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Sociology 221
April 18, 2011

Navajo vs. *Leetso*: The Endless Battle Against the “Yellow Dirt” Monster

She noticed the bleak expression on her husband's face and knew something was wrong. On July 18, 1975, he became ill; she felt hopeless as she watched his appetite disappear, and his body deteriorate quickly. She tried to nurse him back to health, but after six days she took him to the Albuquerque hospital. There, the doctors found that it was his lungs, and she was told how troubled they were by the horrible condition of his lungs. He underwent radiation treatment and tests, and she sat by his side, hoping for his recovery. When his condition didn't improve, he was sent home. On August 10, little more than a week since he had been released, he fell into a coma and was brought back to the hospital. Three days later he was dead. She didn't even know what to think; he was only forty-six.

The woman's name is Agnes M. Ratcliff, and her late husband was Charles Ratcliff, a uranium miner. Her story is real, and there are countless more just like it within the Navajo Nation and surrounding areas. Charles had worked for in the United Nuclear Homestake mine, one of the larger mines in the Grants area, for seventeen years. Heart-broken and confused by the quickness of his death, Agnes had an autopsy done. The results: not only did he have lung cancer, but it had spread throughout his body. Needing answers, she went to the local Grants clinic, which is where all of the uranium workers were examined and where their records were kept. Knowing that her husband had two-yearly checkups at the clinic, Agnes Ratcliff got his medical records and X-rays, which she had to acquire a court order for because of the refusal to release them by the clinic doctors. What she found was terrifying: in March of 1975, just four months before he fell ill, Charles went in for his routine checkup and was called back in for an X-ray. Shockingly, his foreman had told him there was nothing wrong; but as Agnes looked at the dark spots on the X-ray, typically diagnosed as a precursor to cancer, Agnes knew that they had let her husband die.¹

Introduction

This case concerns the long battle of the Navajo against uranium mining in the Four Corners Area. The Navajo have struggled with the effects of uranium in several ways, from health risks to clashes with public policy to compensation issues. Despite the extensive history of uranium mining and the damages to the Four Corners Area, and a ban on uranium mining by the Navajo Nation, there are continued efforts to open new mines. This case, set in 2010, deals with the decision by the Nuclear Regulatory Commission to grant a license to Hydro Resources for uranium mining operations in New Mexico, and the fight by Navajo Nation to reverse the court decision.

Background Information

The Four Corners region, an area in the American Southwest named for the point where Arizona, Colorado, New Mexico and Colorado come together, contains the largest American

1 Eichstaedt, Peter H. 1994. *If you poison us: uranium and Native Americans*. Sante Fe, NM: Red Crane Books. Agnes's story was one of several testimonies at the congressional hearing in New Mexico, 1979, held to hear about the struggles of Navajo and white uranium miners.

Indian population in the United States. It just so happens that it is also the place with the largest single source of uranium ore in our nation. Massive amounts of uranium have been mined from these states, including the home of the Navajo Nation. The Navajo Nation is the American Indian territory, with more than 16 million acres of land, stretching from Southeast Utah, through Northeast Arizona, to Northwest New Mexico. This area “has the largest American Indian population in the United States, with over 255,000 enrolled members, 168,000 of whom live in the Navajo Nation.”²

Mining in the Four Corners area started in 1900, but it wasn't until WWII, with the growing nuclear weapons and energy production, that the uranium mining boom really began. When the Manhattan Project was approved in 1942, there was a desperate need for uranium. The uranium was mined for nuclear weapons, however, the Navajo Nation was neither aware of the extraction of uranium from the mines on their land, nor were they aware that the atomic bomb was created, and tested nearby. After the atomic bomb ended the war, there was continuing demand from the U.S. government for uranium to supply both military and energy needs for the country. Eventually, the Navajo Nation realized the extensive demand for the material and decided to take the opportunity to cooperate with companies that wanted to mine on their land. The Navajo, exhilarated by the prospect of economic development after struggling for so long, decided to open up their property for uranium development.

The Navajo people saw this uranium boom as a chance to get money from their land, as well as their labor. Many were thrilled to be able to work on their own land and be near their families. However, the Navajo people worked under dangerous and even deadly conditions, many of which were never communicated to the Navajo miners. Few of the underground mines in the first ten years had ventilation, most of them were unstable, but all of them had damaging effects on the miners. Timothy Hugh-Benally, a former Navajo miner, spoke of his experience:³

The working conditions were terrible. Inspectors looked at the vents [ventilation fans]. When they weren't inspected, they were left alone. Sometimes the machines [for ventilation] didn't work.... They told the miners to go in and get the ore shortly after the explosions when the smoke was thick and the timbers were not in place. There was always the danger of the ceiling coming down on them.

