA to substantively respond to the Tribe's Calculation Brief and to this Supplement. The Tribe looks forward to communicating at a government-to-government level about the important issues raised in the Calculation Brief, the October 2014 Comments, and this Supplement.

---

[1]The Tribe recognizes that the EPA has proposed removing the 40 C.F.R. § 252(a) "existing impoundment" standard and the 40 C.F.R. § 253 requirement to use Method 115 monitoring. The Tribe has provided public comments urging the EPA to reconsider removing the "existing impoundment" standard and to consider imposing Method 115 monitoring and an emissions standard for conventional tailings impoundments. The Tribe also notes here that the State of Utah is currently requiring the White Mesa Mill to use Method 115 monitoring on Tailings Cell 2, and that this deficiency in Method 115 monitoring may impact monitoring efforts during impoundment and facility closure.

Thornton, Marisa

From: Thornton, Marisa on behalf of Collections.SubW
Sent: Thursday, May 21, 2015 8:25 AM
To: Thornton, Marisa
Subject: Fw: Subpart W Comments

From: Rosnick, Reid
Sent: Friday, May 1, 2015 8:55 AM
To: Collections.SubW
Subject: FW: Subpart W Comments

From: David Frydenlund [mailto:DFrydenlund@energyfuels.com]
Sent: Thursday, April 02, 2015 1:29 PM
To: Rosnick, Reid
Cc: Peake, Tom; Scott Bakken; Kimberly Morrison, PE, RG
Subject: RE: Subpart W Comments

Reid,

Sorry we haven't gotten back to you on this yet.

We are just doing a review of the document for proprietary information and CBI, and expect to get through that process tomorrow or the next day.

As a result, we expect to be able to get the document to you tomorrow or Monday.

Sorry for the inconvenience.

Dave

Energy Fuels Resources (USA) Inc.

David Frydenlund
Sr. V.P. Gen. Counsel / Corp Sec.

t: 303.389.4130 | c: 303.808.6648 | f: 303.389.4125

225 Union Blvd., Suite 600

Lakewood, CO, US, 80228

http://www.energyfuels.com

From: Rosnick, Reid [mailto:Rosnick.Reid@epa.gov]
Sent: Thursday, April 02, 2015 8:16 AM
To: David Frydenlund
Cc: Peake, Tom; Scott Bakken; Kimberly Morrison, PE, RG
Subject: RE: Subpart W Comments

Hi Dave,

Any word on the Two Lines document?

Reid

From: David Frydenlund [mailto:DFrydenlund@energyfuels.com]
Sent: Friday, March 13, 2015 12:17 PM
To: Rosnick, Reid
Cc: Peake, Tom; Scott Bakken; Kimberly Morrison, PE, RG
Subject: RE: Subpart W Comments

Reid,

I am looking into this now. We should be able to get you something early next week.

Dave

Energy Fuels Resources (USA) Inc.

David Frydenlund
Sr. V.P. Gen. Counsel / Corp Sec.

t: 303.389.4130 | c: 303.808.6648 | f: 303.389.4125
225 Union Blvd., Suite 600
Lakewood, CO, US, 80228

http://www.energyfuels.com

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From: Rosnick, Reid [mailto:Rosnick.Reid@epa.gov]
Sent: Wednesday, March 11, 2015 7:42 AM
To: David Frydenlund
Cc: Peake, Tom
Subject: Subpart W Comments

Hi Dave,

I hope you are well. I have been reviewing Energy Fuels comments on the Subpart W proposal. In section 6.2 of your comments you mention that Energy Fuels commissioned Two Lines, Inc. to estimate radiation doses

for the proposed Sheep Mountain HLF operation using the *MILDOS-AREA* model. You state that the modeling results indicate that the calculated doses to the public from the proposed Sheep Mountain HLF are low and well within regulatory limits (i.e., 10 CFR 20 and 40 CFR 190), and that the results of the report (Two Lines 2013) can be made available to the EPA, upon request.

I am interested in seeing this report. If the offer still stands I would appreciate it if you would send a copy. Please be aware that if there is proprietary information or CBI, it will be handled as such. If the report is electronic, please send it to my email address. If it is a hard copy, please send it via express delivery to me at:

1200 Pennsylvania Ave., NW
WJCW, 6608T, Room 1417D
Washington, DC 20460

Thanks again, and please let me know if you have any questions or comments.

Reid

_____
Reid J. Rosnick
US Environmental Protection Agency
Radiation Protection Division

202.343.9563
rosnick.reid@epa.gov

Thornton, Marisa

From: Thornton, Marisa on behalf of Collections.SubW
Sent: Thursday, May 21, 2015 8:26 AM
To: Thornton, Marisa
Subject: Fw: Follow up from December OGC Listening Session
Attachments: AX-15-000-4505 Final Response Manuel Heart.pdf; GC Correspondence with UMU 3 16 15.pdf

---

From: Rosnick, Reid
Sent: Friday, May 1, 2015 8:56 AM
To: Collections.SubW
Subject: FW: Follow up from December OGC Listening Session

From: Stahle, Susan
Sent: Wednesday, April 01, 2015 11:55 AM
To: Rosnick, Reid
Subject: FW: Follow up from December OGC Listening Session

Susan Stahle
Attorney-Advisor
Air and Radiation Law Office
Office of General Counsel
U.S. Environmental Protection Agency
202-564-1272 (ph)
202-564-5603 (fax)
stahle.susan@epa.gov

From: Moffa, Anthony
Sent: Wednesday, April 01, 2015 11:42 AM
To: Celene Hawkins
Cc: sclow@utemountain.org; Siciliano, CarolAnn; Ward, W. Robert; Koslow, Karin; Stahle, Susan; Edgell, Joe
Subject: RE: Follow up from December OGC Listening Session

Good Morning Celene,

You should have received a letter from Avi Garbow by way of conventional mail earlier this month responding to your concerns. These things sometimes get lost in transit, so I am attaching a pdf version of the letter here.

I am also attaching a pdf version of a letter to Chairman Heart from Janet McCabe, Acting Assistant Administrator for the Office of Air and Radiation, regarding the tribe's January 2015 consultation request.

If you have any further questions, please feel free to contact me, any of the other Indian law attorneys at EPA, or the points of contact mentioned in the letter (Carol Ann Siciliano and Robert Ward), who are cc'ed here.

Regards,

Anthony

Anthony Moffa
Cross-Cutting Issues Law Office
Civil Rights and Finance Law Office
Office of General Counsel
U.S. Environmental Protection Agency

(202) 564-1087
Moffa.Anthony@epa.gov

From: Edgell, Joe
Sent: Tuesday, March 31, 2015 6:36 PM
To: Celene Hawkins
Cc: Stahle, Susan; H. Michael Keller; Koslow, Karin; sclow@utemountain.org; Moffa, Anthony
Subject: RE: Follow up from December OGC Listening Session

Hi Celene,

It's my understanding that response was being drafted and was being sent out. I am copying Anthony Moffa on this email. Anthony was leading the coordination effort on that response for Mr. Garbow. Anthony is another attorney here in OGC on our Indian law team.

Joe

From: Celene Hawkins [mailto:chawkins@utemountain.org]
Sent: Tuesday, March 31, 2015 4:33 PM
To: Edgell, Joe
Cc: Stahle, Susan; H. Michael Keller; Koslow, Karin; sclow@utemountain.org
Subject: Follow up from December OGC Listening Session

Dear Mr. Edgell,

As you may remember, I came to Washington DC in December of 2014 to attend the listening session with the Office of General Counsel. At that listening session, Mr. Garbow indicated that the Office of General Counsel would respond to me or to the Ute Mountain Ute Tribe about the issues we discussed that day (relative to the White Mesa Mill, the Subpart W rulemaking, and the now-pending 40 CFR Part 192 rulemaking process). I have not received any response from the

Office of General Counsel, and the Tribe is also waiting for a response from the EPA to a formal request for government-to-government consultation on the Subpart W rulemaking (which was submitted in January of 2015).

If possible, I would like to schedule a time to talk to the Office of General Counsel about these issues. Could you please send me contact information for the person or persons at the EPA who can discuss these issues with me?

