

TESTIMONY OF
DAVID ULIBARRI
COUNTY MANAGER OF CIBOLA COUNTY,
NEW MEXICO AND STATE SENATOR
OF NEW MEXICO SENATE DISTRICT 30

BEFORE THE UNITED STATES SENATE COMMITTEE
ON ENERGY AND NATURAL RESOURCES

HEARING ON HARD ROCK MINING ISSUES RELATING TO
ABANDONED MINES AND URANIUM MINING

MARCH 12, 2008

Chairman Bingaman, Senator Domenici, and Members of the Committee

My name is David Ulibarri. I am the County Manager of Cibola County, New Mexico and I am also the State Senator representing District 30 of New Mexico. My district includes portions of Cibola, Socorro and Valencia Counties. I am pleased to testify today on behalf of the Cibola County Commission and the constituents I represent in my Senate district.

Uranium and the 1872 Mining Act

The Cibola County Commission passed Resolution 07-21, Support of the Federal Mining Law of 1872 on July 23, 2007.¹ Cibola County, as is true of much of New Mexico, is comprised of a great deal of federal land. The City of Grants sits in the shadow of Mt. Taylor, much of which consists of the Cibola National Forest.

The Cibola County resolution urges Congress not to amend the existing federal Mining Law in a manner to make mining on public lands less competitive. Substantial federal royalties, like the 8% gross royalty suggested in HR 2262, would have the affect of greatly diminishing our nation's uranium resource base. Millions of pounds of lower grade uranium, economic at today's market prices, would be rendered uneconomic and unmineable with the imposition of the proposed 8% gross royalty. If a federal royalty on hard rock minerals is necessary, it should be at a level mindful of existing royalties, taxes and costs that already encumber these operations. Given the lengthy lead time for exploration, development and permitting a uranium mine, miners on public lands must also have security of tenure not allowed in HR 2262. The Cibola County Commission firmly believes that tenure of ownership is vital for these operations. We believe that existing state and federal environmental laws and standards are sufficient to protect the public and environment. We would urge this Committee to come up with reasonable changes to the Mining Act that will allow the United States to remain competitive in the field of mineral

¹ See Resolution 07-21 attached as Exhibit 1.

production. We believe that the nation should not continue its reliance on unreliable foreign sources of energy and other strategic minerals, particularly when we have tremendous domestic resources, such as the 600 million pounds of known uranium resources in the Grants Mineral Belt.

Cibola County is the location of bountiful natural uranium resources. The Cibola County Commission and the Grants City Commission have passed resolutions supporting the reemerging uranium production industry. Neighboring McKinley County Commissioners have likewise passed a pro-uranium mining resolution². The gist of these resolutions is that so long as future uranium production can be carried out in such a manner as to protect the workers, the public and the environment, we welcome this industry's return to our community. Grants once termed itself the Uranium Capital of the World. We would be proud to reclaim this title.

The New Mexico Legislature enacted the New Mexico Mining Act in 1993.³ The purpose of this Act is to promote responsible utilization and reclamation of lands affected by the exploration, mining and extraction of minerals vital to the welfare of New Mexico. The Act's purpose section establishes the high standards to which the Cibola County Commission and I expect new uranium operations to adhere. The Act defined "existing mining operations" as those extraction operations that produced minerals beginning in the 1970's. This definition requires reclamation of the mining operations that were conducted after the conclusion of the Atomic Energy Commission's uranium procurement program for national defense purposes which ended in 1969.

² See Cibola County, McKinley County and City of Grants, New Mexico Resolutions attached as Exhibit 2.

³ See New Mexico Mining Act, NMSA 1978, §§ 69-36-1 to 69-36-20.

New conventional uranium mines in New Mexico are subject to the New Mexico Mining Act which was enacted in 1993. These operations will be subject to a stringent application process that requires at a minimum a one year baseline data characterization of the site. The application will also include a site closure plan and financial assurance deemed adequate by the state to assure that reclamation after mining will be completed.

A new mining operation is required to meet without perpetual care all applicable environmental requirements imposed by the New Mexico Mining Act and regulations.⁴ The State Mining Act and its regulations provide that mine sites be reclaimed to a self-sustaining ecosystem and provides for hearings to assure public participation. The New Mexico Mining Act also applies to operations on public lands.

