

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

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OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

Before Administrative Judge:
Thomas Moore, Presiding Officer

In the Matter of:)	
)	
Hydro Resources, Inc.)	Docket No.: 40-8968-ML
P.O. Box 777)	Date: January 10, 2005
Crownpoint, NM 87313)	

**HYDRO RESOURCES, INC.'S RESPONSE TO INTERVENORS' MOTION FOR
ISSUANCE OF A SUBPOENA FOR THE PRODUCTION OF DOCUMENTS AND
TO SUPPLEMENT THE HEARING RECORD AND MOTION FOR STAY OF
PROCEEDINGS**

Hydro Resources, Inc. (HRI), by its undersigned counsel of record, hereby submits this Response to Eastern Navajo Dine Against Uranium Mining's (ENDAUM's) and Southwest Research and Information Center's (SRIC's) (collectively "Intervenors") Motion for Issuance of a Subpoena for the Production of Documents and to Supplement the Hearing Record and Motion for Stay of Proceedings regarding HRI's NRC license to operate an *in situ* leach (ISL) uranium mining facility at Church Rock and Crownpoint, New Mexico. For the reasons described below, HRI respectfully requests that the Presiding Officer deny Intervenors' motion for issuance of a subpoena for document production and Intervenors' motion for a stay.

I. BACKGROUND AND PROCEDURAL HISTORY

On September 29, 1998, Intervenors submitted a letter to NRC Staff requesting that certain documentation pertaining to HRI's NRC-licensed ISL uranium mining operation be made available for their review. In response to this letter, on November 13,

1998, NRC Staff provided Intervenors with some of their requested documentation but noted that the remainder of the requested documentation either did not exist or was never submitted as part of HRI's license application. On December 10, 1998, Intervenors filed a motion requesting that the Presiding Officer (then Judge Peter Bloch) issue a subpoena compelling the production of the requested documentation, which NRC Staff stated was not part of the administrative record. On December 16, 1998, Judge Bloch denied Intervenors' motion.

On April 14, 2004, the Presiding Officer convened a telephone conference in which representatives of HRI, Intervenors, and NRC Staff participated. On this telephone conference, Intervenors reiterated their request for the documentation listed in their September 29, 1998, letter to NRC Staff. In response to this request, HRI stated that, as a gesture of good faith, it would commence discussions regarding a protective order that would allow Intervenors access to additional requested documents, which had not been submitted to NRC Staff as part of HRI's license application. However, despite several months of continued discussions, the parties could not agree upon the scope of such a protective order. As a result and in view of the extremely limited scope of Intervenors' document request, HRI hereby submits this Response and respectfully requests that the Presiding Officer deny Intervenors' motion for issuance of a subpoena for document production (i.e., discovery) and Intervenors' motion for a stay.

II. STANDARD OF REVIEW AND ARGUMENT

Intervenors' December 29, 2004, Motion includes two (2) specific requests for relief: (1) a request for a subpoena compelling production of certain Requested

Documents¹ and (2) a request for a stay of the Presiding Officer's briefing schedule for thirty (30) days pending review of the Requested Documents. HRI will address each of these issues in turn.

A. The Presiding Officer Should Deny Intervenors' Request for Document Production As An Impermissible Request for Discovery Under NRC Subpart L Regulations

Intervenors' Motion for production of documents should be denied as an impermissible request for discovery under the Administrative Procedure Act (APA) and NRC's Subpart L regulations. Under the APA,² upon which NRC's Subpart L hearing procedures are based, when evaluating agency action such as the grant of an NRC license, "the focal point for judicial review should be the administrative record already in existence, not some new record made initially in the reviewing court." *Camp v. Pitts et al*, 411 U.S. 138, 142 (1973). "The task of the reviewing court is to apply the appropriate APA standard of review...to the agency decision *based on the record the agency presents to the reviewing court.*" *Florida Power & Light Co. v. Lorion*, 470 U.S. 729, 743-744 (1985), *citing Citizens to Preserve Overton Park v. Volpe*, 401 U.S. 402 (1971) (emphasis added). When determining whether HRI's license application was sufficient, NRC Staff was required to review all documentation and information it deemed *relevant* to such review and compile an administrative record supporting their decision. The Supreme Court has held that when a contemporaneous explanation of an agency decision is available (i.e., an administrative record), its validity "must, therefore, stand or fall on the propriety of that finding, judged, of course, by the appropriate standard of review."

¹ See Intervenors' December 29, 2004, Motion at 2-3.

² See generally 5 U.S.C. § 706 *et seq.* (2004).

Camp v. Pitts et al., 411 U.S. at 143; *see also Vermont Yankee Nuclear Power Corp. v. NRDC*, 435 U.S. 519, 549 (1978).

