

## **NOT ABOUT MONEY?**

State board: 'Economics' not factor in Mount Taylor Mine restart decision

By Kathy Helms May 11, 2018

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SANTA FE — It will be several weeks before the New Mexico Mining Commission decides whether the state Mining and Minerals Division director erred in granting Rio Grande Resources' request to reactivate the Mount Taylor Mine. While there are many factors to be weighed, economics is not one of them, according to the panel.

The Mining Commission met Monday and Tuesday in Santa Fe to hear arguments on a petition filed by the Multicultural Alliance for a Safe Environment and Amigos Bravos, which challenged the director's Dec. 29 decision.

The organizations contend that Rio Grande Resources, owner of the mine, has requested three standby periods since the New Mexico Mining Act was enacted in 1993, and that its most recent request to return the mine to operating status in 2014 is a ruse to avoid cleanup while waiting for uranium prices to recover and make mining viable.



June Lorenzo, of the Pueblo of Laguna, takes issue Tuesday with the New Mexico Mining Commission's decision not to allow discussion of uranium market economics as it pertains to reactivating the Mount Taylor Mine during a two-day hearing this week

in Santa Fe. Stuart Butzier, right, attorney for Rio Grande Resources, and Joe Lister, mine manager, listen to Lorenzo's comments.  
Kathy Helms/Independent



Les Gaines, Grants assistant city manager, speaks Monday in support of allowing the Mount Taylor Mine to return to active status, during a hearing in Santa Fe.  
Kathy Helms/Independent

Gabriel Wade, attorney for the Mining and Minerals Division, asked the Mining Commission to eliminate any discussion of economics because the rule that talks about a mine coming off standby does not mention an economic analysis being required, and is therefore irrelevant, he said.

Eric Jantz, an attorney with the New Mexico Environmental Law Center which represented the groups, argued that the Mining Act itself referenced the extraction of a salable or usable commodity. "The Legislature clearly contemplated having some input into the economic viability of an operator," he said.

Rio Grande Resources' attorney Stuart Butzier, of Modrall, Sperling, Roehl, Harris & Sisk, P.A., supported Wade's motion, calling Jantz's contention "the ultimate bootstrap argument."

"If the Commission or the Legislature wanted to envision a process of doing economic analyses, it would have spelled that out specifically," Butzier said. Commissioners Patrick Freeman and Virginia McLemore agreed that the discussion of economics was outside the scope of the board's authority.

Chairman John Heaton sided with Wade and Butzier. “I believe the risk is with the mining companies as to whether they’re going to be profitable or not. They have to make those calculations that are relevant. Then after that, obviously it would be part of their decision. I’m going to sustain the objection,” he said. That decision eliminated expert witnesses on both sides of the aisle and did not sit well with some members of the audience, who sharply criticized the Commission during the public comment period.

### **Airing frustrations**

June Lorenzo, of Laguna Pueblo and a member of the Laguna-Acoma Coalition for a Safe Environment, said Tuesday that she had been listening to the discussion for two days, “and even for a person who’s not well-versed in all of this, it’s frustrating.”

After Monday’s discussion, Lorenzo said she went back and read about the Commission’s duties. “It says, in making regulations, consider the economic and environmental aspects of implementation for regulation.” She noted that the Multicultural Alliance for a Safe Environment and Amigos Bravos were not allowed to introduce information on market economics, but that questions from commissioners and comments from some witnesses appeared geared toward economics.

“Not only does it seem unfair, but it also seems pretty irresponsible to consider this petition without considering the economics of the market. It’s like a pink elephant in the room. To ignore it just seems incredibly irresponsible of the Commission and unfair for the Commission to ask questions when the petitioner cannot introduce witness testimony,” she said.

The Jackpile-Paguate Mine, operated by Anaconda and later, Atlantic Richfield Co., provided one generation or less of employment. In those days, prior to the Mining Act, the companies got to decide unilaterally, without consulting communities, that it was no longer profitable for them to mine, Lorenzo said.

“This was after decades of convincing Laguna people and Acoma people and land grant people that was the place to work, that was their economic future,” she said.

At that time, Valencia County had 80 percent unemployment. Since the mines closed, it has been plagued by socioeconomic problems – “all of those things that you can’t put a dollar value on,” Lorenzo said. “We’re not just looking at the cost of ore that’s gone, it’s all the other things that a community has to pay for. So to suggest, as I heard yesterday, that we’ll just leave alone economic considerations and we’ll let the company decide all the economics and whether it’s profitable for them, is really dangerous; and it seems to be really avoiding your responsibility to look out for the public interest.”

Susan Gordon, program coordinator for the Multicultural Alliance, also took commissioners to task.

“I wanted to address the commission, and particularly you Chairman Heaton, of what I personally feel is the hypocrisy of not allowing us to bring our economic expert forward and to provide that testimony. You felt free at the end of the day yesterday to raise issues about nuclear power in the world and claim that the uranium market was coming back, and again, we’re not able to address that. I think that is grossly unfair. So I went home last night and I looked at the research that our expert had done. One of the documents that he was pulling from was an April 30, 2018, report that says the growth in world uranium inventories is slowing as the supply sector is responding to a gradual recovery in uranium.”

Attorney Butzier stood up to object, but Gordon interrupted. “I get to say public comment. You don’t get to challenge that,” she told him. Chairman Heaton agreed. “This is public comment. She may say what she wishes.”

### **Industry economics**

Michael Bowen, executive director of the New Mexico Mining Association, touched on industry economics when he offered testimony Monday. Bowen said the Association supports the director’s decision to allow the company to take actions to redevelop the mine.

“Finding, developing, permitting and constructing a mine is a long, arduous, expensive and risky venture. Under the typical scenario, from a time of initial exploration through mine construction, the typical time period to develop a mine to produce metals is 13-16 years, with expenses in the range of \$75 million to \$265 million, and without generating any revenue,” he said. “Once production starts, it typically takes another three to 10 years of production to repay the initial investment, after which the owners may hope to enjoy profits or dividends.”

Grants Assistant City Manager Les Gaines spoke on behalf of Mayor Martin “Modey” Hicks, who was working and could not attend the meeting. Gaines presented resolutions from the city supporting a “friendly, modern type of mining.”

“We would like to voice our concern that we always want to do it environmentally sound. We want to do the right thing. We want to be good stewards of the earth, but we need to move forward in our community,” Gaines said. “I do appreciate the passion of the people that have a different position than what our City Council and our mayor do. We need that vim, vigor and vitality in our community, but we don’t need division.”

Robert Windhorst, a member of the Cibola County Board of Commissioners, also offered comment.

“As a commissioner, one of the most important factors to me is to encourage economic development that will help bring economic stability to our community. We have an abundance of uranium in and around the Grants area, and many of us would like to see mining resume,” he said.

Windhorst urged the Commission to uphold the director's decision and allow the Mount Taylor Mine to maintain its active status.

The public comment period will remain open for three weeks from May 8.

**Information:** [//www.emnrd.state.nm.us/MMD/NMMC/MineCommUpcoming.htm](http://www.emnrd.state.nm.us/MMD/NMMC/MineCommUpcoming.htm)



Cibola County Commissioner Robert Windhorst told the New Mexico Mining Commission Monday that there is an abundance of uranium in the Grants area and he, among others, would like to see mining resume.

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