Best,

Celene Hawkins
Associate General Counsel
Ute Mountain Ute Tribe
chawkins@utemountain.org

(970) 564-5642

(970) 739-5725 (cell)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
AIR AND RADIATION

MAR 4 2015

Mr. Manuel Heart
Chairman
Ute Mountain Ute Tribe
P.O. Box 248
Towaoc, Colorado 81334-0248

Dear Chairman Heart:

Thank you for your letter to Administrator McCarthy of January 13, 2015, discussing the possibility of a second consultation regarding the proposed National Emission Standards for Hazardous Air Pollutants (NESHAP) Subpart W regulation. The Administrator has asked that I respond on her behalf.

On January 30, 2015, staff from my office and the Office of General Counsel held a conference call with Mr. Scott Clow and members of the Tribal Air Programs staff. They discussed a number of issues, among them the best time for a second consultation between the U.S. Environmental Protection Agency and the Tribe. We understand your desire to have the EPA respond to your public comments on the proposal, including the questions you submitted prior to the July 2014 consultation. We are happy to discuss your comments and questions in further meetings prior to and/or after publication of the final rule. However, while we can discuss your comments with you, we will be unable to provide you with a final resolution on them until after the final rule has been published. As EPA staff discussed with Mr. Clow and members of his staff on our January 30 call, the Agency received numerous comments from other entities on the same issues raised by the Tribe, and we are currently evaluating all of these comments and the information provided in them as we develop a final rule.

We value the input from the Ute Mountain Ute Tribe, and will work with your staff to identify a convenient time for a follow-up meeting. We will continue to work through Mr. Clow; please have your staff contact Reid Rosnick at 202-343-9563 or rosnick.reid@epa.gov for comments or questions.

Sincerely,

Janet G. McCabe
Acting Assistant Administrator

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Washington, D.C. 20460

Office of
General Counsel

MAR 13 2015

Celene Hawkins
Associate General Counsel
Ute Mountain Ute Tribe
125 W. Mike Wash Road Tribal Complex
Towaoc, CO 81334

Dear Ms. Hawkins:

It was a pleasure to meet you in Washington at the Office of General Counsel's (OGC) inaugural tribal attorney listening session at EPA. I was excited to participate in this new opportunity to engage with you and other tribal attorneys in conjunction with the White House Tribal Nations Conference. This type of lawyer-to-lawyer engagement between tribes and the Agency attorneys working on the very same issues is critical to the success of our clients. As you heard me express there, and perhaps on prior occasions, I firmly believe that we, as Agency attorneys, need to nurture our partnerships, particularly with co-regulators, to explore and support our shared interests and responsibilities to protect public health and the environment. With respect to the protection of human health and the environment in Indian country, that means meeting with tribal attorneys and tribal leaders and looking to you for guidance on how to ensure that our laws and regulations work for your tribes and tribal communities. I am grateful that you took the time to actively participate in the listening session and provide just that type of guidance. It is in response to the concerns you raised there that I now write.

At the listening session, you raised concerns on behalf of your Tribe regarding the potential impact of an ongoing rulemaking. EPA recently proposed to revise Subpart W National Emission Standards for Hazardous Air Pollutant (NESHAP), 40 C.F.R. Parts 61.250-256, which regulates the emission of radon-222 from uranium mills and their associated tailings. It is my understanding that due to the presence of a uranium mill approximately three miles from tribal lands (the White Mesa Mill facility), the Ute Mountain Ute engaged with the EPA staff working on this proposed rulemaking, both formally and informally. The concerns you raised

at the listening session related to both the substance and the process of those past consultations.

As you are probably aware, Administrator McCarthy just recently received a letter from Chairman Heart requesting a second formal consultation on the Subpart W rulemaking. I understand that the Office of Air and Radiation staff spoke with Tribal members, including Scott Clow (the Ute Mountain Ute Environmental Director) and the Tribal Air Programs staff, in regard to the consultation request. Moving forward, EPA staff will coordinate with the Tribe on scheduling the second consultation at a time that will be most productive for all involved. Mike Flynn, the Director of the Office of Radiation and Indoor Air, has sent a letter to Chairman Heart communicating that agreed-upon plan of action. My staff in OGC will monitor the developments on this upcoming consultation to ensure that EPA continues to conform to its consultation policy. *See* EPA Policy on Consultation and Coordination with Indian Tribes (2011), http://www.epa.gov/tp/pdf/cons-and-coord-with-indian-tribes-policy.pdf. I expect that the discussion at the upcoming consultation will address any remaining substantive concerns the Tribe may have with the Subpart W rulemaking.

With respect to the process concerns you articulated, particularly the Tribe's displeasure with the tone of consultation thus far, I want to assure you that EPA stands by the commitment we made in our 1984 Indian Policy to honor the unique legal and historical relationship between the United States and Indian tribes. This special government-to-government relationship only functions properly when there is mutual respect between the sovereigns involved. I have reached out to the EPA officials involved in the consultation and am confident that they in no way meant to dismiss the Tribe's concerns offhand. In fact, they expressed an appreciation for the level of sophistication with which the Tribe approached the consultation. It is my hope and belief that the upcoming consultation will be respectful and productive.

You also expressed some frustration with the lack of information that was shared with the Tribe on the text of the proposed rule prior to its publication in the Federal Register. I understand your concern; indeed, many tribes ask to see the text of proposed rules before EPA publishes them for public comment. EPA does not share the text of proposed rules with any party outside the Agency, including tribes, before signature and publication. Nonetheless, as I understand it, key aspects of the proposed rule were discussed with stakeholders including the Ute Mountain Ute prior to publication of the proposal. The initial meeting with tribes in 2010 and the quarterly stakeholder calls were meant to give tribes, and other

stakeholders, an opportunity to inform the content of the proposed rule from the very beginning of the drafting process.

Finally, I encourage you and the tribal members to review the public rulemaking docket, as responses to the Tribe's comments will be published there and will likely provide the basis for the upcoming consultation. *See* http://www.epa.gov/radiation/neshaps/subpartw/rulemaking-activity.html.

I have spoken to Robert Ward, the Regional Counsel in Region 8, as well as EPA staff in the Office of Air and Radiation and the Office of Solid Waste and Emergency Response about the events that gave rise to the Tribe's concerns and about opportunities for improved engagement with the Tribe in the future.[1]

There are two upcoming regulatory actions where the Tribe might get meaningfully involved. The first is the Chloroform Groundwater Corrective Action Plan that will require coordination between the Tribe and the Utah DEQ. To the extent that EPA is involved with that developing conversation, my colleagues in EPA Region 8 will be happy to coordinate with the Tribe. The second is the pending review of the "acceptability determination" for the White Mesa Mill as a recipient of CERCLA waste under the "Off-Site Rule." *See* 40 C.F.R. Part 300.440.

I appreciate your making the effort, on relatively short notice, to make the trip to Washington to inform me of the Tribe's specific concerns about the process of tribal consultation and the substance of the Subpart W rulemaking. I take seriously my commitment to working side-by-side with you, and your colleagues who serve as tribal counsel, to engage respectfully, openly, and honestly on matters of mutual interest. As for the matter at hand, I hope that I have addressed in some fashion the concerns you raised and that the upcoming consultation proves more useful to the Tribe. Should you have further questions on the subjects addressed here, or any others, I encourage you to contact Robert Ward in Region 8 or Carol Ann Siciliano, who is the Associate General Counsel of the Cross-Cutting Issues Law Office here at headquarters. Contact information for both of them is provided below.

---

[1] At the listening session, you mentioned the upcoming revisions to the Health and Environmental Protection Standards for Uranium and Thorium Mill Tailings and Uranium In Situ Leaching Processing Facilities at 40 C.F.R. Part 192. EPA officials from both the Region and the Office of Air and Radiation would be happy to discuss this rulemaking with you and hold a consultation at an appropriate point in time. However, I have been told that the White Mesa Mill is not an in situ recovery (ISR) facility and therefore may not be affected by the proposed revisions.

I sincerely hope that we are able to forge a strong and respectful relationship going forward. To that end, I look forward to more opportunities to engage with you and other tribal counsel.

