

Uranium Watch

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Via electronic mail

June 28, 2009

Ms. Cheryl Heying
Executive Secretary
Utah Division of Air Quality
150 North 1950 West
Salt Lake City, UT 84114-4820
Attn: Maung Maung
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RE: Comments on proposed Intent to Approve (DAQE-IN0141510002-09) and *Notice of Intent to Construct the Proposed La Sal Mines Project*, Denison Mines Corporation, May 2008. Project Number: N014151-0002

1. Intent to Approve

The Utah Division of Air Quality (DAQ) issues a May 28, 2009, Intent to Approve: Approval Order for an Underground Uranium and Vanadium Mine, San Juan County; CDS B; Attainment Area, NESHAP (Part 61), Title V (Part 70) Project Number: N014151-0002. The Intent to Approve includes a cover letter and an Abstract.

1.1. Approval Order — Generally

COMMENT:

1.1.a. The Approval Order is based on an incomplete and misleading application, as will be discussed below, and should not be issued.

1.1.b. The Approval Order is incomplete because it lacks a statement of basis or technical evaluation report. It contains no specific reference to any information contained in the Notice of Intent to Construct the Proposed La Sal Mines Project (NOI or Application) and does not reference important aspects of the Application. The DAQ must issue a statement of basis for the issuance of the Approval Order.

1.1.c. The Approval Order and the Application totally ignore the emission of radon from the uranium mines, which are subject to the provisions of 40 C.F.R. Part 61, Subparts A and B. There is no information about the sources of the emissions, the amount of emissions, how the emissions will be monitored, and mine equipment associated with the

venting and monitoring of the emissions, and the operational aspects. This is a grave and illegal omission in the application process.

1.1.d. The Approval Order is misleading because it does not acknowledge that the subject uranium mines are already operating. Emissions have been coming from the mine sites for over 2 years. Fugitive dust from some of the roads has not been suppressed. Radon monitoring devices did not operate properly.

1.1.e. The Approval Order should acknowledge this and explain why, despite the statement that "Air pollution producing sources and/or their air control facilities may not be constructed, installed, established, or modified prior to the issuance of an Approval Order by the Executive Secretary of the Utah Air Quality Board," it was OK to begin operating an air pollution source prior to the issuance of an Approval Order.

1.1.f. The Approval Order and the NOI fail to acknowledge and consider the fact that the Beaver Shaft and Beaver Shaft vents are very close to the center of La Sal: the store, Post Office, and—significantly—the La Sal Elementary School.

1.1.g. The Approval Order fails to require off-site radon monitoring in order to verify the actual exposure to residents and school children in the vicinity of the uranium mines.

1.1.h. The Approval Order should not be issued for the Beaver Shaft because radon gas and radioactive particles are being and will continue to be vented about ¼ mile from the La Sal Elementary School. There are higher risks to children from exposure to radon and radon progeny for leukemia and for a higher cumulative exposure during their lifetime. Yet, this is not discussed in the Approval Order or in the Application.

1.1.i. The Approval Order does not include any risk assessments based on actual radon exposure scenarios and the characteristics of the citizens that will be exposed to radon and other hazardous radioactive emissions in La Sal.

1.1.j. The Approval Order and the NOI should describe the construction work and other operational activities have already taken place at Denison Mines' mines in La Sal.

1.2. The Abstract (page 2, para. 1) states: *Denison Mines (USA) Corp. (Denison Mines) has requested to reactivate a complex of underground uranium and vanadium mines that make up the La Sal Mines.*

COMMENT: This statement is misleading, since Denison Mines had already activated the mines that are subject of the proposed Approval Order. The Pandora Mine was restarted in April 2007 and the La Sal Complex (Beaver Shaft, La Sal, Snowball) restarted in 2008 or early 2009. The mines were already operating prior to the May 2008 *Notice of Intent to Construct the Proposed La Sal Mines Project* and before the Notice of Intent to Approve.