Next, NRC's Subpart L hearing regulations applicable to this proceeding at 10 CFR § 2.1231(d) specifically state: "[a] party...*may not seek discovery* from any other party...or the NRC or its personnel, whether *by document production...or otherwise.*"³ (emphasis added). Previous NRC decisions have acknowledged that Intervenors are not entitled to discovery, including document production, during a Subpart L proceeding. *See In the Matter of International Uranium (USA) Corp. (White Mesa Mill)*, 56 NRC 113, *31 (August 28, 2002).

Based on this blanket prohibition, Intervenors may not seek to compel any party to a Subpart L proceeding to engage in "discovery" involving document production. Thus, all that remains, therefore, is to determine is whether or not Intervenors' document request can properly be considered "discovery."

According to Black's Law Dictionary, Trial Practice tools of discovery include "production of documents or things." *See Black's Law Dictionary, Sixth Edition*, West Publishing Co., (1990). Intervenors' Motion requests an action identical to that defined as "discovery;" that HRI, a party to this Subpart L proceeding, be compelled to *produce documents, data and other information* which is not part of the administrative record as compiled by NRC Staff. Therefore, on its face, Intervenors' Motion requests that the Licensing Board allow "discovery," which is outside the scope of the APA as it applies to this proceeding and which is prohibited in Subpart L hearings. Therefore, Intervenors' Motion should be denied.

³ Recently, NRC amended its 10 CFR Part 2 hearing procedures. The prohibition on discovery can now be reviewed at 10 CFR § 2.1203(d) (2004).

B. Intervenor's Motion for Document Production Should Be Denied Because The Requested Documents Are Not Relevant to This Proceeding

Intervenor's Motion should be denied because the Requested Documents were never requested by, submitted to or relied upon by NRC Staff during their review of HRI's license application. As a result, Intervenor's Requested Documents are properly not part of the hearing file and are not relevant to this proceeding.

As a general proposition, NRC's Subpart L hearing procedures require NRC Staff to create a "hearing file" containing all documents, data, and other information submitted by an applicant/licensee to NRC Staff in its application for a licensing action or in response to other NRC Staff requests (i.e., requests for additional information (RAIs)). See 10 CFR § 2.1231(b).⁴ As stated in 10 CFR § 2.1231(b), "[t]he hearing file will consist of the application and any amendment thereto, any NRC environmental impact statement or assessment relating to the application, and any NRC report and any correspondence between the applicant and the NRC *that is relevant* to the application." (emphasis added). Since Subpart L hearings are designed to be "informal" hearings and Subpart L hearing procedures are designed to provide an expedited hearing process for lower-risk NRC-licensable activities without denying members of the public a meaningful opportunity for a hearing, the only documents, data or other information that are properly part of the administrative record are in the "hearing file." This "hearing file" already has been prepared by NRC Staff and has been available to Intervenor for several years.

⁴ Due to NRC's recent amendment of its 10 CFR Part 2 regulations, the description of the hearing file may now be reviewed at 10 CFR § 2.1203(b) (2004).

After an evaluation of Intervenors' Requested Documents and the administrative record for this proceeding, HRI asserts that all such Documents are either already part of the hearing file/administrative record, were not requested or reviewed by NRC Staff or do not exist and, in any event, are not *relevant* to this proceeding. Initially, Intervenors' allege that their Requested Documents are either cited or referenced *throughout* the administrative record. Intervenors' December 29, 2004, Motion at 2. This allegation is greatly exaggerated, because, as will be discussed below, Intervenors' *citations* to these Requested Documents constitute an infinitesimal portion of the administrative record and do not include any demonstration that NRC Staff requested, received, reviewed and/or relied on such documents when approving HRI's license application. Without more, as a general matter, Intervenors have failed to demonstrate that their Requested Documents are relevant to this proceeding.

1. Fence Diagrams and Structural Cross-Sections

With respect to their first set of Requested Documents, Intervenors request that “[f]ence diagrams and/or structural cross-sections for Section 17, Unit 1, and Crownpoint” be produced as they “are the bases for the site-specific determinations that no inter-aquifer connections caused by changes in geologic strata positions or thicknesses exist.” Intervenors' December 29, 2004 Motion at 2. This request is based on a cited reference to fence diagrams and/or structural cross-sections in the COP Rev. 0.0. *Id.* at 2. Further, Intervenors' Motion cites to the Reed report and its references to structural cross-sections and/or fence diagrams. *Id.*

Intervenors fail to note that these specific Requested Documents are not part of HRI's license application, as reviewed by NRC Staff. As stated by Mr. Pelizza in his

affidavit (Attachment A), “COP Rev. 0.0 was prepared as the first ‘working draft’ of the COP to be provided to NRC Staff for HRI’s license application. In this ‘working draft,’ the reference to ‘Fence Diagrams’ was an *error* that was corrected in COP Rev. 2.0, which was prepared and submitted to NRC Staff on August 15, 1997 and is currently part of the administrative record.” Attachment A at ¶ 13 & Affidavit Attachment 1.

