

# Court hears uranium mine challenge

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DENVER -- Federal judges expressed surprise Monday that the Nuclear Regulatory Commission has issued permits to allow a company to leach uranium out of an aquifer that supplies drinking water to thousands of Navajos in New Mexico.

Local groups are challenging the NRC's approval of permits for Hydro Resources Inc., a New Mexico company, to operate in-situ mines near the Navajo communities of Crownpoint and Church Rock in western New Mexico.

A three-judge panel of the U.S. 10th Circuit Court of Appeals heard arguments Monday in what lawyers say is the first-ever challenge to the NRC's approval of licenses for an in-situ uranium mining operation.

Opponents said the proposed mining would push radiation levels in the area past federal standards for human exposure, while lawyers for the mine developer and the NRC said the mine would be safe for area residents and wouldn't affect drinking water.

The in-situ process uses chemicals to free uranium from the surrounding ore, allowing it to be pumped out of the ground with water and refined on the surface.

Dozens of companies have proposed similar mines around the West as uranium prices climb. Companies have recently submitted dozens of letters of intent to the NRC outlining plans for new in-situ mines in Wyoming, Utah, Colorado, New Mexico and other states.

Monday's court hearing drew representatives from citizen groups fighting similar mine proposals in Colorado and South Dakota.

The Crownpoint-Church Rock area remains scarred from uranium-mining booms of decades past. Old underground mining operations have left piles of tailings, or processed mine waste, on the ground in many places. Critics blame the mining activity for sickening miners, many of them Navajo.

The Navajo Nation, which includes lands in western New Mexico and eastern Arizona, outlawed uranium mining in 2005.

Navajo school children from Crownpoint traveled to Denver on Monday and held placards in front of the federal courthouse with messages such as "Say no to uranium, say no to sickness."

Savanna Cowboy, 15, a student at Crownpoint Middle School, said the school is about a half-mile from Hydro Resources' proposed processing plant.

"I know for a fact what uranium can cause," Cowboy said outside of the courthouse Monday. "It causes health problems, health effects and contaminates the water really bad."

Eric D. Jantz, a lawyer for the citizens' group Eastern Navajo Dine Against Uranium Mining and for the Southwest Research and Information Center, told the judges that radioactive waste from past mining activities continues to contaminate people at Church Rock.

Jantz said experts have calculated that the proposed in-situ mining operations would generate enough radiation that, when combined with existing radiation from past mining, would exceed federal human exposure limits.

"The question for you today, your honors, is whether the NRC can disregard radiation from that source and continue to do its statutory duty to protect the public?" Jantz told the judges.

Jantz said the company proposes to leach uranium "in the same aquifer where the town of Crownpoint gets its water."

In response, Judge David M. Ebel said, "I can't even begin to understand that."

Lawyer Charles E. Mullins, representing the NRC, told the judges that he disagreed with Jantz's assertion that the combined effect of the in-situ mining and existing radiation in the area would exceed federal exposure limits. And he said the mining wouldn't affect drinking water.

Mullins said the NRC permit would require Hydro Resources to restore groundwater in each of its four proposed mining sections before moving to another area.

He said mining activity would only be conducted in parts of the aquifer that hold enough uranium to make the water unsuitable for drinking anyway.

Anthony Thompson, a lawyer for Hydro Resources, also said the portion of the aquifer that the company would be mining near Crownpoint would not be drinking water.

To that, Judge Carlos Lucero responded, "I do not understand it. If it's just vertically confined and not horizontally confined, what's to keep this water from flowing into the municipal drinking water?"

Thompson said the company would be responsible for monitoring wells in the area and would always pump more water from the ground than it would inject back in to make sure that nothing flowed away from the sites.

Lucero seemed unconvinced. "In other words, the licensee's checking himself?" the judge asked. "You don't have the city or some independent body doing it?"

Lucero said there would be no way to know whether the Hydro Resources' plan would work to protect citizens' drinking water until the process started.

The appellate panel will issue a decision in the case later.