Sincerely,

Avi S. Garbow
General Counsel

cc: Robert Ward, Region 8
Alfreda Mitre, Region 8
Carol Ann Siciliano, OGC
Pat Childers, OAR

Thornton, Marisa

From: Thornton, Marisa on behalf of Collections.SubW
Sent: Thursday, May 21, 2015 8:27 AM
To: Thornton, Marisa
Subject: Fw: Subpart W Comments

From: Rosnick, Reid
Sent: Friday, May 1, 2015 9:00 AM
To: Collections.SubW
Subject: FW: Subpart W Comments

From: Stahle, Susan
Sent: Wednesday, April 08, 2015 9:54 AM
To: Rosnick, Reid
Subject: RE: Subpart W Comments

Hi –

Please point them to 40 CFR 2.203(b) which provides the following:

(b) *Method and time of asserting business confidentiality claim.* A business which is submitting information to EPA may assert a business confidentiality claim covering the information by placing on (or attaching to) the information, at the time it is submitted to EPA, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as *trade secret*, *proprietary*, or *company confidential.* Allegedly confidential portions of otherwise non-confidential documents should be clearly identified by the business, and may be submitted separately to facilitate identification and handling by EPA. If the business desires confidential treatment only until a certain date or until the occurrence of a certain event, the notice should so state.

Energy Fuels can reference this specific citation, and can also include the more general citation to 40 CFR Part 2, Subpart B, when asserting their claim.

Hope that helps.

Susan Stahle
Attorney-Advisor
Air and Radiation Law Office
Office of General Counsel
U.S. Environmental Protection Agency
202-564-1272 (ph)
202-564-5603 (fax)
stahle.susan@epa.gov

From: Rosnick, Reid
Sent: Wednesday, April 08, 2015 6:25 AM
To: Stahle, Susan
Subject: FW: Subpart W Comments

Hi Sue,

Energy Fuels wants to submit information as CBI, but they wish to quote the actual reg or statute. They quote one below, is that the one they need? Thanks…Sorry you saw a heartbreaker the other day.

Reid

From: Scott Bakken [mailto:SBakken@energyfuels.com]
Sent: Tuesday, April 07, 2015 4:18 PM
To: David Frydenlund; Rosnick, Reid
Cc: Peake, Tom; Kimberly Morrison, PE, RG
Subject: RE: Subpart W Comments

Reid,

At earliest convenience, could you please confirm and/or advise as to which regulations we should cite for purposes of submitting the document under a CBI claim (e.g., under 40 CFR Part 2, Subpart B, and specifically 2.301 Special rules governing certain information obtained under the Clean Air Act)?

Thank you.

Scott

Energy Fuels Resources (USA) Inc.

Scott Bakken
Dir. Permitting & Environmental Affairs

t: 303.389.4132 | c: 303.720.5330

225 Union Blvd., Suite 600

Lakewood, CO 80228

http://www.energyfuels.com

From: David Frydenlund
Sent: Thursday, April 02, 2015 11:29 AM
To: Rosnick, Reid
Cc: Peake, Tom; Scott Bakken; Kimberly Morrison, PE, RG
Subject: RE: Subpart W Comments

Reid,

Sorry we haven't gotten back to you on this yet.

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As a result, we expect to be able to get the document to you tomorrow or Monday.

Sorry for the inconvenience.

Dave

Energy Fuels Resources (USA) Inc.

David Frydenlund
Sr. V.P. Gen. Counsel / Corp Sec.

t: 303.389.4130 | c: 303.808.6648 | f: 303.389.4125

225 Union Blvd., Suite 600

Lakewood, CO, US, 80228

http://www.energyfuels.com

From: Rosnick, Reid [mailto:Rosnick.Reid@epa.gov]
Sent: Thursday, April 02, 2015 8:16 AM
To: David Frydenlund
Cc: Peake, Tom; Scott Bakken; Kimberly Morrison, PE, RG
Subject: RE: Subpart W Comments

Hi Dave,

Any word on the Two Lines document?

Reid

From: David Frydenlund [mailto:DFrydenlund@energyfuels.com]
Sent: Friday, March 13, 2015 12:17 PM
To: Rosnick, Reid
Cc: Peake, Tom; Scott Bakken; Kimberly Morrison, PE, RG
Subject: RE: Subpart W Comments

Reid,

I am looking into this now. We should be able to get you something early next week.

Dave

Energy Fuels Resources (USA) Inc.

David Frydenlund
Sr. V.P. Gen. Counsel / Corp Sec.

t: 303.389.4130 | c: 303.808.6648 | f: 303.389.4125
225 Union Blvd., Suite 600
Lakewood, CO, US, 80228

http://www.energyfuels.com

From: Rosnick, Reid [mailto:Rosnick.Reid@epa.gov]
Sent: Wednesday, March 11, 2015 7:42 AM
To: David Frydenlund
Cc: Peake, Tom
Subject: Subpart W Comments

Hi Dave,

I hope you are well. I have been reviewing Energy Fuels comments on the Subpart W proposal. In section 6.2 of your comments you mention that Energy Fuels commissioned Two Lines, Inc. to estimate radiation doses for the proposed Sheep Mountain HLF operation using the *MILDOS-AREA* model. You state that the modeling results indicate that the calculated doses to the public from the proposed Sheep Mountain HLF are low and well within regulatory limits (i.e., 10 CFR 20 and 40 CFR 190), and that the results of the report (Two Lines 2013) can be made available to the EPA, upon request.

I am interested in seeing this report. If the offer still stands I would appreciate it if you would send a copy. Please be aware that if there is proprietary information or CBI, it will be handled as such. If the report is electronic, please send it to my email address. If it is a hard copy, please send it via express delivery to me at:

1200 Pennsylvania Ave., NW
WJCW, 6608T, Room 1417D
Washington, DC 20460

Thanks again, and please let me know if you have any questions or comments.

Reid

Reid J. Rosnick
US Environmental Protection Agency
Radiation Protection Division

202.343.9563
rosnick.reid@epa.gov

Thornton, Marisa

From: Thornton, Marisa on behalf of Collections.SubW
Sent: Thursday, May 21, 2015 8:26 AM
To: Thornton, Marisa
Subject: Fw: Workgroup Member for NESHAP Rule

From: Rosnick, Reid
Sent: Friday, May 1, 2015 8:57 AM
To: Collections.SubW
Subject: FW: Workgroup Member for NESHAP Rule

From: Banks, Julius
Sent: Wednesday, April 08, 2015 12:52 PM
To: Rosnick, Reid
Cc: Ayres, Sara; Stahle, Susan; Chapman, Apple; Peake, Tom
Subject: FW: Workgroup Member for NESHAP Rule

Reid,

Sara Ayres will represent OECA on the workgroup. I understand that OAR has already published the NPRM. So it is probably a good idea for Sara to get up to speed on the rule and discuss Next Gen opportunities with you and Susan. Hopefully, we can still implement some of the Next Gen components in the final rule. Sara works for the Office of Compliance out of R5. I've asked her to give you a call.

Thanks,

Julius

Julius Banks
Chief, Air Branch
Monitoring, Assistance, and Media Programs Division
Office of Compliance/Office of Enforcement and Compliance Assurance
U.S. EPA

(202) 564-0957

From: Rosnick, Reid
Sent: Wednesday, April 8, 2015 7:04 AM
To: Chapman, Apple
Cc: Stahle, Susan; Peake, Tom
Subject: Workgroup Member for NESHAP Rule

Good morning,

My name is Reid Rosnick, and I am the workgroup lead for the NESHAP 40 CFR 61 Subpart W rule, **Revisions to National Emission Standards for Radon Emissions From Operating Mill Tailings.** Susan Stahle suggested that I contact you in order to find a replacement for Charlie Garlow, who was a workgroup member. There are several reasons why a replacement is requested as soon as possible. We are now in the response to comments phase of the rulemaking, and someone in your shop will make vital contributions to this process and beyond. Also, this rulemaking is one of nine rulemakings chosen in OAR as prototypes for the Administrator's Rule Effectiveness program. A member from OECA will help move this process forward.

Please let me know if you have questions or comments, and I look forward to working with Charlie's replacement. Thanks.

