

BEFORE THE UTAH AIR QUALITY BOARD

<p>In the matter of:</p> <p>Denison Mines (USA) Corporation La Sal Mines, La Sal, Utah (14151)</p> <p>Compliance with 40 C.F.R. Part 61, Subpart A, §§ 61.07 and 61.08, and Subpart B.</p>	<p>ORDER <i>Approving the Recommended Order and Decision of the Administrative Law Judge</i></p> <p>March 12, 2012</p>
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The case at issue before the Utah Air Quality Board (“Board”) began when Uranium Watch and Living Rivers (“Petitioners”) filed with the Executive Secretary of the Utah Air Quality Board, a Request for Agency Action on November 4, 2010, as supplemented on March 7, March 23 and April 7, 2011 (“Supplements”). The case relates to the Executive Secretary’s February 17, 2010 approval of a notice of intent, filed by Denison Mines (USA) Corporation (“Denison”), to construct seven additional vent holes at its mine in La Sal, Utah.

In accordance with Utah Code Ann. § 19-1-301, the case was assigned to an Administrative Law Judge (“ALJ”), who conducted a formal adjudicatory proceeding. On October 31, 2011, the Executive Secretary and Denison filed separate Motions to Dismiss Petitioners’ action. On February 8, 2012, after briefing and oral argument, the ALJ issued *Memorandum and Recommended Order to Dismiss Uranium Watch and Living Rivers’ Request for Agency Action and Supplements*, granting the Executive Secretary’s and Denison’s Motions to Dismiss and dismissing Petitioners’ Request for Agency Action and Supplements with prejudice.

On March 7, 2012, at a regularly scheduled meeting, the Board considered the ALJ’s *Memorandum and Recommended Order*. The following Board members were present and constituted a quorum of the Board: Stephen C. Sands II (Chair), Kerry Kelly (Vice Chair), Nan

Bunker, Joel E. Elstein, Dale L. Ipson, Robert Paine III, M.D., Darrell H. Smith, Michael Smith and Kathy Van Dame; H. Craig Petersen participated via telephone. The Board was represented by Assistant Attorney General Denise Chancellor.

At the Board meeting, the parties were given the opportunity to present oral argument and answer questions from Board members. Assistant Attorney General Christian Stephens represented the Executive Secretary and Michael A. Zody and Jacob A. Santini of Parsons, Behle and Latimer represented Denison. Uranium Watch and Living Rivers were not represented by legal counsel; Ms. Sarah M. Fields represented their interests and participated via conference call.

The Board's questions and discussion related primarily to when public notice is required and how the public may be informed of approvals by the Executive Secretary. Ultimately, the Board concluded that this issue was beyond the scope of the adjudication before the Board and is a separate matter better addressed through rulemaking.

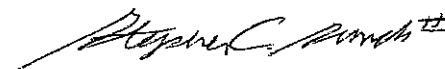
After reviewing the *Memorandum and Recommended Order* and accompanying record, hearing oral arguments from all parties, questioning the parties and deliberating, the Board voted on a motion made by Dale L. Ipson, and seconded by Joel E. Elstein, to approve the Administrative Law Judge's February 8, 2012 *Memorandum and Recommended Order to Dismiss Uranium Watch and Living Rivers' Request for Agency Action and Supplements* in totality and have the chair to sign the final order. The Board unanimously approved the motion.

ORDER

The Board approves and upholds the February 8, 2012 *Memorandum and Recommended Order to Dismiss Uranium Watch and Living Rivers' Request for Agency Action and Supplements*, including the following recommended order:

The motions to dismiss filed by the Executive Secretary and by Denison are granted and the Petitioners' Request for Agency Action and Supplements are dismissed with prejudice.

Dated this 12 day of March, 2012.



Stephen C. Sands II, Chair
Utah Air Quality Board

Notice of Right to Apply for Reconsideration

Within 20 days after the date this final Order is signed by the Utah Air Quality Board, any party shall have the right to apply for reconsideration with the Board, pursuant to Utah Code Ann. § 63G-4-302. The request for reconsideration should state the specific grounds upon which relief is requested and should be submitted in writing to the Board at P.O. Box 144820, Salt Lake City, Utah, whose street address is 150 North 1950 West, Salt Lake City, Utah 84114-4820, and emailed to Board counsel at dchancellor@utah.gov, with a copy to DEQAPRO@utah.gov.

The person making the request shall serve a copy of the reconsideration request on each party at the address shown on the service list. The filing of a request for reconsideration is not a prerequisite for seeking judicial review of this Order.

Notice of the Right to Petition for Judicial Review

Judicial review of this final Order may be sought in the Utah Court of Appeals pursuant to Utah Code Ann. § 63G-4-403 and the Utah Rules of Appellate Procedure by the filing of a proper petition within thirty days after the date of this Order.

CERTIFICATE OF SERVICE

I hereby certify that on this 12th day of Mach, 2012, I caused a copy of the foregoing ORDER *Approving the Recommended Order and Decision of the Administrative Law Judge* to be served via electronic mail and by postage prepaid first class mail, unless otherwise noted, on the following:

Petitioners

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Respondents

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