Additionally, Mr. Pelizza goes on to note that, “there is no reference to structural cross-sections in the COP Rev. 0.0” and that the “cross-sections that were supplied to NRC Staff in support of the Crownpoint License Application are described in ¶ 1 of the October 16, 1998 letter from HRI to Bob Carlson of NRC Staff...and are currently in the administrative record.” *Id.* at ¶ 14 & Affidavit Attachment 2.

In addition, Intervenors’ reference to the Reed report and structural cross-sections/fence diagrams does not demonstrate that their Requested Documents should be produced. Intervenors have been aware of the Reed report’s contents since the report was submitted to NRC Staff in 1993 and, as stated by Mr. Pelizza, “[t]he meaning of the portion of the Reed report regarding ‘structural’ cross-sections was covered in the October 16, 1998, letter,” which served as a response to Intervenors’ previous request for production of these same Requested Documents. *Id.* at ¶ 15. As described in this letter, “the geologic analysis and hydrological testing that is submitted after wellfield installation is provided to regulators as positive proof that the mine unit will perform as specified in the license. *An infinite amount of drill holes could not replace the confidence that is derived from the actual wellfield testing.*” *Id.* at ¶ 16 (emphasis added). Based on this explanation, none of the documents discussed in Intervenors’ first Requested Document section was ever requested by, submitted to or reviewed by NRC Staff during

the license application review process, because they were not relevant to such application. Therefore, Intervenor's Motion with respect to the first set of Requested Documents should be denied.

2. Borehole 2.8/17/7 Data and Information

With respect to their second set of Requested Documents, Intervenor's request documents discussing data and information for Borehole 2.8/17/7. This request is predicated on Intervenor's reference to one (1) page and one (1) figure regarding this Borehole in the Final Environmental Impact Statement (FEIS or "NUREG-1508") for the Crownpoint Uranium Project (CUP). Intervenor's December 29, 2004 Motion at 2. Further, Intervenor's claim that "[t]his information should include down-borehole camera images, rock cores, core photos, drillers notes, and loggers notes." *Id.*

Once again, Intervenor's fail to address the current status of information in the administrative record regarding this Borehole and its relevance to this proceeding. As stated by Mr. Pelizza, "[t]he geophysical log for [Borehole] 2.8/17/7 is currently in the administrative record on Figure 2.6-4 of the Churchrock Revised Environmental Report revised October 11, 1994." Attachment A at ¶ 17. Further, with respect to Intervenor's list of additional data and information regarding Borehole 2.8/17/7, "[t]here is no camera information, rock core, core photos or driller or logger notes available for this hole *and no such documents were ever submitted to NRC Staff.*" *Id.* (emphasis added). Since these Requested Documents were never requested by, submitted to or reviewed by NRC Staff, Intervenor's Motion should be denied with respect to their second set of Requested Documents.

3. Well CP-1 and CP-4 Data and Information

With respect to their third set of Requested Documents, Intervenors request documents containing information regarding Wells CP-1 and CP-4. Specifically, Intervenors request “[d]ocumentation of driller’s logs, pump test information and water level information, including hydrographs, for wells CP-1 and CP-4 and documentation of well completion difficulties for well CP-4.” Intervenors’ December 29, 2004, Motion at 2. This request is based on Intervenors’ references to Well CP-1 and CP-4 data and information in the FEIS and other documents in the administrative record. *Id.* at 2-3.

While Intervenors’ request points to more than one reference to Wells CP-1 and CP-4, their request fails to properly represent the relevance of these Wells to this proceeding. As stated by Mr. Pelizza in his affidavit, “these wells were never used in HRI’s pump test analysis, because they were abandoned as a result of redevelopment construction problems...The site-specific aquifer testing information in NUREG-1508 at p. 3-29 never cited CP-1 and CP-4 and never depended on information from these holes.” Attachment A at ¶ 18. Since information regarding Wells CP-1 and CP-4 were not relevant to HRI’s license application, “no CP-1 and CP-4 data was submitted to NRC Staff in the license review process....” *Id.* In addition, with respect to Intervenors’ request for driller’s logs for Wells CP-1 through CP-10, “these [data] were never requested or considered by NRC Staff in the license application review process because lithologic logs provide very limited, if any, information that could be utilized” for the purposes of evaluating HRI’s license application. *Id.* at ¶ 19. Thus, no information relating to Wells CP-1 and CP-4 or driller’s logs for Wells CP-1 through CP-10 should be

included in the hearing file and, as such, Intervenor's Motion should be denied with respect to their third set of Requested Documents.

