

Kimberly MacMillan

From: **Humetewa, Diane J.** <Diane.Humetewa@ssd.com>

Date: Wed, May 4, 2011 at 5:39 PM

Subject: Hualapai Tribe's comments to the Proposed BLM uranium withdrawal EIS

To: "azasminerals@blm.gov" <azasminerals@blm.gov>

Cc: "rwalema@hualapai-nsn.gov" <rwalema@hualapai-nsn.gov>, Loretta Jackson-Kelly <lorjac@frontiernet.net>, Addie Crozier <ACrozier@hualapai-nsn.gov>, "clee@hualapai-nsn.gov" <clee@hualapai-nsn.gov>

Attached is a document conveying the comments of the Hualapai Indian Tribe on the Northern Arizona Proposed Withdrawal Draft EIS for the BLM Arizona Strip District Office. A hard copy will also be mailed to District Manager, Scott Florence. Please contact me if you have any questions.

Thank you

Diane J. Humetewa

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The Great Spirit created Man and Woman in his own image. In doing so, both were created as equals. Both depending on each other in order to survive. Great respect was shown for each other; in doing so, happiness and contentment was achieved then, as it should be now.

The connecting of the Hair makes them one person; for happiness or contentment cannot be achieved without each other.

The Canyons are represented by the purples in the middle ground, where the people were created. These canyons are Sacred, and should be so treated at all times.

The Reservation is pictured to represent the land that is ours, treat it well.



The Reservation is our heritage and the heritage of our children yet unborn. Be good to our land and it will continue to be good to us.

The Sun is the symbol of life, without it nothing is possible – plants don't grow – there will be no life – nothing. The Sun also represents the dawn of the Hualapai people. Through hard work, determination and education, everything is possible and we are assured bigger and brighter days ahead.

The Tracks in the middle represent the coyote and other animals which were here before us.

The Green around the symbol are pine trees, representing our name Hualapai – PEOPLE OF THE TALL PINES –

HUALAPAI TRIBE OFFICE OF THE CHAIRMAN

Wilfred Whatoname, Sr.
Chairman

P.O. Box 179 • Peach Springs, Arizona 86434 • (928) 769-2216

Richard Walema, Sr.
Vice Chairman

1-888-769-2221
May 03, 2011

Northern Arizona Proposed Withdrawal Project
ATTN: Scott Florence, District Manager
Bureau of Land Management Arizona Strip District Office
345 East Riverside Drive
St. George, Utah 84790-6714

Re: Hualapai Tribal Views on the Northern Arizona Proposed Withdrawal Draft
Environmental Impact Statement for the Bureau of Land Management

Dear District Manager Florence:

The Hualapai Tribe hereby provides information and comments on the Draft Environmental Impact Statement [DEIS] prepared for the Interior Secretary's decision whether to withdraw lands in the vicinity of the Grand Canyon from the 1872 Mining Law. Although the Hualapai Tribe provides this information through the general public comment process, we also submit this information to you in view of the federal government's fiduciary, trust, and consultation obligations with the Hualapai Tribe. Therefore, our comments must be viewed in light of the federal government's trust responsibilities to the Hualapai Tribe and its resources.

For the reasons stated below, the Hualapai Tribe supports Alternative B which proposes a twenty-year withdrawal of 1,010,776 acres of federal lands from location and entry under the 1872 Mining Law. While Alternative B does not guarantee that no mining will ever occur in the withdrawal area, the Hualapai Tribe's preferred alternative, it is the least destructive proposal. Alternative B would mitigate the past and future damage caused by existing mining operations on public and private lands within the withdrawal area. Alternative B would also ensure that the Hualapai Tribe's cultural and sacred sites, its natural, wildlife and water resources are protected from mining related affects and contaminants for future generations of Hualapai.

Regardless of whether Alternative B is approved, we implore you to:

1. Review and reconsider the approval of the seven potential new mining claims identified in the withdrawal area for Alternative B¹;
2. Request an Interior Solicitor's legal opinion on the legality of permits issued before July 21, 2009 for current mining operations in the withdrawal area including the Arizona 1, Kanab North, Pinenut and the Canyon Mines; and
3. Develop a plan, in consultation with the Hualapai and other affected Indian tribal governments, to mitigate natural, cultural, wildlife and water resource damage from the four existing mines and in advance of the seven potential new mines identified in Alternative B.

