

UTE MOUNTAIN UTE TRIBE

P.O. Box 248
Towaoc, Colorado 81334-0248
(970) 565-3751

November 11, 2010

Cheryl Heying
Executive Secretary
Air Quality Control Board
Utah DEQ – Division of Air Quality
195 North 1950 West
Salt Lake City, UT 84116

RE: RE: SUPPLEMENTAL DATA AND COMMENTS regarding Approval Order
Modification to Add a Baghouse, Allow Alternate Fuel Usage, and to Incorporate Work Practice
Standards DAQE – IN0112050018-10
(Project Engineer Maung Maung)

Dear Ms. Heying:

On October 29, 2010 the Ute Mountain Ute Tribe submitted comments in regards to a modification of the Approval Order for the Denison White Mesa Uranium Processing Mill (“Mill”). In that letter, the Tribe requested that the Division of Air Quality delay making a decision on the approval order until publication of a Scientific Investigations Report. As stated in our earlier comments, we believe that this study contains critical information, and that consideration of this information will not only help enhance protection of the environment, but more importantly will help protect human health and safety in this area. Because the Scientific Investigations Report is currently in peer review, we cannot submit it to you in its entirety. However, we would like to submit the underlying data which has undergone a thorough quality assurance. We have, just today, received permission from our partners at the EPA to provide you with this information, and the data is attached to this letter.

One of the objectives of the study was to utilize stream sediment and plant material samples from areas surrounding the Mill site to identify potential areas of off-site contamination and likely contaminant sources.

The data indicate that sediment samples collected from three ephemeral drainages east of the Mill site contain uranium concentrations exceeding background uranium concentrations. Samples collected from drainages on the south and west boundaries did not exceed background concentrations.

Elevated concentrations of uranium and vanadium were found in plant tissues samples collected north, northeast, east, and south of the Mill site. The uranium and vanadium concentrations in plant tissue samples collected west of the Mill site were low.

Based on this data, the Tribe believes there are five issues that must be addressed in the Air Quality Approval Order.

1. Particulate Monitoring Not Robust Enough

Both the USGS sage sampling and the sediment sampling indicate off-site migration of uranium and vanadium laden particulate has occurred. Accordingly, either the monitoring program is not detecting the migration, or the monitoring results are not triggering an appropriate response. Either way, the failure to address migration of uranium and vanadium laden particulate matter does not engender confidence that the air program in place at the facility is sufficient to protect the environment, or human health and safety. The Division of Air Quality should conduct a comprehensive review of the air program to assess whether there is a failure in monitoring or responsiveness, and redesign the air program accordingly.

2. Financial Costs and Cleanup

The evidence of off-site and on-site migration means there is more financial liability associated with this facility. Specifically, the onsite migration means that closure costs are likely to be higher than previously estimated, since closure costs were based on an assumption of no on-site migration. Additionally, the appropriate regulatory agency should require Denison to pay for costs associated with clean up of areas outside of the property, such as on adjacent public lands, with elevated uranium readings.

3. Sediment Sampling

The Scientific Investigations sediment sampling demonstrates a need for continued sediment sampling. The Division of Air Quality should require regular sediment sampling, and monitor to ensure that uranium and vanadium levels are decreasing.

4. Vegetative Sampling Not Robust Enough

The detection of uranium and vanadium in the sagebrush indicates that a broader variety and range of vegetative sampling must be required. Based on the Tribe's review of previous semi-annual effluent reports it is not clear what vegetation is being sampled, or whether the vegetation sampling being conducted is taking into consideration the physical properties of the plant species being sampled, and its value in measuring chemical constituents. As noted in the Scientific Investigations Report, sagebrush was chosen in part because of its historical use in establishing

geochemical baselines, its extensive root system which can accumulate trace chemical constituents from soil and groundwater containing mobile ions associated with ore deposits, and the rough surface texture and resins on the leaf structure which have been found to be efficient at trapping dust. The Division of Air Quality should identify target species for vegetative sampling, and should also require random sampling of non-target species to ensure that the target species are adequate indicators.

5. Quality Control

As a general issue, the Scientific Investigations Report demonstrates a definite need for quality control in regards to the monitoring and regulation of the Denison White Mesa Uranium Mill. We have two immediate suggestions for quality control; (1) The Division of Air Quality should require outside external review for all permits and approval orders associated with this facility. This type of external review is common in the industry, and in some cases is required by law, and, (2) An employee of the Division of Air Quality told our environmental staff that the Division of Air Quality doesn't have a copy of the Mill's quality assurance program plan, or standard operating procedures, and that the state generally requires the Mill to retain these documents. The Division of Air Quality should be regularly reviewing these documents to ensure that they are being implemented.