1.3. The Abstract (page 6) states: *The NOI for the above-referenced project has been evaluated and has been found to be consistent with the requirements of UAC R307.*

COMMENT: The *Notice of Intent to Construct the Proposed La Sal Mines Project* (NOI) for the La Sal Mine Project does not meet all of the requirements of UAC R307 for the following reasons:

1.3.a R-307-401-5 provides guidance on the submittal of an NOI and states that the NOI **shall** include certain information. R-307-401-5(2)(b) requires that a NOI include: *Expected composition and physical characteristics of effluent stream both before and after treatment by any control apparatus, including emission rates, volume, temperature, air contaminant types, and concentration of air contaminants.*

The NOI did not include any information about the radon emissions from the mine vents, shafts, ore stockpiles, new and old waste rock, soils, and other areas at the mines. The NOI did not include information about other radioactive emissions from the mine vents, the extent of the gas and particulates and contaminated water vapor. There is no information about the full range of radioactive emissions from the site.

1.3.b. The NOI did not acknowledge that some of the radioactive and hazardous emissions are purposeful, so that there is no intent to reduce the amount of radon from the mines through the use of best available technology.

1.3.c. R-307-401-5(2)(e) requires that an NOI include: *Location and elevation of the emission point and other factors relating to dispersion and diffusion of the air contaminant in relation to nearby structures and window openings, and other information necessary to appraise the possible effects of the effluent.*

The NOI did not include information about the location and elevation of the emission points of radon and fails to discuss the factors relating to the dispersion and diffusion of radon from the mine site.

1.3.d. R-307-401-5(2)(f) requires that an NOI include: *The location of planned sampling points and the tests of the completed installation to be made by the owner or operator when necessary to ascertain compliance.*

The NOI failed to include any information about the location of sampling points for radon and did not discuss the tests of the completed sampling program. Further, the radon-sampling program did not work as expected for several months at the Pandora Mine.

1.3.e. R-307-401-5(2)(h) requires that an NOI include: *A schedule for construction.*

The NOI did not include a schedule for construction at the mine sites. The NOI did not include a schedule and description of construction already completed at the mines when the NOI was submitted.

1.3.f. R-307-401-5(2)(i) requires that an NOI include: *Any plans, specifications and related information that are in final form at the time of submission of notice of intent.* Denison Mines failed to inform the DAQ that construction had commenced and that the Pandora Mine has already been operating prior to the submission of the NOI. Clearly, they did not comply with the requirement to include this kind of information with the NOI.

1.3.g. It is impossible to understand what the DAQ means when stating that the Denison Mines' NOI is "consistent with the requirements of UAC R307." Clearly, "consistent" is a meaningless term, and this is a totally meaningless statement.

1.4. The Abstract (page 2, para. 6) states: *Air pollution producing sources and/or their air control facilities may not be constructed, installed, established, or modified prior to the issuance of an AO by the Executive Secretary of the Utah Air Quality Board.*

COMMENT: This is a very misleading statement. The NOI was an application for an Initial Approval Order, which is required for new sources of emissions. The mines last operated in 1990. New construction at the mine is required for the mines to be able to operate. This construction includes establishing a radon venting system, installation of radon monitoring devices and other equipment, road work, expansion of the underground mine workings, establishment of ore piles and waste rock piles, and other work.

The construction at the mines commenced prior to the submittal of the NOI in May 2008 and prior to the issuance of an Approval Order by *the Executive Secretary of the Utah Air Quality Board.* Work at the Pandora Mine commenced in the 4th Quarter of 2006. Work at the Beaver Shaft commenced in 2008 or 2009.

1.5. Abstract, Section II, Special Provisions (page 2-3 to 2-5).

COMMENT:

1.5.a. Section II.A. should recognize the existence of existing waste rock piles and include information about the size and location of those existing piles.

1.5.b. The list of equipment should include the radon venting operation: the fans in the mine, the vents, the monitoring devices, and any additional equipment associated with the venting of radon, dust, and water vapor from the mines.

