

**MINUTES
of the
THIRD MEETING
of the
INDIAN AFFAIRS COMMITTEE**

**August 21, 2017
San Juan College
Farmington**

**August 22, 2017
Nenahnezad Chapter House
Fruitland**

The third meeting of the Indian Affairs Committee (IAC) for the 2017 interim was called to order at 10:02 a.m. by Senator John Pinto, co-chair, on Monday, August 21, 2017, at San Juan College in Farmington.

Present

Sen. John Pinto, Co-Chair
Rep. Sharon Clahchischilliage (8/21)
Rep. D. Wonda Johnson
Rep. Derrick J. Lente
Sen. Richard C. Martinez
Rep. Debbie A. Rodella
Sen. Nancy Rodriguez (8/21)
Sen. William E. Sharer
Sen. Benny Shendo, Jr. (8/22)
Rep. James E. Smith

Absent

Rep. Georgene Louis, Co-Chair
Rep. Zachary J. Cook
Sen. Mark Moores
Sen. Cliff R. Pirtle
Rep. Nick L. Salazar
Sen. William P. Soules

Advisory Members

Rep. Eliseo Lee Alcon
Sen. Carlos R. Cisneros
Rep. Harry Garcia (8/21)
Rep. Stephanie Garcia Richard
Rep. Patricia A. Lundstrom (8/22)
Sen. Cisco McSorley
Rep. Angelica Rubio
Rep. Debra M. Sariñana (8/22)

Sen. Stuart Ingle
Rep. Sarah Maestas Barnes
Sen. George K. Munoz
Rep. Patricia Roybal Caballero
Rep. Patricio Ruiloba
Sen. Clemente Sanchez
Rep. Elizabeth "Liz" Thomson

(Attendance dates are noted for members not present for the entire meeting.)

Staff

Peter Kovnat, Staff Attorney, Legislative Council Service (LCS)
Diego Jimenez, Research Assistant, LCS
Maria Alaena Romero, Intern, LCS

Guests

The guest list is in the meeting file.

Handouts

All handouts and other written testimony are in the meeting file.

Monday, August 21 — San Juan College**Call to Order and Introductions**

Senator Pinto welcomed the committee and members of the audience and asked committee members and guests to introduce themselves.

Welcome and Status Update

Dr. Toni Hopper Pendergrass, president, San Juan College (SJC), welcomed the legislators and introduced staff members, including Byron Tsabetsaye, director, Native American Center, SJC, and Barbara Wickman, dean, School of Energy, SJC. Dr. Pendergrass discussed student success, with a focus on SJC's Native American students. There has been an increase in the school's online, on-campus and dual credit enrollment, she said.

SJC plans to improve transportation for students living in Navajo chapters to better provide access to a college education to students who have limited access to transportation to and from the school. Dr. Pendergrass noted the importance of tribal energy development.

In response to a question about transportation options from SJC to surrounding chapters, Dr. Pendergrass said that there are options for transportation that allow students to get discounted bus passes.

Committee members asked what jobs SJC students are prepared for and getting when they graduate. Dr. Pendergrass said that the degrees conferred provide students with opportunities to work in oil refineries as welders, among other occupations. SJC has options for certificates and scholarships in mechanics, maintenance and energy. Students finishing their programs often work in local oil refineries and other locations where they can best utilize their training.

Public Service Company of New Mexico (PNM) Energy Future

Carlos Lucero, manager, state and federal government affairs, PNM, described PNM's objectives and successes. Mr. Lucero laid out PNM's future generation and 2017 integrated resource plan, along with its plan to retire two power plant units by the end of 2017. He discussed the joint ownership of the other two units with PNM, Tucson Electric Power, the City of Farmington, Los Alamos County and Utah Associated Municipal Power Systems. PNM aspires to provide coal-free energy by 2031 by transitioning to a more flexible energy supply, increasing renewable energy and maintaining nuclear power, while providing for a reduction in carbon emissions. PNM has committed \$1 million over five years to train Navajo tribal members

for future job opportunities. Since 2013, \$200,000 has gone directly to two partnering higher education institutions, Navajo Technical University and SJC. To date, 512 students have received educational scholarships, and 231 scholarship recipients have earned a trade certificate or an associate or bachelor of arts degree.

Cathy Newby, director, tribal government affairs, PNM, said that PNM works with 15 of New Mexico's tribes, and that 26% of PNM total electric transmission lines cross tribal land. There are up to 14,763 miles of power lines on tribal land, and 10% of PNM's electric service territory is on tribal land. To better illustrate this, Ms. Newby highlighted a slide from her handout displaying a map of PNM facilities and transmission lines in the state.