Best,
Reid

_____
Reid J. Rosnick
US Environmental Protection Agency
Radiation Protection Division

202.343.9563
rosnick.reid@epa.gov

Thornton, Marisa

From: Thornton, Marisa on behalf of Collections.SubW
Sent: Thursday, May 21, 2015 8:26 AM
To: Thornton, Marisa
Subject: Fw: Follow up from December OGC Listening Session

From: Rosnick, Reid
Sent: Friday, May 1, 2015 8:56 AM
To: Collections.SubW
Subject: FW: Follow up from December OGC Listening Session

From: Harrison, Jed
Sent: Wednesday, April 01, 2015 10:59 AM
To: Edwards, Jonathan; Perrin, Alan
Cc: Peake, Tom; Rosnick, Reid; Rosencrantz, Ingrid
Subject: FYI: Follow up from December OGC Listening Session

So you're aware if not already.

Jed Harrison SENIOR ADVISOR FOR TRIBAL AFFAIRS
U.S. ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF RADIATION & INDOOR AIR
(702) 784 8218 MOBILE: (702) 494 7050

4220 S. MARYLAND PARKWAY
BLDG. D, SUITE 800
LAS VEGAS, NEVADA 89119

From: Childers, Pat
Sent: Wednesday, April 01, 2015 6:45 AM
To: Harrison, Jed
Subject: FW: Follow up from December OGC Listening Session

Fyi

Sent from my Windows Phone

From: Baca, Andrew
Sent: 4/1/2015 6:45 AM
To: Childers, Pat

Cc: Moffa, Anthony
Subject: FW: Follow up from December OGC Listening Session

Pat and Anthony,

I just wanted to make sure you all saw this incoming letter from Ute Mountain Ute's Associate General Counsel. I know you were both working on responses so I wanted to make sure you saw this.

Andrew

From: Celene Hawkins <chawkins@utemountain.org>
Date: March 31, 2015 at 4:33:01 PM EDT
To: "Edgell, Joe" <Edgell.Joe@epa.gov>
Cc: "Stahle, Susan" <Stahle.Susan@epa.gov>, "H. Michael Keller" <mKeller@vancott.com>, "koslow.karin@epa.gov" <koslow.karin@epa.gov>, "Scott Clow" <sclow@utemountain.org>
Subject: Follow up from December OGC Listening Session

Dear Mr. Edgell,

As you may remember, I came to Washington DC in December of 2014 to attend the listening session with the Office of General Counsel. At that listening session, Mr. Garbow indicated that the Office of General Counsel would respond to me or to the Ute Mountain Ute Tribe about the issues we discussed that day (relative to the White Mesa Mill, the Subpart W rulemaking, and the now-pending 40 CFR Part 192 rulemaking process). I have not received any response from the Office of General Counsel, and the Tribe is also waiting for a response from the EPA to a formal request for government-to-government consultation on the Subpart W rulemaking (which was submitted in January of 2015).

If possible, I would like to schedule a time to talk to the Office of General Counsel about these issues. Could you please send me contact information for the person or persons at the EPA who can discuss these issues with me?

Best,

Celene Hawkins
Associate General Counsel
Ute Mountain Ute Tribe
chawkins@utemountain.org
(970) 564-5642
(970) 739-5725 (cell)

Thornton, Marisa

From: Thornton, Marisa on behalf of Collections.SubW
Sent: Thursday, May 21, 2015 8:27 AM
To: Thornton, Marisa
Subject: Fw: CMS Control Closed - Barbara Matthews - AX-15-000-4505
Attachments: AX-15-000-4505 Final Response Manuel Heart.pdf

From: Stahle, Susan
Sent: Tuesday, May 5, 2015 5:15 PM
To: Collections.SubW
Subject: Fw: CMS Control Closed - Barbara Matthews - AX-15-000-4505

Susan Stahle

Air and Radiation Law Office

Office of General Counsel

U.S. Environmental Protection Agency

(202) 564-1272 (ph)

(202) 564-5603 (fx)

From: Rosnick, Reid
Sent: Wednesday, April 1, 2015 11:24 AM
To: Stahle, Susan
Cc: Schultheisz, Daniel
Subject: FW: CMS Control Closed - Barbara Matthews - AX-15-000-4505

Our letter to the Chairman, UMUT.

-----Original Message-----
From: Gillam, Connie
Sent: Tuesday, March 10, 2015 10:15 AM
To: Rosnick, Reid
Cc: Ferguson, Rafaela
Subject: FW: CMS Control Closed - Barbara Matthews - AX-15-000-4505

Good morning, Reid.

I am forwarding the message below in response to your question about whether or not Janet signed the Ute Mountain Ute response. I am also attaching a copy of the final.

-----Original Message-----
From: cmsadmin@epa.gov [mailto:cmsadmin@epa.gov]
Sent: Wednesday, March 04, 2015 11:49 AM
To: Painter, Michele; Labbe, Ken; Gillam, Connie; Matthews, Barbara
Subject: CMS Control Closed - Barbara Matthews - AX-15-000-4505

This is a notification that control AX-15-000-4505 was closed on 3/4/15 11:49 AM. No further action is required on your part. Please go to the CMS webpage to view the details of the control.

Summary Information -
Control Number: AX-15-000-4505
Control Subject: DRF - Daily Reading File - Second Governnient-to-Government Consultation between EPA and the Ute Mountain tlte Tribe, Rulemaking Activity 40 C.F.R. Part 61, Subpart W
From: Heart, Manuel

Note: This Email was automatically generated. Please do not attempt to respond to it. You can access this control at https://cms.epa.gov/cms. Questions or comments concerning CMS should be directed to CMS Support at 202-564-4985 or CMS Information@epa.gov.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
AIR AND RADIATION

MAR 4 2015

Mr. Manuel Heart
Chairman
Ute Mountain Ute Tribe
P.O. Box 248
Towaoc, Colorado 81334-0248

Dear Chairman Heart:

Thank you for your letter to Administrator McCarthy of January 13, 2015, discussing the possibility of a second consultation regarding the proposed National Emission Standards for Hazardous Air Pollutants (NESHAP) Subpart W regulation. The Administrator has asked that I respond on her behalf.

On January 30, 2015, staff from my office and the Office of General Counsel held a conference call with Mr. Scott Clow and members of the Tribal Air Programs staff. They discussed a number of issues, among them the best time for a second consultation between the U.S. Environmental Protection Agency and the Tribe. We understand your desire to have the EPA respond to your public comments on the proposal, including the questions you submitted prior to the July 2014 consultation. We are happy to discuss your comments and questions in further meetings prior to and/or after publication of the final rule. However, while we can discuss your comments with you, we will be unable to provide you with a final resolution on them until after the final rule has been published. As EPA staff discussed with Mr. Clow and members of his staff on our January 30 call, the Agency received numerous comments from other entities on the same issues raised by the Tribe, and we are currently evaluating all of these comments and the information provided in them as we develop a final rule.

We value the input from the Ute Mountain Ute Tribe, and will work with your staff to identify a convenient time for a follow-up meeting. We will continue to work through Mr. Clow; please have your staff contact Reid Rosnick at 202-343-9563 or rosnick.reid@epa.gov for comments or questions.

Sincerely,

Janet G. McCabe
Acting Assistant Administrator

Thornton, Marisa

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Sent: Thursday, May 21, 2015 8:27 AM
To: Thornton, Marisa
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To: Collections.SubW
Subject: Fw: CMS Control Closed - Barbara Matthews - AX-15-000-4505

Susan Stahle

Air and Radiation Law Office

Office of General Counsel

U.S. Environmental Protection Agency

(202) 564-1272 (ph)

(202) 564-5603 (fx)

From: Stahle, Susan
Sent: Wednesday, April 1, 2015 11:26 AM
To: Moffa, Anthony
Subject: FW: CMS Control Closed - Barbara Matthews - AX-15-000-4505

Susan Stahle
Attorney-Advisor
Air and Radiation Law Office
Office of General Counsel
U.S. Environmental Protection Agency
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stahle.susan@epa.gov

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Acting Assistant Administrator

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Attachments: AX-15-000-4505 Final Response Manuel Heart.pdf; GC Correspondence with UMU 3 16 15.pdf

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To: Collections.SubW
Subject: Fw: Follow up from December OGC Listening Session

Susan Stahle
Air and Radiation Law Office
Office of General Counsel
U.S. Environmental Protection Agency
(202) 564-1272 (ph)
(202) 564-5603 (fx)

From: Moffa, Anthony
Sent: Wednesday, April 1, 2015 11:41 AM
To: Celene Hawkins
Cc: sclow@utemountain.org; Siciliano, CarolAnn; Ward, W. Robert; Koslow, Karin; Stahle, Susan; Edgell, Joe
Subject: RE: Follow up from December OGC Listening Session

Good Morning Celene,

You should have received a letter from Avi Garbow by way of conventional mail earlier this month responding to your concerns. These things sometimes get lost in transit, so I am attaching a pdf version of the letter here.