1.6. Section II.B. (Requirements and Limitations) states: *II.B.1.a. Denison Mines shall notify the Executive Secretary in writing when the preparation of the mines has been completed and the mines are operational.*

COMMENT: This provision in the Approval Order is false and misleading. It gives the impression that the preparation of the mines is yet to be carried out and that the mines are not operational. However, the DAQ is perfectly aware that the preparation of the mines has been completed and the mines are already operational. The Pandora was operational over a year before the NOI was submitted to the DAQ. This provision should be removed from the Approval Order and the DAQ should acknowledge that the mines are already operational.

1.7. Section II.B.1.b. contains provisions relating to production and operating hours and requirements to keep records on-site.

COMMENT: The AO should require the mine operator to submit records of production and operating time to the DAQ on at least a quarterly basis.

1.8. Section II.B. has provisions relating to emissions from the mine operations. However, there mention of the emissions from the mine vents or emissions of radon from other operational sources, such as ore piles and waste rock piles. Those emissions should be includes in Section II.B.

1.9. Section III. (Applicable Federal Requirements) indicates that the operator must comply with *NESHAP (Part 61), B: Radon From Underground Uranium Mines*.

COMMENT: Since the State of Utah has primacy for compliance with this NESHAP, the Approval Order should include information about what is required and how, exactly, the operator will comply with Subpart B.

2. Application for Initial Approval Order

2.1. New Source Review Section Form 1 (Application Form), Application for Initial Approval Order (Appendix A to the *Notice of Intent to Construct the Proposed La Sal Mines Project, May 22, 2008*). The DAQ New Source Review Application Form that the Applicant filled out and submitted to the DAQ to accompany the NOI indicates that the Application is for an "Initial Approval Order." The Form states: *AN APPROVAL ORDER MUST BE ISSUED BEFORE ANY CONSTRUCTION OR INSTALLATION CAN BEGIN*. Page 2 of the Application Form, at 13, indicates that the Application is for "New construction."

COMMENT:

2.1.a. The Denison Mines' Application is clearly for an Initial Approval Order. In other words it is an application relating to a new source. The Application describes some of the activities that Denison Mines intends to commence at the mines, which have been closed since the early 1990s. The NOI refers to "proposed" activities and activities that "will" happen.

2.1.b. Utah Code Section 19-2-109.1 does not allow a person to operate a source of air pollution subject to Title V of the Clean Air Act without a permit. That section states, in pertinent part:

19-2-109.1. Operating permit required -- Emissions fee --
Implementation.

(2)(a) A person may not operate any source of air pollution required to have a permit under Title V of the 1990 Clean Air Act without having obtained an operating permit from the executive secretary under procedures the board establishes by rule.

Utah Administrative Rule R307-401 applies to Permits for New and Modified Sources. R-307-401-5(1) states:

(1) Except as provided in R307-401-9 through R307-401-17, any person subject to R307-401 shall submit a notice of intent to the executive secretary and receive an approval order prior to initiation of construction, modification or relocation. The notice of intent shall be in a format specified by the executive secretary.

2.1.c. As acknowledged in the NOI and the Notice of Intent to Approve, the provisions of 40 C.F.R. Part 61 are applicable to the Denison Mines' uranium mines in La Sal. The mines are subject to 40 C.F.R. Part 61, Subpart B (National Emission Standards for Radon Emissions from Underground Uranium Mines), because over 100,000 tons of uranium ore have already been removed from the mines. Therefore, the mines are also subject to the General Provisions in 40 C.F.R. Part 61, Subpart A. 10 C.F.R. Part 61, Subpart A, § 61.07 lays out the requirements for an application for a new source. This section states:

§ 61.07 Application for approval of construction or modification.

(a) The owner or operator shall submit to the Administrator an application for approval of the construction of any new source or modification of any existing source. The application shall be submitted before the construction or modification is planned to commence, or within 30 days after the effective date if the construction or modification had commenced before the effective date and initial startup has not occurred. A separate application shall be submitted for each stationary source.

(b) Each application for approval of construction shall include—

- (1) The name and address of the applicant;
- (2) The location or proposed location of the source; and
- (3) Technical information describing the proposed nature, size, design, operating design capacity, and method of operation of the source, including a description of any equipment to be used for control of emissions. Such technical information shall include calculations of emission estimates in sufficient detail to permit assessment of the validity

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of the calculations.