Regarding the switch from coal to natural gas, how that switch would be funded and the changing price of coal, Mr. Lucero said that the cost of coal is only one factor of many that are being discussed in this transition. Efficiency and customer need require a resource that can be turned on and off to avoid waste.

In closing, the committee applauded PNM and its business model, which includes working with tribal nations and providing training and jobs to tribal members.

Tse Daa K'aan Chapter

Anita Hayes, chapter manager, Tse Daa K'aan Chapter, expressed concern about funding appropriated for the Hogback irrigation project. Two water pumps have been used for over 60 years and are vital for the farming, agriculture and lives of chapter residents. Capital outlay funds of \$794,000 were approved to build new pumps, but the bureaucracy in Window Rock is putting that funding at risk of being taken in sweeps. Though reauthorized once, the funding may need to be reauthorized again if it is going to be there for use by the chapter.

Committee members discussed the obstacles faced by the chapter in completing the irrigation project, including an executive order from Governor Susana Martinez.

Upon a motion and a second, without opposition, the committee requested that staff write a letter to the Navajo Nation and Governor Martinez requesting an update on the current status of the funding for the Hogback irrigation project.

Bureau of Land Management (BLM) Plan for Management of the Greater Chaco Landscape

Richard Fields, field manager, BLM Farmington Field Office, said that once every 20 years, the BLM produces a research plan that addresses the latest technology, land management and development. The BLM is now assessing mineral development on its land. While important, recreation areas and economic and land initiatives do not invalidate the rights of sovereign nations, Mr. Fields said. He added that the BLM is conducting extensive public outreach, with 10 meetings scheduled.

The committee discussed the 10-mile buffer zone of leases for wells. No new leases will be made on land within 10 miles of Chaco, though Mr. Fields did say that some leases were made before the buffer zone was put into place, so there is no guarantee that there will never be a well within the zone.

Committee members spoke about the ownership and disposition of the land, allotments and what assessment has been made of the impact of drilling on sacred sites. Mr. Fields said that numerous studies have been done that show no harm to archaeological sites within the 10-mile buffer zone.

Daniel Tso, community member, said that land management techniques changed with the transition from President Obama to President Trump. He stressed that because of the way leases are approved on allotted lands, the best interests of the inhabitants are not always protected. Also, when the funds for the leases are tied up, none of the local interests benefit.

Public Comment

Dan Lorimier, Rio Grande Chapter, Sierra Club, discussed the value of methane capture and said that companies should not benefit at the cost of public health.

Melissa Kelly, community affairs coordinator, Navajo Transitional Energy Company (NTEC), discussed Navajo Mine, community enhancement and the interaction with partners in the Four Corners region.

Mike Eisenfeld, San Juan Citizens Alliance, said that he hopes to work with the committee on environmental issues and community engagement.

Recess

The IAC recessed at 3:27 p.m.

Tuesday, August 22 —Nenahnezad Chapter House

Senator Jeff Steinborn, chair, Radioactive and Hazardous Materials Committee (RHMC), welcomed guests and members of the RHMC and the IAC, which reconvened from the previous day, to the meeting. Committee members, staff and audience members introduced themselves. Senator Steinborn said that he and Representative Johnson would chair the meeting, as the meeting was being held as a joint meeting of the RHMC and the IAC. Representative Johnson then introduced Norman C. Begaye, president, Nenahnezad Chapter, and invited him to address the committees.

Welcome and Status Update

President Begaye welcomed the committees to Nenahnezad and explained that, in English, Nenahnezad means "steep hill". He said that the chapter has 4,700 members, 1,500 of whom are voters, and stated that Arizona Public Service Company (APS) and the NTEC are

major industries locally. He noted that APS and PNM do a good job for the community by providing scholarships and community funds for Nenahnezad's children. He said that the chapter is focused on getting young people to go to school and get degrees. A couple of weeks earlier, the chapter provided 60 scholarships to students, he said, and such programs are having a positive effect on the community.

Regarding the Gold King Mine (GKM) spill, President Begaye said that some farmers were not going to harvest the year of the spill but that the chapter left the decision to irrigate their fields to the farmers. The chapter held a meeting and advised that it was up to the community as to what to do with the waters that were impacted by the spill; two weeks later, the water was turned back on and farmers resumed irrigating. President Begaye shared that the upcoming Nenahnezad Harvest Festival is in its third year and that, this year, the inaugural Nenahnezad 10-kilometer run up the hill will take place the day after the festival.