We appreciate your time and consideration of this very important issue, and would appreciate the opportunity to meet with you to discuss this issue further before the approval order is issued. In accordance with the state of Utah's commitment to engaging with tribes on a government-to-government basis, I believe that such a request is appropriate at this time. Please contact Chaitna Sinha, Associate General Counsel, at (970) 564-5643, or Scott Clow, Environmental Programs Director at (970) 564-5432 if you have any questions regarding this letter.

Sincerely,



Gary Hayes
Chairman
Ute Mountain Ute Tribe

ATTACHMENTS

Figures 29, 30, 31, 32, 36, 37, 38, 39, 40, 41

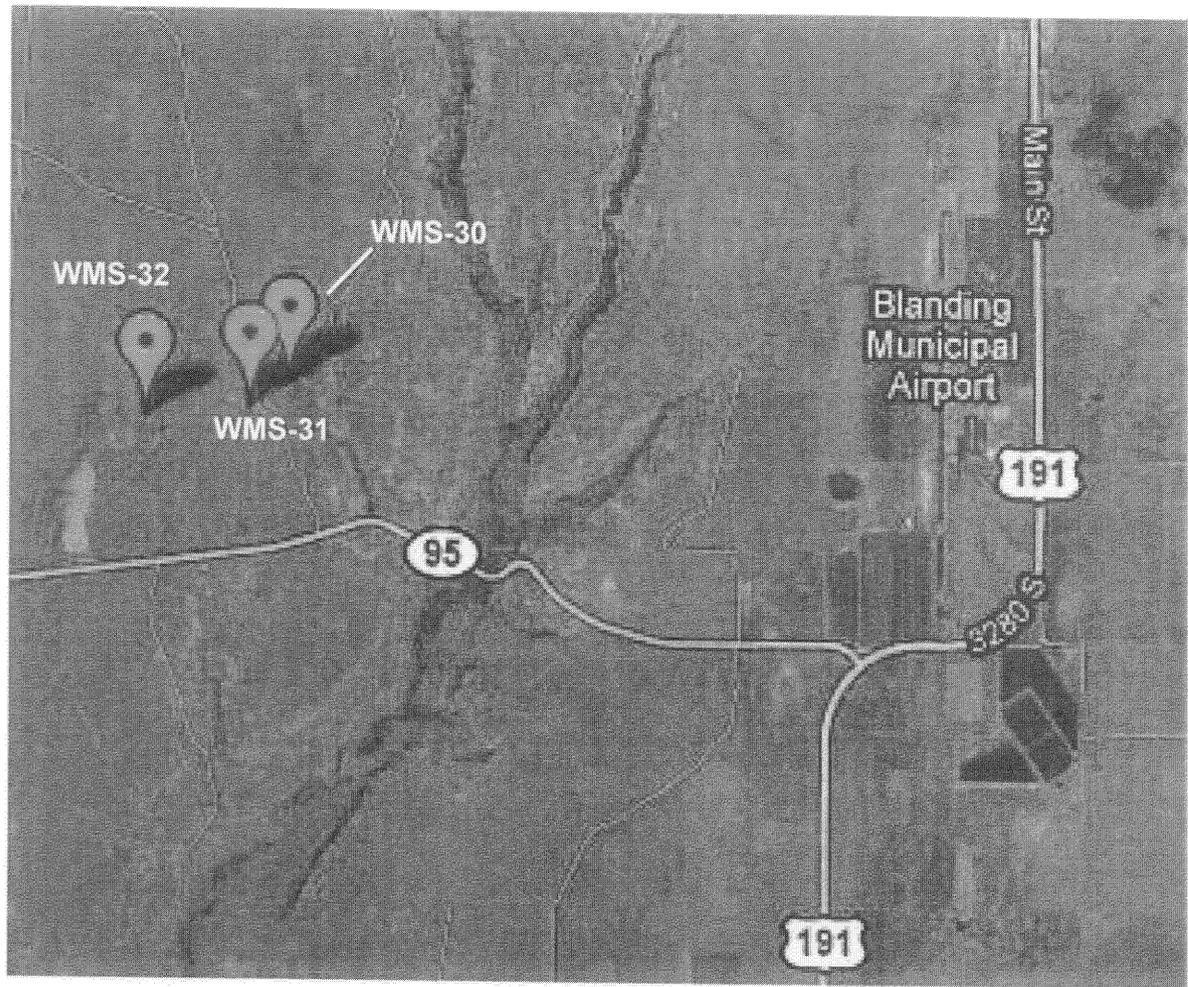


Figure 30. Sites where background sediment samples were collected in ephemeral drainages approximately 5 kilometers north of the White Mesa uranium mill during June 2008.

