




**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION IX  
75 Hawthorne Street  
San Francisco, CA 94105**

**MEMORANDUM**

**DATE:** August 29, 2018

**SUBJECT:** Request for Concurrence on Proposed Nationally Significant or Precedent-Setting Removal at the Cove Mesa II Mine Reclamation Erosion Site, Apache County, Arizona, Navajo Nation Indian Reservation

**FROM:** Enrique Manzanilla, Director  
Superfund Division (SFD-1) 

**TO:** Reggie Cheatham, Director  
Office of Emergency Management

The purpose of this memorandum is to request your concurrence on the proposed time-critical removal action at the Cove Mesa II Mine Reclamation Erosion Site, within the Navajo Nation Indian Reservation in Arizona. The Site is situated within the Navajo Nation Chapter known as Cove in Apache County, Arizona. Redelegation of Authority in R-14-2 gives the Director of the Office of Emergency Management the authority to concur on nationally significant or precedent-setting removals<sup>1</sup>. This removal action is estimated to cost \$3,600,000 in direct extramural expenditures<sup>2</sup> and to take more than 12 months, due to the short construction season available on the Navajo Nation. As a result, contingent upon your concurrence, I will approve the Action Memorandum, an emergency exemption from the \$2 million limit on removal actions and an exemption from the 12-month limit,<sup>3</sup> in order to avert the ongoing exposures to unsafe levels of uranium contamination that are occurring at the Site.

Region 9 staff for the Cove Mesa II Mine Reclamation Erosion Site have discussed this proposed removal with staff for the Office of Emergency Management's Preparedness and Response Operations Division (PROD). PROD has advised that this removal is considered nationally significant or precedent setting because it is a removal of radioactive mining waste from a site located in Indian country. As has been the case with all of Region 9's uranium waste removal actions on the Navajo Nation, Region 9 has conducted extensive government to government consultation with the Navajo Nation and community involvement activities with local residents regarding the Cove Mesa II Mine Reclamation Erosion Site and the proposed removal action.

<sup>1</sup> See September 2009 Superfund Removal Guidance on Preparing Actions Memoranda ("2009 Guidance"), removals in Indian Country generally require OEM concurrence (see p. 45).

<sup>2</sup> "Removal Action Ceiling Costs," as defined by EPA guidance OSWER 9360.0-42 (November 5, 2001), includes only direct extramural costs. As discussed in this memorandum, additional costs may be incurred and recoverable as "incurred response costs."

<sup>3</sup> See Regional Delegation No. 1290.03A.

The proposed Cove Mesa II Mine Reclamation Erosion removal action would address stabilizing the erosion occurring at the reclamation cell at the Site. The uranium waste rock contamination at the Site, through its erosion into the Cove Wash, the receiving water body, poses an imminent and substantial endangerment to human health and the environment because it is resulting in ongoing exposures to levels of uranium contamination that pose an unacceptable increased risk of toxic effects, including cancer.<sup>4</sup> The proposed action would secure the Site, prepare the access road for safe access to equipment, stabilize the reclamation cell erosion, and construct a water diversion channel at the Site. This action is part of the larger effort to address the Navajo Abandoned Uranium Mines and the waste rock associated with these mines in the areas where these wastes have come to be located. The action is expected to occur over two construction seasons.

The Cove Mesa II Mine Reclamation Erosion Action Memorandum is attached for your review. My approval awaits your concurrence.

Concur:



Reggie Cheatham, Director  
Office of Emergency Management

1/27/18

Date

According to the redelegation, authority to non-concur remains with the Assistant Administrator. If you choose not to concur on this action, please forward this memorandum to the Assistant Administrator.

Non-Concur:

\_\_\_\_\_  
Barry N. Breen, Acting Assistant Administrator  
Office of Land and Emergency Management

Date

Attachment

cc: Gilberto Irizarry, U.S. EPA, OEM, HQ  
Brian Schlieger, U.S. EPA, OEM, HQ

<sup>4</sup> See Radiation Risk Assessment at CERCLA Sites Q & A, May 2014, OWSER Directive 9200.4-40, EPA 540-R-012-13