In closing, President Begaye noted that the chapter has been receiving many compliments on its facilities from the surrounding community. The chapter house is used as a polling place for county voters, and the chapter is working to ensure that the facilities are accessible.

Update on the GKM Spill

Dennis McQuillan, chief scientist, Department of Environment (NMED), opened his presentation by noting that the two-year anniversary of the GKM spill had just passed and that knowledge gained in the process of testing and monitoring the GKM situation is being incorporated into an Animas River watershed scale plan. He said that the Animas River watershed system runs from the GKM to Aztec and that it involves a very complicated interaction of surface water and ground water, rich biodiversity, agriculture, various contamination sources and a wide range of nutrients.

Reviewing his presentation, "Gold King Mine Spill New Mexico Long-Term Impact Team Progress Report", Mr. McQuillan commented on the ongoing monitoring and findings from the spill, as follows. Multiple governmental and nongovernmental agencies, including the Navajo Nation and the University of Arizona, have teamed up and are engaged in ongoing monitoring. Thirty days after the GKM spill, the river water met irrigation standards, and metals found in crop tissue surveys have been very low. The team is looking at how the river recharges ground water, but no impacts to wells have been observed. There is, however, concern about lead-contaminated aquifer sediment and whether this lead poses a danger to the root zone. This concern will continue to be monitored, but, because lead does not travel very far, there is hope that it will not be a problem. By all indications, the metals from the GKM spill washed out of New Mexico into Lake Powell during the spring runoff of 2016.

Mr. McQuillen advised that New Mexico has adopted water quality standards and that the New Mexico Bureau of Geology and Mineral Resources is measuring water levels in the aquifer to better understand the direction of ground water flows. River sondes have been installed to monitor the flow rate and turbidity, among other data points, and samples are taken from the

sonde locations to test for metals and general chemistry. He noted that the relationship between turbidity and heavy metals in the river is of keen interest. Solids analysis has also been conducted, but more funds from the United States Environmental Protection Agency (EPA) are needed to continue the work. New Mexico is also generating data through an X-ray fluorescence survey in which the X-rayed sediment samples indicate the presence of metals; this process saves taxpayers money by not requiring lab testing.

As to monitoring results thus far, Mr. McQuillen advised that the water is safe but that the stigma of the water being unsafe needs to be addressed and people need to know that their crops are safe. When there are high flow conditions, the monitoring is detecting metals, in particular lead, in the water; however, many of these metals are attributed to legacy mining and GKM hotspots. The presence of lead is a concern for public water systems, and it is imperative to ensure that drinking water meets the standards for lead. Mr. McQuillen noted that warning systems are needed to inform the community when turbidity reaches a certain level, raising the incidence of lead contamination in the water. He also highlighted that education is needed to dissuade people from drinking any untreated river water.

In sum, Mr. McQuillen said that, although there is an ongoing stigma around the river water, there are no scientific data indicating that there has been a buildup of metals in crops, including corn and alfalfa, or in livestock. He noted that after the 2017 season, New Mexico will have very good data from the Animas and San Juan rivers to convince the public that recreation, crops, fishing and livestock are safe.

In response to an inquiry as to whether the river will ever come back to "normal", Mr. McQuillen noted that what was normal before the spill most likely had some level of contamination from the mining of the 1800s and from other catastrophic spills. However, after the Superfund process, there is hope that the river will have better water quality than before the spill. New Mexico will continue to monitor the river on an ongoing basis, and there is great optimism for a watershed scale monitoring plan with Colorado, Utah and the Navajo Nation.

Regarding funding, Mr. McQuillen said that \$8 million was appropriated to the NMED for the monitoring program from the General Fund, and that some of the universities have research grants. A member noted that for the funding that comes from the legislature, the importance of the work being done needs to be recognized in order to prevent the funding from being on the chopping block in the state budgetary process. Members remarked that it is important to understand the relationship between the various groups involved in the monitoring.

In response to a question about the testing of fish tissue, Mr. McQuillen said that he feels that good data have been obtained and that nothing of concern has been seen in fish tissue. He noted that mercury is not a big component of the river contaminants, though the University of Arizona is testing livestock blood and will be sharing the results with New Mexico.

A member raised a concern about New Mexico not being recognized as a stakeholder in the Superfund designation by the EPA, although New Mexico is an affected area. Mr. McQuillen said that New Mexico is a participant in the federal Water Infrastructure Improvements for the Nation Act and is on equal footing with the other impacted states. EPA Region 9 is currently investigating proposals and will select a remedy. Responding to an inquiry regarding cooperation between the impacted states, he noted that Colorado is part of the working group, but Colorado is not experiencing the same impacts to agriculture that New Mexico is experiencing. Discussions are being facilitated with other states and tribes to create a watershed scale monitoring plan. The states and tribes can apply for grant money for this process, in addition to federal Clean Water Act of 1977 funding and other EPA funding.