C. Intervenor's Motion for a Stay Should Be Denied Because They Have Failed to Satisfy the Relevant Standard for the Grant of Such Relief

Intervenor's request for a stay should be denied, because they have failed to satisfy the relevant standard for the grant of such relief. As a general proposition, a stay is to be granted in only most extraordinary circumstances. 10 CFR § 2.1263 provides that any participant in an ongoing informal adjudication can request that the Presiding Officer stay the effectiveness of a licensing action or other adjudicatory procedure. *See* 10 CFR § 2.1263. However, the four substantive requirements for imposing a stay must be satisfied by Intervenor: (1) has the movant made a strong showing that it is likely to prevail upon the merits of its case, (2) has the movant shown that, without the requested relief, it will be irreparably injured, (3) would the issuance of a stay substantially harm other parties interested in the proceeding, and (4) where does the public interest lie? *See* 10 C.F.R. § 2.788(e); *see also Virginia Petroleum Jobbers Ass'n v. FPC*, 259 F.2d 921, 925 (D.C. Cir. 1958).

The party seeking a stay has the burden of persuasion with respect to the four criteria listed above. *See Alabama Power Co.*, CLI-81-27, 14 NRC 795 (1981). Since no one of the four stay criteria is dispositive, the strength or weakness of a movant's showing on a particular factor will determine how strong its showing must be on the other factors. *See Cleveland Electric Illuminating Co.*, ALAB-820, 22 NRC 743, 746, n. 8 (1985). However, if the party fails to meet its burden on the first two factors, likelihood of success on the merits and irreparable injury, then it is not necessary to give lengthy

consideration to balancing the latter two factors. *See Long Island Lighting Co.*, ALAB-810, 21 N.R.C. 1616, 1620 (1985), *citing Duke Power Co.*, 20 NRC at 1635.

To satisfy the first criterion, a likelihood of success on the merits, the movant must do more than list the possible grounds for reversal. *Toledo Edison Co.*, ALAB-385, 5 N.R.C. 621 (1977). A party's expression of expectation of success on the merits is also insufficient. *Philadelphia Electric Co.*, ALAB-814, 22 N.R.C. 191, 196 (1985), *citing Metropolitan Edison Co.*, CLI-84-17, 20 N.R.C. 801, 804-805 (1984).

With respect to the second criterion, a party is not ordinarily granted a stay without an appropriate showing of irreparable injury. *Permian Basin Area Rate Cases*, 390 U.S. 747, 773 (1968). A party must reasonably demonstrate, and not merely allege, irreparable harm. *Philadelphia Electric Co.*, 22 N.R.C. at 196, *citing Duke Power Co.*, ALAB-794, 20 NRC 1630, 1633-35 (1984).

Finally, under the third and fourth criteria for a stay, a movant must show that other interested parties to the proceeding will not suffer substantial harm due to the issuance of a stay and that the public interest lies with granting such a stay. A Licensing Board may consider the potential economic harm to an applicant caused by a stay even though economic factors are not traditionally the subject for review. *Philadelphia Electric Co.*, 21 N.R.C. 1595, 1602-3 (1985).

1. Likelihood of Success on the Merits

With respect to a likelihood of success on the merits of Intervenor's request for document production, Intervenor must demonstrate that they are likely to be granted discovery in this proceeding. In that vein, Intervenor alleges that they are likely to succeed on the merits because, their Requested Documents are cited "throughout the

record” and “[w]hen HRI and NRC Staff *have reviewed* certain documents important to evaluating a critical issue in this licensing proceeding, but Intervenors have not, the process becomes neither fair nor meaningful.” Intervenors’ December 29, 2004, at 14 (emphasis added).

Intervenors’ allegation is incorrect and does not deprive them of a “meaningful” or “fair” hearing on the administrative record. Initially, Congress, the Supreme Court and NRC have determined that hearings conducted pursuant to the APA (e.g., NRC Subpart L hearings) are to be conducted on the administrative record used by NRC Staff when finalizing agency action and not on a record containing additional documents or information. NRC Subpart L regulations, promulgated pursuant to the APA, specifically prohibit discovery in Subpart L hearings and confine the documentation which is acceptable for review in such proceedings to documents in the “hearing file,” as defined in 10 CFR § 2.1231(b). In the face of these statutory and regulatory premises, Intervenors merely state that they require such documents so that they may have a “meaningful” and “fair” hearing on the administrative record. However, this statement does not provide any evidence demonstrating that the hearing file is substantively deficient or demonstrate that such Requested Documents were requested, received, and reviewed by NRC Staff during its consideration of HRI’s license application.