2.1.d. Denison Mines commenced construction and operation of the emission sources prior to the submittal of the Application and prior to the issuance of an Approval Order. Therefore, Denison Mines violated the requirements of 40 C.F.R. § 61.07, Utah Code 19-2-109.1, and Utah Administrative Rule R-307-401-5(1).

2.1.e. The DAQ should not issue the Approval Order until the DAQ has fully investigated the possible violations of the applicable Utah and EPA statutes and regulations by commencing construction and operation of the new source of emissions prior to submitting a Notice of Intent and prior to the issuance of the Approval Order.

2.2. The DAQ Application Form requires that certain information be submitted with the Application.

COMMENT: The Application is incomplete, based on the following:

2.2.a. The Application Form, page 2, Process Information, at 4, Method of exhaust ventilation, indicates that this section is not applicable. Radon and other aerosols and particulates will be vented from the mines. Therefore, the Application should have included information about the methods of ventilation from the mines.

2.2.b. The Application Form, page 2, at 22, asks for Emissions Information and requests Material Safety Data Sheets for all chemicals or compounds that may be emitted to the atmosphere (Form Id). Form Id, Emissions Information, dated November 10, 2008, contains information and tables listing the emissions from the La Sal Mines.

There are no Material Safety Data Sheets. There is no data and information about the emission of radon from the mine.

2.2.c. The Application Form, page 2, at 23, Identity on the site plan all emissions points (Appendix A). Appendix A, Site Location and Property Distribution, does not include a map of the Beaver Shaft. It does not clearly show the location of the vents and location of other places where radon will be emitted from the mine sites.

2.2.d. The Application Form, Appendix C, Process Equipment Description, page C-1 (para. 1), states: *The La Sal Mines were idle from 1990 until the present day.*

This is a clear misstatement of fact, because the NOI was submitted in May 2008 and the Pandora mine has been operating since April 2007.

2.2.e. The Application Form, Appendix C (page C-1), Underground Mine Plan states: *Access to the La Sal trend uranium/vanadium deposits will be via the inclines at Pandora, Snowball, La Sal, and the Beaver Shaft as described above.* Elsewhere, the NOI states that only the Pandora and Beaver Shaft access shafts will be used.

2.2.f. Appendix C lists underground equipment and surface equipment. Information about the air circulation and venting equipment in the mines and equipment at the intake and exhaust vent on the surface should have been included in the list of underground and surface equipment.

2.2.g. The Application Form, page 2, at 25, states that the Application should list and describe all compliance monitoring devices and/or activities (Appendix E). Appendix E contains a list of Proposed Compliance Monitoring Devices and Activities. This section states:

The proposed compliance monitoring activity is recordkeeping, so that permit conditions can be compared with actual conditions. Recordkeeping will include:

- Production rates of ore and waste rock
- Generator hours of operation, fuel usage, and power loads
- Watering/dust suppression schedules and locations.

Missing from this list discussion of compliance monitoring activity is the monitoring activity associated with the monitoring of radon emissions from the mine vents, ore piles, waste rock piles, and other on-site sources of radon. The monitoring of these emissions is required by 40 C.F.R. Part 61, Subpart B. This National Emission Standard applies to the La Sal Mines.

2.2.h. 40 C.F.R. § 61.07(b)(3) requires that an application for approval of construction for a new source of emissions subject to the requirements of Subpart B, shall include:

- (3) Technical information describing the proposed nature, size, design, operating design capacity, and method of operation of the source, including a description of any equipment to be used for control of emissions. Such technical information shall include calculations of emission estimates in sufficient detail to permit assessment of the validity of the calculations.

The May 2008 Application, as supplemented, does not include any information about the operation of the mines relating to the emission of radon from the underground mine works and the surface operations. There are no calculations regarding the estimates of radon and dust from the mine vents. There are no estimates of the emissions of radon from the ore piles, waste rock piles, soils, or other radon sources on site. There is no information about the mine vents (except a map that is too small to read), the devices that remove the radon from the mine, the monitoring devices, or other technical information related to the removal of the radon and dispersal off-site. There are no on-site and off-site meteorological data; no information about wind and drainage patterns; no estimates of the off-site exposure; and no discussion of the method of determining off-site radon exposure. Most importantly, there is no proposed monitoring program that will measure the amount of radon that is detected at relevant off-site locations.