I am also attaching a pdf version of a letter to Chairman Heart from Janet McCabe, Acting Assistant Administrator for the Office of Air and Radiation, regarding the tribe's January 2015 consultation request.

If you have any further questions, please feel free to contact me, any of the other Indian law attorneys at EPA, or the points of contact mentioned in the letter (Carol Ann Siciliano and Robert Ward), who are cc'ed here.

Regards,

Anthony

Anthony Moffa
Cross-Cutting Issues Law Office

Civil Rights and Finance Law Office
Office of General Counsel
U.S. Environmental Protection Agency

(202) 564-1087
Moffa.Anthony@epa.gov

From: Edgell, Joe
Sent: Tuesday, March 31, 2015 6:36 PM
To: Celene Hawkins
Cc: Stahle, Susan; H. Michael Keller; Koslow, Karin; sclow@utemountain.org; Moffa, Anthony
Subject: RE: Follow up from December OGC Listening Session

Hi Celene,

It's my understanding that response was being drafted and was being sent out. I am copying Anthony Moffa on this email. Anthony was leading the coordination effort on that response for Mr. Garbow. Anthony is another attorney here in OGC on our Indian law team.

Joe

From: Celene Hawkins [mailto:chawkins@utemountain.org]
Sent: Tuesday, March 31, 2015 4:33 PM
To: Edgell, Joe
Cc: Stahle, Susan; H. Michael Keller; Koslow, Karin; sclow@utemountain.org
Subject: Follow up from December OGC Listening Session

Dear Mr. Edgell,

As you may remember, I came to Washington DC in December of 2014 to attend the listening session with the Office of General Counsel. At that listening session, Mr. Garbow indicated that the Office of General Counsel would respond to me or to the Ute Mountain Ute Tribe about the issues we discussed that day (relative to the White Mesa Mill, the Subpart W rulemaking, and the now-pending 40 CFR Part 192 rulemaking process). I have not received any response from the Office of General Counsel, and the Tribe is also waiting for a response from the EPA to a formal request for government-to-government consultation on the Subpart W rulemaking (which was submitted in January of 2015).

If possible, I would like to schedule a time to talk to the Office of General Counsel about these issues. Could you please send me contact information for the person or persons at the EPA who can discuss these issues with me?

Best,

Celene Hawkins
Associate General Counsel

Ute Mountain Ute Tribe
chawkins@utemountain.org

(970) 564-5642

(970) 739-5725 (cell)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Washington, D.C. 20460

Office of
General Counsel

MAR 13 2015

Celene Hawkins
Associate General Counsel
Ute Mountain Ute Tribe
125 W. Mike Wash Road Tribal Complex
Towaoc, CO 81334

Dear Ms. Hawkins:

It was a pleasure to meet you in Washington at the Office of General Counsel's (OGC) inaugural tribal attorney listening session at EPA. I was excited to participate in this new opportunity to engage with you and other tribal attorneys in conjunction with the White House Tribal Nations Conference. This type of lawyer-to-lawyer engagement between tribes and the Agency attorneys working on the very same issues is critical to the success of our clients. As you heard me express there, and perhaps on prior occasions, I firmly believe that we, as Agency attorneys, need to nurture our partnerships, particularly with co-regulators, to explore and support our shared interests and responsibilities to protect public health and the environment. With respect to the protection of human health and the environment in Indian country, that means meeting with tribal attorneys and tribal leaders and looking to you for guidance on how to ensure that our laws and regulations work for your tribes and tribal communities. I am grateful that you took the time to actively participate in the listening session and provide just that type of guidance. It is in response to the concerns you raised there that I now write.

At the listening session, you raised concerns on behalf of your Tribe regarding the potential impact of an ongoing rulemaking. EPA recently proposed to revise Subpart W National Emission Standards for Hazardous Air Pollutant (NESHAP), 40 C.F.R. Parts 61.250-256, which regulates the emission of radon-222 from uranium mills and their associated tailings. It is my understanding that due to the presence of a uranium mill approximately three miles from tribal lands (the White Mesa Mill facility), the Ute Mountain Ute engaged with the EPA staff working on this proposed rulemaking, both formally and informally. The concerns you raised

at the listening session related to both the substance and the process of those past consultations.

As you are probably aware, Administrator McCarthy just recently received a letter from Chairman Heart requesting a second formal consultation on the Subpart W rulemaking. I understand that the Office of Air and Radiation staff spoke with Tribal members, including Scott Clow (the Ute Mountain Ute Environmental Director) and the Tribal Air Programs staff, in regard to the consultation request. Moving forward, EPA staff will coordinate with the Tribe on scheduling the second consultation at a time that will be most productive for all involved. Mike Flynn, the Director of the Office of Radiation and Indoor Air, has sent a letter to Chairman Heart communicating that agreed-upon plan of action. My staff in OGC will monitor the developments on this upcoming consultation to ensure that EPA continues to conform to its consultation policy. *See* EPA Policy on Consultation and Coordination with Indian Tribes (2011), http://www.epa.gov/tp/pdf/cons-and-coord-with-indian-tribes-policy.pdf. I expect that the discussion at the upcoming consultation will address any remaining substantive concerns the Tribe may have with the Subpart W rulemaking.

With respect to the process concerns you articulated, particularly the Tribe's displeasure with the tone of consultation thus far, I want to assure you that EPA stands by the commitment we made in our 1984 Indian Policy to honor the unique legal and historical relationship between the United States and Indian tribes. This special government-to-government relationship only functions properly when there is mutual respect between the sovereigns involved. I have reached out to the EPA officials involved in the consultation and am confident that they in no way meant to dismiss the Tribe's concerns offhand. In fact, they expressed an appreciation for the level of sophistication with which the Tribe approached the consultation. It is my hope and belief that the upcoming consultation will be respectful and productive.

You also expressed some frustration with the lack of information that was shared with the Tribe on the text of the proposed rule prior to its publication in the Federal Register. I understand your concern; indeed, many tribes ask to see the text of proposed rules before EPA publishes them for public comment. EPA does not share the text of proposed rules with any party outside the Agency, including tribes, before signature and publication. Nonetheless, as I understand it, key aspects of the proposed rule were discussed with stakeholders including the Ute Mountain Ute prior to publication of the proposal. The initial meeting with tribes in 2010 and the quarterly stakeholder calls were meant to give tribes, and other

stakeholders, an opportunity to inform the content of the proposed rule from the very beginning of the drafting process.

Finally, I encourage you and the tribal members to review the public rulemaking docket, as responses to the Tribe's comments will be published there and will likely provide the basis for the upcoming consultation. *See* http://www.epa.gov/radiation/neshaps/subpartw/rulemaking-activity.html.

I have spoken to Robert Ward, the Regional Counsel in Region 8, as well as EPA staff in the Office of Air and Radiation and the Office of Solid Waste and Emergency Response about the events that gave rise to the Tribe's concerns and about opportunities for improved engagement with the Tribe in the future.[1]

There are two upcoming regulatory actions where the Tribe might get meaningfully involved. The first is the Chloroform Groundwater Corrective Action Plan that will require coordination between the Tribe and the Utah DEQ. To the extent that EPA is involved with that developing conversation, my colleagues in EPA Region 8 will be happy to coordinate with the Tribe. The second is the pending review of the "acceptability determination" for the White Mesa Mill as a recipient of CERCLA waste under the "Off-Site Rule." *See* 40 C.F.R. Part 300.440.