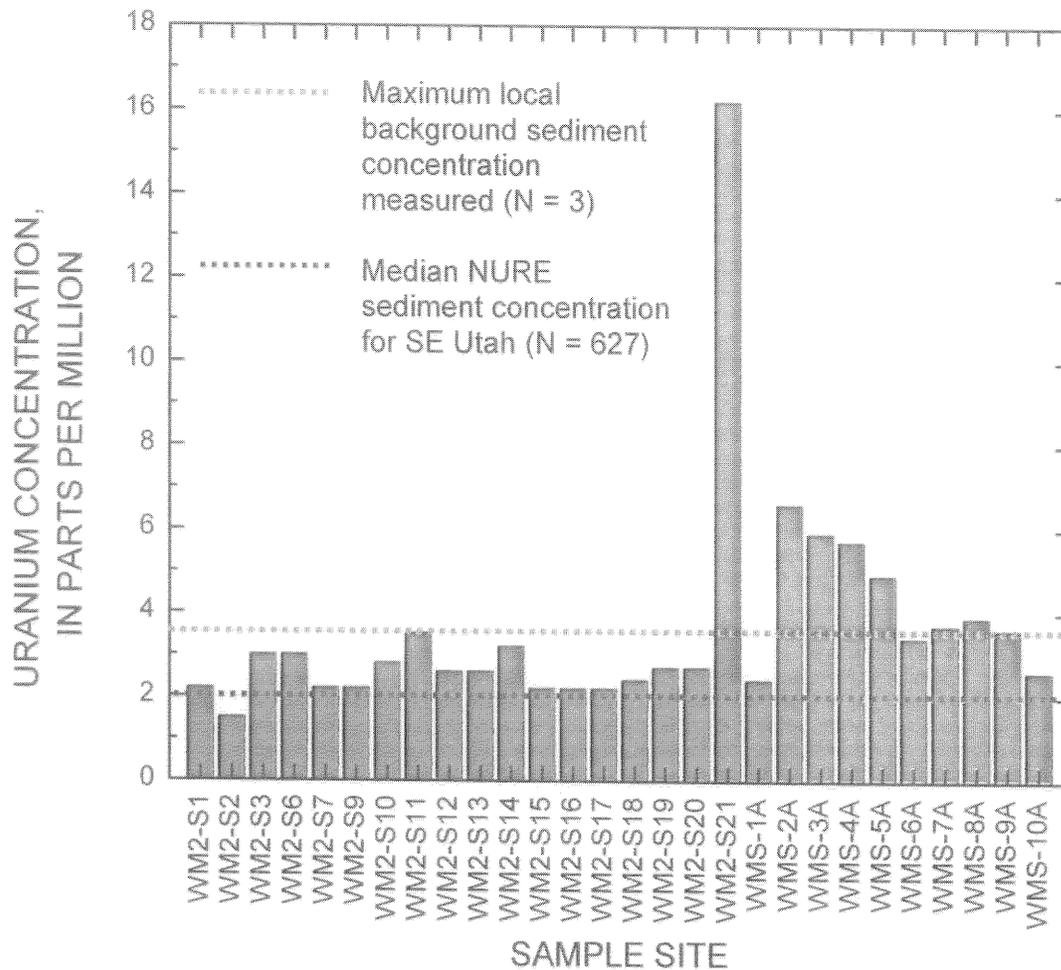
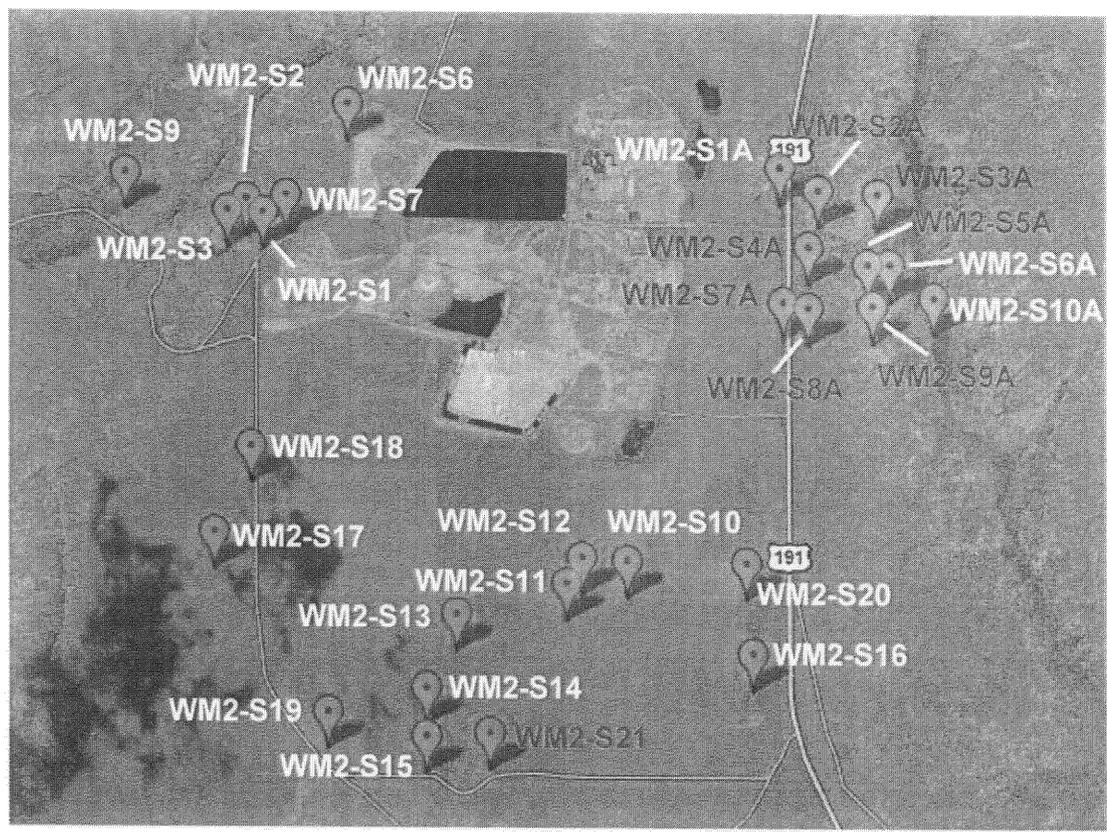


