

Testimony of Dr. Joe Shirley, Jr., President  
The Navajo Nation  
before the  
United States Senate Committee on Energy and Natural Resources  
March 12, 2008

Good afternoon Chairman Bingaman, ranking member Domenici, and members of the Committee. Thank you for inviting me to testify before you today. As you begin to make changes to the laws that govern mineral extraction, you will hear from many interests that will encourage you to expand uranium mining throughout the country; particularly in the southwest. I am here to ask you to respect the Navajo Nation's tragic experience with uranium mining, and allow the Navajo People and Navajo Indian Country to remain free of renewed contamination.

The Navajo People do not want renewed uranium mining on or near the Navajo Nation. I ask you to respect the Diné Natural Resources Protection Act (DNRPA) that places a moratorium on Navajo Land and within Navajo Indian Country. Uranium mining that takes place on land just off the reservation boundary will not and cannot hold its contaminants within a narrow area. The contamination will travel; it does not stay in one place. It moves as it has for decades spreading contamination as it moves. The federal government should clean up these existing contaminated sites before it promotes renewed uranium mining. Decades after mining has ceased on the Navajo Nation, my people continue to get sick and die from the contamination left behind.

Over a half century ago, the United States government faced by the threats of the Cold War began a massive effort to mine and process uranium ore for use in the country's nuclear weapons programs. Much of that uranium was mined on, or near, Navajo lands, and much of it extracted and processed with Navajo hands. Now more than 50 later, the legacy of uranium mining has devastated both the people and the land. The workers, their families, and their neighbors suffer increased incidences of cancers and other medical disorders caused by their

exposure to uranium. Fathers and sons who went to work in the mines and the processing facilities brought the remnants of uranium in to their homes at the end of the each day infecting their families. The mines, so many of which have been abandoned, have left open scars in the ground leaking radioactive waste. The companies that processed the uranium ore dumped their waste in open, and in some cases unauthorized, pits infecting both the soil and the water. The tragedy of uranium's legacy extends not only to those who worked in the mines, but to those who worked and lived *near* the mines that have also experienced devastating illnesses. An even greater tragedy is that decades later, the families who live in those same areas continue to experience health problems today. The remnants of uranium activity continue to pollute our land, our water, and our lives. It would be unforgivable to allow this cycle to continue for another generation.

Many companies have approached the Navajo Nation over the years with promises of vast riches if we were to allow them to mine our uranium deposits. They have promised us newer and cleaner methods of mining that do not harm the land, the water, or the People. Recently some companies have promoted the use of a process called *in situ* leach mining that mines uranium ore by injecting a solution in the earth that pulls the ore from the surrounding rock. These companies claim the process is harmless. The science on this process is at best inconclusive, and at worst points to increased background radiation than existed before the mining operation. I have a hard time believing the claims of those who wish to profit from uranium mining that their "new" process is so much safer when history and science establish a different record. The Navajo People have been consistently lied to over the last 50 plus years by companies and government officials concerning the effects of various mining activities. Unfortunately, the true cost of these activities is only understood later when the companies have stolen away with their profits leaving the Navajo People to bear the health burdens. Why should

we believe these companies now when this industry failed to clean up the toxic mess they left behind the first time? Why should we believe these companies now, when years after the last pound of uranium was removed from Navajo Land, my people still get sick and die from contamination?

I would like to take a moment to discuss the community of Crownpoint, New Mexico. For years a company has attempted to mine uranium using the *in situ* process here. The majority of the population of Crownpoint has consistently opposed any attempted mining. In response to the wishes of the community, the company has used Navajos who hold title to their land to bypass the objections of the community. By luring these Navajos with promises of riches they have managed to divide the community against itself, and are now pressing hard to begin mining operations. Are these the business practices that the Navajo People will have to look forward to in the Great 21<sup>st</sup> Century Uranium Rush? Are we to be cast aside again so others may profit?

The area where this mining would take place is located next to a school and is only several hundred feet from the sole drinking water source for more than 3000 Navajos. While we have been promised that *in situ* leach mining is a harmless process, one need only watch a stream flow to understand that a liquid will follow its own path. No one here can guarantee me that once this toxic solution is in the ground that it won't move of its own accord and contaminate our drinking water. I will not risk the health and safety of my people on the promises of those who advance as a fact something for which there is little evidence. I will not allow my Navajo People to be the guinea pigs of those seeking only profit. I will not sit idly by and watch as another generation of Navajos face a litany of cancers and other illnesses.

We are asked to believe blindly what the companies tell us, that the process is clean and nonintrusive. The very nature of this clean and nonintrusive process involves the injection of fluid that cannot be controlled, and will most assuredly contaminate anywhere it flows including

into our ground water. The absolutes of clean and nonintrusive do not equate in my mind to uncontrolled and unproven. Why should we believe any of these companies when they threaten our water and try to pit the Navajo People against one another? I will not allow dividing and conquering the Navajo People to remain a profitable strategy.

In response to these attempts to renew uranium mining, the Navajo Nation Council passed, and I signed into law, the DNRPA. This Act places a ban on all uranium mining both within the Navajo Nation boundary, and within “Navajo Indian Country.” This means that the Navajo Nation asserts its rights and jurisdiction as a sovereign government as recognized by federal law, and more recently by the courts and the EPA to place a ban on the mining of uranium on both the Navajo Nation and surrounding lands. The Navajo Nation Code and the US Code define the extension of Navajo jurisdiction to include reservation lands, trust lands, allotted lands, and dependent Indian communities. Under this definition the areas currently under mining permit review fall within Navajo jurisdiction. Alternatively, regardless of whether or not Navajo jurisdiction under the DNRPA is found to be controlling, the Navajo Nation Environmental Protection Agency maintains jurisdiction under the grant of primacy by the US EPA to control ground water injection. The Navajo Nation will use any and all measures at its disposal as a sovereign power to ensure that our law is carried out.

As time has gone on and the land has been eroded by wind and rain, we continue to discover new contamination sites where uranium was mined and processed. We have also discovered both illegal dump sites, and legal dump sites that were properly closed, that have been eroded and are now open to the elements spreading their contaminants with every gust of wind. It is unconscionable to me that the federal government would consider allowing uranium mining to be restarted anywhere near the Navajo Nation when we are still suffering from previous mining activities. As an example, my people and their livestock still drink from

contaminated wells. There are only two options for rectifying this type of problem, finding a new source of water, or removing the contaminants from the existing sources. A new source would require large scale water development projects such as the proposed Navajo Gallup Water Supply Project. While such projects are expensive they pale in comparison to the cost of removing the contaminants from drinking water sources. Cleaning the contaminated water sources would cost many billions of dollars. This is just a fraction of the ongoing costs associated with uranium contamination.

If the committee insists on promoting renewed uranium mining outside of Navajo Indian Country, then the federal government should at minimum take this opportunity to use the profits from such mining activity to clean up historic mining and processing sites. This is in no way an endorsement of uranium mining, but an argument that any future revenues from uranium mining should at a very minimum go to alleviating the sins of historic uranium activities.

In sum, the Navajo Nation asks you to respect our wishes to live free of uranium mining. If the government and corporations insist on uranium mining we insist it not be on Navajo Indian Country; do it elsewhere. We have lived through that once, and continue to live with its effects today. The Navajo People have earned the right through illness and death to choose to not live through it again. I pray that the committee will learn from the experiences of the Navajo People and protect their own constituents and land from generations of contamination.