I appreciate your making the effort, on relatively short notice, to make the trip to Washington to inform me of the Tribe's specific concerns about the process of tribal consultation and the substance of the Subpart W rulemaking. I take seriously my commitment to working side-by-side with you, and your colleagues who serve as tribal counsel, to engage respectfully, openly, and honestly on matters of mutual interest. As for the matter at hand, I hope that I have addressed in some fashion the concerns you raised and that the upcoming consultation proves more useful to the Tribe. Should you have further questions on the subjects addressed here, or any others, I encourage you to contact Robert Ward in Region 8 or Carol Ann Siciliano, who is the Associate General Counsel of the Cross-Cutting Issues Law Office here at headquarters. Contact information for both of them is provided below.

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[1] At the listening session, you mentioned the upcoming revisions to the Health and Environmental Protection Standards for Uranium and Thorium Mill Tailings and Uranium In Situ Leaching Processing Facilities at 40 C.F.R. Part 192. EPA officials from both the Region and the Office of Air and Radiation would be happy to discuss this rulemaking with you and hold a consultation at an appropriate point in time. However, I have been told that the White Mesa Mill is not an in situ recovery (ISR) facility and therefore may not be affected by the proposed revisions.

I sincerely hope that we are able to forge a strong and respectful relationship going forward. To that end, I look forward to more opportunities to engage with you and other tribal counsel.

Sincerely,

Avi S. Garbow
General Counsel

cc: Robert Ward, Region 8
Alfreda Mitre, Region 8
Carol Ann Siciliano, OGC
Pat Childers, OAR

Thornton, Marisa

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Air and Radiation Law Office
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---

[1] At the listening session, you mentioned the upcoming revisions to the Health and Environmental Protection Standards for Uranium and Thorium Mill Tailings and Uranium In Situ Leaching Processing Facilities at 40 C.F.R. Part 192. EPA officials from both the Region and the Office of Air and Radiation would be happy to discuss this rulemaking with you and hold a consultation at an appropriate point in time. However, I have been told that the White Mesa Mill is not an in situ recovery (ISR) facility and therefore may not be affected by the proposed revisions.

I sincerely hope that we are able to forge a strong and respectful relationship going forward. To that end, I look forward to more opportunities to engage with you and other tribal counsel.

Sincerely,

Avi S. Garbow
General Counsel

cc: Robert Ward, Region 8
Alfreda Mitre, Region 8
Carol Ann Siciliano, OGC
Pat Childers, OAR

Thornton, Marisa

From: Thornton, Marisa on behalf of Collections.SubW
Sent: Thursday, May 21, 2015 8:31 AM
To: Thornton, Marisa
Subject: Fw: Replacement

From: Stahle, Susan
Sent: Tuesday, May 5, 2015 5:18 PM
To: Collections.SubW
Subject: Fw: Replacement

Susan Stahle
Air and Radiation Law Office
Office of General Counsel
U.S. Environmental Protection Agency
(202) 564-1272 (ph)
(202) 564-5603 (fx)

From: Stahle, Susan
Sent: Monday, April 6, 2015 10:57 AM
To: Rosnick, Reid
Subject: Re: Replacement

Hi --

I don't know who his immediate supervisor is but you could check with Apple Chapman, Associate Director in OECA/OCE/AED, and she could probably help you.

Go Nats!

Susan Stahle
Air and Radiation Law Office
Office of General Counsel
U.S. Environmental Protection Agency
(202) 564-1272 (ph)
(202) 564-5603 (fx)

From: Rosnick, Reid
Sent: Monday, April 6, 2015 10:43 AM

To: Stahle, Susan
Subject: Replacement

Hi Sue,

I know you're going to the game today, have a great time! Terrific weather too!

Quick question: Can you give me Charlie Garlow's immediate supervisor's name? I need to find a replacement for Charlie on the Subpart W workgroup. Thanks!

Play Ball!
Reid

_____

Reid J. Rosnick
US Environmental Protection Agency
Radiation Protection Division

202.343.9563
rosnick.reid@epa.gov

Thornton, Marisa

From: Thornton, Marisa on behalf of Collections.SubW
Sent: Thursday, May 21, 2015 8:31 AM
To: Thornton, Marisa
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Play Ball!
Reid

_____

Reid J. Rosnick
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Radiation Protection Division

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rosnick.reid@epa.gov

Thornton, Marisa

From: Thornton, Marisa on behalf of Collections.SubW
Sent: Thursday, May 21, 2015 8:31 AM
To: Thornton, Marisa
Subject: Fw: Sue will be on the call at 11

From: Stahle, Susan
Sent: Tuesday, May 5, 2015 5:17 PM
To: Collections.SubW
Subject: Fw: Sue will be on the call at 11

Susan Stahle
Air and Radiation Law Office
Office of General Counsel
U.S. Environmental Protection Agency
(202) 564-1272 (ph)
(202) 564-5603 (fx)

From: Rosnick, Reid
Sent: Thursday, April 2, 2015 11:10 AM
To: Schultheisz, Daniel
Cc: Stahle, Susan
Subject: RE: Sue will be on the call at 11

SWEET!!

From: Schultheisz, Daniel
Sent: Thursday, April 02, 2015 11:09 AM
To: Rosnick, Reid
Subject: RE: Sue will be on the call at 11

Masterful. Eating out of the palm of your hand.

From: Rosnick, Reid
Sent: Thursday, April 02, 2015 10:59 AM
To: Schultheisz, Daniel
Subject: RE: Sue will be on the call at 11

I know, she sent me a note. See you in 2.

From: Schultheisz, Daniel
Sent: Thursday, April 02, 2015 10:58 AM

To: Rosnick, Reid
Subject: Sue will be on the call at 11

Her training was cancelled.

Thornton, Marisa

From: Thornton, Marisa on behalf of Collections.SubW
Sent: Thursday, May 21, 2015 8:28 AM
To: Thornton, Marisa
Subject: Fw: Quarterly Subpart W Stakeholder Call

From: Stahle, Susan
Sent: Tuesday, May 5, 2015 5:17 PM
To: Collections.SubW
Subject: Fw: Quarterly Subpart W Stakeholder Call

Susan Stahle
Air and Radiation Law Office
Office of General Counsel
U.S. Environmental Protection Agency

(202) 564-1272 (ph)

(202) 564-5603 (fx)

From: Rosnick, Reid
Sent: Thursday, April 2, 2015 9:06 AM
To: Stahle, Susan
Subject: RE: Quarterly Subpart W Stakeholder Call

Great!

From: Stahle, Susan
Sent: Thursday, April 02, 2015 9:00 AM
To: Rosnick, Reid
Subject: RE: Quarterly Subpart W Stakeholder Call

Hi –

My training this morning was canceled so I will participate on today's call.

Thanks,

Susan Stahle
Attorney-Advisor
Air and Radiation Law Office
Office of General Counsel

U.S. Environmental Protection Agency

202-564-1272 (ph)

202-564-5603 (fax)
stahle.susan@epa.gov

-----Original Appointment-----
From: Rosnick, Reid
Sent: Thursday, March 26, 2015 8:17 AM
To: Rosnick, Reid; Stahle, Susan; Peake, Tom; Schultheisz, Daniel
Subject: Quarterly Subpart W Stakeholder Call
When: Thursday, April 02, 2015 11:00 AM-12:00 PM (UTC-05:00) Eastern Time (US & Canada).

Where: 866-299-3188, code 2023439563#

Thornton, Marisa

From: Thornton, Marisa on behalf of Collections.SubW
Sent: Thursday, May 21, 2015 8:28 AM
To: Thornton, Marisa
Subject: Fw: Quarterly Subpart W Stakeholder Call

From: Stahle, Susan
Sent: Tuesday, May 5, 2015 5:17 PM
To: Collections.SubW
Subject: Fw: Quarterly Subpart W Stakeholder Call

Susan Stahle
Air and Radiation Law Office
Office of General Counsel
U.S. Environmental Protection Agency
(202) 564-1272 (ph)
(202) 564-5603 (fx)

From: Stahle, Susan
Sent: Thursday, April 2, 2015 9:00 AM
To: Rosnick, Reid
Subject: RE: Quarterly Subpart W Stakeholder Call

Hi –

My training this morning was canceled so I will participate on today's call.