The New Mexico Water Quality Control Commission has recently adopted groundwater table standards for uranium that are the same as the federal drinking water standard. Groundwater from underground mines will have to meet existing groundwater standards or background standards for new mines to operate.⁵ Given the strength of the New Mexico Mining Act and Water Quality Standards, the Cibola County Commission and I are comfortable that we can support new uranium operations with the knowledge that such operations will be carried out safely and with environmental impacts responsibly addressed. New Mexico policymakers have established sufficient environmental controls, and the new operators should be allowed to mine if they can demonstrate their ability to meet these requirements.

The same is true for federal lands. Sufficient environmental rules exist to assure that responsible utilization and reclamation of lands affected by the much needed production of minerals will take place. In addition to state regulation, any mine that will be located on federal

⁴ NMSA 1978, § 69-13-12.

⁵ NMAC 20.6.2.3103.

land, and therefore subject to the Mining Act of 1872 must submit a Plan of Operations to the federal land management agency responsible for the federal land. The agency is then responsible to ensure the approval of this plan is in compliance with the National Environment Policy Act before granting approval. As such, an extensive Environmental Impact Assessment must be prepared by the agency, a process that provides significant opportunity for public input. Despite representations that the industry is largely unregulated, nothing could be further from the truth. There are existing environmental regulations, both federal and state, that make certain that the industry will operate in an environmentally protective manner.

The economic impact of the renewed uranium industry in New Mexico will be substantial. In a review of the industry in 1982, University of New Mexico experts provided a vivid snapshot of the industry's impact on the Cibola and McKinley County economic base. In 1979 the following numbers were computed by this study:

Uranium Employment	7,750
Uranium Payroll	\$165,034,109
Direct Uranium Income and Gross Receipts Taxes	\$7,426,500
Indirect Employment	9,703
Indirect Payroll	\$206,622,891
Indirect Income and Gross Receipts Taxes	\$9,298,100
Total Employment	17,453
Total Payroll	\$371,657,000
Total Taxes (Income and Gross Receipts Taxes)	\$16,724,000 ⁶
Total Severance, Resource Excise and Conservation Taxes	\$16,356,567 ⁷

Current plans call for at least 10,000 tons per day milling capacity which would conservatively result in over 14 million pounds of annual uranium production in New Mexico.

This production will conservatively require between 2,000 – 3,000 direct employees.

⁶ Dr. Brian McDonald and Phillip Farah, Bureau of Business and Economic Research Institute for Applied Research Services, University of New Mexico, "New Mexico Uranium Industry: Current Assessment and Outlook," prepared for the Uranium Operators Committee of the New Mexico Mining Association, September 1982.

⁷ "1987 Update, Annual Resources Report," New Mexico Energy Minerals and Natural Resources Department. The severance, resource, excise and conservation taxes for 1979 were based upon sales of 15,306,368 pounds at an average price of \$24.21 per pound.

Interposing these numbers at today's dollars establish a significant economic benefit from this industry. We are already experiencing positive economic impacts from the uranium industry's reawakening. Drilling companies, new office space, truck dealers and retail establishments have profited from recent exploration and development activities in the area. The mining companies are receiving inquiries from former residents asking when the mines will start production. While many of the former miners are too old to go back to mining, they indicate they would like to move back with adult children that would like the opportunity to become well-paid miners. As suggested by the County and City resolutions attached, the capital investment and employment that will be created in Cibola and McKinley Counties will provide considerable economic growth which these counties desperately need.

In addition to the positive economic impact renewed uranium production will bring to the Grants Mineral Belt, we also believe the growth of nuclear power is essential to provide the clean, cheap electricity that makes our country grow. As this Committee is very aware, nuclear powered energy must become a primary generator of baseload electricity to relieve pressure on other energy sources and improve atmospheric conditions.