Responding to a concern about the GKM still discharging, Mr. McQuillen noted that the mine is being cleaned but that the Bonita Peak Mine is still discharging. That mine has not yet been closed. A bulkhead has been installed, and hydraulic drilling is being done, but the EPA is being very cautious in light of the GKM spill.

Asked if GKM hotspots are still of concern, Mr. McQuillen said yes; hotspots are expected. If the water exceeds the EPA's standard for lead, remediation will be required. He noted that there has been a decline in fish populations in Colorado, but in New Mexico, the fish populations do not seem to be affected by the spill and remain at pre-spill levels. The data suggest that there is no need for concern, but monitoring is ongoing.

Regarding a question about the sondes, Mr. McQuillen said that state and federal grant money was used to install four sondes, one in Colorado and one each in Aztec, San Juan/Farmington and Shiprock in New Mexico. He said that the NMED wants to install a second sonde in Aztec and has asked the EPA to pay for it, although it is questionable whether it will be funded through the EPA. Clean Water Act of 1977 funding may be a possibility. The committees agreed that it would be of benefit for the committees to encourage the EPA to provide greater funding.

Janene Yazzie, a watershed planner for the Little Colorado River Watershed Chapters Association, addressed the committees on behalf of Diné CARE (Citizens Against Ruining our Environment) with prepared remarks. Ms. Yazzie informed the committee that, in accord with their creation stories, the Diné people have been living on the banks of the San Juan River since time immemorial and that the river not only provides water for irrigation and subsistence, but also for ceremonial purposes. She described meetings facilitated by a collective of community organizers known as Tó Bei Nihi Dziil, Our Water is Our Strength, that is providing a forum for community members to discuss how they have been impacted by the GKM spill. From these meetings and surveys, it was discovered that the top perceived risks from the spill are related to environmental, cultural, spiritual, psychological and financial issues as well as increased distrust of federal and state entities, increased historical trauma and loss of subsistence. Ms. Yazzie emphasized the need to create a community response that explores solutions that strengthen the

mental, emotional, spiritual and ancient connections of the community to the sacred water system of the San Juan River.

Ms. Yazzie said that the GKM spill brought to the forefront the shared investment and dependency that the indigenous communities and state have on the river, such as the interest in preventing ongoing leakages at unreclaimed mine sites that drain into the Animas River, the increased risk of toxic exposure during high flood events and the need for long-term monitoring and remediation. Referring to the International Indian Treaty Council's report to the United Nations Committee on the Elimination of Racial Discrimination of August 19, 2015, Ms. Yazzie addressed the importance of state collaboration on issues impacting indigenous people, including violations of indigenous rights by permitting toxic mining waste to be stored on the riverbanks, failing to provide timely and adequate information to the community and by violating rights to subsistence and food, cultural rights linked to traditional practices and the rights of the community to health, property and effective and adequate redress. Specific actions to be taken by the United States government, including the EPA, were also discussed.

In closing, Ms. Yazzie noted that, although the relationship between the State of New Mexico and the Navajo Nation is better and more beneficial than the relationships between the Navajo Nation and federal entities, there is room for improvement, particularly in how the state communicates with impacted communities. She stressed that the reporting needs to be consistent, regular and in the Diné language. She said that this is being accomplished through teach-ins attended by the NMED, and that better coordination and partnerships should continue to be developed throughout the research into the impacts from the GKM spill now and into the future.

Dr. Karletta Chief, assistant professor of hydrology at the University of Arizona, spoke of research that she has conducted on the GKM spill and noted that the results have been the same as those found by New Mexico. She said that 300 soil and sediment samples from irrigation ditches and 300 water samples, including river, well and irrigation waters, have been tested and that the levels of arsenic and lead are very low and do meet agricultural standards. She noted that the levels of manganese are higher but that they still meet the agricultural standards. Dr. Chief said that biological samples of urine have been tested for arsenic and lead, in addition to testing water and soils around homes. Individual results will be determined in the following week and then disseminated to the community.

