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Hopi Cultural Preservation Office

June 13, 2013

Elaine Kohrman, Forest Supervisor
United States Forest Service, Cibola National Forest
2113 Osuna Road NE
Albuquerque, New Mexico 87113-1001

Re: Proposed Roca Honda Uranium Mine: Draft Environmental Impact Statement

Dear Supervisor Kohrman,

This letter is in response to a correspondence from Cibola National Forest dated March 12, 2012, with an enclosed Draft Environmental Impact Statement (DEIS) regarding the proposed Roca Honda Uranium Mine on the Mt. Taylor Ranger District of the Cibola National Forest.

The Hopi Tribe claims cultural affiliation to the Paleoindian, Archaic, and Anasazi prehistoric cultural groups on the Mt. Taylor Ranger District, and Mount Taylor is a Traditional Cultural Property of the Hopi Tribe. The Hopi Cultural Preservation Office supports the identification and avoidance of prehistoric archaeological sites and we consider the prehistoric archaeological sites of our ancestors to be "footprints" and Traditional Cultural Properties. Therefore, we appreciate the Forest's continuing solicitation of our input and your efforts to address our concerns.

The Hopi Tribe previously expressed our opposition to this proposal in the enclosed letters dated September 9, 2009; September 1 and 30, and December 13, 2010; April 8, August 8, November 14, and December 19, 2011; May 7, May 22, and August 6, 2012; and January 7, 2013. In our enclosed November 14, 2011 letter to the Secretary of Agriculture regarding the Forest Service listening sessions on Indian Sacred Sites, the Hopi Cultural Preservation Office stated that the Hopi Tribe, Pueblos of Acoma, Laguna, Zuni, Navajo Nation, and other tribes are opposing the proposed Roca Honda uranium mine on the Mount Taylor Traditional Cultural Property. We therefore request that you re-evaluate this proposal in light of the recently released Sacred Sites Report.

We strongly oppose the project-specific forest plan amendment in this DEIS that would allow the applicant's project to deviate from the 1985 standards of management with regard to

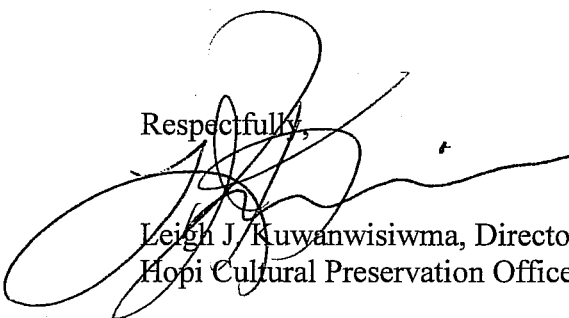
historic properties. We recommend the Forest update its 28 year old forest management plan to better protect its resources including sacred sites, rather than deviating from standards of management for the benefit of the applicant.

The action alternatives in this DEIS would continue the destructive and deadly legacy of uranium mining. This operation cannot be conducted to minimize adverse effects on National Forest System surface resources. Therefore, the only appropriate decision is the No Action Alternative, Alternative 1, in this DEIS. And therefore, as promised in every enclosed letter on this proposal, we strongly support the No Action alternative in the draft Environmental Impact Statement for this proposal.

The DEIS transmittal correspondence indicated that Travis G. Moseley was Acting Forest Supervisor and the DEIS states that former Forest Supervisor Nancy Rose is the Responsible Official. We understand that Nancy Rose has retired and she will not be the Responsible Official for this DEIS. We also understand that you will arrive as the Responsible Official on June 17th.

You have not participated in the consultations on this proposal, or development of this DEIS. Therefore, to make a responsible decision on this proposal, we request that you renew extensive consultations with the tribes. If you have any questions or need additional information, please contact me at 928-734-3611 or kuwanwisiwmat@hopi.nsn. Thank you for your consideration.