The miners worked in small holes and pits, using dangerous tools and materials, such as pick axes and explosives, which resulted in high accident rates, “frequently resulting in loss of hearing, vision and/or limbs.”⁴ They also suffered from excessive radiation due to the uranium dust that was trapped inside the mines and inhaled. The workers did not receive clean drinking water at the mines, and often they drank the water that dripped down the walls of the mines. There were no bathrooms, showers, or living facilities available to the miners; they often ate and used the bathroom in the mines, didn't wash their hands, and went home to their families covered in dust. The dangers that millers faced were no different or safer than the activities of miners; “millers were subject to radioactive dust from the crushing operations and to sulfuric acids, sodium chlorate, and solvents from the leaching and extraction operations.”⁵ All of these workers were working with unsafe, and sometimes hazardous chemicals, most without any sort of

2 Brugge, Doug, Esther Yazzie-Lewis and Jim Zion. 2006. *The Navajo People and Uranium Mining*. Albuquerque, NM: University of New Mexico Press. pg. 1

3 Eichstaedt, Peter H. 1994. *If you poison us: uranium and Native Americans*. Sante Fe, NM: Red Crane Books. Pg 50

4 Markstrom, Carol A. and Perry H. Charley. 2003. “Psychological Effects of Technological/Human-caused Environmental Disasters”, *American Indian and Alaska Native Mental Health Research*, 11:1. pg. 23

5 Ibid., pg. 24.

protective equipment.

The U.S. Public Health Service was concerned about the working conditions and possible health problems of workers in the uranium mines as early as 1949. At this time, the question of safety was addressed by sending health inspectors to survey mines in three areas of the Navajo Nation, all of which were leased and run by the Vanadium Corporation of America. The Public Health Service sent an engineer by the name of Henry Doyle to inspect the mines, and what he found was shocking. He observed that “fifty-three of the fifty-six people employed at the Monument No. 2 mine were Navajos” and found that “the Navajo workers were being exposed to from twice to nearly ten times the allowable amount of radiation by today's standards.”⁶ Henry Doyle reported his findings and recommendations, and asked that another more detailed study be done to focus on the health issues. Unfortunately, such a study was done but it wasn't until the late 1960s that the federal government mandated safety requirements and protection for the miners. But by that time, the biggest boom in the world had basically ended, leaving the mines deserted and empty, and over two hundred of the miners dead.⁷

During the 1960s, the first cases of lung cancer began to appear in the Navajo miners. For years, there had been several attempts to make the health risk findings public, to make changes and to help the Navajo miners; however, time after time those attempts failed. It was not until 1969 that any progress was really made: in an attempt to make mines more safe, regulations were set and any mine that did not comply was shut down. During the years that the health issues were being debated between officials, the wives of miners were losing their husbands to horrible deaths. Realizing the severity of the problem, many tribe members met to talk about the deaths of the miners and seek help. One of these members, local tribal leader Harry Tome, visited with sick miners, the miners' widows, doctors, government officials and anyone who could give him information on the situation. He fought for a bill to be passed that would extend the benefits of workers with black lung, found in coal miners, to uranium miners. When the bill didn't pass, he continued his efforts, asking Stuart Udall, who was secretary of the interior under President John F. Kennedy, through the presidency of Lyndon Johnson. In 1979, Udall filed claims against the Department of Energy, formerly the Atomic Energy Commission, claiming that they knew the dangers posed to the general public and should take responsibility for the harm done by compensating those who were affected. All of the efforts involved sick miners, widows' of miners, and descendants of dead uranium workers; many of them took action and went to their home states to file claims for compensation. Some of the states recognized such claims, while others did not; mining companies avoided liability in most cases. The miners and their families struggled to get anything from the companies or the government. After many years, it was still relatively easy for the companies to side step responsibility, or just deny it.