Indeed, as noted above, Intervenors have failed to demonstrate that their Requested Documents are cited *throughout* the record and that such Documents were requested by, submitted to or reviewed by NRC Staff. As stated by Mr. Pelizza, “[a]s a general proposition, I have determined that Intervenors’ representation that the Requested Documents are cited or referenced ‘throughout the record’ is greatly exaggerated.”

Attachment A at ¶12. Mr. Pelizza's review of the citations and references to Intervenors' Requested Documents in the administrative record led him to conclude that such documents "are either already in the record or were never considered or were never requested or considered by NRC Staff during the license application review process." *Id.* Based on Mr. Pelizza's review of the administrative record and the statutory (APA) and regulatory (Subpart L regulations) premises discussed above, Intervenors have failed to demonstrate that they are likely to be granted discovery in this proceeding and, as such, their request for a stay should be denied.

2. Intervenors Have Failed to Demonstrate Irreparable Harm

With respect to irreparable harm, Intervenors allege that they will suffer such harm, because they will be deprived of an opportunity to review technical documents that are "critical to a meaningful analysis of the geophysical and hydrological environment where HRI's proposed ISL operations are to take place." Intervenors' December 29, 2004, Motion at 14. Further, Intervenors allege that they will require additional time to review the Requested Documents should the Presiding Officer determine that such Documents should be released.

Initially, as discussed above, Intervenors have failed to demonstrate that they will suffer any harm as a result of being unable to review the Requested Documents, because they have failed to demonstrate that the Requested Documents should be part of the record in this administrative proceeding. As discussed above, since NRC Subpart L proceedings are "record-challenges" and do not permit discovery, Intervenors cannot argue they will suffer harm from not being able to review documents that they do not have a right to review under the APA and NRC Subpart L regulations, much less

documents that do not exist. Further, even if the Presiding Officer determines that Intervenor are entitled to any the existing Requested Documents, Intervenor still have an adequate remedy at law as Intervenor are free to request that the Presiding Officer grant them leave to amend any filing they have submitted over the course of the briefing schedule, as established by the Presiding Officer in his December 7, 2004 Order. Therefore, Intervenor have failed to demonstrate that they will be irreparably harmed if their Motion for a stay is denied.

3. HRI Will Be Irreparably Harmed if Intervenor's Motion for a Stay is Granted

After several years of litigation over HRI's NRC license for the Section 8 uranium mining site, the conclusion of such litigation finally was reached in November of 2004. Pursuant to the Presiding Officer's December 7, 2004 Order, litigation over the remaining three (3) uranium mining sites in the CUP (i.e., Section 17, Unit 1, and Crownpoint) is scheduled to commence in January of 2005, after almost seven (7) years of prolonged litigation and negotiations.

However, if the Presiding Officer grants Intervenor's Motion for a stay based on their request for document production, HRI will be forced to endure additional time delay in addressing the merits of the remaining mining sites and will not be able to conduct regular business affairs with respect to the production and sale of uranium from these sites. Given the fact that the price of uranium is approaching twenty-one (21) dollars per pound, HRI would suffer significant monetary damage if a hearing on the viability of the remainder of its NRC license is delayed any further. Thus, since economic harm to the non-moving party may be considered by the Licensing Board, HRI asserts that

Intervenors have failed to refute that fact that economic harm would befall HRI if a delay is created and, as such, Intervenors' request for a stay should be denied.

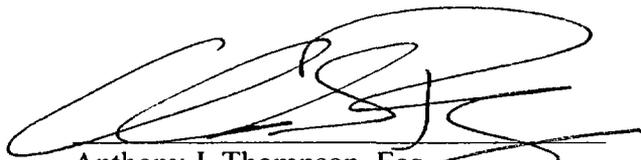
4. Intervenors Have Failed to Demonstrate that the Grant of a Stay is in The Public Interest

Intervenors allege that their arguments regarding the public's interest in a "fair" and "impartial" hearing support their claim that a stay should be granted. However, Intervenors fail to acknowledge that the use of a "hearing file" and the exclusion of random and unfounded discovery in Subpart L hearings was explicitly intended by Congress and NRC to balance the rights of an applicant/licensee to conduct Atomic Energy Act of 1954 (AEA)-licensed activities with the rights of the public to challenge NRC license applications. Given that Intervenors have failed to demonstrate that their Requested Documents are relevant to this proceeding, HRI asserts that the grant of stay under these circumstances is not justified. Therefore, Intervenors' Motion for a stay should be denied.

