

# *Ute Mountain Ute Tribe*

## *Office of the Chairman*

*Mr. Manuel Heart*  
*P.O. Box JJ*  
*Towaoc, CO 81334*

October 13, 2021

Response to Uranium Reserve RFI  
c/o Mr. Kyle Fowler  
U.S. Department of Energy  
National Nuclear Security Administration  
Mailstop NA-10, 1000 Independence Avenue SW  
Washington, DC 20585-0121  
RFI-uranium@hq.doe.gov

Dear Mr. Fowler:

The Ute Mountain Ute Tribe respectfully submits the following information as requested by the federal register notice of August 11, 2021.

The Ute Mountain Ute Tribe is a federally recognized tribe residing on lands held in trust in Colorado, New Mexico and Utah. The Tribe has traditional territory throughout the Four Corners, especially in western Colorado and southeastern Utah. The land, air and water in this region is of critical importance to the health and well-being of our people. In southeast Utah, the White Mesa Ute Community is adjacent to the White Mesa Uranium Mill, the only privately owned conventional mill still in operation in the U.S. today. The Ute Mountain Ute Tribe opposes the establishment of any uranium reserve program that does not comprehensively address and mitigate the environmental impacts and environmental injustices of uranium mining and milling facilities on Indigenous communities and their environments, and in particular the environmental impacts and environmental injustices of the White Mesa Mill on the nearby White Mesa community of the Ute Mountain Ute Tribe and its environment.

The owners and operators of the mill, Energy Fuels Resources (USA) Inc. (EFRI) will benefit greatly from the proposed strategic reserve, as it is specifically described that their primary business, the receipt, processing and disposal of alternate feeds will be an acceptable source for the reserve. The Tribe has consistently opposed EFRI's alternate feed business. In fact EFRI would be a big winner in the proposed reserve as it also receives by-product wastes for disposal from the in-situ leachate uranium extraction industry. Alternate feeds and in-situ leachate waste disposal have been the most profitable components of the EFRI business at the mill in the last decade, perhaps longer.

The groundwater at the mill site is being polluted. The shallow *Burro Canyon* formation has seen increases in concentrations of nitrate, chloride, fluoride, chloroform, uranium, selenium, manganese, beryllium, cadmium, and a general decrease in pH in many monitoring wells. The State of Utah- the primary regulator of the facility, as an Agreement State to the Nuclear Regulatory Commission (NRC), has relaxed the groundwater discharge compliance limits in this groundwater permit several times for most of the pollutants listed above, including three times in the last five years. (Draft Permit

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*Chief Jack House, Last Traditional Chief 1896-1972*



modification, June 2017- adopted June 2018; GWDP Modification March 19, 2019; Draft Permit modification May 2020, adopted March 2021, See Attachment A) The shallow aquifer flows from springs once used by the Tribe. Tribal Members are afraid to use water and plants from the springs because of the mill now. The Tribe's drinking water comes from a deeper aquifer- the Navajo aquifer- that also supplies water to surrounding communities and the Colorado River. Potential contamination with mill wastes of the Navajo aquifer, while unlikely in the short term, cannot be risked on the timeframes described for reclamation- 1000 years or more. We simply do not know what will happen on that timescale.

The State of Utah has also failed to assure compliance with the Clean Air Act National Standards for Hazardous Air Pollutants, Subpart W (Utah Department of Air Quality document DAQC-424-2013, April 17, 2013; and Utah Division of Radiation Control Document DRC-2014-002563, March 27, 2014, See Attachment B) with mill tailings emissions exceeding the radon flux standards for three years from 2011-2013, and with EFRI routinely flaunting the liquid cover requirements for "unconventional impoundments" in that same rule (see Attachment C, photograph of July 2021). NRC has "passed" the regulatory "torch" in complete disregard of the National Environmental Policy Act (NEPA). NRC states that it addresses environmental justice concerns in NEPA, but it does not assess NEPA compliance when it delegates to an Agreement State. Utah does not have NEPA requirements and refuses to undertake them at the Tribe's request. We request that a NEPA Environmental Impact Statement be conducted for the proposed Strategic Energy Reserve that considers the impact to the human environment.

Like many of the uranium mills around this region, the White Mesa Mill will eventually be turned over to the Department of Energy Legacy Management Program. Then the American taxpayer will take care of it forever. The surety assessment that is supposed to protect said taxpayers is vastly inadequate. At less than \$20 million, it will not remediate pollution of land and water and fund the reclamation of all of the impoundments and the decommissioned millworks. Similar efforts at regional mills have often exceeded \$100 million. The adjusted closure costs (adjusted from the former mill owner Denison Mines' line item estimate) for accuracy by an experienced professional engineer are over \$36 million; benchmarked costs are estimated at over \$128 million, *without land or water remediation costs included* (RRD letter, M. Smith, PE, December 1, 2011, see Attachment D). The domestic DOE legacy site spending (as of 2011) was well in excess of \$4.6 billion, and the current EFRI surety is comparable to the average for sites in 1994, 27 years ago. From merely a cost-effectiveness perspective, propping up a marginal uranium business in the short term with tax dollars is not logical. That is not strategic planning, it is a waste of money.

The Ute Mountain Ute Tribe has lived in this area since time immemorial, and the people of the White Mesa Ute Community have lived at White Mesa for the duration. Their summer seasonal traditional lands in Cottonwood Wash watershed have been impacted by the uranium mining industry so nobody lives there anymore. Where will the White Mesa people need to go if this mill destroys their lifeways further? Who will pay for that? How will DOE justify the short term gain with such long-term damage? Physicists predict that a reclamation cover should be stable for 1000 years to be "safe," but it has never been done. The industry is less than 100 years old, and many of the radioactive materials in the tailings have a half-life that exceeds that 1000 year timeframe.

Thank you for considering our position on this matter of critical importance to our people.

Sincerely,

A handwritten signature in blue ink that reads "Manuel Heart". The signature is written in a cursive style with a large initial 'M'.

Manuel Heart

Tribal Chairman