As a State Senator, I represent members of the Acoma and Laguna Pueblos, whose leadership have questioned the benefits of the renewal of uranium production. They point toward the so-called legacy issues from earlier uranium mining, much of which was carried out under the direction of the federal government for national defense purposes. While I respect their concerns, because of new federal and state standards and better appreciation for the impacts of uranium production, I would submit that new mining will not result in creating the impacts of the past. As noted, we have a strict Mining Act in place for conventional mining. The Nuclear Regulatory Commission has established much more stringent standards for *in situ* recovery and

conventional milling of uranium ore. Federal exposure standards have been greatly strengthened as understanding of radon effects has been increased. Uranium mill tailings disposal now have modern regulations that require zero discharge to prevent harm to the groundwater. Conventional mining and milling safety practices, equipment and protective clothing are all greatly enhanced as a result of over a half century of research and practice.

Comparing today's uranium mining and milling practices to those of the past is truly comparing apples to oranges. I would urge this Committee to help in educating the public to allay concerns that the uranium industry would create negative impacts to their health and safety. I would also urge the Acoma and Laguna leadership and their Navajo counterparts to become part of the discussion on how we can achieve the benefits of this industry in a safe and environmentally protective manner. We can all truly have a win-win situation in what is now a very economically disadvantaged region of New Mexico.

Abandoned Mines

I would also like to take the opportunity to address the issue of abandoned uranium mines in my written testimony. The legacy issue of abandoned mines is important in New Mexico. Some leaders feel that no new mines should be allowed until all of the abandoned sites have been reclaimed. As noted earlier, I don't agree with this position, because the new operators were not responsible for old sites. Further, new standards and regulations are in place to address closure and reclamation of new sites. However, the new operators in New Mexico have expressed a willingness to assist in addressing abandoned mines with a reasonable surtax on new production.

Last year I brought the new miners and the New Mexico Mining and Minerals Division ("MMD") together to begin a study of the true impacts of abandoned mines. The MMD identified approximately 400 uranium mine sites of which 259 were producing mines in New

Mexico. Of these, approximately 114 mines had undergone some kind of completed reclamation. Reclamation status at the remaining 145 mines is unknown and in need of further study. MMD chose 23 of the latter sites located on state and federal lands for further review by a contractor to characterize these sites. The MMD created the scope of work for the contractor and the New Mexico uranium industry is paying for the MMD's study. This study should be completed in the next few months and will begin to give a true indication of the scope and priorities of the abandoned uranium mine issue in our state.

Along with State Representative Lundstrom from the Gallup area, I also introduced legislation in the recent New Mexico legislative session to place a surtax on new uranium production to assist in paying for abandoned mine reclamation in the state. This measure passed the legislature but was vetoed by Governor Richardson. Because the nature and extent of abandoned uranium mines in New Mexico is not fully understood, the legislation may have been premature. However, I believe those opposing the measure did so because they felt this would somehow give a positive stamp of approval to the new uranium industry. I don't believe this is the case, given the rigorous New Mexico and federal permit application processes new operations must achieve. While contribution of monies to assist in abandoned mine reclamation would be welcomed, the new uranium producers must still characterize their sites and comply with all application requirements, including closure plans and bonding.

I would submit that the vast majority of abandoned mines and workings in the uranium field will be found to be those mined before the 1970's to meet the federal government's charge to produce weapons material. Thus, I believe the federal government should also assist in the reclamation of these sites. While the new uranium industry is willing to contribute, putting all the cost of reclamation on their shoulders is unfair and would make mining in New Mexico non-

competitive with neighboring states that don't have this issue. I believe this Committee is currently looking at coal mine reclamation funds that could be used for non-coal abandoned mine reclamation. State officials have advised me that the Department of Interior is holding about \$20 million of these funds that could be used to address New Mexico's legacy issue. I would urge this Committee to work to free these funds for non-coal abandoned mines in New Mexico.

As is generally the case, I believe that interested parties should work together to determine the scope of the abandoned mines issue and come up with reasonable funding measures to solve this problem.

Conclusion

Cibola County and the vast majority of my constituents believe that a renewed uranium production industry can bring tremendous employment and economic growth to our area. Even with the limited exploration and development activities already in place, we are seeing new employment and contribution to our tax base. We also believe that this industry can provide the fuel badly needed by the domestic nuclear power industry to grow and meet our nation's electric energy needs in an economic and clean energy manner required to combat global warming.

