

UNITED NUCLEAR CORPORATION



6501 America's Parkway N.E.
Suite 1040

Albuquerque, New Mexico 87110
Telephone 505/883-6901
FAX 883-0146

Handwritten notes: 6501 America's Parkway N.E. M 11

October 19, 1994

Mr. John Lingo
Acting Director
Mining and Minerals Division
New Mexico Energy, Minerals and Natural Resources Department
2040 South Pacheco Street
Santa Fe, New Mexico 87505

RE: Reply to August 25, & Various August 31, 1994 Letters

Dear Mr. Lingo:

This letter is in reply to your August 25, 1994 letter regarding United Nuclear Corporation's (United Nuclear) position concerning the extent of it's obligations, if any, under the New Mexico Mining Act with respect to several mines. This also responds to the several letters dated August 31, 1994 regarding your notification that certain mining operations may require a site assessment.

We appreciated the opportunity to meet with your staff, Messrs. Shepherd, Jager, and Martinez, on September 16, 1994 to discuss these issues and clarify the circumstances, locations, and history of several of the mines. The following summarizes United Nuclear's position with respect to the mining Act.

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United Nuclear believes that it has no obligation to comply with the permitting and other regulatory requirements of the New Mexico Act for these mines. The New Mexico Mining Act was never intended to cover the reclamation of abandoned mines, except to the extent that Section 19 of the Act creates the "inactive or abandoned non-coal mine reclamation fund" which was established "to conduct reclamation activities on abandoned or inactive non-coal mining areas." § 69-36-19 NMSA. Although it is apparent that an "existing mining operation" is defined in a manner that could include an inactive mining operation, there is no provision in the Act which establishes that a person who has no current ownership interest and is not currently an operator of an inactive mine is required by law to undertake the obligations of the Act. The Act refers to "the owner or operator" in the present tense, and makes no reference to any liability for former owners or operators. Absent any clear statutory provision stating that the Mining Act applies retroactively to cover an owner or operator of an abandoned mine, New Mexico case law is clear that the law will not be construed to apply retroactively. *Psomas v Psomas*, 661 P.2d 884, 887 (N.M. 1987). Federal laws containing similar language imposing regulatory liability

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Old Church Rock Mine

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Northeast Church Rock, Section 27, and St. Anthony Mines

United Nuclear leased the mineral estate for the Northeast Church Rock Mine (Section 35, T17N, R16W and Section 3, T16W, R16W) from what is now Santa Fe Pacific Gold Corporation, the current owner of the mineral estate. The surface of Sections 35 and 3 is owned by the United States in trust for the Navajo Tribe. United Nuclear owns a portion of the surface of Section 34, T17N, R16W, by virtue of patented claims. Section 34 contains a small portion of the total NECR mine workings. All of the surface disturbance on Section 34 has been reclaimed.

United Nuclear's lease, expired as of December 31, 1993. As discussed at the September 16 meeting, United Nuclear and Santa Fe Pacific Gold Corporation have not yet resolved all issues regarding United Nuclear's remaining obligations, if any, under the lease.

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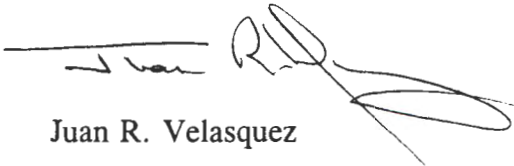
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United Nuclear leased the mineral estate for the St. Anthony Mine (portions of Sections 19, 20, 29 and 30, T11N, R4W and Sections 23, 24, 25 and 26, T11N, R5W) from the Cebolletta Land Grant, which was and is the owner of both the surface and mineral estates. United Nuclear released this lease in November 1988, and United Nuclear has had no interest in this mine since then.

Once again, thank you for the opportunity to meet with your staff and to clarify United Nuclear's position on these matters. If you have any additional questions or comments regarding this letter or United Nuclear's position, please feel free to contact us.

Sincerely,

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Juan R. Velasquez

State of New Mexico
ENERGY MINERALS and NATURAL RESOURCES DEPARTMENT
Santa Fe, New Mexico 87505



BRUCE KING
GOVERNOR



ANITA LOCKWOOD
CABINET SECRETARY

November 15, 1994

Mr. Juan Valasquez
United Nuclear Corporation
6501 America's Parkway N.E., Suite 1040
Albuquerque, NM 87110

Re: Status of United Nuclear Sites Discussed in October 19, 1994
letter

Dear Mr. Velasquez:

Thank you for your letter of October 19, 1994. I will try to address the issues raised in the same order as in your letter.

Inactive, Abandoned Sites

We do not believe your analysis is correct in stating that mines that were inactive prior to the enactment of the law, but within the time frame to be classified as an existing mine, are excluded from the Mining Act. If that analysis were correct then there would have been no need to include the section on prior reclamation.