We understand that several of these mines recently resumed operation under outdated permits. We do not believe that at the time these mining permits were approved, due consideration was given to the federal government's trust responsibility to affected Indian tribes. We are not aware that any of the affected Indian tribes were meaningfully consulted at the time the permits were issued. We do know that the Hualapai Tribe has not been consulted on mitigation issues related to the current mining operations.

A. Background and History of the Hualapai Tribe

The Hualapai Tribe is a federally recognized Indian Tribe comprised of approximately 2,500 enrolled members. The Hualapai Tribe's Indian reservation was created by an 1883 Presidential Executive Order that set aside lands in northwestern Arizona in what today spans through Mohave, Coconino and Yavapai Counties. Previously, the Hualapai settled in places along the Grand Canyon, the Colorado River and southern Utah. Consequently, our established reservation is situated along 108 miles of the Grand Canyon. However, it encompasses roughly only one-seventh of our aboriginal territory leaving religious, cultural and historic sites outside of the created reservation boundaries. Essentially, the one million acre moratorium is where our aboriginal territory lies.

Today, the Hualapai Tribal capital is the town of Peach Springs, located along Historic Route 66 and north of Interstate 40. The Tribe is governed by the Hualapai Tribal Constitution, an executive branch of elected Tribal Council members, and a judicial branch. The Hualapai tribal community is served by a combination of Indian owned and operated services and federal government-run programs.

The Hualapai Tribe operates a Natural Resources Department that oversees *all* programmatic and development activity on tribal lands involving water, timber, agricultural resource development, and wildlife for the benefit of the tribe. The Tribe also operates a Cultural Resources Department which includes the Tribal Historic Preservation Officer (THPO) and Preservation Office that is responsible for managing, protecting and preserving archeological and cultural resources, and sacred sites.

¹ See Chapter 2, pg.2-14, Alternative B-Reasonably Foreseeable Future Activity.

The creation of the Hualapai reservation in 1883 simultaneously created inherent water rights for the tribe. See *Winters v. United States*, 207 U.S. 564 (1908). The Tribe's water uses continue to evolve based on the evolving needs of the Tribe including use and preservation of its natural resources. Importantly, the Tribal Council and all of the Tribe's departments are involved in planning for the future uses of the Tribe's land and resources for the benefit of the Tribe.

To sustain itself fiscally and to reduce unemployment, the Tribe owns and operates the Grand Canyon Resort Corporation. The Corporation manages several businesses including the Grand Canyon West, Hualapai River Runners and the Hualapai Lodge. Each year the visitor population to Grand Canyon West and the Hualapai Tribe grows. Estimated visitor population for 2009 was 503,000. The Corporation capitalizes on the Tribe's proximity to the Grand Canyon and its natural recreational uses to provide much needed revenue to support tribal government services for the Hualapai people. While the Tribe heavily relies on the economic benefits of its tourism businesses, it operates on a philosophy of caring for the surrounding environment because this is and will continue to be the only home known to the Hualapai.

B. The Hualapai Tribe's Position on Uranium Mining in Our Aboriginal Territory

The Tribe's views on uranium mining are well known and documented. The Hualapai Environmental Review Code provides that the Tribe shall "*protect the environment, including the land, air, water, minerals and all living things, of all Hualapai lands; to take affirmative action to restore and enhance environmental quality in areas that have been subject to degradation.*"² The DEIS notes that the Hualapai, Havasupai, Kaibab-Paiute, Hopi and Navajo Nations have all issued uranium mining bans on their lands.

The DEIS states that approximately 30% of Hualapai reservation land has "*high mineral potential.*"³ As a result, the Tribe has been approached by mining companies seeking to extract uranium from our land. Although the Tribe needs additional economic resources, we have and will continue to steadfastly refuse to partner or accept payment for these purposes. Our position is informed by the historic uranium mining damage that occurred to the land, the people, and the natural resources of our aboriginal territory. The 1940's uranium boom left a legacy of damage to the Colorado Plateau and areas on and adjacent to our aboriginal lands which today contain an estimated 500 legacy sites that are yet unaddressed.