3. Notice of Intent to Construct the Proposed La Sal Mines Project, May 28, 2008, as supplemented on November 28, 2008, and February 2 and April 10, 2009.

3.1. Section 1. (page 1-1). This section (para. 1) states: *Denison Mines (USA) Corp. (Denison) is proposing to reactivate a complex of historic underground uranium and vanadium mines that make up the La Sal Mines.*

COMMENT:

This statement gives the impression that the *Notice of Intent to Construct the Proposed La Sal Mines Project* (NOI or Application) is about a "proposed project" and is being submitted prior to the reactivation of the La Sal Mines. The Application mentions activities that are proposed to happen in the future. This is very misleading information, because Denison Mines commenced the operation of the Pandora in April 2007 and the Beaver Shaft in late 2008 or early 2009. In fact, the proposed activities have already happened or will happen before the issuance of the Approval Order. Radioactive and non-radioactive emissions are already going off-site from the operation of the mines: the haul roads, mine shafts, radon vents, and from other sources and activities.

3.2. Section 2 (Project Description), Figures 2-2 to 2-4 are maps of the Pandora, La Sal, and Snowball Mines.

COMMENT: That section of the Application should have included a map of the Beaver Shaft Mine.

3.3. Section 2, page 2-7 (para. 3), discusses the extent of the waste rock area.

COMMENT: There is no mention of the existence or extent of existing waste rock piles and amount of waste in those piles. The Application should have contained that information.

3.4. Section 2, page 2-7 (para. 3), states: *Waste rock is a relatively inert material and is not expected to produce a radiological hazard.*

COMMENT: The Application should have contained information about the radiological and non-radiological characteristics of the existing waste rock piles and the waste rock that is expected to be placed on existing and new piles.

3.5. Section 2, page 2-7 (para. 5), states that particulate matter will be controlled by spraying the regularly traveled roads.

COMMENT: Denison Mines is already failing to control the dust on secondary haul roads to the mines. Much dust has already been observed coming off roads, especially road to Beaver Shaft. The dust from the road from Hwy. 46 to the Beaver Shaft was definitely not being controlled and could be seen from a great distance away. The commitment of Denison to control the dust is questionable. Also, there is no discussion of the impacts of run off from roads sprayed with a calcium chloride solution. That information should be in the Application.

3.6. Section 3, page 2-8 (para. 2) states: *All four La Sal Mines are secured by gates located at each surface facility area and active portal.*

COMMENT: Twice in the past couple of months this commenter had driven near the gate of the Beaver Shaft, once in the evening and once in the middle of the night. Both times the gate was wide open.

It was also possible to drive onto one of the nearby waste rock piles, which was not *identified as a waste rock pile and did not appear to be gated. Therefore, any claim that the La Sal Mines are "secured" by gates is not accurate.

3.7. Section 2, page 2-8 (para. 5) states: *Based on the proposed uranium ore production rate of 192,000 tpy, the La Sal Mines **may** be subject to the National Emission Standards for Hazardous Air Pollutants (NESHAPS), Subpart B, National Emission Standards for Radon Emissions from Underground Uranium Mines (Rad-NESHAP).* (Emphasis added.)

COMMENT: This is a misleading statement. Both of the mines **MUST** comply with the Rad-NESHAP because they are uranium mines. Additionally, Denison Mines must submit an annual compliance report on the radon emissions because both the La Sal Mines and the Pandora Mine have already produced more than 100,000 tons of ore.

3.8. Section 3, Table 3-1, Projected Facility-Wide Annual Emissions. Table 3-1 lists emissions from "Storage Pile Fugitive Sources" as 3.74 tons per year for particulate matter of 10 microns or less.

