

August 27, 2001

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

ATOMIC SAFETY AND LICENSING BOARD September 4, 2001 (10:04AM)

Before Administrative Judges:
Thomas S. Moore, Presiding Officer
Thomas D. Murphy, Special Assistant

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

In the Matter of)
)
HYDRO RESOURCES, INC.)
P.O. Box 15910)
Albuquerque, NM 87174)

Docket No. 40-8968-ML
ASLBP No. 95-706-01-ML

**INTERVENORS' MOTION FOR A POSTPONEMENT OF
SEPTEMBER 12 CONFERENCE**

By order dated August 3, 2001, the Presiding Officer scheduled a telephone conference with the parties and their affiants on September 12, 2001. The purpose of the telephone conference is to provide the Licensing Board with an opportunity to ask follow-up questions regarding the parties' evidentiary submissions with respect to Hydro Resources Inc.'s ("HRI's") November 17, 2000, Restoration Act Plan for Section 8 of the Crownpoint Project. On Wednesday, August 22, 2001, Intervenors Eastern Navajo Diné Against Uranium Mining ("ENDAUM") and Southwest Research and Information Center ("SRIC") requested that in lieu of the planned telephone conference, the Licensing Board adopt the suggested alternative of holding a live hearing session at the Nuclear Regulatory Commission's ("NRC's") offices in Rockville, Maryland.

Intervenors hereby withdraw that request for the time being and, because of a significant

change of circumstances outside of Intervenors' control, respectfully request a postponement of the September 12, 2001 conference.

In their August 22, 2001 request, Intervenors notified the Presiding Officer and the other parties that the Intervenors were having difficulty reaching one of our experts, Ms. April Lafferty. On Friday, August 24, 2001, Intervenors managed to contact Ms. Lafferty and have learned that she will be unavailable for at least the next ten (10) months. Ms. Lafferty is recently pregnant and for reasons related to serious concerns about Ms. Lafferty's health, she has been instructed by her physician that she is to avoid any and all stressful working situations for the duration of her pregnancy. See affidavit of Geoffrey H. Fettus (Attachment 1). Thus, Ms. Lafferty will not be working during this term and is not amenable to providing further oral or written testimony in this case, at least until she has had her child and an appropriate post-partum interval.

While Intervenors would very much like to retain the services of Ms. Lafferty, Intervenors do not believe that it is reasonable to request of the Presiding Officer or the other parties that we delay the resolution of this issue for perhaps a year. Therefore, in the interests of an efficient and orderly proceeding, Intervenors respectfully request a postponement of the September 12 conference so that they may, with all deliberate speed, obtain the services of a qualified expert to either (1) fully review and endorse the testimony of Mr. Steve Ingle and Ms. April Lafferty and be available for questioning by the Presiding Officer, Judge Murphy and Judge Brett; or (2) endorse the testimony of Mr. Steve Ingle and Ms. April Lafferty and file a short statement on the issues where he/she may differ with the positions espoused by Mr. Ingle and Ms. Lafferty. If the second course is taken, Intervenors would, of course, have no objection

to an opportunity for the NRC Staff and HRI to respond to any amended position of the new expert. Intervenors are already speaking with several qualified individuals and will alert the Presiding Officer when a new expert has been identified or will report our progress on this issue by October 15, 2001.

With the services of only one expert, Intervenors prefer not to go forward with the September 12 conference as they will be at a distinct disadvantage because they will not have the services of an individual that has directly worked on the bonding of an in-situ leach uranium mine. Intervenors' expert in geochemistry, Dr. Richard J. Abitz, is available to attend the conference as are several members of ENDAUM. Dr. Abitz is intimately familiar with the treatment of uranium-contaminated groundwater and is familiar with the testimony of Mr. Ingle and Ms. Lafferty. If the Presiding Officer decides that for substantive or scheduling reasons it is crucial that the September 12 conference go forward without the participation of Ms. Lafferty, Intervenors respectfully request that the conference be conducted with all parties present on September 12 at the NRC offices in Rockville, Maryland.

Counsel for the Intervenors will be fully prepared to discuss this issue on the August 29 conference call and again expresses regret to the Presiding Officer and the other parties at what Intervenors hope will only be a brief delay in the orderly proceeding of this case.

Counsel for the NRC Staff and HRI were notified of the filing of this motion.

