

**Testimony of Janene Yazzie, Dine Care Representative
New Mexico Indian Affairs Committee
Nenahnezad public hearing
August 22, 2017**

Thank you chair,

My name is Janene Yazzie. I was asked to be here as a representative of Dine Care. I am a watershed planner for the Little Colorado River Watershed Chapters Association and I'm also a community organizer and a human rights advocate. I am a member of the Diné Nation, one of the largest tribes that has lived in this region from time immemorial based on our creation stories. For just as long, my people have honored the male river they now call the San Juan, known to us as Tó Nizhoni, or Beautiful water. They have lived along the banks, using the river to irrigate ancient cornfields and orchards, drinking the water for subsistence, using it for important ceremonies, and honoring our responsibility to be good stewards so that we may continue to use it for future generations by preserving it and respecting its shared use by the many animals that we share our homeland with.

Since August 5th, 2015 when we watched as our river turned yellow, I have worked with the collective of community organizers known as To Bei Nihi Dzill, Our Water is Our Strength, to coordinate teach-ins around the Gold King Mine Spill in order to create a space where impacted community members could come and discuss how they have been impacted by the spill, while getting access to important information that could help inform collective decision-making going forward. The intent of these teach-ins was to create a vehicle by which impacted stakeholders could formulate a community response and an action group to help guide short-term and long-term goals and actions. As part of this work, we became Agnese Haury Grant partners to the University of Arizona led study called "**Tó Lítsó, the Water is Yellow: Assessing Risk Perception and Exposure of Navajo communities to the Gold King Mine Spill**" also known as the Dine Gold King Spill Exposure Project, for which Dr. Karletta Chief is one of the Principle Investigators and which includes other partners such as Northern Arizona University, Shiprock, Aneth and Upper Fruitland communities, the Navajo Nation Community Health Representatives and others. Our collaboration is called "**K'é bee da'ahííniítą: Strength through the Navajo clan system to respond to the Gold King Mine spill**" and is the only community-led, collaborative, and comprehensive investigation into the short and long-term impacts of the Gold King Mine Spill guided by the articulated needs of impacted community members.

I will not spend my time discussing the results of this on-going study which is publicly available and which aligns with the results that have been reported by state and federal agencies, an electronic version of the most recent community presentation that explains our findings will be sent to you all for your review (attached). Instead, I want to spend my time discussing the areas for improvement that can be made, to facilitate better collaboration for all stakeholders, Native and non-Native, invested in the health and preservation of the San Juan River. It must be

emphasized, that the Diné and Ute nations, along with other tribes that have historically used the river, possess historical and traditional knowledge and experience that can inform the greater community about the changes in the flow, quality, and quantity of the San Juan River. Our ties to this body of water are not merely physical, it is also mental, spiritual, emotional, and ancient. Yet, despite this, and despite the depth of the trauma of seeing our river run yellow—and subsequently learning about the gross threats of contamination present upstream of this vital watershed—it was only because of the leadership and pro-active action of Dr. Karletta Chief and Shiprock Chapter President Duane Chili Yazzie that the voices of the impacted Navajo residents and their concerns regarding the spill were given any consideration. Immediately following the spill, major headlines and inquiries into the concerns about impact centered on the recreational use and agricultural use by mostly non-native communities with a temporal and consumeristic relationship with our male river. This is short-sighted, negligent and extremely harmful to the Indigenous peoples who depend on this sacred water system and the ecosystems it supports.

For example, in the Shiprock preliminary results from the focus groups that were conducted by our research team, which will also be provided for you electronically (attached), the top perceived risks were environmental, cultural, spiritual, mental health, financial, increase of distrust of federal and state entities, increased historical trauma, and loss of subsistence. The top behavioral changes were described as changes in farming practices, ranching, spiritual practices, cultural practices, mental health, and finally recreation. For this reason it's important for us to work together to provide the necessary services to address these impacts, especially the spiritual and mental health impacts of the stakeholders along the river which has been intergenerational, affecting both elder populations and children in significant ways. Shiprock Chapter President Duane Chili Yazzie is willing to continue to work with this body to facilitate a partnership to address this need because of its importance to the short-term and long-term health and well-being of our impacted communities.