Congress should demand that uranium be produced in this country for energy security and independence. We cannot allow dependence on foreign uranium like dependence on foreign oil, particularly when we have substantial uranium resources and the ability to provide a significant percentage of domestic nuclear utilities' needs with uranium production in the United States. A forward thinking energy policy in the United States should recreate the extensive uranium production capacity our country once enjoyed. The use of public lands to assist in making America less dependent on foreign uranium should be encouraged, not hamstrung, by ill-conceived changes to the Mining Act.

The members of the Cibola County Commission and I echo the sentiment of the vast majority of our constituents. As long as new uranium production operations can be accomplished in a manner to protect the safety and welfare of the workers, public and environment, such operations should be encouraged. We believe standards, regulations and technologies are in place to allow responsible utilization and reclamation of lands in the Grants Uranium Belt. We hope that this committee will understand the benefits uranium mining can bring to our community and our country when modifying the 1872 Mining Act. Any modifications must be reasonable allow the domestic mining industry to maintain a competitive edge. It is important that responsible uranium operations begin producing this valuable mineral so essential to our nation's energy security and independence and to combat global warming.

Thank you, Mr. Chairman, for inviting me to testify.

Cibola County Commission

Elmer Chavez, Chairman
Bennie Cohen, 1st Vice-Chair
Jane Pitts, 2nd Vice-Chair
Antonio Gallegos, Member
Edward J. Michard, Member

Cibola County

515 West High Street
Grants, New Mexico 87020
Phone (505) 287-9431 - Fax (505) 285-5434



David Williams
County Manager

RESOLUTION 07-21

SUPPORT OF FEDERAL MINING
LAW OF 1872

Supporting the Mining Law of 1872, its contributions to employment and the economic development of the rural American West and its encouragement of the exploration and mining of uranium for U.S. energy and security needs.

WHEREAS, Cibola County, New Mexico, has been blessed with a bountiful endowment of uranium resources, a critical national resource that has helped in the past, and will in the future, to reduce U.S. dependence on foreign oil and alleviate the energy crisis; and

WHEREAS, Cibola County is proud to be the home of the Uranium Capital of the World; and

WHEREAS, certain of these uranium resources located in Cibola County will provide a secure domestic source of energy for the U.S. in the future and are on public lands subject to the Mining Law of 1872; and

WHEREAS, attempts by Congress to amend this law will add yet another unnecessary level of uncertainty to the domestic uranium industry's efforts to re-establish a strong domestic energy production base that is critical to our national energy supply and security; and

WHEREAS, Cibola County's uranium resources will provide a cost effective and efficient alternative source of energy without atmospheric emissions or greenhouse gases from carbon-based forms of power generation; and

WHEREAS, the mining and milling of uranium in Cibola and neighboring Counties will be conducted according to modern standards and regulations that are protective of the health of uranium workers, the public and the environment;

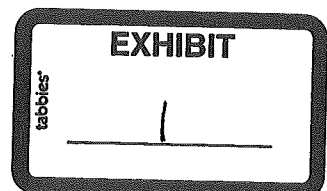
WHEREAS, the renaissance of the uranium mining and milling industry in Cibola County is already beginning to re-establish a significant tax base, providing local employees and contractors with high-wage jobs and important benefits leading to an enhanced quality of life for the region's residents, and will provide much needed economic stimulus to the County as it continues to grow; and

WHEREAS, nuclear energy is one of the most economical energy sources and provides 20% of U.S. electricity needs; and

WHEREAS, it is essential, in this time of global uncertainty and an increasing reliance on unreliable foreign sources of energy and other strategic minerals and goods, that the U.S. do all it can to enhance domestic energy production and not inhibit this production; and

WHEREAS, the Mining Law of 1872, as amended, has served the U.S. well and has been substantially enhanced over many years through many other Acts of Congress to ensure that a wide range of environmental protection measures are carried out by the mining industry and that a fair economic return be made to federal, state and local governments in the form of tax revenues; and

WHEREAS, H.R. 2262, if enacted in its present form, would create drastic barriers to the investment in the exploration and development of uranium in Cibola County; and



WHEREAS, it is the desire of the Cibola County Board of Commissioners to go on record in support of the domestic uranium mining and milling industry and the Mining Law of 1872 and its current enforcement on U.S. public lands; and

NOW, THEREFORE, BE IT RESOLVED, that the Cibola County Board of Commissioners urges Congress to support America's domestic uranium industry and its important role in providing critical energy resources from our nation's public lands, to enforce the Mining Law of 1872 in its current form and that any modifications be carefully considered so they do not hinder the future production of uranium on public lands.