Our public comments on uranium mining include the following:

On September 3, 2009, the Hualapai Tribe unanimously approved and passed a Tribal Council Resolution that: 1) Commended the Secretary of Interior for the proposed moratorium around the Grand Canyon; 2) Opposed proposed uranium mining; 3) Called on the Secretary to conduct a review of the Solicitor's opinions on the regulation of hard rock mining; 4) Supported efforts in Congress to repeal or substantially amend the 1872 Mining Law; and 5) Opposed the

² Hualapai Environmental Review Code, Part 1. Policy and Purposes, Section 02 Policy.

³ See Chapter 3 at Page 3-37, Cumulative Withdrawal of High Mineral Potential Lands.

exploration for uranium and uranium mining without tribal approval on all Hualapai ancestral lands including lands under the sovereign authority of the Hualapai Tribe.

On April 8, 2010, Chairman Wilfred Whatoname testified at the Joint Oversight Field Hearing for the House Subcommittee on National Parks, Forests and Public Lands and the House Subcommittee on Water and Power titled “On the Edge; Challenges Facing Grand Canyon National Park.” His testimony stated that “*the U.S. Forest Service as well as the Secretary of the Interior has a Trust responsibility to the Hualapai Tribe to ensure that the Tribe’s Federal Reserve Right to the main stem of the Colorado River is protected in quality and quantity for current and future generations. Therefore, it is the position of the Hualapai Tribe to oppose any exploration for or mining of uranium ore deposits in and around the upper and lower Colorado Basins.*”

On August 16, 2010, Chairman Whatoname wrote to Interior Secretary Salazar to commend him for invoking the one million acre moratorium and informing him of our concern that within the moratorium, the BLM permitted the Dennison Mining Co. to rely on outdated permits to renew uranium mining. We also requested federal government to tribal government consultation pursuant to Executive Order 131475 on uranium mining. To date, our request has gone unanswered.

On January 6, 2011, the Hualapai Tribe presented oral and written testimony to the Arizona Department of Environmental Quality regarding its draft air quality permits for the Dennison Mining Company. Along with specific comments relating to Dennison Mining Company we stated that “*until the government, including the Arizona state government, can affirmatively demonstrate that [the] history of uranium mining [in Arizona] will not be repeated, the Hualapai Tribe must oppose all uranium mining affecting our aboriginal lands and our current water supply and natural resources.*”

On March 11, 2011, the Arizona ADEQ notified the Tribe of its decision to issue air permits to Dennison Mining Company in defiance of the Hualapai and other Arizona Tribal opposition. The Hualapai Tribe is currently weighing its appeal option.

As you can see, our position has remained consistent. Yet, uranium mining exploration continues to take precedent over the health and welfare effects on this nation’s Indian tribes and the solemn promises made by the federal government to protect our health and welfare. Therefore, we hope that our comments will be given consideration accordingly.

C. Specific Information, Issues and Comments to the DEIS

The Tribe has attempted to arrange its comments in response to the DEIS Categories including the Executive Summary, and those identified in Scoping: Air Quality, Cultural Resources, Public Health and Safety, Recreation and Visuals, Socioeconomics, Soil and Water Resources, Special Status Species and Transportation and Wildlife. While we have endorsed Alternative B as our preferred withdrawal policy, our views below relate to *any* and *all* uranium mining activity, even the mining that may occur under Alternative B.

Executive Summary. The Executive Summary should include reference to all federal laws, rules and regulations that serve to protect tribal cultural sights and resources including the *Native American Graves Protection and Repatriation Act* (NAGPRA) and the Historic Preservation Act. These Acts clash with federal mining laws that permit the extraction of minerals on tribal aboriginal territories that house human remains, sacred sites and cultural resources. The BLM should inform the public and the Congress of the conflict created by the archaic federal mining law and the modern approach to protecting and preserving tribal cultural and natural resources.

1. Air Quality, Public Health and Safety.

Chapter 3.6, Page 3.7. Tribal elders have expressed concerns that dust and other pollutants associated with mining, increased transportation, and the transportation of mining and ore matter will contaminate plants and animals in the mining areas and along the mining transportation routes.

Chapter 3.2.2., Page 3-20. The DEIS should refer to the role of Indian tribal governments in regulating air quality on tribal lands under the Clean Air Act.

