



State of Utah

GARY R. HERBERT
Governor

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Lieutenant Governor

Department of
Environmental Quality

L. Scott Baird
Executive Director

DIVISION OF WASTE MANAGEMENT
AND RADIATION CONTROL
Ty L. Howard
Director

October 14, 2020

TO: UTE MOUNTAIN UTE TRIBE
GRAND CANYON TRUST
URANIUM WATCH
BIKE PACKING ROOTS
NAVAJO UTAH COMMISSION

IN THE MATTER OF:

Amendment Radioactive Materials License No. UT 1900479
Amendment of the Groundwater Quality Discharge Permit No. UGW370004
Energy Fuels Resources (USA), Inc., White Mesa Uranium Mill, San Juan County, Utah

NOTICE REGARDING SUBMISSION OF SUR-REPLY COMMENTS

In the above-referenced matter, the Division of Waste Management and Radiation Control received detailed comments from a variety of sources. These comments are available on the Division's website on the page referenced below. Some of these comments are especially detailed and several commenting parties have submitted supplemental information with their comments. This notice relates specifically to the comments submitted by the parties listed above. These comments include those submitted by the Ute Mountain Ute Tribe, the Grand Canyon Trust, Uranium Watch, Bike Packing Roots and Navajo Utah Commission (the "Comments").

While the public comment period for this matter is now closed, the procedural provisions governing the permit review process set forth in the Utah Code anticipate that UDEQ division directors may solicit supplemental information in response to public comments. See Utah Code Section 19-1-301.5(9)(b)(vii). The statute does not afford the right to any person to unilaterally supplement the record, only in response to a request made by a division director. If the director then designates such requested information as the basis for the decision on any given permit order, it will become part of the official administrative record. *Id.*

To assist the Division in its review of the Comments and to help create a more balanced administrative record, the Director has solicited the submission of reply comments from Energy Fuels Resources pursuant to a request dated August 21, 2020, addressing the following specific Comments:

(Over)

DRC-2020-016642

195 North 1950 West • Salt Lake City, UT
Mailing Address: P.O. Box 144880 • Salt Lake City, UT 84114-4880
Telephone (801) 536-0200 • Fax (801) 536-0222 • T.D.D. (801) 536-4284
www.deq.utah.gov
Printed on 100% recycled paper

Ute Mountain Ute Tribe

Comment #s: 4, 5, 6, 7, 9.h, 9.j., 11, 12, 13, 15, 16, 17, 18, 19, 20, 21, 23, 24 a. – c., 25, 27, 28 a.– e., 29, 30, 31, 32, & 33

Uranium Watch

Comment #s: 1.2, 1.5, Section 2, Section 3.4

Grand Canyon Trust

Comment #s: 2, IIA, III, VI,

Bike Packing Roots

Comments: All

Navajo Utah Commission

Comments: All

In compliance with this request, Energy Fuels Resources has submitted reply comments that are currently under review and consideration. These reply comments are available online at the following address: <https://deq.utah.gov/waste-management-and-radiation-control/public-notices-energy-fuels-resources-usa-inc>

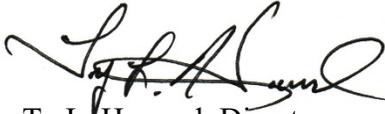
Given the complexity of the issues relating to this matter, at this time, the Director would like to provide an opportunity for the original commenting parties referenced above to submit sur-reply comments as to reply comments, on or before November 6, 2020. This request is optional and the submission of sur-reply comments is not required and failure to do so will have no impact on the Division's consideration of the Comments and will in no way implicate the legal principles of estoppel, waiver or similar doctrines.

If submitted, sur-reply comments must be strictly limited to the scope of the reply comments or they will not be considered by the Director and will not become part of the administrative record.

The Director's intent is to create a more complete and balanced administrative record for review and to serve the interests of due process. The Division does not intend to respond directly to either reply or sur-reply comments. Rather, it is the Director's intent to have this information in the record so that it may be considered prior to the time that the Director reaches a final decision in this matter. The Division also believes that reply and sur-reply comments will help others who may be asked to review the administrative record and the Division's permitting orders. Thus, this extended review process should serve the interests of transparency and efficiency on all levels.

If you have any questions, please call Bret Randall, Assistant Attorney General, at (801) 536-0284.

Sincerely,

A handwritten signature in black ink, appearing to read "Ty L. Howard". The signature is fluid and cursive, with a large initial "T" and "H".

Ty L. Howard, Director
Division of Waste Management and Radiation Control

TLH/RMJ/as

c: Bret Randall, Assistant Attorney General, Attorney General's Office