

EDO Principal Correspondence Control

FROM: DUE: 08/09/12

EDO CONTROL: G20120504  
DOC DT: 06/27/12  
FINAL REPLY:

Senator Mark E. Udall  
(5 Constituent Letters)

TO:

Schmidt, OCA

FOR SIGNATURE OF :

\*\* GRN \*\*

CRC NO: 12-0328

Borchardt, EDO

DESC:

Proposed Pinon Ridge Uranium Mill  
(EDATS: SECY-2012-0359)

ROUTING:

Borchardt  
Weber  
Johnson  
Ash  
Mamish  
OGC/GC  
Satorius, FSME  
Collins, RIV  
Zobler, OGC  
Schmidt, OCA

DATE: 07/13/12

ASSIGNED TO:

CONTACT:

EDO

Rihm

SPECIAL INSTRUCTIONS OR REMARKS:

Ref. G20120505. Please prepare response in accordance with OEDO Notice 2009-0441-02 (ML093290179). FSME and Region IV to provide input to Roger Rihm, OEDO, if required. Roger Rihm will coordinate response with OGC and OCA.

Template: SECY-017

E-RIDS: SECY-01

**EDATS Number:** SECY-2012-0359

**Source:** SECY

## General Information

**Assigned To:** OEDO

**OEDO Due Date:** 8/9/2012 11:00 PM

**Other Assignees:**

**SECY Due Date:** 8/13/2012 11:00 PM

**Subject:** Proposed Pinon Ridge Uranium Mill

**Description:**

**CC Routing:** FSME; RegionIV; OGC; OCA

**ADAMS Accession Numbers - Incoming:** NONE

**Response/Package:** NONE

## Other Information

**Cross Reference Number:** G20120504, LTR-12-0328

**Staff Initiated:** NO

**Related Task:**

**Recurring Item:** NO

**File Routing:** EDATS

**Agency Lesson Learned:** NO

**OEDO Monthly Report Item:** NO

## Process Information

**Action Type:** Letter

**Priority:** Medium

**Signature Level:** EDO

**Sensitivity:** None

**Urgency:** NO

**Approval Level:** No Approval Required

**OEDO Concurrence:** NO

**OCM Concurrence:** NO

**OCA Concurrence:** NO

**Special Instructions:** Ref. G20120505. Please prepare response in accordance with OEDO Notice 2009-0441-02 (ML093290179). FSME and Region IV to provide input to Roger Rihm, OEDO, if required. Roger Rihm will coordinate response with OGC and OCA.

## Document Information

**Originator Name:** Senator Mark E. Udall

**Date of Incoming:** 6/27/2012

**Originating Organization:** Congress

**Document Received by SECY Date:** 7/13/2012

**Addressee:** Schmidt, OCA

**Date Response Requested by Originator:** NONE

**Incoming Task Received:** Letter

OFFICE OF THE SECRETARY  
CORRESPONDENCE CONTROL TICKET

*Date Printed: Jul 13, 2012 10:40*

PAPER NUMBER: LTR-12-0328

LOGGING DATE: 07/13/2012

ACTION OFFICE: EDO

AUTHOR: SEN Mark Udall

AFFILIATION: CONG

ADDRESSEE: Rebecca Schmidt

SUBJECT: Constituent Correspondence - provides 5 letters concerning the proposed Pinon Ridge uranium mill

ACTION: Signature of EDO

DISTRIBUTION: OCA to Ack.

LETTER DATE: 07/27/2012

ACKNOWLEDGED No

SPECIAL HANDLING: Constituent Correspondence.

NOTES:

FILE LOCATION: ADAMS

DATE DUE: 08/13/2012

DATE SIGNED:

EDO --G20120504

# United States Senate

WASHINGTON, DC 20510

June 27, 2012

Nuclear Regulatory Commission  
Director, Office of Congressional Affairs  
Nuclear Regulatory Commission  
Washington, DC 20555-0001

Dear Congressional Liaison,

Enclosed please find a letter from my constituent concerning the proposed Pinon Ridge uranium mill. I would appreciate it if you would respond to the constituent's concerns in an expeditious manner and in accordance with all applicable laws and regulations.

Please direct any correspondence concerning this inquiry to the constituent at:


James Fletcher  
631 Aldrea Vista Ct Palisade, CO 81526

Please also send a copy of your letter to my office at:

Sen. Mark Udall  
SH-328  
Washington, DC 20510  
Attention: Dan Fenn

Thank you for your assistance.