Chapter 3.2.2., Page 3-20. The DEIS should reference the State of Arizona's obligation to engage in meaningful government-to-government consultation with Indian Tribes pursuant to Arizona State Executive Order 2006-14. This Executive Order applies to state decisions impacting Arizona Indian tribes such as air quality and permitting decisions. Section 106 of the National Historic Preservation Act (NHPA), 16 U.S.C. § 470f, requires that, prior to approving the expenditure of any federal funds on undertaking with the potential to affect historic properties, or prior to issuing any license or other authorization for such an undertaking, the federal agency must engage in the consultation process mandated by NHPA section 106, a process that has been implemented through regulations issued by the Advisory Council on Historic Preservation. 36 C.F.R. § 800.

In the event that a federal or federally assisted undertaking may affect any historic property that a federally recognized Indian tribe regards as holding religious and cultural significance, then the federal agency has a statutory duty, under NHPA section 101(d)(6), 16 U.S.C. § 470a(d)(6), to consult with such a tribe when carrying out the NHPA section 106 process. This statutory duty is implemented through numerous provisions in the ACHP regulations, including 36 C.F.R. § 800.

We note that the ACHP regulations authorize agreements between federal agencies and Indian tribes to specify how an agency's responsibilities under the ACHP regulations relating to tribal participation will be carried out. 36 C.F.R. § 800.2(c)(2)(ii)(E). It may prove to be mutually advantageous for the Department of the Interior/Bureau of Land Management and our Tribe to consider entering into a Programmatic Agreement (PA) specifically for the Northern Arizona Proposed Withdrawal Project. The Draft Environmental Impact Statement for the Mineral Withdrawal (DEIS) states that, (Northern Arizona Proposed Withdrawal Draft Environmental Impact Statement, February 2011, page 1-1),

The proposed withdrawal, serialized as BLM casefile AZA-35138, constitutes a major federal action subject to the requirements of NEPA. BLM is the lead agency processing the proposed withdrawal application and preparing the associated NEPA analysis, in this case an environmental impact statement (EIS). The EIS addresses the potential direct, indirect, and cumulative effects on the human environment of the proposed withdrawal and alternatives to the proposed withdrawal. The EIS also discloses any unavoidable adverse impacts, impacts to the long-term productivity of affected resources, and any irreversible or irretrievable commitments of resources that result from the proposed withdrawal or the alternatives to the proposed withdrawal...

We note that a federal or federally assisted undertaking that has the potential to affect historic properties that hold religious and cultural significance for our Tribe may also have effects on places and things that are subject to mitigation measures not specifically noted within the DEIS. Therefore, entering into a Programmatic Agreement specifically for the withdrawal project would present a venue for accountability and mutual collaboration. It is important to point out that mitigation measures are an element of PA's yet, entering into a PA arrangement was not mentioned in the DEIS. Mitigation however was cited specifically in section 2.3.6:

During scoping, it was suggested by members of the public and the Resource Advisory Council that instead of the withdrawal, the BLM and Forest Service should consider new locatable mineral exploration and development requirements, along with certain program initiatives, to protect the resources in the Grand Canyon watershed from the potential adverse effects of uranium exploration and development. During alternative formulation, the interagency team identified a number of potential new requirements for uranium exploration and development within the area proposed for withdrawal. Such requirements included processing and review requirements specific to notices and plans of operation, as well as regional monitoring programs, remediation efforts, targeted research initiatives, and coordinated interagency oversight...

Requirements that include review of operations, monitoring, remediation, research and interagency oversight are integral to programmatic agreements giving all stakeholders an element of cooperative bilateral management. As an important note in this matter, Hualapai in particular, did not agree with, nor sign the 1997 Nationwide Programmatic Agreement which is inconsistent with NHPA Amendments requiring consultation with Indian tribes. The 1997 NPA is also inconsistent with ACHP regulations 36 C.F.R. part 800 as revised in 1999 and 2000 to implement the 1992 NHPA Amendments. Rather than perpetuate inconsistencies within the Nationwide PA, we prefer the withdrawal project initiate a PA that is specific to the Northern Arizona project.

2. Cultural Resources.

Executive Summary, Page ES-13, Impacts on American Indian Resources. We oppose the statement "There are no tribal trust resources or assets within the proposed

withdrawal area.” Indeed, to the extent that the DEIS describes areas of Tribal cultural, archeological or sacred sites within the withdrawal area, they qualify as tribal trust resources.

