



OFFICE OF THE
GENERAL COUNSEL

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

May 20, 2008

Elisabeth Shumaker, Clerk
United States Court of Appeals
for the 10th Circuit
Byron White U.S. Courthouse
1823 Stout Street
Denver, Colorado 80257

VIA FEDERAL EXPRESS

RE: *Eastern Navajo Dine' Against Uranium Mining, et al. v. U.S. Nuclear
Regulatory Commission*, No. 07-9505.

Dear Ms. Shumaker:

On May 12, 2008, a panel of this Court (Judges Lucero, Ebel, and Frizzell) heard oral argument in the above-captioned matter. I argued the case for the U.S. Nuclear Regulatory Commission and the United States of America.

At oral argument, the panel asked me a question to which I gave an answer that I have now determined was incorrect. I wish to acknowledge that error and provide the Court with the correct information.

The Court asked me if the NRC had measured the radiation dose to the public at the fence line at Section 17. I answered that I believed that the Final Environmental Impact Statement ("FEIS") contained that information. However, upon review, I have ascertained that neither the FEIS nor the Draft Environmental Impact Statement ("DEIS") specifically addresses the dose to the public at the fence line on Section 17. Both documents recognize the presence of mine waste on the surface of Section 17 (see Joint Appendix at 276 (FEIS); Joint Appendix at 226, 229 (DEIS)), but neither document quantifies a specific dose resulting from that waste to the public at the fence line. The DEIS tabulates a range of doses on or near the HRI leaseholds at Church Rock, see Joint Appendix at 226, but does not specify the location where those doses were registered.

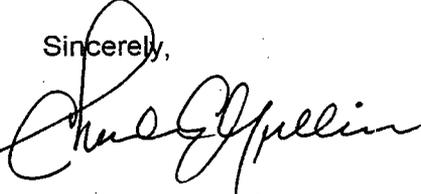
The Presiding Officer did address the dose to the public from all sources at the fence line on the eastern side of Section 17. See LBP-06-01, 63 NRC at 60-61, n.16. (Joint Appendix at 1312; Petitioners' Addendum at 75.). There is also evidence in record that, even assuming *arguendo* that the dose from the mine waste was included in the Total Effective Dose Equivalent ("TEDE"), the TEDE would still be below regulatory limits. See HRI Brief at 47, n.67; see Joint Appendix at 1068-71.

I apologize for my mistake in referring the Court to the FEIS.

I have enclosed an original and four copies of this letter. Please distribute copies to the panel of this Court considering this case.

In addition, please date-stamp the enclosed copy of this letter to indicate date of filing and kindly return it to me in the enclosed envelope, postage pre-paid, at your convenience.

Sincerely,

A handwritten signature in cursive script, appearing to read "Charles E. Mullins". A long horizontal line extends from the end of the signature to the left across the page.

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cc: Service List