



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

June 2, 2008

OFFICE OF THE
GENERAL COUNSEL

Elisabeth Shumaker, Clerk
U.S. Court of Appeals For the Tenth Circuit
Byron White U.S. Courthouse
1823 Stout Street
Denver, Colorado 80257

VIA FEDERAL EXPRESS

RE: *Eastern Navajo Dine' Against Uranium Mining v. NRC*, No. 07-9505.

Dear Ms. Shumaker:

On May 20, 2008, I filed a letter acknowledging that I had made an error in responding to a question this Court asked during the May 12th oral argument in this case: whether the NRC "had addressed the dose to the public at the fence line of Section 17." My letter said that, contrary to what I suggested at oral argument, neither the draft nor final environmental impact statement specifically addressed the Court's question. My letter pointed out, however, that "[t]he Presiding Officer did address the dose to the public from all sources at the fence line on the eastern side of Section 17." And supplementing my response to a second question, my letter also noted "evidence in the record" that the Total Effective Dose Equivalent (TEDE) would be below regulatory limits even if pre-existing mine waste were included.

On May 22, 2008, Eric Jantz, Petitioners' counsel, responded to my letter. Mr. Jantz says that my reference to the Presiding Officer's decision is "incomplete and misleading" and that my reference to evidence on TEDE "neglects to cite contrary record evidence." The record references in my May 20th letter speak for themselves and require no elaboration. Mr. Jantz is also correct that, as a formal matter, the information in these references "played no part" in the NRC's ultimate licensing decision – because the NRC does not include pre-existing mine waste in its TEDE calculation (Fed. Resp. Br. 34-44). But the information is responsive to questions addressed to me by this Court at oral argument.

I have enclosed the original and four copies of this letter. Please distribute copies to the panel (Judges Lucero, Ebel, and Frizzell) assigned to this case. In addition, please date-stamp the extra 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.

Respectfully submitted,

A handwritten signature in cursive script that reads "Charles E. Mullins".

Charles E. Mullins
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cc: Service List