Chapter 1, Page 1-8. The section referencing the Hualapai states that the tribe “*holds a substantial portion of the project area to be culturally significant.*” This section omits important reference to the Hualapai Tribe’s historic existence throughout parts of the moratorium area. It is the aboriginal existence of Hualapai in the moratorium area that establishes its cultural and natural resource dependence on the region. These resources qualify for federal protection because they evidence Hualapai’s existence in the region which is intimately intertwined with its cultural survival.

Chapter 1.5.3 Introduction, Page 1-24. The federal and state governments are charged with protecting archeological and Indian cultural resources on federal lands and with investigating and prosecuting looting and/or vandalism of these resources pursuant to the *Archeological Resources Protection Act*, the *NAGPRA* and local heritage protection laws. The BLM must acknowledge its responsibility by analyzing the potential illegal looting or vandalism of these resources in the moratorium area. On the Arizona Strip, whenever land is open to increased outsider activity, such as road development, mining and exploration of resources, the looting and damage to cultural and natural resources increases. Private businesses are often unaware of or ignore federal or state historic preservation laws when on federal lands or near Indian lands. Thousands of cultural items have been removed and/or destroyed during previous exploration activity. In terms of Cultural Resources, this problem is specifically alluded to in Chapter 3 (pp 3-205 - 3-206). The EIS should acknowledge this issue, even if the effects are difficult to predict.

Chapter 3.11, Page 3-8. Road construction and use for mining exploration and development usually results in exposing previously isolated areas to casual and recreational vehicle traffic. Consequently, archeological, cultural and sacred sites previously protected by isolation will be exposed and endangered. This indirect, but meaningful impact has already occurred on the Arizona Strip.

Chapter 3.11, Page 3-202. The site density figures would be more easily grasped and compelling if they were presented in per/square miles. Figures such as .03 or .05 per acre are difficult to conceptualize spatially.

Chapter 3.11.1, Page 3-201. This section should refer to “cattle grazing”, “homesteading”, “timbering”, etc., not in the past tense but rather as lifestyles that continue today among the affected Indian tribes.

Chapter 3.12.1 & 2, Pages 3-207 & 3-212. The Kaibab National Forest and the Arizona Historic Preservation Office have determined that Red Butte is National Register Eligible. Their decision is based, in part, on information provided by the Hualapai Tribe that Red Butte qualifies for “Traditional Cultural Property” and for some of the reasons noted in these paragraphs.

Chapter 3.12.2, Page 3-213. The trails referenced are part of an extensive network connecting the Rio Grande Pueblos with Zuni, Hopi, Havasupai, Hualapai, Mojave and other

tribes to the Pacific Ocean. It is erroneous to simply state that they run “from” Hopi “to” Havasupai, since they extend well beyond Hopi and Havasupai. In fact, there are sections of the trail network that were documented on early GLO maps dating back to 1900. It is generally correct that the trails cross through the northern part of the South Parcel; however, there are trail and “road” segments on the early GLO maps that are east of Red Butte in the southern area of the South Parcel, as well. More work is needed to understand the extent of these trails.

Chapter 4.12 American Indian Resources, 4-208ff. Native American affiliated archaeological sites should be considered a Native American Resource as well, as they are evidence of tribal homelands, represent cultural heritage, are considered integral to maintaining cultural identity, are important for teaching history through the generations, and are important for teaching respect for the ancestors.

Appendix H, Page H-5. The term “Anasazi” is obsolete. We suggest, in this instance, referring to the “Virgin Branch of Ancestral Puebloan or Ancient Puebloan.” In addition, we question the accuracy of the statement that they were “northwest and west of the proposed withdrawal area.” Although this “archaeological culture” was indeed centered north of the Grand Canyon, they were likely in the area encompassed within the North Parcel. We suggest that the DEIS include more detailed research into this topic.

Appendix H, Generally. It is probably an overstatement that Euler “demonstrated” that Cerbat culture, initially (from about A.D. 700–1150) restricted to the Lower Colorado River, expanded eastward and onto the Colorado Plateau after about A.D. 1150, and were not related to the Cohonina archaeological culture. This is one point of view, and is at odds with Pai traditional culture history. It would be more accurate to state that Euler “inferred” this reconstruction.