Respectfully,



Leigh J. Kuwanwisiwma, Director
Hopi Cultural Preservation Office

Enclosures: September 9, 2008; September 1 and 30 and December 13, 2010; April 8, August 8, November 14 and December 19 2011; May 7, May 22, and August 6, 2012; January 7, 2013

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Arlen Quetawki, Sr. and Kurt Dongoske, Pueblo of Zuni, PO Box 339, Zuni, NM 87327
Gregg P. Shutiva and Theresa Pasqual, Pueblo of Acoma, PO Box 309, Acoma NM 87034
Richard B. Luarkie and June Lorenzo, Pueblo of Laguna, PO Box 194, Laguna NM 87026
Tim Begay, Navajo Nation Historic Preservation Department, PO Box 4950, Window Rock, AZ 86515
Matt Reidy, Mt. Taylor Ranger District, 1800 Lobo Canyon Rd., Grants, NM 87113
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New Mexico Office of the State Engineer
Environmental Protection Agency, Region 6

Hopi Cultural Preservation Office
Comments on the Draft Environmental Impact Statement
for the Proposed Roca Honda Uranium Mine

The Hopi Cultural Preservation Office has reviewed the enclosed Draft Environmental Impact Statement (DEIS) which states:

The DEIS finds that, even after the implementation of recommended mitigation measures, adverse significant impacts are likely to remain in the areas of groundwater, cultural and historic resources, environmental justice, human health and safety, and legacy issues.

Action alternatives would both have significant adverse impacts on groundwater quality.

Both action alternatives would cause adverse impacts to Tribal cultural resources and practices related to the sacred character of Mt. Taylor.

The DEIS states that Cibola National Forest (the Forest) has requested our site National Register eligibility recommendations, but it has ignored them. The Forest has requested our comments on the draft Testing Plan, and then ignored them. The Forest provided us with the final Testing Plan in a correspondence dated November 16, 2011 informing us that "Archaeological site testing fieldwork was completed in October."

In our enclosed December 19, 2011 letter to the Regional Forester, and in every previous enclosed letter on this proposal, we reiterated that we have determined that this proposal will adversely affect the Mount Taylor Traditional Cultural Property, will adversely affect National Register eligible prehistoric sites within the Mount Taylor Traditional Cultural Property, and adversely affect the natural environment.

In our enclosed letter dated May 22, 2012 we reviewed a summary of the waterline cultural resources survey and stated we understood site LA 160244 may be adversely affected by project activities. In our enclosed January 7, 2013 letter, we reviewed the Cultural Resources Survey for a Waterline that identifies numerous prehistoric sites in the vicinity and site, LA 160244, described as a National Register eligible prehistoric artifact scatter that will be adversely affected by this project.

In our enclosed letter dated August 6, 2012, we reviewed Proposed Study: Ages of Alluvial and Eolian Deposits in the Roca Honda Mine Area and stated we understood Consulting Parties expressed concerns regarding the potential for buried cultural deposits within the proposed area of potential effect. We noted one of the conclusions is that Paleoindian and Early Archaic archaeological sites have the potential to be buried as deep as 26 feet below the present day surface.

In our enclosed letter dated January 7, 2013, we reviewed the Testing of Ten Archaeological Sites, which recommends eight of the sites to be National Register eligible. We have previously requested that the Forest consider all of these sites to be National Register eligible as contributing elements of the Mt. Taylor Traditional Cultural Property. The report states repeatedly that "re-evaluation of this location was not the goal of this work." Therefore,

we found the extents testing to be an unnecessary and unreliable adverse effect to these sites based on the Forests' attempts to "minimize effects." And therefore, we reiterated our request that the Forest consider all of these sites to be National Register eligible as contributing elements of the Mt. Taylor Traditional Cultural Property.

Regarding Groundwater Resources, the DEIS acknowledges:

Cumulative long-term effects from all possible actions are likely to be significant.

100 years after mining has ceased, drawdown in the Westwater would still be both broad...and shallow.."

These impacts are very large and long lasting, adverse and significant.

The depressurizing wells are proposed to produce 4,500 to 8,000 gallons of water per minute from the Gallup, Dakota, and Westwater Canyon geological formation artesian aquifers as waste, by comparison this is up to twice as much water than is consumed by the City of Santa Fe.

The DEIS depends largely on the proponent's Groundwater Model, which is substantially incomplete, and accepts numerous assumptions and expectations, examples of which include springs and streamflow effects, discharge area, impacts to mine backfill and re-saturation, plans to prevent and control spills, and monitoring plans. Nevertheless the DEIS states that Forest Service considers the proponent's 10 year model sufficient, in spite of the expected life of the mine to be 18 or more years, and in spite of the lack of a determination of its suitability by the New Mexico Office of the State Engineer. How can consulting parties, tribes and the public review and comment on assumptions and expectations in the DEIS that are based on substantially incomplete or nonexistent information?

