

McIntyre, David

From: McIntyre, David
Sent: Friday, March 16, 2012 6:08 PM
To: Darryl Roberts
Subject: RE: Pinon Ridge Mill

Darryl - I can't tell if I replied to you - thought I did, so please forgive me if this is late, or a duplicate:

The problem was that there was no opportunity for the public to comment on or request a hearing on the CDPHE's technical and regulatory analysis that served as the basis for issuing the draft license in January 2011.

From: Darryl Roberts [reporter@fone.net]
Sent: Friday, March 16, 2012 1:19 PM
To: McIntyre, David
Subject: Re: Pinon Ridge Mill

Hi again, Mr. McIntyre,

Thank you again for your previous email I've been doing a little research and compiled a list of public meetings which have been held related to the licensing. Bottom line, where is the problem? I'm doing my best to be objective, but it's difficult to see where the process was deficient. How would yet another meeting change things? If you could address this, I'd greatly appreciate it!

List of public hearings and meetings for Piñon Ridge Mill:

- 3/25/2008 – Montrose BOCC public meeting to explain project - Montrose
- 3/25/2008 – Naturita – Voluntary Public Informational Meeting hosted by Energy Fuels
- 3/26/2008 – Montrose – Voluntary Public Informational Meeting hosted by Energy Fuels
- 5/28/2008 – Norwood – San Miguel BOCC meeting to explain project
- 9/24/08 - Montrose – CDPHE meeting to explain process and regulation of permitting uranium mills
- 5/19/09 – Montrose County Planning Commission hearing – Nucla - Received West End Planning advisory Committee approval
- 5/21/09 – Montrose County Planning Commission hearing (continued) – Montrose
- 7/29/09 – Montrose County Planning Commission hearing (continued) – Montrose – Received Planning Commission approval
- 8/13/09 – Montrose BOCC hearing – Nucla
- 9/9/09 – Montrose BOCC hearing (continued) – Montrose
- 9/30/09 – Montrose BOCC hearing (continued) – Montrose – Received BOCC approval
- 1/21/10 – CDPHE hearing – Nucla
- 2/17/10 – CDPHE hearing – Montrose
- 2/18/10 – CDPHE attended and participated in San Miguel BOCC meeting - Telluride
- 6/8/10 – Voluntary CDPHE public meeting – Montrose
- 6/9/10 – Voluntary CDPHE public meeting, hosted by San Miguel County – Telluride (Sheep Mountain Alliance (SMA) gave a 45-minute presentation)
- 6/10/10 – Voluntary CDPHE public meeting and availability session – Ophir (SMA made CDPHE participate in a panel session – which they didn't notify them of)
- 7/13/10 – Voluntary CDPHE public meeting and availability session – Paradox

Best,

Darryl Roberts
San Miguel Basin Forum

On Mar 15, 2012, at 12:10 PM, McIntyre, David wrote:

Hi Darryl – Duncan White asked me to respond to your questions. My answers are below.

Regards,

David McIntyre
Office of Public Affairs
U.S. Nuclear Regulatory Commission
(301) 415-8200

-----Original Message-----

From: Darryl Roberts [mailto:reporter@fone.net]

Sent: Thursday, March 15, 2012 9:37 AM

To: White, Duncan

Subject: Pinon Ridge Mill

Dear Mr. White,

My name is Darryl Roberts and I am a reporter for the San Miguel Basin Forum newspaper, based in Nucla, CO. I am hoping you might be able to provide some information related to the March 6, 2012 letter from Deborah Jackson to attorney Jeffrey C. Parsons concerning the licensing process for the proposed Pinon Ridge Mill. (attached) I'll try to keep it to just a few questions, and follow up as need.

1. It seems that there is a suggestion that the CDPHE failed to fulfill statutory requirements in approving licensure. Am I reading that correctly? And if so, what, precisely, did they fail to do?

The Colorado regulatory agency did not provide the public an opportunity to comment or to request a public hearing – an adjudicatory process under which members of the public may challenge aspects of the application. Such a hearing is a requirement of the Atomic Energy Act.

2. I am of the understanding that the NRC handed authority over uranium mills to the state, is that correct?

Correct – under our Agreement State system, NRC has agreements with 37 states, including Colorado, in which we relinquish regulatory authority over radioactive materials to the state. This means the state issues licenses, conducts inspections, and enforces the regulations. However, each Agreement State is required to have regulations that are compatible with NRC's – the lack of a public hearing opportunity presents a problem of compatibility.

3. What are the legal ramifications of the contentions in the letter?

Simply that Colorado's regulations, as interpreted by CDPHE, are not compatible with NRC's in the matter of public participation in the licensing process, through the opportunity for the public to request a hearing.

How, if at all, will this impact the future of the Mill? Will Energy Fuels, in fact, have to start from scratch?

I can't really answer this. All we are saying to Colorado is that they should hold a hearing. We have asked them, in a Feb 27 letter, to inform us how they intend to do that.

4. CDPHE has stated that they haven't even received the letter. Why was the attorney notified rather than the responsible agency?

We wrote to CDPHE on Feb. 27 requesting an answer in writing about how they intend to redress the issue of public hearings in their licensing process as a whole and in the Pinon Ridge case specifically. Letter is attached.

Thank you in advance for your anticipated assistance. I sincerely appreciate any information you can provide.

Sincerely,

Darryl T. Roberts

San Miguel Basin Forum

<2-27-12 letter to CO.pdf>