Mac #1 and Section 31 Mines

As you indicated in your letter and a letter sent to us from Homestake Mining Company, dated October 24, 1994, the Mac 1 site is exempt from the Act. Apparently, it does not meet the definition of an "existing mining operation", because it did not produce a marketable product, for a period of two years within the given time frame. As you indicated in your letter, the Section 31 mine is covered by Santa Fe Pacific Gold with a request for prior reclamation. MMD will be evaluating this request to ensure that it covers the entire mining disturbance.

Anne Lee, John Bill and Sandstone Mines

Because United Nuclear, Inc. has addressed the Anne Lee, John Bill and the Sandstone mines under prior reclamation requests, these sites will be evaluated for prior reclamation. Since you have submitted a prior reclamation request, we will evaluate it on that basis and not, at this time, address your question concerning an exemption from the Act, based on the fact that a federal agency (DOE) is currently involved in reclamation of the site.

VILLAGRA BUILDING - 408 Galisteo

Forestry and Resources Conservation Division
P.O. Box 1948 87504-1948
827-5830

Park and Recreation Division
P.O. Box 1147 87504-1147
827-7465

2040 South Pacheco

Office of the Secretary
827-5950

Administrative Services
827-5925

Energy Conservation & Management
827-5900

Mining and Minerals
827-5970

LAND OFFICE BUILDING - 310 Old Santa Fe Trail

Oil Conservation Division
P.O. Box 2088 87504-2088
827-5800

Old Church Rock Mine

HRI submitted a prior reclamation request for this site. MMD will be evaluating their request to ensure that it covers the entire mining disturbance.

Northeast Church Rock, Section 27, and St. Anthony

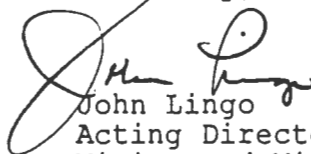
Before making any determination on the Northeast Church Rock site, we would like to know if Section 35 and Section 3, of the site, have been reclaimed along with Section 34. You mentioned that the surface is owned by the United States in trust for the Navajo Nation and that the mineral estate is owned by Santa Fe Pacific Gold Corporation. Since, the mineral estate is not controlled by the Navajos, it may be necessary for UNC to address this site via permitting and reclamation.

As I mentioned above we do not believe your analysis is correct in designating mine sites abandoned, that became inactive and are no longer intended to be used, during the time frame designated by the definition of an "existing mining operation." Therefore, the Section 27 Mine and the Anthony Mine must now be permitted. Prior reclamation would not be an option, at this time.

Because it is our interpretation that the Northeast Church Rock Mine, Section 27, and the Anthony Mines, fall under the requirements specified in the New Mexico Mining Act, you will be required to permit all three. The permit deadline is December 31, 1994.

Please contact me directly or Holland Shepherd of my staff, if you have further questions.

Sincerely,



John Lingo
Acting Director
Mining and Minerals Division

September 28, 1994

To: Mining Act Reclamation Bureau File on United Nuclear Corporation

From: Holland Shepherd, Bureau Chief, Mining Act Reclamation Bureau *HSS*

Re: **Meeting with UNC Concerning Status of Mining Properties in New Mexico**

Date of Meeting: Sept. 16, 1994
Time of Meeting: 10:00 - 12:30
Participants: Juan Valesquez and Dalva Moellenberg of United Nuclear Corporation; Holland Shepherd, Alan Jager and Fernando Martinez, MMD

This memo addresses a meeting the Bureau had with representatives of the United Nuclear Corporation. The meeting was held to discuss the status of several sites currently operated or once operated by UNC.

Sites Resolved During Meeting

1. The Mac #1 Mine was a Homestake/UNC venture which lasted about two years. Homestake bought all interest in the property in the late 70's. This site apparently does not meet the definition of mining so will not be permitted. Homestake is to send the letter indicating exclusion.
2. The Section 31 T13N, R9W Mine, according to UNC is not subject to the Act. However, Santa Fe Pacific has claimed under prior reclamation. This will exclude UNC from further obligations for the site, if the site is released under prior reclamation.
3. The Old Church Rock Mine is in Section 17. This site includes the Church Rock 1 and 1E all now under the responsibility of Kerr McGee. The site is on Indian Lands, not Indian Trust Lands. Kerr McGee has claimed these sites under prior reclamation, the Church Rock 1, 1E and 2.

The NE Church Rock Mine is the same as the Section 35 Mine, and is the responsibility of UNC.

Another Old Church Rock was once owned by UNC, but now belongs to HRI, Sec. 17, T16N, R16W, which is claiming it as a prior reclamation site.

