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14 **IN THE UNITED STATES DISTRICT COURT**  
15 **FOR THE DISTRICT OF ARIZONA**

16	UNITED STATES OF AMERICA,	)	
17		)	
18	Plaintiff,	)	
19		)	
20	v.	)	Case No.
21		)	
22	CYPRUS AMAX MINERALS COMPANY	)	
23	AND WESTERN NUCLEAR, INC.	)	
24		)	
25	Defendants.	)	
26		)	

27 **COMPLAINT**

28 The United States of America (“United States”), by authority of the Attorney  
General and through the undersigned attorneys, acting at the request of the Administrator  
of the United States Environmental Protection Agency (“EPA”), alleges as follows:





1 Mine Sites contain low-grade uranium, associated radioactive materials (including  
2 radium-226), and other heavy metals that were not separated from the overburden. These  
3  
4 contaminants have been spread throughout and adjacent to the mines by wind and water  
5 processes.

6 11. There are Navajo Nation communities located close to the Mine Sites, on  
7  
8 and near the Navajo Nation Reservation, and downstream and down-wind from the waste  
9  
10 piles on the Mine Sites. The residents graze sheep, cattle and horses, and collect herbs in  
11 the vicinity of the Mine Sites.

12 12. Each of the Mine Sites constitutes a “facility,” within the meaning of  
13 CERCLA Sections 101(9) and 107(a), 42 U.S.C. §§ 9601(9) and 9607(a).

14 13. At a minimum, Defendants are former “operators” at the time of disposal –  
15  
16 within the meaning of CERCLA Sections 101(20) and 107(a)(2), 42 U.S.C. §§ 9601(20)  
17 and 9607(a)(2) – of a facility at each of the Mine Sites.

18 14. At times relevant to this action, there have been “releases” and “threatened  
19  
20 releases” of “hazardous substances” from the Mine Sites formerly operated by the  
21  
22 Defendants into the environment at each of the Mine Sites, within the meaning of  
23 CERCLA Sections 101(14), 101(22), and 107(a), 42 U.S.C. §§ 9601(14), 9601(22) and  
24 9607(a). More specifically, there have been “releases” and “threatened releases” of  
25  
26 uranium and radium-226, each of which constitutes a “hazardous substance,” within the  
27  
28 meaning of CERCLA Sections 101(14) and 107(a), 42 U.S.C. §§ 9601(14) and 9607(a).



1 Notwithstanding any other provision or rule of law, and subject only to the  
2 defenses set forth in subsection (b) of this section –

- 3 (1) the owner and operator of a vessel or facility . . . ,  
4 (4) . . . from which there is a release, or a threatened release which  
5 causes the incurrence of response costs, of a hazardous substance,  
6 shall be liable for –  
7 (A) all costs of removal or remedial action incurred by the United  
8 States Government...not inconsistent with the national  
contingency plan; . . . .

9 21. Defendants operated the Mine Sites at the time of disposal, within the  
10 meaning of Sections 101(20) and 107(a)(1) of CERCLA, 42 U.S.C. §§ 9601(20),  
11 9607(a)(1).  
12

13 22. The Mine Sites are “facilities” within the meaning of Section 101(9) of  
14 CERCLA, 42 U.S.C. § 9601(9).  
15

16 23. Uranium and radium-226 are “hazardous substances” within the meaning of  
17 Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).  
18

19 24. There have been releases, or threatened releases, of uranium and radium-  
20 226 into the environment from the Mine Sites within the meaning of Sections 101(8),  
21 101(14), and 101(22) of CERCLA, 42 U.S.C. §§ 9601(8), 9601(14), and 9601(22).  
22

23 25. To protect the public health, welfare and the environment from the actual or  
24 threatened release of uranium and radium-226 into the environment from the Mine Sites,  
25 the Administrator of EPA, pursuant to Section 104(a) of CERCLA, 42 U.S.C. § 9604(a),  
26 has undertaken response actions with respect to the Mine Sites that are not inconsistent  
27 with the National Contingency Plan (“NCP”), 40 C.F.R. Part 300, including, but not  
28

1 limited to, investigations, monitoring, assessing, testing, enforcement related, and  
2 removal activities.

3  
4 26. As of June, 15, 2016, the United States has incurred \$3,013,830 in response  
5 costs under Section 104 of CERCLA, 42 U.S.C. § 9604.

6 27. To date, Defendants have failed to reimburse the United States for any of  
7 the response costs incurred in connection with the Mine Sites.

8  
9 28. Pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), Defendants  
10 are jointly and severally liable for all response costs incurred and to be incurred by the  
11 United States with respect to the Mine Sites, including enforcement costs and  
12 prejudgment interests on such costs.

13  
14 **SECOND CLAIM FOR RELIEF**  
15 **(Injunctive Relief Pursuant to CERCLA Section 106(a))**

16 29. The United States realleges and incorporates by reference Paragraphs 1  
17 through 18 herein by reference.

18  
19 30. In accordance with Section 106(a), 42 U.S.C. § 9606(a), there may be an  
20 imminent and substantial endangerment to the public health or welfare or the  
21 environment because of the actual and/or threatened release of hazardous substances at or  
22 from the Mine Sites.

23  
24 31. Pursuant to Section 106(a) of CERCLA, 42 U.S.C. § 9606(a), the  
25 Defendants are liable to perform certain response actions selected by EPA in order to  
26 abate the conditions at the Mine Sites that present or may present an imminent and  
27 substantial endangerment to the public health or welfare or the environment.  
28

**PRAYER FOR RELIEF**

WHEREFORE, the United States requests that the Court enter a judgment against the Defendants, jointly and severally, as follows:

A. Enter judgment against Defendants pursuant to Section 107 of CERCLA, 42 U.S.C. § 9607, as being liable for the United States' past response costs and all future response costs that may be incurred in connection with the Mine Sites;

B. Order Defendants to perform certain response actions selected by EPA in order to abate conditions at the Mine Sites;

C. Grant such other and further relief as the Court deems just and proper.

Respectfully Submitted,

ELLEN MAHAN  
Deputy Section Chief  
Environmental Enforcement Section  
Environment and Natural Resources Division  
U.S. Department of Justice

/s/ Katherine M. Kane  
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