

SAN MIGUEL COUNTY

BOARD OF COMMISSIONERS

ELAINE FISCHER

ART GOODTIMES

JOAN MAY

September 15, 2010

Paul Tourangeau, Division Manager, Air Quality Control Division
Steve Tarlton, Program Manager, Radiation Control Program
Colorado Department of Public Health and Environment
4300 Cherry Creek Drive South
Denver, CO 80246-1539



Deborah Lebow-Aal, Chief, Indoor Air, Toxics & Transportation Unit
United States Environmental Protection Agency – Region 8
1595 Wynkoop Street
Denver, CO 80202-8917

Re: Energy Fuels Piñon Ridge Radioactive Materials License Application
Response to Mr. Tourangeau's August 16, 2010 letter
Further Comments regarding possible adverse Environmental Impacts

Dear Mr. Tourangeau, Mr. Tarlton, and Ms. Lebow-Aal:

The San Miguel County Board of Commissioners intends this letter to address certain issues raised by Mr. Tourangeau's above referenced correspondence as well as to provide your agencies with further county comments regarding the possible adverse environmental impacts that may occur should CDPHE approve the above referenced Materials License Application and the proposed facility become operational.

Mr. Tourangeau's recent letter states that "The division does not have delegated authority to regulate radionuclide or radioactive material emissions. Other groups, including the department's Radiation Control Program and the EPA, have permitting authority over these materials under different media programs." This apparent regulatory gap appears to be indicative of a potentially much more significant issue regarding possible deficiencies in the jurisdiction of the Air Quality Control Division, the Radiation Control Program, and the EPA's Indoor Air, Toxics & Transportation Unit, over the proposed mill facility's possible adverse environmental impacts. Such impacts include, but are not limited to, the affect of radionuclide particles on air and water quality within the air sheds and watersheds of San Miguel County.

It is our understanding that Dr. Mark Williams from CU-INSTAAR met with representatives from the CDPHE air pollution control division and radiation control program, shortly after Mr. Tourangeau's above referenced letter was sent to discuss his specific concerns regarding the potential adverse impacts the proposed uranium mill could have on air and water resources located in San Miguel County. The Board of Commissioners wishes to express its appreciation to the CDPHE staff for affording Dr. Williams the opportunity to discuss his concerns with them, as well as the time and effort involved in responding to the County's previous comments.

Based upon his recent discussion with CDPHE representatives Dr. Williams has indicated to the county that significant concerns remain with regard to appropriate plans and resources being in place for the proposed facility to respond to extreme events. Such events could include both those caused by natural phenomena, including severe dust storms and wildfires, and those resulting from human error, such as errors or omissions in properly managing the facility. Dr. Williams also expressed his concern over CDPHE's apparent inability to prospectively evaluate the cumulative environmental impacts associated with both the proposed mill, as well as the uranium mining operations it is intended to serve, prior to receiving site specific permit applications.

We understand Mr. Tourangeau's explanation in his recent letter regarding his agency's inability to evaluate the potential cumulative air quality impacts associated with the proposed mill and the mining operations it would serve to be that the Air Pollution Control Division does not have the regulatory authority under state or federal law to conduct such an analysis. Nevertheless, the potential combined regional environmental effects associated with the proposed mill serving numerous uranium mining operations in several western Colorado and eastern Utah locations indicates the need for just such a cumulative impacts analysis. In this regard it should be noted that when Energy Fuels submitted its special use permit application for the mill facility to Montrose County in 2008 it indicated that the two primary sources of uranium ore would be from its Whirlwind and Energy Queen Mines, with the balance of the ore feed stock to come from mines operating in the Uravan Mineral Belt District in Colorado and Utah. However, in more recent submittals to the CDPHE the applicant has indicated that "the mining activity entailed by the mill would be approximately five to nine mines at any one time, some employing fewer than 10 people, with larger mines employing up to 60 people spread over a six-county area." Montrose County Socioeconomic Impact Study prepared by ECONOMIC & PLANNING SYSTEMS, INC, dated March 31, 2010 page 20, section 4. Economic Drivers & Corresponding Impacts

Dave Schneck, the County's Environmental Health Director, has been able to review the CDPHE's August 19, 2010 Request for Additional Information #3 to Energy Fuels. Mr. Schneck's comments regarding the CDPHE "Request for Additional Information #3" are as follows:

1. It remains unclear if the CDPHE Radiation Control Program and the EPA's Region 8 Indoor Air, Toxics and Transportation Unit have the ability to address the air quality concerns that have been raised, or if they are beyond the regulatory scope of the various CDPHE and EPA permitting agencies.
2. The fifty mile study radius for environmental impacts should be enlarged to include those watersheds in San Miguel County whose residents have expressed concerns over the potential contamination of their water supplies caused by wind borne radionuclide particles.
3. The County supports the CDPHE's requests for Additional Information that pertain to apparent inconsistencies in the level of radioactivity based upon differences in the specified ore values. Differences in the levels of radioactivity for the ores process at the mill could result in significant differences in the radioactivity levels of the mill tailings.

4. Comment 2 in Attachment 3 pertaining to Volume 11, Section J2, of the Application, raises questions about the particle size distribution. Accurate information regarding particle size is critical for evaluating the amount of radionuclides that are likely to be transported to San Miguel County by dust events.

5. Comment 5 in Attachment 3, that also concerns Volume 11, Section J2, of the Application, questions the appropriateness of using the Milldose model to evaluate regional impacts of particulate deposition. The County supports CDPHE requiring the Applicant to conduct a regional air quality impact analysis, including San Miguel County using a more up to date and sophisticated model that incorporates the region's complex terrain and high wind events, as well as the typical weather patterns. Such modeling should also assume that a dust event could occur when the tailings are being dewatered and dried, when they are most susceptible to wind transport.

6. The County concurs with Comment 10 on page five of Attachment 3 that the application section "Sources of Waterborne Radioactivity to Humans" is incomplete. That analysis should not be deemed complete until the potential for radionuclide deposition and accumulation in San Miguel County and the subsequent exposure of the public through surface water municipal water supplies is quantitatively evaluated. The County agrees with the comment that the application's description of the potential for such an event being described as low, or at an undefined de minimus exposure level, is insufficient. There should be a quantitative evaluation based on clearly substantiated parameters using up to date, peer review defensible, methodology and modeling. The EPA and/or CDPHE should require the applicant to perform a baseline analysis of the municipal watersheds in San Miguel County with regard to radionuclides and identify a methodology or chemical fingerprint by which the federal, state, and local governments could monitor the future environmental impacts of the mill and related activities.

7. With regard to cumulative impacts to air and water quality, are the emissions of the mines identified in the application as supplying ore to the mill, included in the environmental impact analysis? The County reiterates its contention that the cumulative impacts associated with the proposed mill facility and related uranium mining operations in the area represent one of the most significant long term issues. The County is disappointed that the federal and state agencies with regulatory jurisdiction over the mill's environmental impacts appear to be deferring any analysis of the reasonably foreseeable consequences of their approval of the pending application to the future.

8. At a minimum, the County requests that the state agencies with permitting jurisdiction over the mines that supply ore to the proposed mill develop a procedural mechanism by which the County would be notified in a timely fashion when applications from new mining operations that could impact the air and water sheds in the County are being considered by the Division of Mine Safety and Reclamation, as well as CDPHE.

In view of the myriad serious issues raised in the CDPHE's Request for Additional Information #3, dated August 19, 2010, the County requests that CDPHE not act upon the pending application until it has received appropriate responses to its requests and has had a reasonable opportunity to evaluate the documentation received. The County also intends to review such documentation when it is posted to the CDPHE website and may wish to submit supplementary comments after it has had the opportunity to review the applicant's responses. In response to Dr. Williams' concerns and recommendations the County is currently giving serious consideration to participating in the installation of a high altitude air quality monitoring station in San Miguel County in conjunction with various interested public and private parties. The CDPHE's and the EPA's support for such a facility would be most welcome.

San Miguel County wishes to reiterate its appreciation to both the Radiation Control Program and the Air Pollution Control Division of CDPHE for the efforts you have made to review and evaluate both the applicant's submittals as well as those received from concerned members of the public and local governments.

Sincerely,

SAN MIGUEL COUNTY, COLORADO
BOARD OF COUNTY COMMISSIONERS



Elaine R.C. Fischer, Vice-Chair

Pc. Martha Rudolph, Executive Director, CDPHE
Dr. Mark Williams, CU Boulder – INSTAAR
James Martin, Regional Administrator, USEPA Region 8
Town of Telluride
Town of Ophir