Dr. Chief said that surveys indicate a significant reduction in the use of river water and in use of the river generally. Teach-ins are working to disseminate information and stimulate a dialogue with the community about what it needs in the future. She emphasized that people use the river for more than just agriculture, including for spiritual purposes. Mental health in the community is a big concern because the river is considered a deity and, with the spill, the deity has been desecrated. Dr. Chief said that it is important to help people to heal from the spill and be more resilient in the future. She stated that the community often feels that it has not been receiving information or has not been included in the dialogue. She said that it is critical for

information to be given in the Navajo language, and doing teach-ins on at least a monthly basis is helping to achieve some of the community outreach goals.

Questions arose as to how the Navajo Nation interfaces with other governmental and research entities. Dr. Chief said that the EPA has not actively collaborated in her research, although she has worked well with the Navajo EPA. Mr. McQuillan said that the NMED does have a tribal liaison and that it has an excellent relationship with the Navajo Nation.

A legislator said that it is a serious concern that there was no official warning from the State of Colorado or the EPA to New Mexico regarding the spill, but, rather, a county commissioner in Colorado who had a friend in San Juan County informed the friend of the spill. Mr. McQuillan said that Southern Ute colleagues also informed the NMED and San Juan County, but that there was little information exchanged among the EPA regions. He noted that the EPA is putting together a new plan to improve communications and that an emergency preparedness plan will be renewed this year. Ms. Yazzie added that an urgent action report was drafted to draw attention to the lack of communication with Native American stakeholders.

Emphasizing that an event like the GKM spill puts spirituality and livelihoods in danger, a member suggested that the state needs to look at other places in the state where contamination could create similar impacts and use the GKM spill as a learning experience.

In response to a question regarding turbidity and an increase in metal content, Mr. McQuillan explained that the monsoons stir up sediment, but that the metal content goes up and down very quickly. During spring runoff, however, the pattern is a little different because the water flow comes in a surge, and the flow stays high even as turbidity drops. During these times, the metal content in water will exceed drinking water standards but not irrigation standards. Ms. Yazzie said that the community already knows that during high flows, the water will be contaminated, and the community perceives the risk. Dr. Chief concurred with the results of the NMED that metals do increase during surges. She said that there is an attempt to provide the community with notifications that when turbidity is higher, people should not use river water.

A member noted that yellow river water is a result of the legacy mining of the 1800s — not just from water coming out of mines but from the tailings that sit on the sides of the mines — and asked if there has been any redoubling of efforts to identify problem spots along the Animas and Plata rivers. Mr. McQuillen said that Colorado's EPA will address this issue during the Superfund process and control the source of the contamination.

In response to a question about the total costs of the spill, Mr. McQuillen said that New Mexico sued the EPA for \$130 million, which is the cost of monitoring and of damages projected into the future. Duane "Chili" Yazzie, president of the Shiprock Chapter, said that the Navajo Nation also brought a \$130 million claim against the EPA, which was summarily rejected. President Yazzie added that there had not been much communication with the EPA or others about the toxicity in the river prior to the GKM spill and that it took the GKM disaster to raise

awareness of the issue. He said that toxicity knows no boundaries and that communities need to present a united front and share the same vision for protecting these resources.

Water quality concerns were discussed, and Dr. Chief stated that, prior to the farmers raising concerns, no studies had been done. Now, studies have been completed around Upper Fruitland and Shiprock, but there is no funding for future monitoring. The studies have revealed low levels of arsenic and lead adjacent to those communities and in irrigation waters. Manganese is an emerging contaminant. It is below the agricultural standard, but it is unclear where the manganese is coming from. The Navajo Nation recently set its own standards. Data on surges obtained from the NMED's sondes are being communicated to the communities; however, President Yazzie said that because many of the farmers are elderly and more traditional, they have a hard time comprehending the text of the information and that there is a need to translate the data into something more user-friendly.

Noting that New Mexico has returned unused funds to the United States Department of Agriculture (USDA), a member inquired if there is a role for the USDA to play in the response to the GKM spill. President Yazzie remarked that the USDA has not been active or engaged but that it is an avenue worthy of follow-up. Speaking as a local farmer who was impacted, President Yazzie said that the local communities are not always in sync with the central Navajo government. With the Navajo Nation having filed a lawsuit against the EPA, many local farmers are in limbo and have taken it upon themselves to write to EPA Administrator Scott Pruitt urging him to allow claims on the local level and not just from the Navajo Nation. President Yazzie requested the formal support of the committees for the Shiprock Chapter's efforts and noted that the letter has been submitted to New Mexico's congressional delegation.

Ms. Yazzie added that there are some USDA funds to improve irrigation systems or install gate system technology that shuts irrigation gates when the contamination levels get too high, but that there are limitations to accessing those funds. For example, ownership of land must be proven under concepts of private property, and changes to the federal "farm bill" may be required for tribal entities to access these funds.