On July 16, 1979, a massive disaster occurred near Grants, New Mexico, and all eyes were on the uranium mining and milling industry. A dam at Church Rock containing a large settling pond broke and ninety-four million gallons of toxic wastewater and 1,000 tons of uranium tailings poured into the Rio Puerco.⁸ The dangerous materials that subjected many of the miners to illness and death were contained in that settling pond: the acidic and radioactive liquid wastes that had come from the uranium ore refining process. The spill was an environmental disaster. The toxic wastes were taken down the river for miles, contaminating the

6 Eichstaedt, Peter H. 1994. *If you poison us: uranium and Native Americans*. Sante Fe, NM: Red Crane Books. Pg 52

7 Ibid.,Pg 52

8 Ibid, Pg 108

soil, water, and plants along the way. The Church Rock disaster was named the “largest single release of radioactive waste in U.S. history” by the U.S. Geological Survey.⁷ The spill affected the very way of life for the Navajo: they grazed their animals on the land, the people and animals drank that water, they used that land to build their homes, and they grew their food in that soil. First, the uranium mill killed so many of their loved ones, and caused even more to live in pain, but then it destroyed Navajo Nation's water source, food source, and their lifestyle.

For the years following the disaster, the Navajo people had to deal with the deaths of their people, the contamination of their land, and the lack of support from the government. They struggled for years trying to receive compensation, and for the resources to clean up their land. Finally, the Radiation Exposure Compensation Act of 1990 was passed; this law set up a \$100 million dollar trust fund and required \$100,000 in compensation to be rewarded to miners “who had worked in uranium mines beginning on January 1, 1947 and ending on December 31, 1971, who had been exposed to 200 or more working level months of radiation, and who had contracted lung cancer some other serious respiratory disease.”⁹ The widows or children would receive the award if the miner had passed away. It was a huge step, but it took years and years for people to receive their awards, and many never got them. Even more importantly, compensation can only change so much; the Navajo Nation is still littered with open mines and uranium still contaminates their land. Although the land is still unsafe, the Navajo have been pushing for years to change and fix what had happened to their homeland. In 2005, Navajo Nation President Joe Shirley signed a law banning uranium mining in the Navajo Nation.

Debate

Eastern Navajo Dine Against Uranium Mining (ENDAUM):

After years of fighting for compensations for those harmed, living in toxic and contaminated areas, and having their community members and families live next to these old, abandoned mines, the Navajo have had enough. The community group ENDAUM finds it unbelievable and completely unjust to try and put more uranium mines back on their land after everything they had been through. The EPA and the Southwest Research and Information Center have shown that Navajo Nation is still contaminated and dangerous. The area has yet to be cleaned up and companies already want to come back in and destroy the land for money. They have evidence that shows the proposed uranium mining operation would threaten the residents, contaminating their land, and their sole source of drinking water. They also argue that Hydro Resources' groundwater reclamation plan would not protect the Navajo drinking water, and that the government is not requiring an adequate amount to clean up the mine if the company abandons the site like they have in the past. With EPA on their side, they also point out that, even if the land that the uranium mine would be built on is not Navajo land, the damage to the soil and the groundwater would affect the Navajo communities. They report that significant radiation from both natural and mining materials and sources are still in their communities. ENDAUM is demanding that Hydro Resources Inc. stay out of New Mexico Navajo communities.

Hydro Resources, Inc.

The company argues that they should be allowed to mine in the land because it is owned by them, and has been since 1970. New Mexico has the largest uranium resource base in the United States, and that is something that cannot change. Their project will contribute large amounts of

7 Ibid., Pg. 109

9 Ibid., Pg. 122

uranium to the U.S. nuclear power plants needs, needs that are likely to increase as the US moves towards more acceptance of nuclear power in response to climate change. They estimate they can produce one million pounds of uranium for the first year, proving their project can be successful and safe, then move on to produce up to three million pounds per year. They state that the practices used today are nothing like they used to be and should not be banned just because of the past. They use ground injection, which doesn't present the same problems as the open mines. Modern technology, safety regulations, and protective gear are all things that mining companies have that they didn't before.¹⁰

U.S. Government/ Original 10th Circuit:

The United States needs nuclear weapons for protection. Several countries around the world possess nuclear arms and it is essential that we are not unarmed or behind in production and technology. The court of appeals agreed with the EPA, believing that the land owned by HRI is part of a dependent Indian community and thus needs to obtain a license from the EPA, which would subject the company to regulations under the Safe Drinking Water Act. However, the 10th court appealed the decision. The land owned by HRI is not lived on by anyone, and is not part of a reservation, and thus it cannot be considered "Indian land".¹¹

10 <http://www.ens-newswire.com/ens/sep2010/2010-09-15-093.html>

11 <http://www.ens-newswire.com/ens/sep2010/2010-09-15-093.html>