Figure 31. Uranium concentration in sediment samples collected in ephemeral drainages in close proximity to the White Mesa uranium mill compared to maximum local background concentration and median concentration of sediment samples collected during the National Uranium Resource Evaluation (NURE) program in southeastern Utah (latitude range: ≥ 37.003 and ≤ 37.650 decimal degrees; longitude range: ≥ 109.044 and ≤ 110.779 decimal degrees).



0 500 meters

Figure 32. Sites where the measured uranium concentration in sediment samples exceeds the maximum uranium concentration observed in local background samples (labeled in magenta) during June 2008.

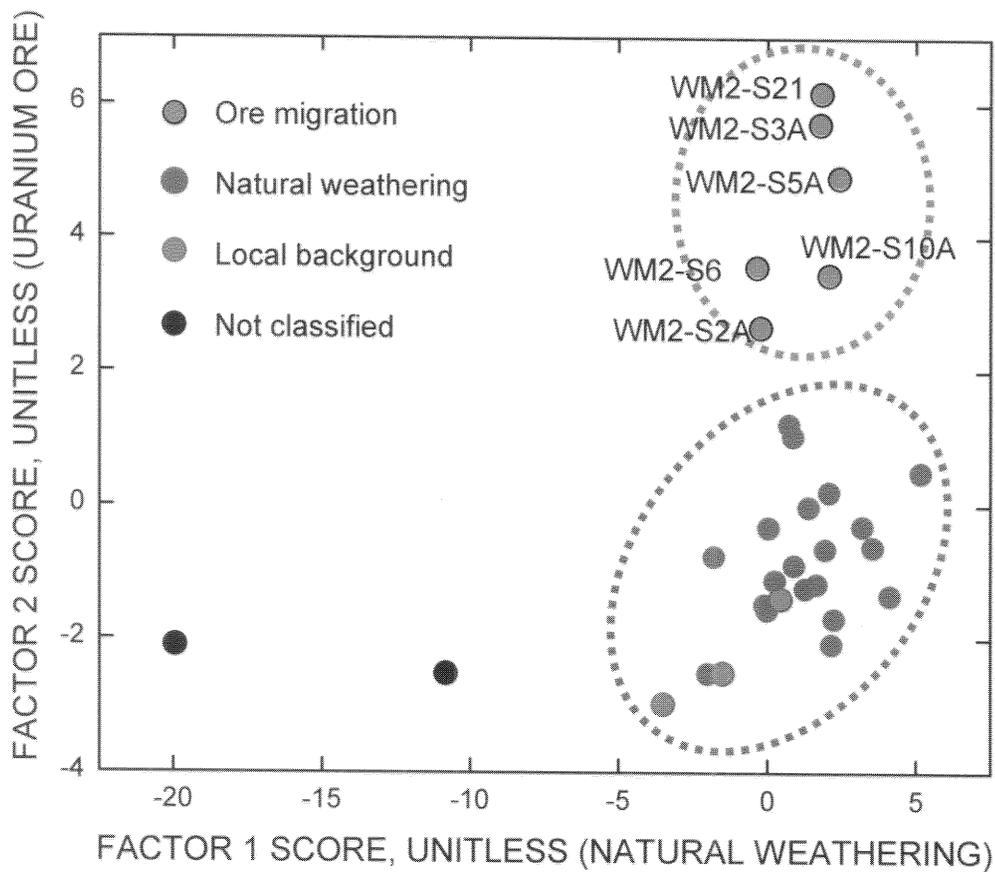
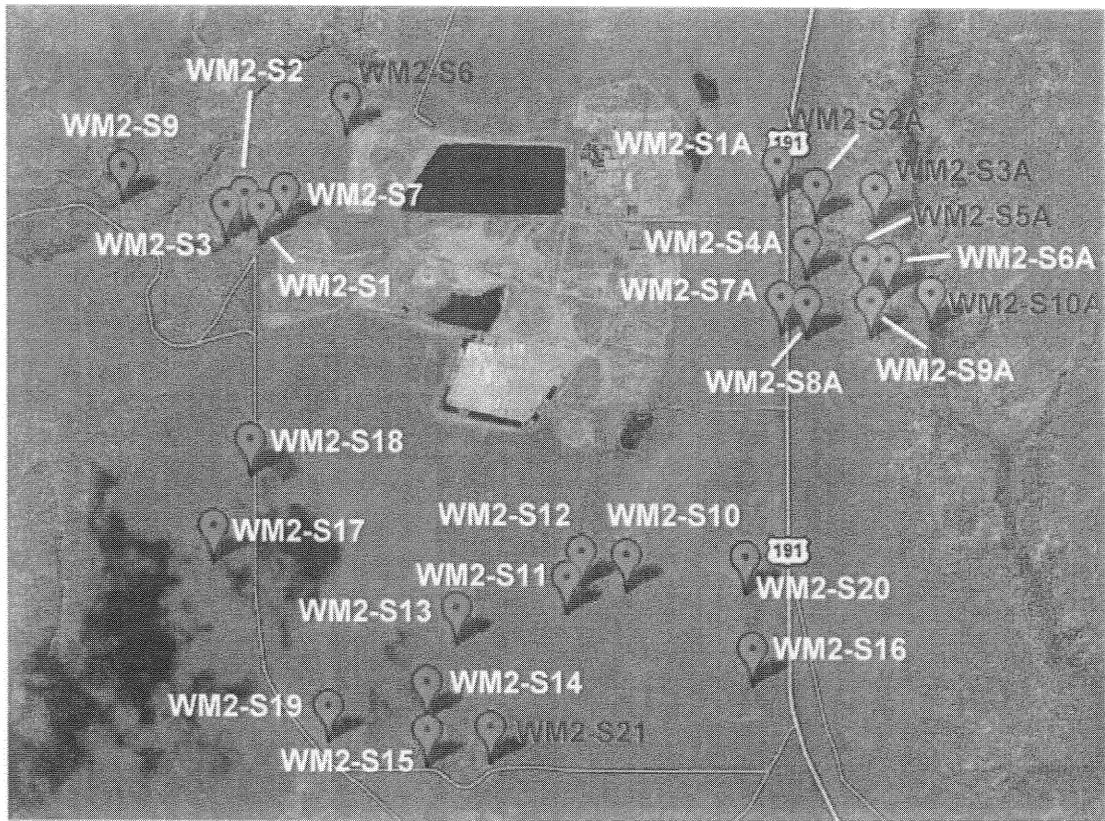
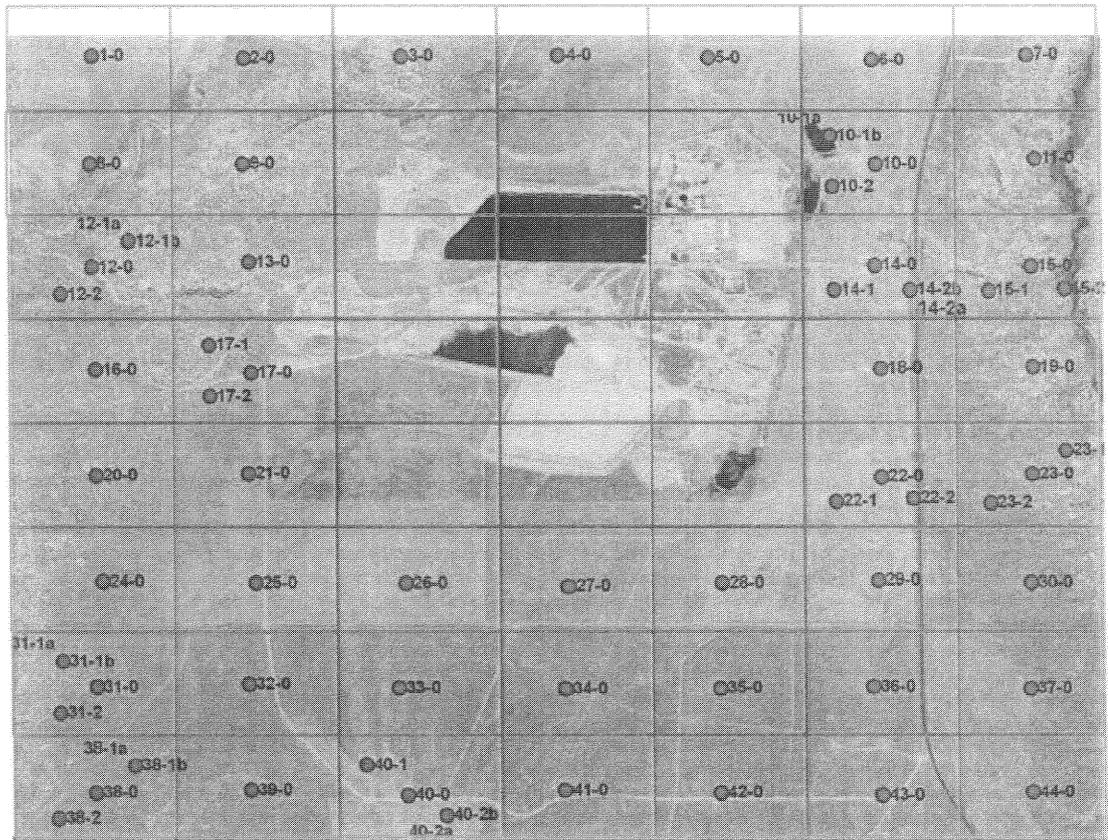