A member asked if there had been a formal process established for stakeholders to be compensated for losses associated with the GKM spill. Mr. McQuillen said that, shortly after the spill, the EPA had teams walking stakeholders through the process, but the claims were later denied on the basis of sovereign immunity. However, with a new administrator of the EPA, the claims may be reconsidered. Ms. Yazzie added that, immediately after the spill, forms were circulated requiring individual landowners and farmers to put together a calculation of their losses, but that was before any sampling had taken place or results had been examined to understand what those losses would be. A committee member said that uncompensated claims are a very big and real issue and asked the committees to send a letter to the EPA expressing support for the Navajo communities and other stakeholders and asking that their claims be addressed.

In response to a question about chapter houses' participation on the impact team, Mr. McQuillen indicated that, early on, the Navajo Nation declined to include the chapters. Upon a motion and a second and without opposition, the IAC voted to send a letter of support regarding inclusion of the Shiprock Chapter on the impact team.

President Yazzie presented the committee with a resolution of the Shiprock Chapter supporting legislation naming the Shiprock-to-Gallup portion of U.S. Route 491 as the "Senator John Pinto Highway". Members discussed the introduction of a memorial on behalf of the IAC or the Transportation Infrastructure Revenue Subcommittee and asked staff to work on ideas for committee endorsement.

Public Comment

Mr. Lorimier addressed the committee on methane capture, noting that Colorado has enacted comprehensive, effective rules and that investments of over \$9 billion are taking place in the Permian Basin. He said that, in the absence of federal regulation, New Mexico is in a unique position to enact state regulations so that it can receive royalties on the captured methane and protect public health.

Scott Kovac of Nuclear Watch New Mexico expressed concerns to the committees regarding the extractive industries, nuclear power, the Waste Isolation Pilot Plant and the hundreds of remediated uranium mines in the state. He noted that it is shortsighted to store waste that will inevitably leak into the environment.

Lon Burnam, a public citizen, expressed concerns about the centralized interim storage facility in Quay County proposed by Holtec International and about similar efforts in Texas. A fact sheet was presented on the issue.

Mr. Tso, who lives in Flora Vista, between Aztec and Farmington, and is a member of the Aztec Domestic Water System, expressed concerns about lead deposits that could enter into the shallow water system. He noted that not all reports on the monitoring have been shared with all members of the population that use the watershed. He said that, given the spiritual, mental and physical health aspects of the GKM spill, there is still trauma in his community and that the disaster is ongoing. Community members have to find ways to translate this trauma so that there is understanding. Mr. Tso expressed support for the naming of U.S. Route 491 as the "Senator John Pinto Highway".

Uranium Mining and Legacy Mine Cleanup Efforts

Kurt Vollbrecht, program manager, Mining Environmental Compliance Section, Ground Water Quality Bureau, NMED, provided the committees with a synopsis of the issue, noting that mine clean-up efforts are a complex problem. For example, the Haystack Mine encompasses federal Bureau of Indian Affairs land, Navajo allotment land and EPA Regions 9 and 6, so various groups are affected.

Susan Gordon, coordinator, Multicultural Alliance for a Safe Environment (MASE), said that MASE is a coalition of five groups composed of community members in the Grants Mining District. She described the history of mining and milling in New Mexico and the Navajo Nation. She said that there are 10,400 uranium mine features in 14 states. In New Mexico, there are 259 abandoned mines, one-half of which have no record of cleanup, and there are 1,100 mines and mill sites in the Navajo Nation. Ms. Gordon stated that the Navajo district produced more uranium than anywhere else and produced one-half of all uranium used for United States weapons programs. The largest nuclear accident in United States history was the Church Rock uranium mill tailings spill in which 94 million gallons of acidic waste were discharged into the Rio Puerco. This resulted in a wave of green liquid that overtook the river, but no formal studies of the spill were undertaken regarding the impacts to the water systems or health.

Ms. Gordon noted that there will be jobs created for the cleanup of the mines as the EPA pursues enforcement actions against companies. She explained to the committees that House Memorial 117, introduced during the 2017 regular session, requests the Bureau of Business and Economic Research at the University of New Mexico to analyze the economic effects of uranium mine cleanup and to assess the capacity of the existing New Mexico labor force to contribute to the cleanup of legacy uranium mines. Ms. Gordon said that, although working in the mines was considered a good economic job, the workers were not warned about the health effects. She said that there is now a need to train people for the new technical positions needed for the cleanups and emphasized that the cleanup jobs will be long-term. She urged support for the study and for the memorial to be introduced as a bill in the 2018 regular session because there is a great need for jobs in the area.