Sincerely,



Mark E. Udall  
U.S. Senator

**Senator Mark Udall  
Grand Junction Office  
400 Rood Avenue  
Suite 110  
Grand Junction, CO 81501**

**Washington Office:  
Hart Office Building Suite SH-328  
Washington, D.C. 20510**

**Dear Senator Udall**

**The latest attempts by opponents of the Pinon Ridge uranium mill to circumvent the process and overturn the license properly issued by the State of Colorado, has taken a new and troubling twist, this time involving a federal agency.**

**As I am sure you are aware, a coalition of fringe environmental interests, joined by the resort town of Telluride, have brought a lawsuit against the State of Colorado, in response to the Colorado Department of Public Health and Environment having issued a Radioactive Materials License to the owners of the proposed mill.**

**The lawsuit is a baseless one, attempting to assert that the CDPHE failed to provide adequate opportunity for public input as required by law. The facts, as I am sure you are also aware, are to the contrary.**

**8 public hearings, far in excess of the two required by law, were held in the region -- including the town of Nucla, nearby to where the mill is to be built, and Telluride, which is 65 miles away -- and hours of testimony were recorded. The responsible state agencies, principally the CDPHE, did their duties, and followed the proper procedures, and the public -- especially the locals most directly affected -- were given the opportunity to offer their testimony and opinion. The fact that the majority of that testimony did not mesh with the positions of the plaintiffs does not mean that the opportunity to provide it was not offered.**

**That being so, it would appear that they next went for a bigger weapon to use -- the federal government. The Nuclear Regulatory Commission wrote a letter to Jeffery Parsons, of Western Mining Action Project, who is representing the Sheep Mountain Alliance in court, essentially telling him that the NRC agreed with their claim, and implying that "corrective action" would be taken retrospectively against the license.**

**Not only, as pointed out above, is the letter wrong on the facts of the case, but it represents the worst sort of intrusion of the federal bureaucracy into state affairs. Licensing of nuclear related facilities in the State of Colorado is the sole**

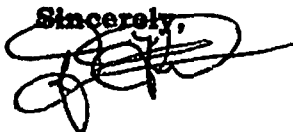
**Energy Act of 1954. The NRC relinquished its authority over such licensing under the Agreement, and has no business trying to reassert it now.**

**Additionally, no determination of any need for "corrective action" was ever made by the CDPHE, nor, publically, by the NRC.**

**The NRC letter is also highly questionable insomuch as it interferes in an ongoing legal proceeding. The Sheep Mountain Alliance et al claim is before the courts, and the communication between the plaintiff's attorneys and a third party federal agency is suspicious enough to warrant further investigation.**

**I trust that your office will take this matter as seriously as many of your constituents do, and will look into any wrongdoing on the part of the NRC**

**Sincerely,**



**James Fletcher**

**405 Troyer  
Palisade, CO 81526**

# United States Senate

WASHINGTON, DC 20510

June 27, 2012

Nuclear Regulatory Commission

Director, Office of Congressional Affairs

Nuclear Regulatory Commission

Washington, DC 20555-0001

Dear Congressional Liaison,

Enclosed please find a letter from my constituent concerning the proposed Pinon Ridge uranium mill. I would appreciate it if you would respond to the constituent's concerns in an expeditious manner and in accordance with all applicable laws and regulations.

Please direct any correspondence concerning this inquiry to the constituent at:

Gary Worthen

388 Ridgeway Dr

Grand Junction, CO 81507

Please also send a copy of your letter to my office at:

Sen. Mark Udall


SH-328

Washington, DC 20510

Attention: Dan Fenn

Thank you for your assistance.

Sincerely,



Mark E. Udall

U.S. Senator

Senator Mark Udall  
400 Rood Avenue  
Suite 110  
Grand Junction, CO 81501

Hart Office Building Suite SH-328  
Washington, D.C. 20510

Dear Senator Udall

I am writing in regards to the Pinon Ridge uranium mill project, and what I see as highly inappropriate conduct by the opponents of the mill.

As you are no doubt aware, the Colorado Department of Public Health and Environment is being sued by radical environmental groups including the Sheep Mountain Alliance and the resort town of Telluride, CO. The lawsuit revolves around what these groups see as a lack of public input into the State's licensing process.

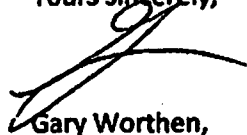
This perception could not be farther from the truth. The CDPHE held several open, public meetings concerning the proposed mill, and recorded hours upon hours of public testimony, both in favor of and opposed to the licensing of the mill.