Figure 36. Plot comparing factor 1 and factor 2 scores determined by principal components analysis of 31 stream sediment samples collected from ephemeral drainages surrounding the White Mesa mill site during June 2008. Blue line indicates sediment samples associated with natural weathering chemical composition and red line indicates sediment samples with a combined natural weathering and ore migration chemical composition.



0 500 meters

Figure 37. Location of sediment sampling sites with high factor 2 scores (ore migration) labeled in magenta compared to location of sites with high factor 1 scores (natural weathering) and low factor 2 scores (ore migration) during June 2008. Local background samples (~ 5 km north of mill site) are not shown; however, these samples contain high factor 1 scores and low factor 2 scores.



0 500 meters

EXPLANATION

38-0 – Routine sample at center of grid cell

38-1a – Sample replicate

38-2 – Within grid sample variance

38-1b – Sample replicate

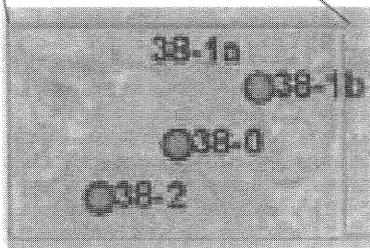


Figure 38. Sites where plant-tissue samples were collected from big sagebrush (*Artemisia tridentate*) in grid cell areas surrounding the White Mesa uranium mill site during September 2009.