The water treatment plant is designed to treat 8,000 gallons per minute dewatered from the Upper San Mateo Creek subwatershed for "effluent disposal" in the San Lucas subwatershed. Details on the discharge of treated wastewater are not provided. The Treated Water Discharge in an Alternative Location cites "legacy environmental effects" from previous eras of uranium mining and milling in the San Mateo Creek watershed as the reason the proponent changed their proposal for "effluent disposal" to the San Lucas subwatershed.

Regarding surface water, the DEIS "assumes" that permit conditions and mitigation measures would be "diligently implemented." The DEIS states without recognizing any contradiction, that cumulative effects on surface water from this proposal and foreseeable actions from other mining operations would be "potentially significant," but concludes that impacts of the proposed action would be "insignificant."

We also understand that a use attainability analysis of the surface water resources or streams in the watershed has been scheduled but not yet been conducted by the New Mexico Environment Department. San Mateo Creek flow condition data collected in the 1970s and 80s,

30 to 40 years ago, does not consider or address the current long term and ongoing drought nor expected global warming.

Since we believe water is life, this waste of life to continue a legacy of death is unacceptable. As we have stated previously, on this basis alone, this proposal should not be approved. And therefore, we support the Pueblo of Acoma's protest of the proponent's application to the New Mexico Office of the State Engineer for a temporary permit that seeks authorization for pumping that is equivalent to that considered in this DEIS.

Regarding Wildlife Resources, the DEIS acknowledges;

Under both action alternatives, mine may impact wildlife through mortality, habitat loss, alteration, degradation, and fragmentation, displacement, and exposure to chemical and radiation hazards associated with bioaccumulation in the air, soil, vegetation, and prey species.

if high priority migratory bird mortality resulted from mining, RHR would be in violation of the Migratory Bird Treaty Act, causing major impacts.

Regarding Environmental Justice and Protection of Children, and pursuant to Executive Order 12898, a goal of which is to ensure that "all people are treated fairly with respect to the development and enforcement of protective environmental laws, regulations, and policies," the DEIS acknowledges:

Adverse mental impacts of moderate magnitude would occur to tribal environmental justice communities due to mine development so close to spiritually significant Mt. Taylor.

The DEIS acknowledges legacy issues involving past mining of uranium, but does not acknowledge legacy issues involving the fair treatment of Native American people. When in the history of the United States have Native Americans been treated fairly? Approval of either of the action alternatives would continue the legacy of trauma cited in the Native American Sacred Sites report to the Secretary of Agriculture which states, "Disrespect of the value of Native American sacred sites continues to perpetrate the cycle of trauma."

The Forest Service minimizes these adverse effects by describing them as "moderate." Using the DEIS's definitions we consider the effects of the legacy and cycle of trauma to be "major," "severe," and "permanent."

Regarding Human Health and Safety, the DEIS acknowledges:

Overall cumulative impacts on human health and safety would be significant.

Adverse mental health impacts would occur to tribal environmental justice communities due to mine development so close to the spiritually significant Mt. Taylor.

Radon is estimated to cause about 21,000 lung cancer deaths per year.

Radon is proposed to be vented from the mine shafts. This is a part of the legacy of death that will be perpetuated if this proposal is approved.

The DEIS also states that some Native American cultural and human health concerns are “perceived” and may have “real” effects on the mental and physical health of “some” community members, but these perceptions are “not borne out by the analysis in this EIS.”

Mt. Taylor is a Native American place of worship. Characterizing and minimizing Native American religious and legacy health concerns as “perceived” or not real, and affecting “some” but not all community members is offensive but typical of how the United States and Forest Service minimize and dismiss Native American concerns to perpetuate and implement the General Mining Law of 1972.

In the Arizona Snowbowl case known as Navajo Nation v. USFS, regarding the Religious Freedom Restoration Act, the Forest Service testified that the impact of the proposed action on Native American communities would be “devastating,” but that “devastating” did not constitute a “substantial burden.”

Regarding Cultural and Historic Resources, the DEIS acknowledges:

Both action alternatives would cause adverse impacts to tribal cultural resources and practices related to the sacred character of Mt. Taylor for the Acoma, Laguna, Zuni, Hopi, and Navajo in particular.

Both action alternatives would adversely affect the Mt. Taylor TCP and cause irreparable harm to surrounding tribes and their traditional cultural practices.

Impacts of both action alternatives on cultural resources would be significant, and would result in an adverse effect to historic properties.

Cumulative effects of both action alternatives in combination with other past, present, and reasonably foreseeable future actions would be adverse and significant, exacerbating loss of integrity of the Mt. Taylor TCP.

