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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD

OFFICE OF THE SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

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

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 GRACE SAM'S AND MARILYN MORRIS'
REPLY TO RESPONSE FROM ERIC JANTZ ET AL.
RE VERIFIED MOTION FOR SUBSTITUTION OF COUNSEL

Come now the Intervenors Grace Sam and Marilyn Morris, through counsel, in reply to the Response file by Eric Jantz et al. regarding the Motion for Substitution of Counsel.

The above-mentioned Response opposes the instant Motion on the ground that some conflict may arise later. This is entirely speculative, and it was addressed in the instant Motion.

The Response implicitly raises a new matter. If such a purely speculative potential conflict interferes with substitution of counsel, where the substituting-in attorney formerly represented the same parties in the same case, where such formerly represented parties now seek to restore representation by counsel once again having appeared in the same case, and Mr. Jantz earlier represented Ms. Sam and Ms. Morris in this Case, there is a question as to whether Mr. Jantz and by association NMELC have a conflict of interest. Obviously it is rare to have counsel switch parties in a case, as has happened here.


The inherent power of a court to assign representation is a matter of criminal procedure. *See, e.g., United States v. Bertoli*, 994 F.2d 1002 (3d Cir. 1993). However, when counsel has availed self of the opportunity to switch parties in a case, and the adjudicating body has allowed the switch, counsel submits to the broadest authority of the adjudicatory body to exercise control necessary to the orderly and efficient exercise of its jurisdiction. This adjudicatory board has power to prevent abuse of process and to maintain order and function properly as an adjudicator.

Therefore, in order to avoid the appearance of impropriety in the switching of parties, as previously approved by allowing Mr. Jantz to withdraw from representation of Intervenors Sam and Morris and then appear in representation of Intervenor ENDAUM as a separate party in this same Case, this Board should grant the instant Motion. It is appropriate to leave the matter of potential speculative conflicts to the future, with the understanding that any such conflict may be considered by the Board if and when an actual conflict is brought to the Board's attention.

Undersigned counsel for Intervenors Sam and Morris apologizes for the timing of this matter. Undersigned counsel is unable to participate in the December 6th conference call because of a conflicting legal services commitment in Chinle, Arizona.

Intervenors Marilyn Morris and Grace Sam moved the substitution of counsel as stated in the instant Motion.

Respectfully submitted,



DNA - People's Legal Services, Inc.

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CERTIFICATION OF SERVICE

I hereby certify that on November 30, 2001, I caused to be served copies of the foregoing:

INTERVENORS GRACE SAM'S AND MARILYN MORRIS'
REPLY TO RESPONSE FROM ERIC JANTZ ET AL.
RE VERIFIED MOTION FOR SUBSTITUTION OF COUNSEL

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

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Washington, D.C. 20555-0001

Office of the Secretary
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Adjudicatory File
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U.S. Nuclear Regulatory Commission
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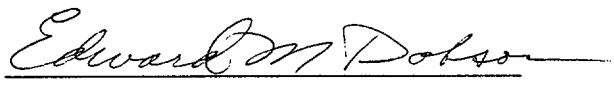
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Dated at Mexican Hat, Utah,
November 30, 2001


Edward M. Dobson