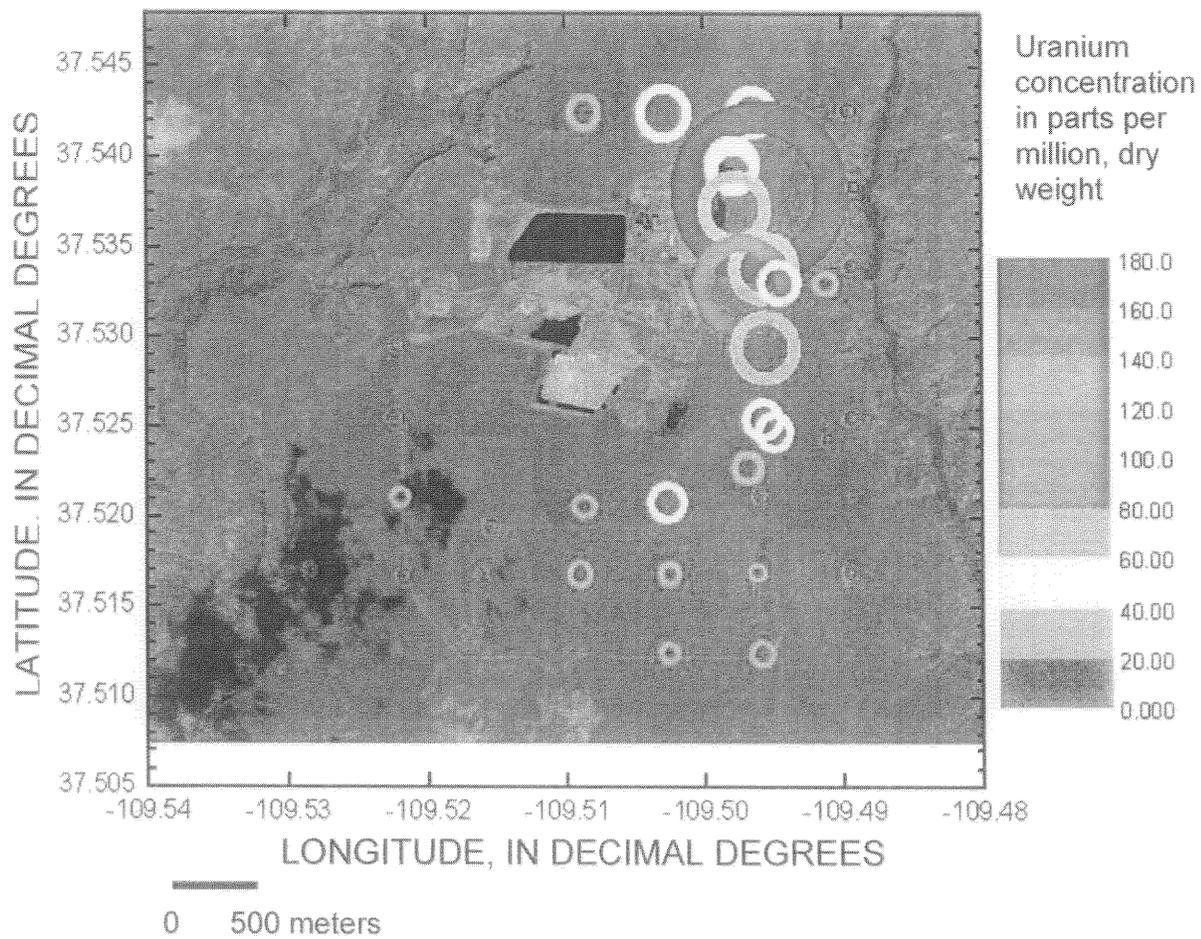


Figure 39. Uranium concentration in plant-tissue samples collected from big sagebrush (*Artemisia tridentate*) in areas surrounding and within the White Mesa uranium mill during September 2009. Symbol color and diameter correspond to uranium content.