Appendix H, Page H-14. It would be better scholarship to attribute the statement “Pai (Hualapai and Havasupai) and Paiute use of the Grand Canyon region, which began after ca. A.D. 1300” to Robert Euler or other earlier archaeologists rather than to Bungart, as the 1994 reference was based purely on surface survey information and previous research.

Appendix H, Page H-14. We recommend revising the following sentence: “The Hualapai speak a Yuman language called Hualapai, which is related to Havasupai (McGuire 1983)”, to read: “The Hualapai, Havasupai, and Yavapai languages are a group of related Upland Yuman languages (Kendall 1983).” (Kendall is in the same edited volume as McGuire 1983).

Appendix H, Page H-15. Please note that Kniffen’s description of the Hualapai bands was superseded by Dobyns and Euler (1976:16-18), who identified 13-14 bands, which were grouped under broader geographic divisions.

Appendix H, Page H-15. We request changing: “*The Hualapai were driven from much of their homeland in the Hualapai War of 1866–1869*”, to: “*The Hualapai were driven from much of their homeland as a result of conflict with the U.S. Army during 1866–1869.*” The former sentence implies that the Hualapai were unilateral aggressors rather than a people

defending their aboriginal homelands. The Hualapai were essentially gathered from the moratorium region and confined to their present day reservation.

Appendix H, Page H-15. Closer to the moratorium areas, the Havasupai also conducted Ghost Dances, including in areas on the plateau in the vicinity of the South Parcel. The Ghost Dance was introduced by Paiutes from north of the Colorado River.

Appendix H, Page H-16. The sentence "*Havasupai and Yavapai had been close friends*" should be amended to include Hualapai. Subsequent to the split, the Hualapai and Havasupai remained close, and both Hualapai and Havasupai became adversaries of the Yavapai.

Appendix H, Page H-19-21. The sections on the Navajo, Hopi, and Zuni Indian tribes are too brief and general. As trustee, the BLM and NPS must be thorough in its treatment of the tribes' historical and cultural connection to the withdrawal area and the potential impact to the future of their historic sites and cultural resources.

3. Water Resources.

General Issues. Current mining in the Northern parcel includes deep drilling for "*potentially economic mineralization*" which requires acid leaching to extract minimum levels of marketable uranium. Deep drilling could change the flow of groundwater and increase leaching of metals in the deep groundwater aquifers. The potential to contaminate water in the Grand Canyon region, including seeps and springs is great. Therefore, water quality and biotic communities at discharge points is an issue.

Resource General, Section 1.5.2, page 1-24. American Indian Resources: AIRFA, EO 13007, and Environmental Justice (EO 12898) applies to analysis of impacts to the Havasupai Springs which flows into the main stem of the Colorado River. The DEIS states, "*The potential for elevated uranium and other metals, in either surface water or groundwater, to enter the Colorado River and contaminate the major downstream municipalities' primary source of drinking water in several western states is an issue.*" The DEIS also states "*One trust resource issue is the potential contamination of Havasupai Springs and the economic impact of reduced tourism for the Havasupai Tribe, if the springs were to be contaminated.*" We strongly agree with these two statements. Potential seepage into groundwater, springs and the Colorado River will impair water quality for the Tribe and affect the Hualapai economic dependence on its River recreational uses.

Chapter 3.4, Page 3-6. The Hualapai Tribe considers all springs in the moratorium area as sacred sites.

Chapter 4.11.2. 4-203. We do not agree with the statement: "*It is assumed that the majority of archaeological sites determined eligible for the NRHP would be valued for their potential to yield important information*" (or would be evaluated as eligible only under Criterion D). This may be a true statement from a scientific or archaeological perspective. Importantly, Indian tribes value ancient sites using different criteria, such as Criterion A, but also under

Criteria B and C. Even applying Criterion D, a site may be considered important for its information value by tribal members, but not necessarily scientific research potential.

Socioeconomic Issues Related to Water. To sustain itself, Hualapai operates a robust tourism business that depends on the natural resources of the Grand Canyon, including water resources. Corruption of these resources, whether real or perceived, will negatively impact the Hualapai tourism industry as many patrons are environmentally conscious. A large segment of patrons would be dissuaded to use our water recreation activities due to upstream uranium mining and the threat of contamination of the water flowing through the Canyon.