4. The John Bill and the Sandstone Mine sites have been reclaimed and the operator is claiming these for prior reclamation
5. The Ann Lee Mine is currently being reclaimed by the DOE, under the authority of Title 1 and UMTCRA. There may be a problem here because the Act exempts sites under the control of NRC. The state may have to permit a DOE site.

Sites Remaining Unresolved

Three sites remain unresolved: 1. the Section 27 Mine; the St. Anthony Mine; and the NE Church Rock Mine.

1. The Section 27 Mine was operated until 1982, then abandoned in 1988. UNC has indicated that the property is now the responsibility of the Marquez family.
2. The St. Anthony Mine was abandoned back to the land owner in 1988.
3. The NE Church Rock Mine or Section 35 Mine, was abandoned 1993. UNC is saying that Santa Fe Pacific Gold is now responsible for the site.

The overall argument that UNC is using, to disclaim responsibility, is that all three of these sites were abandoned before the Act went into effect. They argue that the Act was never meant to be retroactive, by forcing mine operators to reclaim abandoned sites, which fall under the existing mining operation definition. UNC argues that the definition of an "existing mine operation," should really be interpreted to mean only those operations, which intend to continue mining or in a standby state after the Act. For operations, which were abandoned prior to the Act, to make an operator reclaim these sites would be an undue burden, and was never the intent of the legislature.

We indicated that, if they wanted to push the issue, it would probably have to go before the Mining Commission.

UNITED NUCLEAR CORPORATION

Mac # 1



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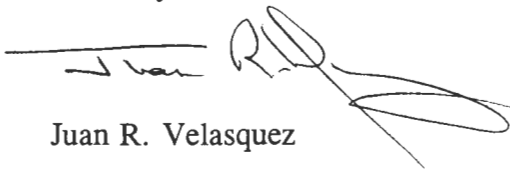
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Sec. 31
T13N, R9W

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As acknowledged during the meeting, United Nuclear understands that the current operator, Hydro Resources, Inc. (HRI), has submitted a site assessment and prior reclamation application for the Old Church Rock Mine. This mine property is currently held by HRI, pursuant to a lease with Santa Fe Pacific Gold Corp. United Nuclear's only remaining interest in this property is a contractual royalty interest in any future production by HRI. United Nuclear understands that HRI is responsible to fulfill any and all obligations under the New Mexico Mining Act with respect to the Old Church Rock Mine.

Northeast Church Rock, Section 27, and St. Anthony Mines

United Nuclear leased the mineral estate for the Northeast Church Rock Mine (Section 35, T17N, R16W and Section 3, T16W, R16W) from what is now Santa Fe Pacific Gold Corporation, the current owner of the mineral estate. The surface of Sections 35 and 3 is owned by the United States in trust for the Navajo Tribe. United Nuclear owns a portion of the surface of Section 34, T17N, R16W, by virtue of patented claims. Section 34 contains a small portion of the total NECR mine workings. All of the surface disturbance on Section 34 has been reclaimed.

United Nuclear's lease, expired as of December 31, 1993. As discussed at the September 16 meeting, United Nuclear and Santa Fe Pacific Gold Corporation have not yet resolved all issues regarding United Nuclear's remaining obligations, if any, under the lease.

October 19, 1994

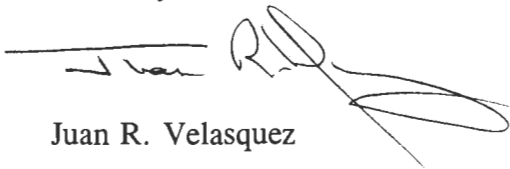
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United Nuclear leased the mineral estate for the Section 27 Mine (Section 27, T14N, R9W) from what is now Hecla Mining Company, which, to the best of our knowledge, is the current owner of the mineral estate. To the best of our knowledge, the Marquez family owns the surface. United Nuclear's mineral lease for this property was released in March 1988, and United Nuclear has had no interest in this mine since then.

United Nuclear leased the mineral estate for the St. Anthony Mine (portions of Sections 19, 20, 29 and 30, T11N, R4W and Sections 23, 24, 25 and 26, T11N, R5W) from the Cebolletta Land Grant, which was and is the owner of both the surface and mineral estates. United Nuclear released this lease in November 1988, and United Nuclear has had no interest in this mine since then.

Once again, thank you for the opportunity to meet with your staff and to clarify United Nuclear's position on these matters. If you have any additional questions or comments regarding this letter or United Nuclear's position, please feel free to contact us.

Sincerely,

A handwritten signature in black ink, appearing to read 'Juan R. Velasquez', is written over a horizontal line. The signature is stylized and includes a large, sweeping flourish at the end.

Juan R. Velasquez