Thanks,

Susan Stahle
Attorney-Advisor
Air and Radiation Law Office
Office of General Counsel
U.S. Environmental Protection Agency
202-564-1272 (ph)
202-564-5603 (fax)
stahle.susan@epa.gov

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From: Rosnick, Reid
Sent: Thursday, March 26, 2015 8:17 AM
To: Rosnick, Reid; Stahle, Susan; Peake, Tom; Schultheisz, Daniel
Subject: Quarterly Subpart W Stakeholder Call
When: Thursday, April 02, 2015 11:00 AM-12:00 PM (UTC-05:00) Eastern Time (US & Canada).

Where: 866-299-3188  , code 2023439563#

Thornton, Marisa

From: Thornton, Marisa on behalf of Collections.SubW
Sent: Thursday, May 21, 2015 8:31 AM
To: Thornton, Marisa
Subject: Fw: EPA Response to High Levels of Radon from White Mesa Liquid Effluents
Attachments: UMtUtr_CalculationsBrief.150210.pdf

From: Stahle, Susan
Sent: Tuesday, May 5, 2015 5:18 PM
To: Collections.SubW
Subject: Fw: EPA Response to High Levels of Radon from White Mesa Liquid Effluents

Susan Stahle
Air and Radiation Law Office
Office of General Counsel
U.S. Environmental Protection Agency

(202) 564-1272 (ph)

(202) 564-5603 (fx)

From: sarah@uraniumwatch.org <sarah@uraniumwatch.org>
Sent: Tuesday, April 7, 2015 1:54 PM
To: Rosnick, Reid
Cc: Diaz, Angelique; Stahle, Susan; Peake, Tom; Flynn, Mike; Muellerleile, Caryn; Edwards, Jonathan; Zenick, Elliott; Blake, Wendy; Cherepy, Andrea; Benner, Tim; Ferris, Lena; Garlow, Charlie; Walker, Stuart; Hoffman, Stephen; Ginsberg, Marilyn; Brozowski, George; Hooper, Charles A.; McCabe, Janet; Garbow, Avi; Giles-AA, Cynthia; Michael Goo; Stanislaus, Mathy; Bob Dye; Phil Goble; rlundberg@utah.gov; Bryce Bird; Amanda Smith; Dan McNeil; Brown, Terry
Subject: EPA Response to High Levels of Radon from White Mesa Liquid Effluents

Dear Reid,

Sorry I missed the Subpart W quarterly call last week.

One question I had is why you and other Subpart W review staff have not contacted Energy Fuels Resources Inc. and again requested the information that the EPA requested in the May 2009. At that time the EPA informed Denison Mines that if they did not respond to the request for information, they would be subject to enforcement action. However, the EPA never followed through.

I understand that the EPA would not want information regarding the radium content of the liquid effluents at White Mesa as requested in 2009, but your failure to obtain that information is an egregious omission. Such egregious errors and omissions are adding up.

Also, I would like to know how the EPA is going to address the current health and safety concerns at the White Mesa Mill that are caused by the high levels of radon emissions from the liquid impoundments. The Ute Mt. Ute Tribe and Uranium Watch have brought these concerns to the EPA, yet the EPA has taken no action. The Ute Mt. Ute Tribe recently expressed those concerns in a February 10, 2015, Calculations Brief. *See* attached.

It appears that the EPA has no intention of taking any action, and would rather have the whole problem go away. One way to make the problem of radon emissions to go away is for you to claim that the gross radium alpha in the recent White Mesa Mill Annual Tailings Wastewater Reports represents other radionuclides besides radium. However, given the high gross alpha radium levels in 2014, there is no way that you can explain how those levels do not result in high levels of radon emissions: far beyond the 20 pico Curie per square meter per second standard and far beyond "zero."

The Division of Radiation Control staff informs me that the gross radium alpha in those reports accounts for radium and does not include uranium or radon. Putting the EPA formula for determining the radon emissions from White Mesa liquid effluents with the data for Cells 1, 4A, and 4B, you have an immediate health and safety concern that is not going to go away.

When I talk with staff at Region 8, I am referred to you. Therefore, I would like to know what, exactly, is the EPA response to the high levels of radon emissions from the White Mesa Mill liquid effluent impoundments.

The proposed Subpart W rule would, in fact, do nothing to correct the problem. The is because the EPA, contrary to the provisions of the CAA, has not proposed a radon emission limit for "new" or "existing" impoundments and continues to maintain that the emissions from liquid effluents are "zero," despite evidence to the contrary.

There must be a timely response to this new information regarding the radon emissions from 135 acres of White Mesa liquid effluents. The community in the vicinity of the White Mesa Mill cannot wait until the completion of the Subpart W rulemaking for these radon emissions to be addressed, if they would be addressed at all.

Sincerely,

Sarah Fields
Program Director
Uranium Watch
PO Box 344
Moab, Utah 84532

435-260-8384

February 10, 2015

Air and Radiation Docket
Environmental Protection Agency
1200 Pennsylvania Ave., NW
Washington D.C. 20460

SUPPLEMENT TO CALCULATION BRIEF (JULY 7, 2014)

INTRODUCTION

On July 7, 2014, the Ute Mountain Ute Tribe (Tribe) submitted a Calculation Brief to the Environmental Protection Agency (EPA) as part of a larger effort to prepare for a government-to-government consultation meeting regarding the EPA's 40 C.F.R. Part 61, Revisions to National Emission Standards for Radon Emissions from Operating Mill Tailings (Proposed Rule). In the Calculation Brief, the Tribe discussed its initial radon flux calculations for Tailings Cell 1 at the White Mesa Mill using the actual radium pond concentration reported to the Utah Division of Radiation Control in 2013. The Tribe initially determined that Tailings Cell 1 at the White Mesa Mill is a significant source of radon-222 emissions and expressed concern that the EPA was proposing to use a 1 meter liquid cover as the only control on radon-222 emissions from non-conventional impoundments based on a finding that keeping 1 meter of liquid on existing impoundments "has been sufficient to limit the amount of radon emitted from the ponds, in many cases, to almost zero." 79 Fed. Reg. at 25,398. At the July 10, 2014 consultation meeting between the Tribe and the EPA, the EPA was not prepared to substantively respond to issues raised in the Calculation Brief.

On October 29, 2014, the Tribe submitted written comments on the Proposed Rule. The Tribe's comments included a section regarding the EPA's proposed use of a 1-meter cover as the sole work practice standard to control radon emissions from non-conventional impoundments. In that Section, the Tribe used the site-specific analysis at the White Mesa Mill (from the Calculation Brief) to demonstrate that the placement of a 1-meter liquid cover (especially if that liquid is radium-laced process water from conventional milling activities) will not sufficiently control radon-222 emissions from non-conventional impoundments to near zero, and it may allow some non-conventional impoundments to exist with annual mean radon flux numbers that grossly exceed the 20 pCi/(m^2s) numerical flux standard.

The purpose of this Supplement to the July 7, 2014 Calculation Brief is to update the Tribe's July 2014 calculation work using the 2014 Annual Tailings Wastewater Monitoring Report (which reflects the most recent tailings cell chemistry data—collected in August of 2014).

SUMMARY OF THE 2014 ANNUAL TAILINGS WASTEWATER MONITORING REPORT

The 2014 Annual Tailings Wastewater Monitoring Report (2014 Report) shows a large increase in the Gross Radium Alpha content in Tailings Cells 1, 4A, and 4B, and a decrease in the Gross Radium Alpha content in Tailings Cell 3. *See* Table 1.

TABLE 1: Increase in Gross Radium Alpha, 2013-2014

Cell	2013 Gross Radium Alpha	2014 Gross Radium Alpha
Cell 1	32,700 pCi/L	331,000 pCi/L
Cell 3	81,900 pCi/L	19,700 pCi/L
Cell 4A	15,800 pCi/L	240,000 pCi/L
Cell 4B	14,600 pCi/L	148,000 pCi/L

Source: 2013 Annual Wastewater Monitoring Report; Groundwater Quality Discharge Permit UGW370004, White Mesa Uranium Mill, November 2013. Web Access 2013; 2014 Annual Wastewater Monitoring Report; Groundwater Quality Discharge Permit UGW370004, White Mesa Uranium Mill, November 24, 2014. Web Access 2014.