4. Special Species Status.

Chapter 3.7, Page 3.7. Wildlife Resources Generally. Hualapai Tribal elders express concern about dust and other pollutants related to mining and exploration and the resulting contamination of plant life which sustain wildlife, birds, and insects in the food chain.

Chapter 3, Page 3-151. Bald Eagle. The Bald Eagle is highly significant to the culture and religious customs and beliefs of the Hualapai and other affected Indian tribes. The DEIS should reference the significance of this bird species to the affected Indian tribes.

5. Transportation of Hazardous Waste.

Appendix B. Reasonably Foreseeable Development under Alternative B, Table B-19. The Hualapai are greatly concerned about the transportation of uranium ore discussed under the DEIS. The U.S. Department of Transportation's exemption level for uranium is 2.7×10^{-10} Ci/g (see CFR Title 49 Part 173.436) and therefore, uranium ore is regulated as a Class 7 radioactive material under the hazardous material regulations. Under Title 49 Part 173.403, uranium ores and concentrates of uranium ore are classified as Low Specific Activity (LSA), Group - 1 material. Due to low specific activity, ore shipments are generally exempt from most packaging, marking, labeling, and plaque-carding requirements of other Class 7 radioactive materials. In addition to uranium ore, LSA-1 material may also include other low-toxicity alpha emitters that may be shipped from mine to mill such as contaminated soils and rubble. Table B-19 shows that under Alternative B, there would be approximately 276,116 ore tonnage for existing mines within the withdrawal parcels. This equates to 11,045 haul trips for existing mines. New mine hauling trips are estimated at 77,840 trips. The DEIS should include analysis of the level of low-toxicity alpha emitters for all ore tonnage being transported over a twenty year period. Because uranium ore is a Class 7 radioactive material exempt from "*most of the packaging, marking, labeling and plaque-carding requirements,*" shipments of uranium ore may be transported without being properly packaged, creating higher levels of radioactive materials and low-toxicity alpha emitters to be dispersed in dust and wind.

6. Other: [See Attachment A "Ethnobotanically Significant Plants"]

Vegetation Species of Concern Kaibab Agave. Kaibab agave (*Agave utahensis* var. *kaibabensis*) is found in proximity to the three proposed sites, is a Grand Canyon National Park Service "species of concern" and is a species of cultural significance to Hualapai. Damage to

Kaibab agave species is a threat to Hualapai cultural integrity and perseverance. The persistence of healthy agave communities ensures a continuation of harvesting practices and uses evidenced as in recorded pre-colonial and contemporary practices.

Historic Use. In pre-colonial times agave was integral to Hualapai subsistence. Agave was sought out among Pais, and it was traded among the bands. The agave species has been referenced as a dietary mainstay for Plateau Area Hualapai (Dobyns, 1954). At least four species of agave, including the Kaibab agave species, were and continue to be used for dietary and utilitarian uses by the Hualapai. Agave was significant to all 14 bands of Hualapai, even among bands where the species grew only on the periphery of their band territory, as evidenced by the following excerpt regarding the Big Sandy River Band of Hualapai:

Normally they were a desert people, but for mescal (agave) and game they climbed onto the first western step of the great Colorado Plateau. Their camps on the plateau were temporary and seasonal. But their mescal (agave) roasting ventures were just as much a part of their seasonal annual food-getting cycle as their irrigation agriculture along the Big Sandy River. (Dobyns, 1954a, p. 12)

In other areas, agave was more abundant, and a shared resource among neighboring bands. In reference to the present day Fort Rock and Cross Mountain areas within the Mahone Mountain Band territory, the following quote substantiates this idea: “*The escarpment seems to be especially favorable for agave growth, and the slopes of “Wi Kateva” (Cross Mountain) are one of the most famous sources of supply in Walapai country, drawing in gatherers from other bands even*” (Dobyns, 1954c, p.21). Agave resources were not only shared among the Hualapai bands, but were also traded to other tribes: “The Chloride Walapai once traded to the Utes . . . at Milkweed Springs. They received hatchets and knives in exchange” (Dobyns, 1957, p. 63). Additional references indicate the Pine Springs Band traded to the Hopi (Dobyns, 1954).

