



Southwest Network for Environmental & Economic Justice

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* SW Network for
Environmental and
Economic justice is a
project of Community
Networking Resources,
Inc.

US EPA Region 9

Andrew Bain (SFD 6-2)
Project Manager
75 Hawthorne St.
San Francisco, CA 94105

September 9, 2009

Dear Mr. Bain:

I write in behalf of the New Mexico Environmental Justice Working Group (NMEJWG) convened by the Southwest Network for Environmental and Economic Justice (SNEEJ). This letter is a response to the Engineering Evaluation and Cost Analysis (EE/CA) that has been proposed by US EPA Region 9 for a cleanup plan to address exposure risks posed by the Northeast Church Rock Mine Site.

The plan has serious defects and shortcomings and there have been many problems with the Non-Time Critical Removal Action undertaken under the Comprehensive Environmental Response Compensation and Liability Act (CERCLA).

This letter will not address the technical aspects of the EE/CA as we support and affirm the technical and legal issues that have been and will be filed in the public record by the technical and legal experts of the community. We also support the wishes of the community which have been voiced quite eloquently in the meeting and two hearings hosted by US EPA Region 9. However we would like to reiterate some specific areas of concern.

We are astounded by the lack of justice in this process. The uranium legacy and its impact on indigenous communities smacks of environmental racism. The government's late and weak response affirms this belief. The basic environmental justice principle of early and meaningful participation has been totally lacking in this process. The communities were not involved in any of the planning and meetings that resulted in this process. They were offered alternatives drawn up by EPA and the industry with no regard for the impacted communities experiences, culture, needs and wishes. Public notice was lacking and testified to at the EPA community meeting and the two formal hearings. This EE/CA process could very well be used as a model for a poor environmental justice process.

The community, its technical assistants, lawyers and Navajo EPA are on record as supporting off site removal and not supportive of the preferred Region 9 alternative; which would merely move the waste, basically, across the street. This is not acceptable.

The Removal Action does not include all the residents in the area. These residents are affected by the cleanup because of their proximity to the mill site and the proposed cleanup areas. They and their children will have to go through the cleanup area on a daily basis on their way to school, work, play and prayer. They, too, have requested and should be given the choice of temporary

housing. The distinction of who was selected for temporary housing and those who were not appears arbitrary and not based on firm data. We would also reiterate the communities language preference of "temporary housing" rather than relocation, which carries with it historical grief and loss issues and is a painful reminder of the unjust history endured by Native Americans.

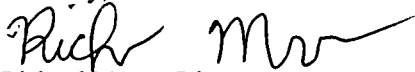
It is our belief that the ongoing clean-up will continue to pose a health threat to area residents when they return to their homes. Residents of this area, which both Navajo EPA and EPA have identified as a priority for cleanup of Abandoned Uranium Mines (AUMs), were not offered the possibility of compensation for their land and housing so that they might move to safer areas of their choice as a possible alternative. This again is an indication of environmental injustice – It is doubtful that this area can ever been cleaned up for safe habitation by humans or animals.

Several residents that spoke at the hearings addressed the stress and trauma that is experienced daily by families who live in a risky health-comprising environment. This trauma has been exacerbated as families are forced to move into inadequate and inappropriate housing situations with little or no recourse. Not to mention of course the stress on children and youth as they deal with disruptive new living and schooling situations. Yet the plan does not address these issues nor has there been any offer of emotional or spiritual support for these families. Farming off of the contract for temporary housing has had the effect of EPA washing its hands of this issue and leaving little recourse for the families.

In closing we believe this process has been flawed from the beginning, the extended comment period speaks to this. There has been a lack of inclusion from the impacted residents in the creation of this plan – a gross environmental injustice. The plan suffers from many technical deficiencies. Additionally there have been folks left out who feel that they should have been offered protection from the clean-up because of their proximity to the site. We support their request for protection. The plan has fallen short of protection and appropriate alternatives that the community could support. As a result the residents impacted by this removal have been victimized rather than protected. The residents and Navajo EPA have spoken strongly for off-site removal and the community should also be offered the choice of compensation for their property and homes if they so desire.

We thank you for your work and hope that you move to rectify your mistakes and offer justice to this long contaminated community.

Sincerely,



Richard Moore, Director
Southwest Network for Environmental and Economic Justice
For the New Mexico Environmental Justice Working Group

cc:

Ms. Laura Yoshii, Acting Regional Administrator
Mr. Clancy Tenley, Superfund Program Region 9
Mr. Charles Lee, Director of OEJ
Mr. Keith Takata, Acting Deputy Director, Super Fund Division