COMMENT:

3.8.a. What are the "Storage Pile Fugitive Sources"? Are they waste rock piles, ore piles, or both? What about emissions from other sources such as contaminated areas, soils, old ore pads, etc? All of the sources of fugitive emissions should be mentioned and the data for each source should be provided.

3.8.b. Table 3-1 only contains information about emissions less than 10 microns. Why is there no data regarding emissions of more than 10 microns? The DAQ should explain why emissions of more than 10 microns are not significant.

3.8.c. There is no information about the bases for the information in Tables 3-1, 3-2, 3-3. The Application should have provided references to the bases for the information in the tables.

3.9. Section 3, Table 3-2, "Projected Facility-Wide Annual Emissions, Controlled vs. Uncontrolled." Table 3-2 contains information about controlled and uncontrolled emissions.

COMMENT: The table does not explain why some of the emissions are controlled and some uncontrolled. That information should be provided.

3.10. Section 4.2 Land Use Classifications (page 4-3) lists the mine elevations and distance from the "town of La Sal." The Application does not define "town of La Sal."

COMMENT: What, exactly, is the "town of La Sal"? Is it the nearest resident, the center of town, some town boundary? The exact definition of the "town of La Sal" should be provided.

3.11. Section 4.3, Meteorological Data (page 4-4). This section states: *The dispersion modeling was conducted using preprocessed ISCST meteorological data provided by UDEQ (UDAQ 2007). This data was processed using surface meteorological data from the on-site weather station located at the Lisbon Gas Plant, Utah, for the period November 1, 1995 through October 31, 1996, and the upper air meteorological data from the Grand Junction NWS station for the same period. These data were selected by UDEQ because they are the most representative available conditions at the proposed La Sal Mines sites.*

COMMENT:

3.11.a. It is irrational to use meteorological data from the Lisbon Valley Gas Plant to understand the meteorological conditions near La Sal. There is no data to support the assumption that meteorological data from the Lisbon Valley Gas Plant is in any way reflective of the conditions at the La Sal Mines. The La Sal and Lisbon Valley areas have highly variable, but not identical, wind direction, wind speeds, and air drainage patterns. The La Sal mines are on the slope of the La Sal Mountains, with its own unique meteorological conditions, such as down-slope air drainage and severe windstorm events, with and without precipitation. The Applicant cannot rely on "preprocessed ISCST meteorological data" from another site. It is the responsibility of the Applicant to provide meteorological data that is based on the actual site conditions. That information cannot be provided until meteorological monitoring devices have been set up in La Sal and data has been collected for at least one year. That is what is required for most facilities that release radiological emissions to the atmosphere and are the subject of state or federal emission and exposure standards.

3.11.b. The Approval Order should not be finalized until the Applicant has provided data on the meteorological conditions at each of the subject La Sal Mines. This included a data from meteorological monitoring devices at the La Sal Mines and nearby off-site facilities over a period of one year and information on air drainage patterns in the La Sal area.

3.12. Section 4.4 Modeled Emission Sources (page 4-4). The Application discusses point sources, including material handling, stockpiles, and roads. It states that particle deposition has not been considered.

COMMENT: The Application does not differentiate between stockpiled ore, waste rock, or ore pads. There is no mention of the shafts and air vents as emission sources. The Application must contain a list of all emission sources at the mine. Particle deposition must also be considered in addition to pollutant dispersion.

3.13. Section 4, Table 4-2, La Sal Mines, Emission Source Modeled Input Parameters (pages 4-7 to 4-9). Table 2-4, for chromium (footnote 1) states: *Chemical composition estimates taken from average mineral composition of sandstone (USGS 2000. "Tables of data for chemical and mineral composition of 50 sandstone samples, Minturn and Sangre de Cristo Formations, Sangre de Cristo Range, Colorado" . . .)*

COMMENT:

3.13.a. The table is full of acronyms, which are not identified, such as the source IDs. The tables should be understandable to members of the public.

3.13.b. There is no data that demonstrates that the composition of ore from the La Sal Mines in any way similar to the sandstone from the Sangre de Cristo Range in Colorado. Is there no data available on the chromium composition of the ore that will be mined? It is unreasonable to rely on data for rock that is not the same as the rock being considered in the Application. Further, the waste rock at the La Sal Mines might contain other constituents of concern.