III. CONCLUSION

For the reasons described above, HRI respectfully requests that the Presiding Officer deny Intervenors' motion for issuance of a subpoena and Intervenors' motion for a stay.

Respectfully Submitted,



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COUNSEL TO HYDRO RESOURCES, INC.

ATTACHMENT A

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

ATOMIC SAFETY AND LICENSING BOARD PANEL

**Before Administrative Judge
Thomas Moore, Presiding Officer**

In the Matter of:)	
)	
HYDRO RESOURCES, INC.)	Docket No.: 40-8958-ML
P.O. Box 777)	
Crownpoint, NM 87313)	ASLBP No. 95-706-01-ML
)	

AFFIDAVIT OF MARK S. PELIZZA

Before me, the undersigned notary on this day appeared Mark S. Pelizza, a person known or identified to me, and who after being duly sworn deposes and says the following in response to the December 29, 2004 Intervenors' Motion for Issuance of a Subpoena for the Production of Documents and to Supplement the Hearing Record and Motion for Stay of Proceedings.

I. PERSONAL

1. My name is MARK S. PELIZZA; I reside at 3217 Breton Drive, Plano, Texas 75025. I am over 21 years of age; I never been convicted of a felony; and, I am fully capable of making this affidavit.
2. The factual matters set out herein are within my personal knowledge or my corporate knowledge within my official capacity as set out herein. The opinions set out herein are based upon data and analytical techniques reasonably and customarily used by qualified professionals to form opinions and draw scientific inferences for the purposes of important health, safety, environmental and regulatory decisions in the uranium industry.

II. QUALIFICATIONS

3. I hold a Bachelor of Science in Geology from Fort Lewis College and a Master of Science from Colorado School of Mines in Geological Engineering. I am Licensed as a Professional Geoscientist in the State of Texas.
4. I am a Professional Geological Engineer and Environmental Manager with over 25 years of experience in the in situ leach mineral recovery industry (predominantly uranium). In the uranium industry I also possess extensive experience in groundwater geochemistry.
5. Professional Affiliations - I serve on the Board of the New Mexico Mining Association and the Texas Mining and Reclamation Association.

6. I have served for ten years as Vice President of Health, Safety and Environmental Affairs with Uranium Resources, Inc., parent company to both URI, Inc. and HRI, Inc. whose purpose is to explore for uranium producible by in situ leach recovery techniques, to acquire properties with uranium reserves suitable for in situ leaching, to license in situ leach uranium activities, operate in situ uranium facilities, and, ultimately, to close in situ leach uranium operations after uranium recovery is complete. In that capacity, I have directed health, safety and environmental programs, coordinated staff members and consultants, prepared applications for federal and state environmental permits and licenses, and negotiated the conditions of radioactive materials licenses and other permits. I also have served as a corporate liaison with lawmakers and regulatory agency staff, and represented the company and industry trade associations in activities such as rulemaking and legislation.

7. Prior to being named Vice President, I served Uranium Resources, Inc. as Environmental Manager with similar corporate environmental responsibilities. I have been employed with Uranium Resources, Inc. for nearly 24 years and as a health, safety and environmental professional with the in situ leach uranium production industry for 26 years. I have taken an active leadership role with various professional trade organizations in developing the current in situ uranium industry rules, regulations and policies.

8. During my employment with Uranium Resources, Inc., I have personally supervised all radiological and non-radiological occupational health, safety and environmental programs for operations conducted by HRI/URI in New Mexico, Texas, and Wyoming. This includes radiological and non-radiological occupational and environmental baseline data collection, operational programs, restoration/reclamation programs, and regulatory liaison. I also have been the primary managerial support representative for all environmental litigation.

9. I have managed regulatory affairs, including matters related to radioactive materials, other environmental permitting, compliance and enforcement matters and bonding for closure costs on the following in situ leach uranium recovery projects:

A. Alta Mesa Uranium Project. An undeveloped in situ leach (ISL) project in Brooks County, Texas. Conducted environmental studies, prepared permit/license applications, procured the Underground Injection Control (UIC) Permit for ISL activities, the UIC Permit for deep well disposal, the initial Production Area Authorization (PAA), and the Air Control Permit.

B. Benavides Uranium Project. An ISL project in Duval County, Texas where production has ceased and mine closure obligations have all be successfully fulfilled. I conducted environmental studies, prepared permit/license applications, and procured the Underground Injection Control (UIC) Permit for the well fields used for ISL activities, four production area authorizations, the Air Control Permit, the surface discharge permit and the Agreement State Radioactive Materials License. I was responsible for groundwater restoration, surface decommissioning and license termination oversight. I was corporate Radiation Safety Officer for this project with oversight for the radiation safety, environmental protection programs and permit compliance during operations,

aquifer restoration, and final reclamation and closure of the site. I reviewed and managed the “Closure Obligations” for this project.