One of the most important lessons highlighted by the Gold King Mine Spill is the shared investment and dependency we have on this sacred river. As such, issues such as the on-going leakages at un-reclaimed mine sites draining into the animas, the increased risk of toxic exposure during high flood events, and the need for long-term monitoring and remediation of the river are all things we have a shared investment in. The international Indian Treaty Council filed a CERD Early Warning and Urgent Action report on August 19, 2015 further highlighting the importance for building state collaboration with impacted Indigenous peoples, highlighting the following issues:

- 1.** Violations of their free prior and informed consent through permitting toxic mining waste to be stored on the banks of a river system that provides water for traditional food production and subsistence rights posing a significant, negligent and discriminatory threat to the health and way of life of the impacted Indigenous Peoples;
- 2.** Violations of free prior and informed consent through failure to provide timely and adequate information to the community members, food producers and leaders to enable them to

understand the immediate and long term, health dangers and risks and to be able to prepare and respond;

- 3.** Violations of subsistence rights and right to food as well as the cultural rights that are inextricably linked to these traditional practices, food sources and sacred waters;
- 4.** Violations of the rights of the child and the right to health of women, children, unborn and the entire community;
- 5.** Violations of their rights to property including land, water, animals, seeds and plant resources;
- 6.** Violations of their rights to effective and adequate redress, restitution, remedy and compensation.

In addition, the report calls for the following actions:

- 1.** That the United States government and its Environmental Protection Agency immediately, freely and openly divulge to the Diné Indigenous Peoples of the Shiprock community and other affected Indigenous Peoples, all pertinent data and information that will describe the kinds of contaminants that are/were contained in the waste materials, the amounts that were released of each, and the known or suspected impacts on human, plant and animal life;
- 2.** That the United States government and its Environmental Protection Agency immediately proceed with an aggressive program that will assure the total and complete cleanup of the damage it has caused, working in close collaboration with the impacted Indigenous communities, including the Shiprock Chapter leadership and relevant programs and officials of the Diné (Navajo) Nation;
- 3.** That the United States government, the US Environmental Protection Agency and related agencies provide a complete inventory of mine and mine waste contamination storage facilities that could potentially cause similar damage to the San Juan River and its tributaries in the future as well as a cleanup plan that will be carried out without further risk to these waterways;
- 4.** That the United States government and its Environmental Protection Agency fully compensate the San Juan River valley farmers for all crop and livestock losses directly attributable to this event;
- 5.** That the United States government fully compensate the impacted Tribal governments and their entities for all expenses incurred in addressing the emergency conditions precipitated by this event as well as any ongoing health impacts;
- 6.** That the United States government provide adequate financing to allow the impacted local Diné farmers to plan, design and construct water collection and storage systems that will provide an alternative water source for river based Navajo irrigation systems now and in the future;
- 7.** That the United States government immediately put in place, in collaboration and with the full participation of the impacted Indigenous Peoples, a just and effective mechanism to ensure redress and restitution for the human rights, Treaty rights, subsistence rights and health rights violated by this action in accordance with the United Nations Declaration on the Rights of Indigenous Peoples Articles 27, 28, 29 and 40.

We thank the state of New Mexico for continuing to provide spaces for these dialogues but strongly encourage increased cultural sensitivity and consideration of the Indigenous peoples within the San Juan watershed, especially in regards to long-term monitoring, implementation of warning systems, and in facilitating better inclusivity for impacted Diné stakeholders who are

invested in the health of this important river system. Although relationships between our Nation and the state of New Mexico has been better and more beneficial than with the federal entities responsible for the spill and the mitigation of its impacts, ignoring the significance of an eclipse in Navajo Culture and scheduling testimony from Navajo stakeholders on the day it occurs, required them to violate traditional protocols in order to participate. This is unacceptable and I hope the committee of Indian Affairs endeavors to do better in the future.

We can begin to improve this relationship in particular in how it relates to reporting back to the impacted communities. The reporting needs to be consistent, regular and in the Diné language. We have been able to do this through our teach-ins, three of which are scheduled to take place starting today through Thursday in the communities of Shiprock, Aneth and Upper Fruitland. We are grateful that Mr. Dennis McQuillan, New Mexico Department of Environmental Quality chief scientist, has presented at two of our teach-ins already and we hope to continue this collaboration into the future. We especially look forward to discussions that can better coordinate and facilitate partnerships among all entities, throughout our research into the impacts of the spill from now into the future.