In addition, regarding Visual Resources, the action alternatives would have an adverse impact on the Mt. Taylor viewshed. No Programmatic Agreement can mitigate these adverse effects. However, all the unavoidable adverse effects can be avoided by Alternative 1, No Action.

Regarding the Forest Plan Amendment, we support Standards Numbers 4 and 5 in the 1985 Cibola National Forest Resource Management Plan (the Plan) which states:

Historic properties will be managed during the conduct of undertakings to achieve a no effect finding

Preservation of cultural resources in place will be the preferred option.

Why does the Forest propose to amend the Plan solely to benefit this proponent and this proposal?

Deputy Regional Foresters Higgins and Davis, Planning Director Trujillo, and Tribal Relations Program Director Dan Meza met with representative of the Hopi Tribe and Hopi people on June 6, 2013, regarding the 2012 National Planning Rule and Sacred Sites Report. We understand the Forest will soon be updating its 28 year old forest management plan to better protect its resources including sacred sites.

What good is the new Planning Rule, of which Cibola National Forest is an early adopter, or either the old Plan or soon to be proposed new Plan, if the any Plan can be amended to disregard standards of management for the benefit of a proponent and their proposal? Rather than deviating from standards of management for the benefit of the applicant, we hereby request the Forest uphold its standards of management. We strongly oppose a project-specific forest plan amendment that would allow the applicant's project to deviate from the standards of management with regard to historic properties.

The DEIS states that "the Forest Service retains a unique trust relationship with American Indian tribes" who have concerns about the proposed mine. This unique trust relationship will continue to be empty words without substance so long as the General Mining Law of 1872 and uranium market conditions supersede the Forest Service's trust relationship with American Indians for the benefit of foreign mining companies.

Does the Forest Service consider the adverse effects cited in the DEIS to be consistent with appropriate resource management in the 21st Century? Does economic activity outweigh the destruction it causes as well as the subsequent economic, environmental, and social consequences of that activity, as currently demonstrated by the San Mateo Mine cleanup and the legacy of uranium mining in the Southwest?

The legacy of past uranium mining has left wounds on our land, our water, and our people. These wounds are not scars, for they have not healed. The Hopi Tribe has repeatedly stated that past contamination from uranium mining should be cleaned up before any additional uranium mining is approved. We have stated that we believe the Federal, State and local governments should focus on and address the existing threat to human life, and that Congress should replace the 1872 mining law with a Sacred Sites Act and mining law fit for life in the 21st Century and into the future.

Patuwaquatsi or "ocean" is used literally by some as "water is life." For over a thousand years, the springs and waters of the Hopi Mesas have provided life to *Hopisinom*. *Koyaanisqatsi*, told in Hopi history and prophesy, is life out of balance, or a state of life that calls for another way of living. This state of life characterizes the risks we face together in modern times. If Roca

Americans are to live together in America in the 21st Century, we must call together for another way of living. The laws of the past that are now being used against all American people must be consigned to the past, and replaced with laws that support life, and not destruction and death.

For our lives and the lives of future generations, water is more economically valuable than uranium, oil, or the fools gold for which Coronado named Cibola. We have previously stated that there is no way the Forest Service, the proponent and its contractors can minimize or mitigate the adverse effects of this proposal on the Mount Taylor Traditional Cultural Property and its water resources.

The action alternatives would continue the destructive and deadly legacy of uranium mining. This operation cannot be conducted to minimize adverse effects on National Forest System surface resources. Therefore, the only appropriate decision is the No Action Alternative, Alternative 1, in this DEIS. And therefore, as promised in every enclosed letter on this proposal, it is the position of the Hopi Tribe and in the best interest of the public that we strongly support the No Action alternative in the DEIS.

And therefore, in addition, we hereby request that New Mexico Mining and Minerals Division deny the New Mine Permit application, the New Mexico Environmental Department deny the discharge permit application, the New Mexico Engineers Office deny the dewatering permit, and the New Mexico State Land Office and the New Mexico Energy, Minerals and Natural Resources Department, through their environmental evaluations, deny the permit applications submitted to them, based on the adverse effects to the environment that are under their respective jurisdictions. We hope that the State of New Mexico recognizes the legacy of uranium mining in the State and has moved beyond 1872 and into the 21st Century.

Furthermore, we hereby request that the United States Environmental Protection Agency deny a National Pollutant Discharge Elimination System permit based on the adverse effects to the environment that are under its jurisdiction. The approval of a permit for this proposal would defy the very name of the Environmental Protection Agency.