In the 2014 Report, the White Mesa Mill owner explained the observed increase in Gross Radium Alpha activity by correlating it to an increase in total dissolved solids (TDS) and asserting that the increase in both TDS and Gross Radium Alpha were caused by drought conditions and a decrease in the amount of fresh water added to the Mill process. However, past increases in measured concentration of TDS in the White Mesa Mill tailings impoundments have not resulted in the kind of increases in Gross Radium Alpha that were observed between 2013 and 2014, and the White Mesa Mill owner's explanation for the marked increase in Gross Radium Alpha remains speculative.

UPDATED CALCULATION OF ANNUAL MEAN RADON FLUX, WHITE MESA MILL

Using the Gross Radium Alpha content from the 2014 Report, the Tribe was able update its July 2014 initial calculation of the annual mean radon flux for Tailings Cell 1. Using the 2010 EPA Risk Assessment formulas for determining radon emissions and an annual wind speed of 2.7 m/sec collected at the White Mesa Air Monitoring Station, the Tribe also calculated the annual mean radon flux for Tailings Cells 3, 4A, and 4B.

TABLE 2 Initial Calculations of Annual Mean Radon Flux Using 2014 Data

Cell	2013 Calculated Annual Mean Radon Flux (Initial)	2014 Calculated Annual Mean Radon Flux (Initial)
Cell 1	125.8 pCi/(m^2s)	1,257.4 pCi/(m^2s)
Cell 3	311.1 pCi/(m^2s)*	74.8 pCi/(m^2s)*
Cell 4A	60.0 pCi/(m^2s)*	911.7 pCi/(m^2s)*
Cell 4B	55.5 pCi/(m^2s)	562.2 pCi/(m^2s)

* Calculated Radon Flux for liquid-covered regions of these impoundments

The Tribe believes that additional work assessing the radon flux of these Tailings Cells will likely yield even higher annual mean radon flux numbers for the reasons noted in Section 1.3 of the Calculation Brief.

UPDATED CALCULATED ANNUAL MEAN RADON FLUX AND NON-CONVENTIONAL IMPOUNDMENTS

In the Calculation Brief and in the October 29, 2014 comments, the Tribe urged the EPA to reconsider its finding that a 1-meter liquid cover will reduce radon emissions from liquid covered impoundment "in many cases to almost zero." The Tribe's revised calculations using the 2014 tailings cell chemistry data more clearly demonstrate why the EPA cannot move forward with the Proposed Rule without evaluating control technologies or emissions limits other than a 1-meter liquid cover to address significant emissions off liquid-covered impoundments at the White Mesa Mill.

UPDATED CALCULATED ANNUAL RADON FLUX AND CONVENTIONAL IMPOUNDMENTS

The Tribe's calculations for Tailings Cells 3 and 4A at the White Mesa Mill also raise additional concerns about the efficacy of Method 115 Monitoring for conventional impoundments and about the EPA's assumption that the acreage limitations in the phased disposal work practice standards are adequately controlling radon emissions for conventional impoundments.

Concerns Regarding Method 115 Monitoring for Conventional Impoundments

When facilities like the White Mesa Mill use Method 115 to monitor the radon flux from "existing impoundments", *see* 40 C.F.R. §§ 61.252(a), 61.253, those facilities are currently allowed to assume that the radon flux from liquid-covered regions of the existing, conventional impoundments is zero. Method 115, 2.1.3(a). Section 2.1.7 of Method 115 allows those facilities to calculate the mean radon flux of the conventional impoundment using the total area of the impoundment (including the area of the liquid-covered regions). Section 2.1.3(a)'s assumption of a zero radon flux and 2.1.7's calculation equation including the total impoundment area result in the dilution of the radon flux measured in other regions of the impoundment. When the emissions from the liquid-covered areas of the impoundment are above zero, Sections 2.1.3(a) and 2.1.7 of Method 115 also result in a dilution or a decrease in the mean radon flux for the entire impoundment.

The Tribe's calculation of the radon emissions from the liquid-covered region of Tailings Cell 3 demonstrates that the actual radon emissions from this Tailings Cell, taking into account the measured emissions from the other (dry or saturated) areas of this impoundment and the calculated emissions from any liquid-covered region of the impoundment, are much higher than the emissions reported by the White Mesa Mill owner to the Utah Division of Air Quality. Accordingly, the Tribe requests that, as a part of the EPA's evaluation of emissions from liquid-

covered regions of tailings impoundments, the EPA reconsider Method 115's assumption that liquid-covered regions of conventional impoundments are assumed to have zero emissions.[1]

Concerns Regarding Phased Disposal Work Practice Standard Efficacy

In the Proposed Rule, the EPA assumed that the phased disposal work practice standard acreage limitation was working to control radon emissions from newer conventional impoundments like Tailings Cell 4A at the White Mesa Mill. *See* October 29, 2014 Comments at 17. In the October 2014 Comments, the Tribe asserted that the EPA could not determine whether the 40-acre limitation on tailings impoundments was working to control radon-222 emissions because the current work practice standard does not require Method 115 or other monitoring on these impoundments. However, the Tribe was able to calculate the annual mean radon flux from the liquid in Cell 4A, and that calculation shows that the anticipated annual mean radon flux, at least from the liquid-covered areas of the impoundment, is 911.7 pCi/(m^2s). Accordingly, the Tribe requests that, as a part of the EPA's evaluation of emissions from liquid-covered tailings impoundments, the EPA reconsider whether the 40-acre limitation on tailings impoundments is sufficient—without additional monitoring or measurement of radon emissions—to control radon emissions to 20 pCi/(m^2s) and to control adverse impacts to the environment and human health near these tailings impoundments.

IMMEDIATE CONCERNS ABOUT PUBLIC HEALTH NEAR THE WHITE MESA MILL

When the Tribe performed its initial calculation of the annual radon flux from Tailings Cell 1 using the 2013 tailings cell chemistry data, the Tribe immediately expressed its concern to the EPA that the radon emissions from the White Mesa Mill were at unsafe levels for White Mesa community members and to human health in other areas of southeastern Utah. The drastic increase in the calculated emissions between 2013 and 2014 has elevated the Tribe's concerns about the health and safety of Ute Mountain Ute Tribal members living close to the White Mesa Mill, and the Tribe believes that the EPA should consider taking emergency actions to protect human health and the environment in southeastern Utah.

CONCLUSION

On January 13, 2015, the Tribe sent the EPA administrator a request for a second government-to-government consultation meeting regarding the Subpart W rulemaking activity. At that consultation meeting, the Tribe will expect the EPA to substantively respond to the Tribe's Calculation Brief and to this Supplement. The Tribe looks forward to communicating at a government-to-government level about the important issues raised in the Calculation Brief, the October 2014 Comments, and this Supplement.

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[1]The Tribe recognizes that the EPA has proposed removing the 40 C.F.R. § 252(a) "existing impoundment" standard and the 40 C.F.R. § 253 requirement to use Method 115 monitoring. The Tribe has provided public comments urging the EPA to reconsider removing the "existing impoundment" standard and to consider imposing Method 115 monitoring and an emissions standard for conventional tailings impoundments. The Tribe also notes here that the State of Utah is currently requiring the White Mesa Mill to use Method 115 monitoring on Tailings Cell 2, and that this deficiency in Method 115 monitoring may impact monitoring efforts during impoundment and facility closure.

Thornton, Marisa

From: Thornton, Marisa on behalf of Collections.SubW
Sent: Thursday, June 18, 2015 1:25 PM
To: Thornton, Marisa
Subject: Fw: Subpart W Workgroup

From: Rosnick, Reid
Sent: Tuesday, June 2, 2015 8:27 AM
To: Collections.SubW
Subject: FW: Subpart W Workgroup

From: Rosnick, Reid
Sent: Friday, May 01, 2015 7:28 AM
To: Jackson, Scott; Law, Donald
Cc: Peake, Tom; Schultheisz, Daniel; Rosencrantz, Ingrid; Dye, Robert
Subject: Subpart W Workgroup

Hi Scott/DJ,

Bob Dye kindly forwarded your email conversation regarding DJ working for the Region on Subpart W rule effectiveness. I'm writing to confirm that DJ will also be the Subpart W workgroup member for Region 8. Thanks

Reid

_____
Reid J. Rosnick
US Environmental Protection Agency
Radiation Protection Division

202.343.9563
rosnick.reid@epa.gov