Jonathan Perry, council delegate, 23rd Navajo Nation Council, said that contamination respects no jurisdictions and that this is an issue for all entities and governments in the region. He said that the Navajo Nation established an advisory commission of scientific and technical experts, and that every region has a member, in addition to the at-large member and the youth member. Mr. Perry said that the uranium commission is a step forward in giving a voice to the people in the planning and efforts made in their communities. He said that the Navajo Nation does not have all of the resources needed to tackle these issues and that it will require the state, the counties, the federal government and various agencies to be involved.

Mr. Perry said that energy development is taking place without regard to the impacts on health and the environment and asked that the parties work together, in good faith, to develop solutions, noting that cleanup of the mines is a solution in terms of providing employment opportunities. He acknowledged that clean drinking water is essential for the future, that the Navajo Nation shares aquifers with other communities and that development outside of the Navajo Nation will greatly impact resources. Mr. Perry urged respect for communities and their members and for living in harmony with nature. He said that there is a need to open the doors of communication between the Navajo Nation and the state.

Chris Villarreal, EPA, Region 6, said that from the 1950s through 1980s, about 70% of mined ore and 38% of cake production originated from the Grants Mining District and that this mining predated environmental laws. Now, the EPA is investigating the impacts of mining and milling on ground water for use by regulatory agencies, stakeholders and communities to guide their decision making regarding employment, safe drinking water and the impact on health and infrastructure. Public reports and meetings will take place in the fall of 2017.

Mr. Villarreal discussed the \$985 million settlement that will fund the clean-up response at the Kerr-McGee/Tronox mines. Efforts will be coordinated among the EPA, the Navajo Nation, the NMED and the Mining and Minerals Division of the New Mexico Energy, Minerals and Natural Resources Department. A coordinated effort is also being undertaken on reclamation of the San Mateo Mine. Mr. Villareal said that there is a five-year plan to access and address the health and environmental impacts of uranium mining and milling in the Grants Mining District. This is a coordinated effort with the United States Department of Energy (DOE), the BLM, local communities, including the Pueblo of Acoma and the Pueblo of Laguna, and other stakeholders.

Will Duncan, EPA, Region 9, discussed how abandoned uranium mine (AUM) clean-up work is providing opportunities for Navajo-owned businesses and for individuals. The request for proposals for mine assessment and evaluation includes an innovative use of incentives for training and hiring of Navajo businesses and individuals. Contractors must also provide a plan to employ Navajo businesses and individuals, with goals set for the number of Navajo employees and with the percentage of contract dollars expected to go to Navajo businesses. They must include a plan for establishing and maintaining a training program to support the capacity of the Navajo businesses. A prime contractor is also able to earn an additional 5% profit based on the value of each subcontract with an Indian organization or Indian-owned economic enterprise.

In response to a question about the square miles and number of people impacted, the committee was informed that the Grants Mining District encompasses 2,500 square miles, which are sparsely populated but have population centers. Several large Navajo communities are in the vicinity, including approximately 1,800 people and eight chapters. Ms. Gordon explained that the first mines were near Shiprock, which is a very broad area, and that homes are still being built with contaminated rocks. Mr. Duncan added that the Navajo Nation is 24,000 square miles in area and that there are clusters of mines in the east and north central regions. He said that communities were built around the mines and that people have been impacted due to subsistence living and the impacts of toxicity on animals and plants.

In response to a member's question, Mr. Duncan said that the cleanup effort is not impossible but that it will take several decades. He said that the initial challenges are getting the negotiations in place and determining the extent and magnitude of the problem, including assessing where the contamination has spread and how it is impacting communities — by testing livestock, for example. He said that 10 to 20 years will be needed to address the majority of mines under agreement, settlement and negotiation.

As to the role of the NMED over sovereign lands, Mr. Vollbrecht noted that the NMED has no regulatory authority over the Navajo Nation and that the NMED's role is advisory in nature. He said that when a site is in both New Mexico and the Navajo Nation, there are other standards that need to be achieved above what is required by EPA Region 6. The secretary of environment looks at the damages to resources and tries to put a monetary value on those damages, but the money does not go to cleanup.

When asked who makes up the Navajo Nation's uranium commission, Mr. Perry explained that it was started in 2011 under the previous administration and was approved by the tribal council in 2015. It is composed of technical experts who work with the regulatory bodies to provide recommendations and language to address the cleanup efforts. Mr. Perry said that, at this time, the Navajo Nation does not have regulations in its codes to address uranium clean-up work.