C. Churchrock Uranium Project. This is an as-yet undeveloped *ISL* project in McKinley County, New Mexico. I have conducted the extensive environmental studies for state and federal authorities required for licensure and permitting, I prepared the permit and license applications, and I secured the UIC permit from the New Mexico regulatory authorities and secured the necessary radioactive materials license from the U. S. Nuclear Regulatory Commission (NRC). I served as the technical support manager during the multi-year licensing hearing held on this matter by the U. S. Atomic Safety Licensing Board of the NRC.

D. Crownpoint Uranium Project. This is an as-yet undeveloped *ISL* project in McKinley County, New Mexico. For this project, I conducted the extensive environmental studies, required by state and federal authorities, prepared the necessary permit and license applications, and secured the necessary radioactive materials from the NRC. I served as the technical support manager during the multi-year licensing hearing held on this matter by the Atomic Safety Licensing Board of the NRC.

E. Kingsville Dome Uranium Project. This is an operational *ISL* project in Kleberg County, Texas. This facility is capable of processing and packaging uranium (yellow cake) from the Kingsville Dome site and from other nearby mine locations. For this project, I conducted environmental studies, prepared required permit and license applications to the Texas Department of Health/Bureau of Radiation Control and the Texas Commission on Environmental Quality (TCEQ) and procured the necessary UIC Permit for uranium production and a major expansion to that Permit, three Production Area Authorizations (“PAA's”), and the UIC Permit for on site deep well disposal, the Air Control Permit, and the agreement state Radioactive Materials License. I have served as corporate Radiation Safety Officer for this project with oversight for the radiation safety, environmental protection and permit compliance. I have served as technical support manager during five administrative hearings for the permitting and licensing the project and its expansions.

F. Longoria Uranium Project. This is a former *ISL* mine located in Duval County, Texas. This mine has now concluded its production, and it has been successfully restored and closed in an environmentally sound manner in compliance with all applicable state and federal requirements. I successfully conducted environmental studies, prepared permit/license applications, and procured the UIC Permit for uranium production, two PAA's, the Air Control Permit, the surface discharge permit and the Radioactive Materials License. Groundwater restoration, surface decommissioning and license termination oversight. I was the corporate Radiation Safety Officer for this project with oversight for radiation safety, environmental protection and permit compliance during operations and reclamation. I reviewed and managed the “Closure Obligations” for this project.

G. Highland Uranium Project. This is an operational *ISL* project in Converse County, Wyoming. This facility processed uranium through the drying and packaging steps from on location as well as from other near-by mines. I performed extensive due-diligence investigations to determine environmental conditions and potential liabilities of this mine. I also reviewed sources of contamination in the plant area, wellfields and disposal site. I reviewed costs for reclamation activities at this mine.

H. Holiday/El Mesquite Uranium Project. This is a commercial uranium project in Duval County Texas. I developed contractor plans and procedures for final decommissioning and remediation including the health physics protocol, wellfield survey and remediation, equipment decontamination and closure. I reviewed and managed the costs of performing the "Closure Obligations" on this project.

I. Lamprecht Uranium Project. This is a commercial uranium project in Live Oak County, Texas. I reviewed the files of the TDH/BRC on this project, visited the site, and developed contractor plans and procedures for final decommissioning and remediation of the remaining plant site, wellfield soil survey and remediation and closure.

J. North Platte Uranium Project. This is a reclaimed *ISL* pilot project in Converse County, Wyoming. Here, I conducted environmental studies, prepared all required permit/license applications, and procured the State UIC Permit for *ISL* activities, the surface discharge permit and the NRC Source Materials License. I was responsible for groundwater restoration, surface decommissioning and license termination oversight. I was the corporate Radiation Safety Officer for this project with oversight for radiation safety, environmental protection and permit compliance during operations and reclamation.

K. O'Hern Uranium Project. This is a commercial *ISL* uranium project in Duval County, Texas. I developed contractor plans and procedures for final decommissioning and remediation of this project, including wellfield soil survey and remediation and closure. I reviewed and managed the costs of performing the "Closure Obligations".

L. Palangana Uranium Project. This is a reclaimed *ISL* uranium project in Duval County, Texas. I served as Radiation Safety Officer for this project with oversight for radiation safety, environmental protection and permit compliance.

M. Panna Maria Uranium Mine/Mill. This is a uranium mine and mill in Karnes County, Texas. I served on the team that conducted the environmental studies and prepared the license and permit applications for the mine.

