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Pueblo of Acoma

Written Testimony to the House Natural Resources Committee  
Subcommittee on Energy and Mineral Resources  
on H.R. 785

To amend the Surface Mining Control and Reclamation Act of 1977 to clarify that uncertified States and Indian tribes have the authority to use certain payments for certain noncoal reclamation projects

February 17, 2012

This statement is submitted by Governor Randall Vicente of the Pueblo of Acoma. The Pueblo of Acoma is a federally recognized tribe located approximately 55 miles west of Albuquerque, New Mexico, and the Pueblo itself is the oldest continuously inhabited community in the United States. For almost 2,000 years, the Pueblo has served as the physical and spiritual homeland for the Acoma people. In addition to the people of Acoma, the site has great cultural and historical significance to the State of New Mexico and to the United States as a whole, as evidenced by its inclusion in the National Register of Historic Monuments. Sadly, several abandoned non-coal mining sites continue to contaminate this extraordinary place every day because the necessary resources are not available for cleanup of these sites. Because the health, safety, and welfare of our people and lands are at stake, we submit this testimony in support of H.R. 785, which would clarify that uncertified States and Indian tribes do have the authority to use Abandoned Mining Lands (AML) grants and payments for non-coal reclamation projects.

Even though there are no actual mine sites on Acoma land, our people suffer disproportionately from the effects of nearby uranium mines. In 2010, this Subcommittee heard testimony from Governor John Antonio of the Pueblo of Laguna on the effects of the Jackpile-Paguate Mine on his community. Governor Antonio testified to the contaminated waste piles, dust, groundwater sources and surface waters that remain on the Laguna reservation; to the increased rates of cancer among Laguna people; and to new studies that may link uranium mining activities to respiratory and kidney problems as well as diabetes. After the mining companies ceased operations at Jackpile Mine, the burden fell on the Pueblo of Laguna to do the best they could to reclaim the site. However, the mining companies contributed only a fraction of the funds that would have been required to fully complete the job, and the Pueblo is still in need of additional sources of funding. In 2010, Governor Antonio asked this Subcommittee to help his Pueblo reclaim one of the world's largest open-pit uranium mines by favorably considering legislation to clarify that uncertified States and Indian tribes do have the authority to use AML grants and payments for non-coal reclamation projects.

Acoma is a close neighbor to Laguna, and the Jackpile Mine is located on Laguna land only about fifteen miles east of the Acoma border. Contaminants from the Jackpile Mine spread through the air and water to Acoma communities. Acoma is also "down-wind" from abandoned

mines to the West, in Grants and Milan, New Mexico, and from mining operations to the north in the Mt. Taylor area. High desert winds regularly carry radioactive dust from these sites over to Acoma. In addition, some of these abandoned mines are upstream from surface waters that run through Acoma. Overall, these abandoned mine tailings are contaminating our communities perhaps to an even greater extent, and affecting our people perhaps even more, than when these mines were fully operational.

Given our proximity to multiple abandoned and un-reclaimed uranium mines, the health, safety, and welfare of our people and environment is perpetually at risk. We continue to suffer the after-effects of uranium mining and the human consequences are devastating to our community. Our people suffer from elevated rates of cancer, asthma, and other health problems from the radiation and contamination of our air and water. At times, we have gone to court against the mining companies, and some of our people have received monetary compensation in recognition of illness and suffering the contamination has caused. But the suffering will continue, and in fact increase, until the source of the contamination is addressed through reclamation of these abandoned mines.

Our waters have also been compromised. We live in an arid environment where water is a scarce and precious resource, and we rely on deep wells and a small number of natural springs for our water supply. In addition, our traditional cultural practices require access to clean, pure water. The U.S. Geological Survey has performed tests on waters upstream from Acoma that have been contaminated by runoff from mine tailings. They found hazardous minerals and contaminants in those waters. Arsenic has also been found in Acoma waters. Some of the water samples that contained these contaminants were taken from historical cultural practice areas of high importance to the people of Acoma.

In addition to impacting our health and cultural practices, abandoned mines that continue to contaminate our air and water have serious economic impacts on Acoma. We are an agricultural community. Our people have historically been farmers, and we continue to cultivate our basic staple crops of corn, beans, squash, and other vegetables in the irrigation communities of McCarty's and Acomita. We are highly dependent on rainfall for our traditional farming methods, but contaminated airborne particles can be caught in the rainfall, affecting the crops we consume. Our irrigation system utilizes waters from upstream for irrigation of our food crops. This same water is used to irrigate alfalfa, grass and oat crops to feed our livestock. Some livestock owners maintain their cattle and horse herds with open access to the flowing stream of waters from upstream; thus, these animals will consume contaminated water as long as abandoned mine runoff affects the water quality of our streams. Our community also depends on wild game as a staple food source, and we are concerned about how contaminated rainfall or airborne dust may affect these animals and the people who consume them as food. One of our business enterprises is a Big Game Trophy Hunt operation, which is known as a world-class elk hunting operation attracting big game hunters from around the world. These important aspects of our economy and economic development efforts need to be protected from the harmful effects of abandoned mines and associated contamination.

The primary source of funding for AML projects in New Mexico has come from the Surface Mining Control and Reclamation Act (SMRCA). As originally enacted, SMRCA

created an AML reclamation program funded by fees assessed on operators of coal mining operations. States and Indian tribes received a share of the fees collected within their jurisdiction. These funds could always be used by the States and Tribes for non-coal reclamation projects to address serious hazards to public safety under Section 409 of SMRCA. In places like New Mexico, this flexibility in the use of AML funds has been critical because so many of the mines that pose the greatest public health and safety threats, like the Jackpile Mine which continues to threaten the Laguna and Acoma Pueblos as well as others, are non-coal mines.

Unfortunately, not all of the funds due to under the AML program were appropriated. To address this historical fact, Congress amended SMRCA in 2006 to provide, among other things, that funds could be distributed from the U.S. Treasury in amounts equal to those allocated under SMRCA but never appropriated. Common sense would dictate that the funds paid from the Treasury, which were meant simply to replace the previous funds never appropriated, would be treated the same as if the States and Tribes had been paid directly from the AML fund as originally designed. However, we understand that even though Section 409 has not been amended, the Department of the Interior has adhered to a policy interpreting SMRCA to prohibit the use of funds paid from the Treasury for any non-coal reclamation projects under Section 409. The Pueblo of Acoma is deeply concerned that the Department of Interior's policy is preventing our neighbors, the State of New Mexico and the Pueblo of Laguna, from using their AML funding to address the most significant AML hazards that continue to affect our communities, and which happen to be not abandoned coal mines, but abandoned uranium mines.

H.R. 785 would clarify that the States and Indian tribes may continue to use AML funds allocated under SMRCA, regardless of the source from which they are ultimately paid, for reclamation projects under Section 409 when abandoned mines, whether they are coal or non-coal mines, endanger life and property, constitute a hazard to the public health and safety, or degrade the environment. It would allow the cleanup from historic mining operations to move forward and would return the States and Indian tribes to their longstanding role under SMRCA of directing AML grant funds to the highest priority needs. When the mining operations began to the north and west of Acoma, we were told that the effects would not reach our communities. Clearly that has not been the case, and it is too late to undo all the effects these abandoned mines have had on the current generation. But Acoma people believe we have a duty to protect the unborn children of future generations as well, and it is not too late to ensure that any available resources are put to that highest and most important use. Reclamation of these abandoned non-coal mines is something that must be done in order to protect our future generations. For these reasons, and for the health and safety of our community, the Pueblo of Acoma supports H.R. 785 and respectfully requests that this Committee do the same.