Concerns were raised about how a company is proven to be a Native American company when going out to contract. Mr. Duncan said that there are registrations and certifications for this purpose. He also said that the EPA is working with economic development organizations to get a list of Navajo-owned businesses. While the EPA cannot dictate who a company hires, there is hope for the incentive program, and Navajo-owned businesses are being encouraged to respond to the requests for proposals. There is also a cooperative agreement grant with Diné College to support interns in the field on crop and livestock studies.

Freida S. White, environmental program supervisor, Navajo Nation EPA Superfund Program, addressed the committees on the work of the program on AUMs. She said that economic development is a priority and that some of the available funding is being utilized for training. She highlighted that, under the Contaminated Structures Project, there have been more than 1,100 structures assessed, and more than 44 homes have been replaced. In this process, it is ensured that a home has water, electricity and safe and sanitary conditions. Ms. White said that the Northeast Church Rock, Quivira, Mariano Lake, Black Jack, Mac, Haystack and Cove AUMs are all in various stages of assessment and emphasized that Navajo Fundamental Law requires that the sites be completely remediated, not just reclaimed. In contrast to reclamation, remediation addresses physical hazards and safety issues and takes risk into consideration. As to current issues, Ms. White said that funding is needed to address 353 AUMs, that more responsible parties need to be held accountable and that funding and action are needed to address housing that was unknowingly built in areas with elevated uranium levels. To address the ongoing concerns, \$5.7 million will be needed through 2033, she said.

A member questioned the role of the DOE in working with the EPA in the remediation of sites. Mr. Duncan stated that only mill sites are under the DOE's jurisdiction. When a mill site closes, a permit must be obtained from the United States Nuclear Regulatory Commission, and the long-term operation and maintenance are the DOE's responsibility. The DOE does not have jurisdiction over the mines themselves; the mines are under the EPA's jurisdiction. The DOE does, however, participate in the five-year plan and is committed to addressing the legacy of

uranium mines. The DOE also participates in outreach, communication and community involvement. Mr. Villarreal added that both the DOE and the EPA are involved in a uranium mine work group and that they work together to address the larger problem nationally. In response to a question about the prioritization of sites, Mr. Villarreal said that 97 priority sites have been identified and that there is a long-term effort to address all of the mines.

A member asked if any funding is put aside to address health issues due to prior exposure, and Mr. Duncan stated that none of the money can be used for anything other than cleanup. Ms. Gordon stated that the federal Radiation Exposure Compensation Act is available to give compensation to some miners and downwind communities and that work has been done on amendments to include all uranium miners and millers and additional downwind communities, including those exposed during the first atomic blast at the Trinity Site. She said that claims were cut off after 1971 because, prior to 1971, the federal government was responsible, but after 1971, there were commercial interests involved. However, there was no change in safety for miners after 1971. Many people were exposed after 1971, but there is no compensation for them. Ms. White added that there has been no full-fledged response to health impacts. The federal Centers for Disease Control and Prevention has been studying and testing mothers, fathers and infants, with uranium being found in infants.

Public Comment

Talia Boyd, program director, Conservation Voters New Mexico Education Fund, stated that these issues have been plaguing communities for a long time, and she thanked the committees for taking them on. She said that people want health studies and have been asking for such studies since uranium mining in the area began. They want to understand the cumulative impacts. She also said that there has been desecration of sacred sites. The sites have healing powers and have lost their integrity. Ms. Boyd also said that the communities have made great sacrifices with new mines at the bases of Mount Taylor and Church Rock, as well as in the transport of hazardous materials on the freeways and railroads, where there are no hazmat teams to deal with the consequences.

Leona Morgan of the Nuclear Issue Study Group told the committees that her family is from eastern Navajo Nation and that she has been working on issues related to uranium mining for 10 years. She expressed concerns about two proposed interim storage facilities. She said that it is a big hazard to transport highly toxic waste and that New Mexico does not need such waste coming into the state, especially since New Mexico does not have any nuclear power plants. She stated her opposition to a bill to classify nuclear energy as "renewable" and expressed great concern about Sandia National Laboratories' Mixed Waste Landfill, an unlined dump for nuclear waste. She requested that the landfill be excavated and properly contained, as she said that it will impact the water of the Pueblo of Isleta.

Teracita Keyanna of the Red Water Pond Road Community Association stated that she has experienced a lifetime of uranium exposure. She said that the IAC is a champion that can

speak up for the community, and she hopes that the committee can help the community, even with a temporary moratorium.

Adjournment

There being no further business before the committee, the third meeting of the IAC for the 2017 interim adjourned at 2:55 p.m.