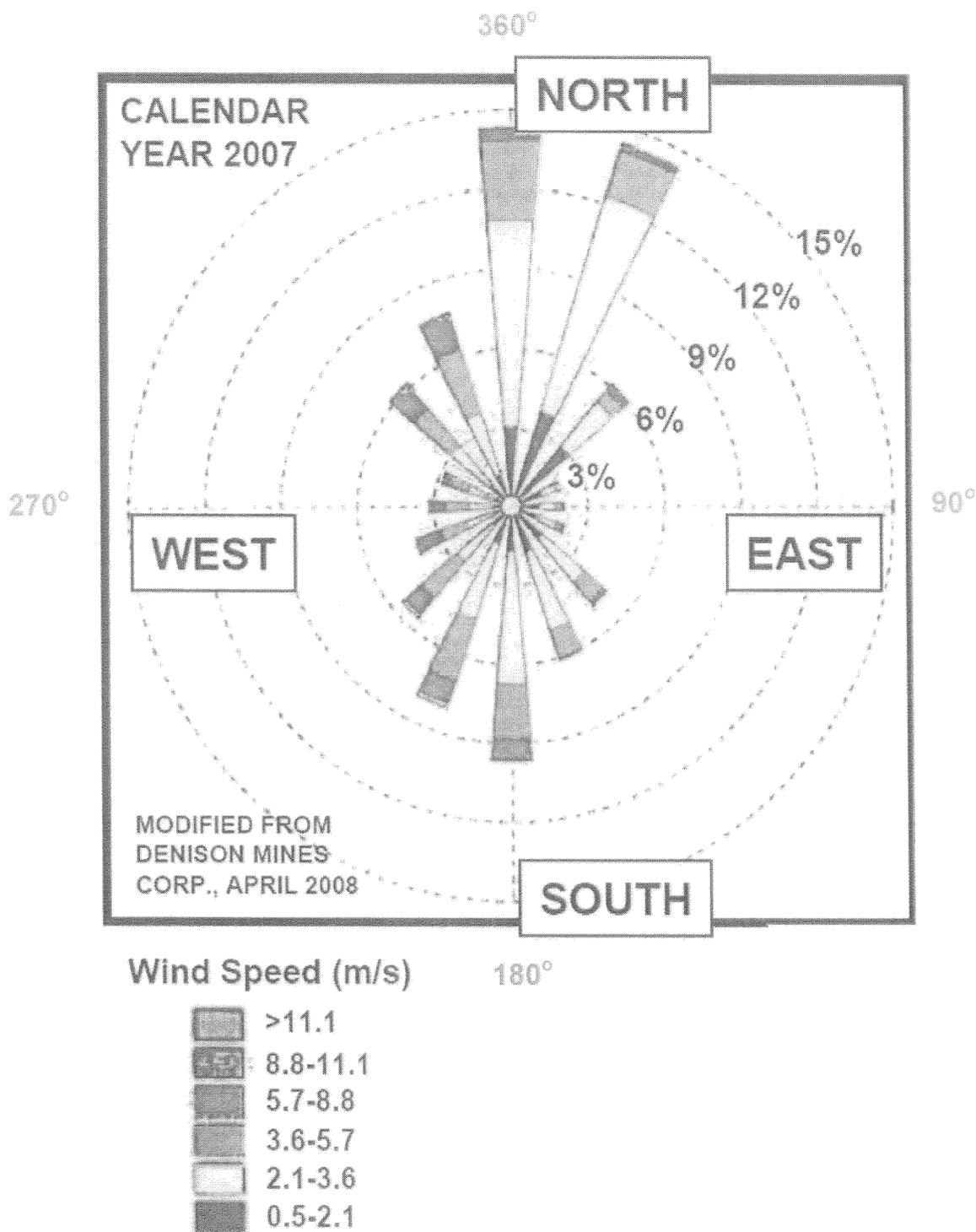


Figure 40. Wind rose plot from wind monitoring data collected at the White Mesa mill site by Dennison Mines, Inc. (2008), during calendar year 2007. Direction is wind origination, in azimuth degrees (shown in red numbers).

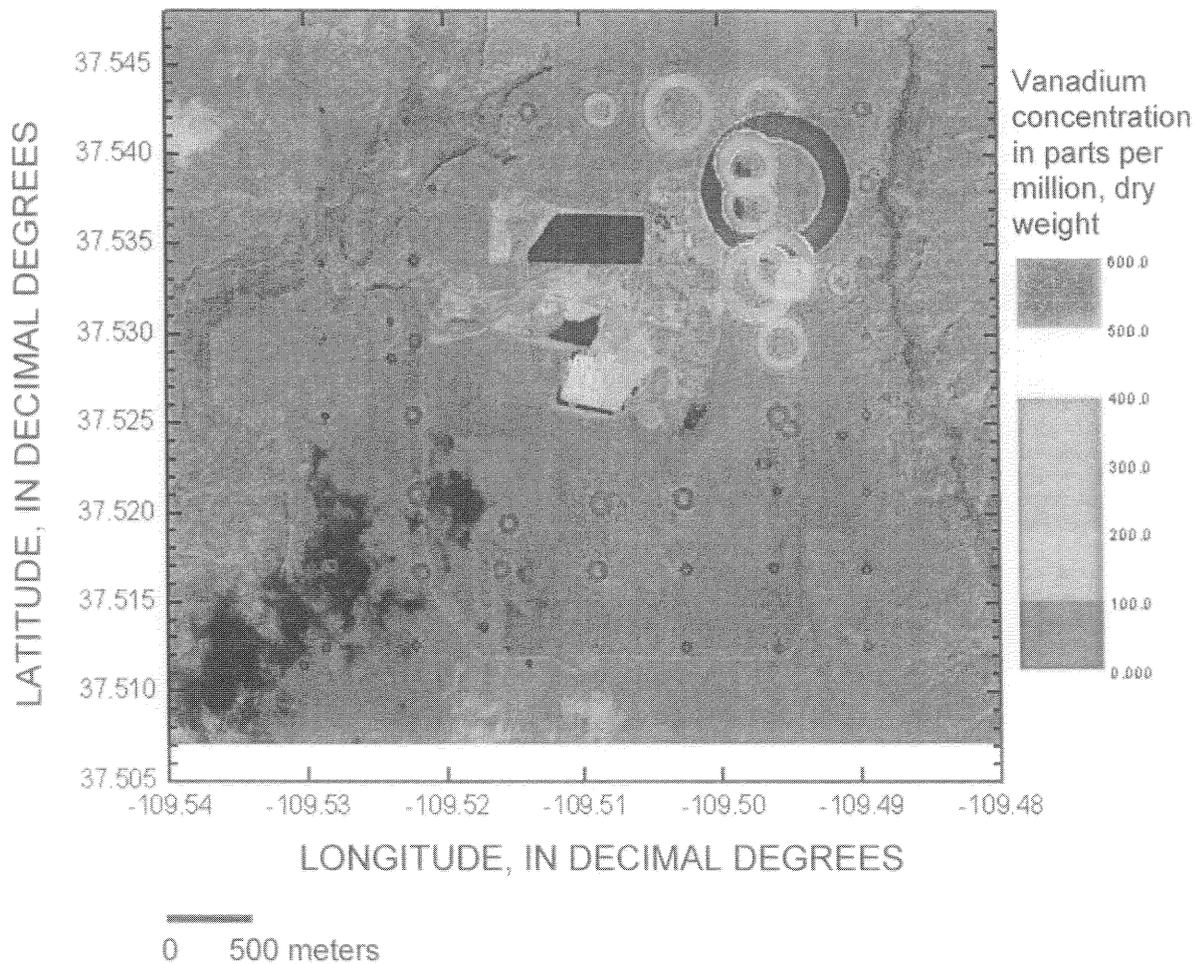


Figure 41. Vanadium concentration in plant-tissue samples collected from big sagebrush (*Artemisia tridentate*) in areas surrounding and within the White Mesa uranium mill during September 2009. Symbol color and diameter correspond to vanadium content.