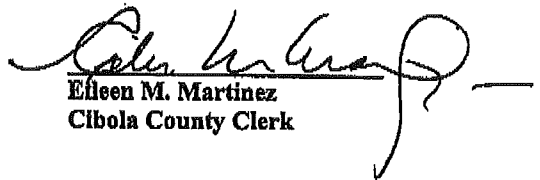
PASSED, ADOPTED AND APPROVED, at a duly called meeting of the Cibola County Board of Commissioners in Grants, New Mexico, this 23 day of July, 2007.

CIBOLA COUNTY BOARD OF COMMISSIONERS



Elmer Chavez, Chairman

ATTEST:



**Eileen M. Martinez
Cibola County Clerk**

Cibola County Commission

Cibola County

Bennie Cohoe, Chairman
Elmer Chavez, 1st Vice Chair
Jane Pitts, 2nd Vice Chair
Frank Emerson, Commissioner
Fred J. Scott, Commissioner

515 West High Street
Grants, New Mexico 87020
Phone (505) 287-8431
Fax (505) 285-4434



David Ullbarri
County Manager

RESOLUTION 06-35

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF CIBOLA COUNTY, STATE OF NEW MEXICO SUPPORTING THE EXPLORATION AND MINING OF COAL AND URANIUM WITHIN THE CONFINES OF CIBOLA COUNTY.

WHEREAS, Cibola County is blessed with natural resources such as uranium and coal which are alternative sources of energy that help reduce the existing oil crisis, and;

WHEREAS, it is the desire of the Cibola County Board of Commissioners to encourage and support the strategic use of Cibola County's natural resources for natural security purposes, and;

WHEREAS, Cibola County is economically depressed and it is the desire of the Board of County Commissioners to encourage economic development within the County, and;

WHEREAS, it is the desire of the Cibola County Board of County Commissioners to protect the economic base of Cibola County and insure a continued supply of electricity to New Mexico and the Southwest, and;

WHEREAS, the economic base of Cibola County will be enhanced through the development of coal and uranium resources and the continued operation and expansion of electrical generating facilities that exist within the County, and;

WHEREAS, the energy needs of our country are dependent upon a continued supply of high grade uranium and coal, and;

WHEREAS, the New Mexico sources of coal have been identified as a valuable source of high grade coal that is needed to replace other rapidly depleting sources of energy necessary for the continued operation and expansion of electrical generating facilities and the growing energy needs of the nation, and;

WHEREAS, the development of uranium and coal mining within the County will provide a significant tax base and additional jobs for Cibola County providing for an increased quality of life.

NOW, THEREFORE, BE IT RESOLVED, that the Cibola County Board of County Commissioners supports and encourages the granting of state and federal permits needed to facilitate the operation of coal and uranium mines within the County of Cibola.

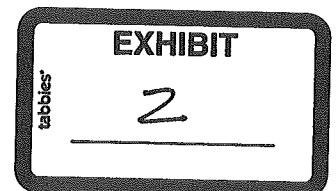
PASSED, APPROVED AND ADOPTED this 11th day of September, 2006.

THE CIBOLA COUNTY BOARD OF COMMISSIONERS:

Attest:

Eileen M. Martinez, Cibola County Clerk

Bennie Cohoe, Chairman



CITY OF GRANTS

RESOLUTION No. 06-1256

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GRANTS, NEW MEXICO, SUPPORTING THE EXPLORATION FOR AND THE MINING AND MILLING OF URANIUM THROUGHOUT THE GENERAL AREA OF GRANTS AND CIBOLA COUNTY.