Contemporary Use. In contemporary times the uses for agave by the Hualapai have transitioned from a subsistence use into a traditional cultural use. The Hualapai Department of Cultural Resources [HDCR] sponsors annual agave roasts in the Hualapai community, preserving excesses for use as traditional food samples for cultural demonstrations throughout the year. The HDCR also routinely utilizes the agave fibers for a multitude of craft demonstrations at cultural functions such as the annual Pai language camp, Pai festival, and monthly culture arts and language classes.

We explicitly denounce Alternative A as creating great harm to the health and welfare of the Hualapai. Similarly, Alternatives C and D are unacceptable because they put at risk the very environment, cultural and natural resources upon which we continue to rely. We understand that the nation is interested in exploring alternative energies. In so doing, it must learn from the past and adhere to its trust responsibility to protect Indian tribes from the legacy of uranium mining.

The Hualapai Tribe will continue to provide the BLM and the Interior Department with its views related to these important matters. We appreciate the ability to participate in this public comment process and we look forward to federal government consultation on it. Please do not hesitate to contact me or Loretta Jackson-Kelly at (928) 769-2223 should you have any questions.

Sincerely,



Richard Walema, Sr., Vice-Chair &
Acting Hualapai Tribal Chairman

cc. Ken Salazar, Secretary
U.S. Department of the Interior

ⁱ From: [Code of Federal Regulations]
[Title 10, Volume 2]
[Revised as of January 1, 2002]
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[CITE: 10CFR71.4] [Page 288-291] TITLE 10--ENERGY CHAPTER I--NUCLEAR REGULATORY COMMISSION

PART 71--PACKAGING AND TRANSPORTATION OF RADIOACTIVE MATERIAL Low Specific Activity (LSA) material means radioactive material with limited specific activity that satisfies the descriptions and limits set forth below. Shielding materials surrounding the LSA material may not be considered in determining the estimated average specific activity of the package contents. LSA material must be in one of three groups:

- (1) LSA-I. (i) Ores containing only naturally occurring radionuclides (e.g., uranium, thorium) and uranium or thorium concentrates of such ores; or
 - (ii) Solid unirradiated natural uranium or depleted uranium or natural thorium or their solid or liquid compounds or mixtures; or
 - (iii) Radioactive material, other than fissile material, for which the A2 value is unlimited;
- or
- (iv) Mill tailings, contaminated earth, concrete, rubble, other debris, and activated material in which the radioactive material is essentially uniformly distributed, and the average specific activity does not exceed 10^{-6} A2/g.

Attachment A

Ethnobotanically Significant Plants

Below is a list of ethnobotanically significant plants to the Hualapai occurring within Grand Canyon. These species were recorded at 5 Traditional Cultural Property monitoring sites along plant transect lines.

<u>Species</u>	<u>Common Name</u>
Acacia greggi	Catclaw acacia
Acourtia wrightii	Arizona cotton
Agave utahensis var. utahensis	Mescal agave
Artemisia ludoviciana	Water sage
Bacharis salicifolia	Seepwillow
Baccharis sarathroides	Desert broom
Bromus rubens	Red brome
Datura meteloides	Sacred datura
Echinocereus triglochidiatus	Claretcup cactus
Ephedera nevadensis	Indian tea
Ephedera torreyana	Indian tea, Mormon tea
Eriogonum inflatum	Desert trumpet
Ferocactus acanthodes	California barrel cactus
Foquieria splendens	Ocotillo
Gutierrezia microcephala	Snakeweed
Larrea tridentata	Creosote bush
Lycium fremontii	Pale wolfberry
Nicotiana trigonophylla	Wild tobacco
Opuntia basilaris	Beavertail cactus
Opuntia phaeacantha	Prickly pear
Oryzopsis hymenoides	Indian ricegrass
Phragmites australis	Giant reed
Physalis crassifolia	Wild tomato
Populus fremontii	Fremont cottonwood
Prosopis glandulosa var torreyana	Torrey Mesquitie
Rhus trilobata var. trilobata	Red berry sumac
Rumex hemonosepalus	Wild rhubarb
Salix exigua	Coyote Willow
Salix gooddingii	Goodding willow
Sphaeralcea grossulariaefolia	Globemallow
Sphaeralcea ambigua	Globemallow
Tessaria sericea	Aarrowweed
Trixis californica	Trixis
Typha latifolia	Broad-laved cattail
Yucca whipplei	Whipple yucca
Ziziphus obtusifolia	Gray thorn