It is unreasonable and unacceptable to estimate chromium emissions from material other than the material that will be handled at the La Sal Mine sites.

3.14. Section 4.4 (page 4-10) discusses a 10-year old Texas Commission on Environmental Quality program for modeling roadway emissions, which the Application relies on for estimating emissions from the haul roads.

COMMENT: Missing from the calculations are information about the nature of the road surface and any efforts to control emissions. Having observed a great deal of dust coming from the haul road to the Beaver Shaft caused by a single pick up truck, there is no basis for the Applicant's estimates of fugitive dust emissions from the haul roads.

3.15. Appendix A, Application Form, Application for: Initial Approval Order. The form that the Applicant filled out indicates that the Application is for an Initial Approval Order. The Form states: *AN APPROVAL ORDER MUST BE ISSUED BEFORE ANY CONSTRUCTION OR INSTALLATION CAN BEGIN.* Page 2 of the Application Form, at 13, indicates that the Application is for "New construction."

COMMENT:

3.15.a. The Denison Mines' Application is clearly for an Initial Approval Order. In other words it is an application relating to a new source. The Application describes some of the activities that Denison Mines intends to commence at the mines, which have been closed since the early 1990s.

Utah Code Section 19-2-109.1 does not allow a person to operate a source of air pollution subject to Title V of the Clean Air Act without a permit. That section states:

19-2-109.1. Operating permit required -- Emissions fee --
Implementation.

- (1) As used in this section and Sections 19-2-109.2 and 19-2-109.3:
- (a) "EPA" means the federal Environmental Protection Agency.
 - (b) "1990 Clean Air Act" means the federal Clean Air Act as amended in 1990.
 - (c) "Operating permit" means a permit issued by the executive secretary to sources of air pollution that meet the requirements of Titles IV and V of the 1990 Clean Air Act.
 - (d) "Program" means the air pollution operating permit program established under this section to comply with Title V of the 1990 Clean Air Act.
 - (e) "Regulated pollutant" has the same meaning as defined in Title V of the 1990 Clean Air Act and implementing federal regulations.
- (2) (a) A person may not operate any source of air pollution required to have a permit under Title V of the 1990 Clean Air Act without having obtained an operating permit from the executive secretary under procedures the board establishes by rule.

Utah Administrative Rule R307-401 applies to Permits for New and Modified Sources. R-307-401-5(1):

- (1) Except as provided in R307-401-9 through R307-401-17, any person subject to R307-401 shall submit a notice of intent to the executive secretary and receive an approval order prior to initiation of construction, modification or relocation. The notice of intent shall be in a format specified by the executive secretary

3.15.b. Denison Mines has already commenced construction and operation of the emission sources. The reasonable question would be: Given the requirement for a DAQ permit, why has construction and operation commenced without such an Approval Order?

3.15.c. Uranium Watch believes that Denison Mines violated the requirements for a permit prior to the commencement of construction of the La Sal uranium mines. The DAQ should not issue the Approval Order until they have determined whether Denison Mines has violated the provisions of the applicable Utah and EPA statutes and regulations by commencing construction and operation of the new source of emissions prior to the issuance of the Approval Order.

3.16. Appendix C (page C-1), Underground Mine Plan. Plan states: Access to the La Sal trend uranium/vanadium deposits will be via the inclines at Pandora, Snowball, La Sal, and the Beaver Shaft as described above.

COMMENT: The Approval Order states that only the Pandora and Beaver Shaft access shafts will be used.

4. Conclusion

It is unconscionable for the DAQ to permit a uranium mine to vent radon one-quarter mile from an elementary school.

In consideration of the comments above, the DAQ should deny the Application and address the failure of the Applicant to submit a Notice of Intent prior to commencement of construction at the site related to the reopening of Denison Mines' uranium mines in La Sal, Utah.

Thank you for this opportunity to comment.

Respectfully submitted,

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Also submitted on behalf of:

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