WHEREAS, the Grants City Council is the duly elected and governing body of the City of Grants, New Mexico; and

WHEREAS, the economic growth of the community is of the highest priority for its elected officials; and

WHEREAS, the general area surrounding the City of Grants has been proven to be a valuable source of uranium; and

WHEREAS, uranium has and will serve as a highly viable energy producing alternative for the citizens of the United States and, indeed, the world; and

WHEREAS, the future exploration for and the mining and milling of uranium will serve to provide this necessary energy producing alternative and aid the nation in the reduction of its dependency on foreign fuels; and

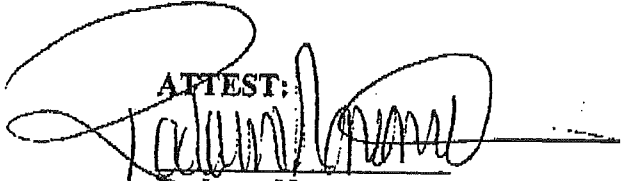
WHEREAS, the anticipated development of the uranium industry within our area will result in the creation of job opportunities for its citizens and provide for a substantial increase in the tax base for local government entities and the State of New Mexico; and

WHEREAS, the aforementioned benefits will greatly enhance the quality of life of its residents.

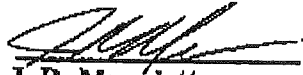
NOW, THEREFORE, BE IT HEREBY RESOLVED that the Grants City Council wholeheartedly supports the development of the uranium industry throughout this area and petitions the State of New Mexico for its cooperation and assistance in providing the necessary guidance and support for the successful acquisition of required state and federal permits by uranium energy producing companies.

PASSED, APPROVED AND ADOPTED this 21st day of November, 2006.

ATTEST:


Radawn Narramore,
City Clerk

CITY OF GRANTS


J. R. Murrietta,
Mayor

STATE OF NEW MEXICO
McKINLEY COUNTY
RESOLUTION NO. DEC-06-088

**Supporting the exploration and mining of coal and uranium within the confines of
McKinley County**

WHEREAS, McKinley County has been endowed with natural resources such as coal and uranium which are alternative sources of energy that can help reduce the dependence on foreign oil and alleviate the energy crisis; and,

WHEREAS, it is the desire of the McKinley County Board of Commissions to protect the economic base of McKinley County's natural resources in a responsible fashion; and,

WHEREAS, the economic base of McKinley County will be enhanced through the development to offset the loss of the Pittsburgh & Midway Mine in 2008 and the create new jobs for the people of this County; and,

WHEREAS, the economic base of McKinley County will be enhanced through the development of coal and uranium resources to allow the County to continue to provide efficient and critical services and programs for its citizens; and,

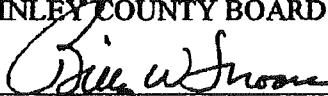
WHEREAS, the energy needs of our Country are dependent upon a continued supply of coal and uranium; and,

WHEREAS, it is the desire of the McKinley County Board of County Commissioners to support businesses that employ local citizens and utilize proven technologies that provide community safeguards and balance environmental stewardship with energy production.

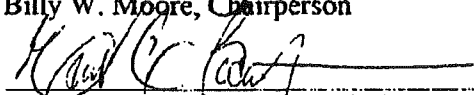
NOW THEREFORE, BE IT RESOLVED that the McKinley County Board of County Commissioners supports and encourages the granting of state and federal permits needed to facilitate the operation of coal and uranium mines within the County of McKinley.

PASSED, ADOPTED AND APPROVED this 20th day of December, 2006.

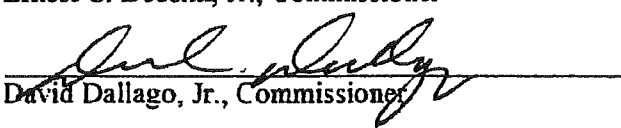
McKINLEY COUNTY BOARD OF COMMISSIONERS



Billy W. Moore, Chairperson

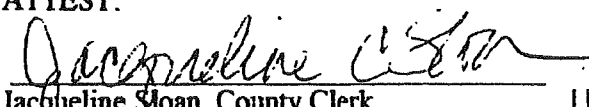


Ernest C. Becenti, Jr., Commissioner




David Dallago, Jr., Commissioner

ATTEST:



Jacqueline Sloan, County Clerk


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McKinley County Jacqueline Sloan - County Clerk