The fact is that in the hearings held closest to where the uranium facility is to be built, places like Paradox, Nucia and Montrose, the support for the mill was overwhelming. The people in these places, the ones who will be most directly affected by the mill, are the most supportive; they realize the positive socio-economic benefit that the mills construction will bring to their region, one of the poorest in the state. Only in wealthy resort communities over 60 miles away from the project was there much in the way of opposition, mainly by people like the Sheep Mountain Alliance lobbyists who had an agenda to push, but would not be affected by the mill in any way.

Now, knowing that their legal argument is weak, the environmentalists have apparently talked the federal Nuclear Regulatory Commission into intervening on their behalf. The letter sent by the NRC to the SMA's lawyers was an intrusion on state rights, as it is Colorado's responsibility to license nuclear facilities such as the mill in question, and also a backhanded attempt to influence litigation.

I would ask, as your constituent, to please look into the conduct of these groups, and the NRC, to determine if in fact there was cooperation, and if so, to hold to account those who attempted to misuse their power in an effort to push their own agenda.

Yours sincerely,



Gary Worthen,

388 Ridge Way dr.  
Grand Junction Co.  
81507



# United States Senate

WASHINGTON, DC 20510

June 27, 2012

Nuclear Regulatory Commission  
Director, Office of Congressional Affairs  
Nuclear Regulatory Commission  
Washington, DC 20555-0001

Dear Congressional Liaison,

Enclosed please find a letter from my constituent concerning the proposed Pinon Ridge uranium mill. I would appreciate it if you would respond to the constituent's concerns in an expeditious manner and in accordance with all applicable laws and regulations.

Please direct any correspondence concerning this inquiry to the constituent at:

Arthur Gardner  
935 Bader Dr.  
Grand Junction, CO 81501

Please also send a copy of your letter to my office at:

Sen. Mark Udall  
SH-328  
Washington, DC 20510  
Attention: Dan Fenn

Thank you for your assistance.

Sincerely,



Mark E. Udall  
U.S. Senator

March 28, 2012

US Senator Mark Udall  
Hart Office Building Suite SH-328  
Washington, D.C. 20510

Dear Senator,

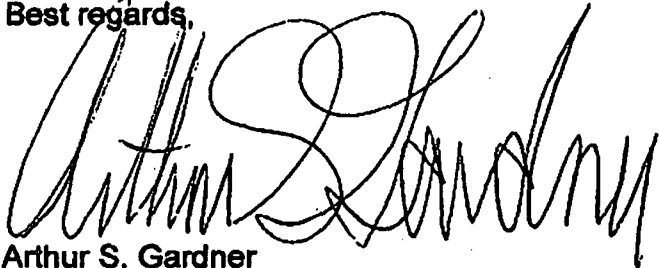
The Nuclear Regulatory Commission (NRC) is meddling in a state issue. Colorado Department of Public Health and Environment (CDPHE) has sole authority to license uranium processing facilities; nevertheless, the NRC wrote a March 6<sup>th</sup> letter, materially mischaracterizing CDPHE's discussion with NRC staff, to the attorneys representing Sheep Mountain Alliance, a coalition of environmentalist groups who are suing the state government for issuing a Radioactive Materials License to Energy Fuels, owners of the proposed Piñon Ridge Uranium Mill in western Montrose County.

NRC chose to get involved unilaterally without including the Department of Public Health and Environment (CDPHE), which is responsible for issuing said license and therefore is the appropriate and only agency, Colorado state or federal.

The NRC letter, responded to by CDPHE after Colorado's required submission date for briefs, appeared by its timing to exert influence in an active litigation by being sent 24 hours prior to Sheep Mountain Alliance's required submission date for briefs. This timing evidences an attempt to exert undue influence in an active Colorado state litigation.

I am asking you, representing Colorado as an elected federal government official, to look into NRC, a federal government agency, inappropriately attempting to exert undue influence over an active Colorado state litigation.

Best regards,

A handwritten signature in black ink, appearing to read "Arthur S. Gardner". The signature is fluid and cursive, with the first name "Arthur" being more legible than the last name "Gardner".

Arthur S. Gardner  
935 Bader Drive  
Grand Junction, Colorado 81501

# United States Senate

WASHINGTON, DC 20510

June 27, 2012

Nuclear Regulatory Commission  
Director, Office of Congressional Affairs  
Nuclear Regulatory Commission  
Washington, DC 20555-0001

Dear Congressional Liaison,

Enclosed please find a letter from my constituent concerning the proposed Pinon Ridge uranium mill. I would appreciate it if you would respond to the constituent's concerns in an expeditious manner and in accordance with all applicable laws and regulations.

Please direct any correspondence concerning this inquiry to the constituent at:

Dennis White  
711 Independence Valley Dr. Grand Junction, CO 81507

Please also send a copy of your letter to my office at:

Sen. Mark Udall  
SH-328  
Washington, DC 20510  
Attention: Dan Fenn

Thank you for your assistance.