Respectfully submitted,



Geoffrey H. Fettus

Heather L. Green

Douglas Meiklejohn

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ATOMIC SAFETY AND LICENSING BOARD

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CERTIFICATE OF SERVICE

I hereby certify that on August 27, 2001, I caused to be served copies of the foregoing:

**INTERVENORS' MOTION FOR A POSTPONEMENT OF
SEPTEMBER 12 CONFERENCE**

upon the following persons by either overnight mail or U.S. mail, first class, and in accordance with the requirements of 10 C.F.R. § 2.712. Service was made via overnight mail to the Licensing Board and parties. Service was also made via e-mail to the parties marked below by an asterisk. The envelopes were addressed as follows:

Administrative Judge
Thomas S. Moore,* Presiding Officer
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Office of the Secretary
U.S. Nuclear Regulatory Commission*
Washington, D.C. 20555-0001
Attn: Rulemakings and Adjudications
Staff

Administrative Judge
Thomas D. Murphy, Special Assistant
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Adjudicatory File
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission*
Washington, D.C. 20555-0001

Atomic Safety and Licensing Board
Panel
U.S. Nuclear Regulatory Commission*
Washington, D.C. 20555-0001

Office of Commission Appellate
Adjudication
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Chris Shuey
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ENDAUM
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Crownpoint, NM 87313
Attn: Office Manager

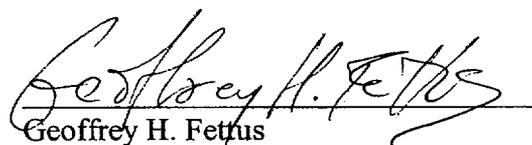
Mr. Mark Pelizza, President
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Edward M. Dobson
DNA-People's Legal Services, Inc.
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Steven J. Bloxham, Esq.
Navajo Nation Department of Justice
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Window Rock, AZ 86515

Jep Hill, Esq.
Jep Hill & Associates
P.O. Box 30254
Austin, TX 78755

Dated at Santa Fe, New Mexico,
August 27, 2001


Geoffrey H. Fetts

August 27, 2001

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:
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| Albuquerque, NM 87174 |) | |
| |) | |

AFFIDAVIT OF GEOFFREY H. FETTUS

I, Geoffrey H. Fettus, being duly sworn, declare as follows:

1. My name is Geoffrey H. Fettus. I am of sound mind and body and competent to make this affidavit. The factual statements herein are true and correct to the best of my knowledge, information and belief.

2. I am an attorney representing Eastern Navajo Diné Against Uranium Mining and Southwest Research and Information Center and have been involved in all aspects of this proceeding, including preparation for a September 12, 2001 conference with the Licensing Board. After two weeks of diligent effort to reach Ms. April Lafferty, an expert who has provided testimony in this proceeding related to mining site restoration and costs, I spoke with Ms. Lafferty on the afternoon of Friday, August 24, 2001.

3. In that conversation, Ms. Lafferty stated to me that she would be unavailable to

participate in any capacity in this proceeding for at least the next ten (10) months.

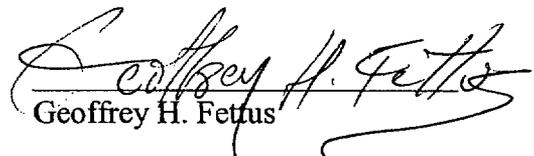
4. Ms. Lafferty stated to me that she is recently pregnant and, for reasons related to serious concerns about her health, she has been instructed by her physician that she is to avoid any and all stressful working situations for the duration of her pregnancy.

5. Thus, I have been instructed by Ms. Lafferty that she will not be working during the term of her pregnancy and will not be able to provide further oral or written testimony in this case, at least until she has had her child and an appropriate post-partum interval.

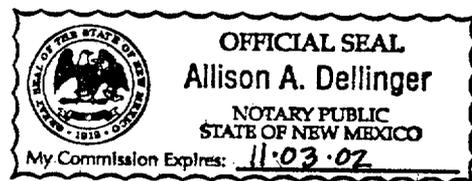
6. This concludes my statement.

AFFIRMATION

I declare on this 27th day of August, 2001, at Santa Fe, New Mexico, under penalty of perjury that the foregoing is true and correct to the best of my knowledge.


Geoffrey H. Fetis

Sworn and subscribed before me, the undersigned, a Notary Public in and for the State of New Mexico, on this 27 day of May, 2001, at Santa Fe, New Mexico.



My Commission expires on November 3, 2002


Notary Public