Sincerely,



Mark E. Udall  
U.S. Senator

*March 28, 2012*

Senator Mark Udall  
400 Rood Avenue  
Suite 110  
Grand Junction, CO 81501

Hart Office Building Suite SH-328  
Washington, D.C. 20510

Dear Senator,

The actions taken by the Nuclear Regulatory Commission, or a staffer within, in relation to the licensing of a proposed uranium mill in the Paradox Valley area, are a matter of great concern. As you are no doubt aware, Colorado is an Agreement State, having entered into an agreement with the federal government to absorb all authority over the regulation of uranium mills from the NRC. The NRC specifically discontinued its regulatory authority and transferring it to the State of Colorado.

The letter written by Deborah Jackson Jeffery Parsons on March 6, 2012, violated this agreement, by A) intervening in the matter without authority, B) implying that a determination of "corrective action" had been made by the CDPHE or NRC, and C) by implying that such corrective action would be applied retrospectively to the previously issued license.

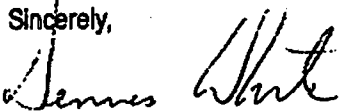
The NRC has no authority whatsoever to prescribe any such actions, and especially not retroactively. The NRC clearly exceeded its mandate by responding as it did. As well, any such communications should have been made on an agency-to-agency basis, and not involved direct communication between the NRC and a third party – especially when that third party is involved in legal actions against the CDPHE.

On that note, the timing of the letter made the interference even worse. Not only is there a legal battle over the issue ongoing, but plaintiff in the lawsuit, Sheep Mountain Alliance, the lawyer for whom was the recipient of the NRC's letter, did not need to file final briefs until well after receiving the letter. The CDPHE, on the other hand, had already been required to file their final briefs. Therefore, the NRC added the considerable clout of a federal government agency to their legal argument, even though that agency had no right or authority to intervene.

All of this is even disregarding the factual errors of the positions stated in Ms. Jackson's letter. In aping the Sheep Mountain Alliance's talking points, Ms. Jackson tries to substantiate their claim that the CDPHE violated statute by not allowing public input. In fact, there was more than adequate opportunity extended for such input, in the form of multiple public hearings, which actually exceeded the legal requirements.

The CDPHE acted properly throughout this process, a statement I cannot make in regards to the NRC. I would ask, as a constituent, that your office look into this matter,

Sincerely,



Dennis White

711 Independence Valley Drive

Grand Junction, Colorado 81507

# United States Senate

WASHINGTON, DC 20510

June 27, 2012

Nuclear Regulatory Commission  
Director, Office of Congressional Affairs  
Nuclear Regulatory Commission  
Washington, DC 20555-0001

Dear Congressional Liaison,

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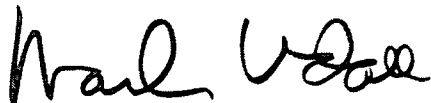
Mike Bambino  
557 Normandy Dr  
Grand Junction, CO 81501

Please also send a copy of your letter to my office at:

Sen. Mark Udall  
SH-328  
Washington, DC 20510  
Attention: Dan Fenn

Thank you for your assistance.

Sincerely,



Mark E. Udall  
U.S. Senator

Sen. Mark Udall  
Hart Office Building Suite SH-328  
Washington, D.C. 20510

Dear Senator,

I was disgusted when I heard about the letter written by the NRC to the lawyers for the radical environmental group suing our state government over the issuing of a Radioactive Materials License to the owners for Pinon Ridge uranium mill.

Let's forget for a minute that the mill will provide hundreds of good jobs for the people of that beleaguered little corner of Colorado, and that the local residents where the mill is to be built overwhelmingly expressed support for it at the many public hearings that the radical Sheep Mountain Alliance and their friends in the NRC claim didn't happen. For a federal agency to stick its nose into the state's business the way they did, when they did, is contemptible.

If the NRC had some concerns over the way Colorado handled their licensing of uranium mills, they should have communicated them directly with the state agency involved, the CDPHE – certainly not with a third party involved in legal action against that agency. To have done so after the CDPHE filed their final briefs in the case, but before the plaintiffs did, amounts to direct interference in an ongoing legal proceeding.

This action on the part of the NRC is improper to say the absolute least. As a constituent, resident of Colorado, and a citizen, I ask that this be investigated, and someone held accountable for what the NRC did.

Signed,

A handwritten signature in black ink, appearing to read "Mike Bambino", with a long horizontal flourish extending to the right.

Mike Bambino  
557 Normandy Dr  
Grand Junction, CO 81501