N. Rosita Uranium Project. This is an *ISL* uranium recovery project in Duval County, Texas. I conducted environmental studies for this project, prepared permit/license applications, and procured the UIC Permit for the wellfield to mine the project and a major expansion to that permit, three PAA's, the UIC Permit for deep well disposal of wastes on-site, the Air Control Permit, and the agreement state Radioactive Materials License. I was the corporate Radiation Safety Officer for this project with

oversight for radiation safety, environmental protection and permit compliance during operations. I was the technical support manager for one administrative hearing for the permit.

O. Unit 1 Uranium Project. This is an as-yet undeveloped *ISL* project in McKinley County, New Mexico. For this project, I conducted environmental studies, prepared permit/license applications, and secured the NRC Source Materials License. I served as the technical support manager during lengthy public hearings conducted on the licensure of this project by the U. S. Atomic Safety Licensing Board of the NRC.

P. Vasquez Uranium Project. This is an as-yet undeveloped *ISL* project in Duval County, Texas. I conducted environmental studies, prepared permit/license applications, and procured the UIC Permit for production operations, the UIC Permit for deep well disposal, the initial PAA, the Air Control Permit and the Agreement State Radioactive Materials License.

Q. West Cole Uranium Project. This is a successfully reclaimed *ISL* project in Webb County, Texas. For this project, I conducted environmental studies, prepared permit and license applications, and procured the UIC Permit for the wells needed for uranium recovery operations, the UIC Permit for the deep disposal well, the initial PAA, the Air Control Permit and the agreement state Radioactive Materials License. I developed contractor plans and procedures for final decommissioning and remediation including health physics protocol, wellfield survey and remediation, equipment decontamination and closure. I reviewed and managed the costs of performing the "Closure Obligations".

R. White Mesa Uranium Mill. A fully operational uranium mill that is licensed to accept conventional uranium ores and alternate feedstocks from a variety of locations including those owned by the United States Government. The White Mesa mill is also a disposal site for certain types of low-level radioactive waste including uranium byproduct material. (The White Mesa mill is the disposal site used by Mr. McClendon in his cost analysis that I describe below). I have served as co-leader for the ALARA audit team for that facility seven years. Pursuant to Nuclear Regulatory Commission license requirements, the annual audit is required to assure that the mill and associated disposal facilities are operating safely and in compliance with NRC requirements.

R. Zamzow Uranium Project. This is a closed uranium project in Live Oak County Texas. For this project, I visited the site and developed contractor plans and procedures for final decommissioning and remediation of remaining plant site, wellfield soil survey and remediation and closure.

10. I am currently involved with new uranium production activities and the reclamation of a number of uranium recovery sites in Texas.

11. I have been tendered and qualified as an expert witness in a number of vigorously contested public hearings before state and federal administrative agencies, including:

- A. Before the Texas Commission on Environmental Quality (TCEQ), formerly the Texas Natural Resource Conservation Commission, and before that the Texas Water Commission). Administrative Hearing, June 1984; Kingsville Dome Project. Expert in *ISL* technology, groundwater, well drilling and development groundwater restoration.
- B. Before the TCEQ. Administrative Hearing, 1986; Kingsville Dome Project, Texas. Expert in *ISL* technology, groundwater, well drilling and development and groundwater restoration.
- C. Before the Texas Department of Health (TDH). Administrative Hearing, 1986; Kingsville Dome Project. Expert in *ISL* technology, health physics, environmental impacts, groundwater, reclamation and restoration.
- D. Before the TCEQ. Administrative Hearing, 1989. Kingsville Dome Project. Expert in *ISL* technology, groundwater, well drilling and development and groundwater restoration.
- E. Before the TDH. Administrative Hearing, 1989. Kingsville Dome Project. Expert in *ISL* technology, health physics, environmental impacts, groundwater, reclamation and restoration.
- F. Before the New Mexico Environment Department Public Hearing, 1993. Church Rock Project DP-558. Expert in *ISL* technology, groundwater, well drilling and development groundwater restoration.
- G. Before the New Mexico State Engineer, 1998. Church Rock Project Application G-11-a. Expert in *ISL* technology, groundwater, well drilling and development groundwater restoration.
- H. Before the TCEQ. Administrative Hearing, 1997. Rosita Project. Expert in *ISL* technology, groundwater, well drilling and development and groundwater restoration.
- I. Before the U. S. Nuclear Regulatory Commission (NRC)/Atomic Safety & Licensing Board (ASLB). Federal Administrative Hearing, 1999. The Crownpoint Uranium Project. Expert in *ISL* technology, health physics, waste disposal, environmental impacts, groundwater, reclamation and restoration reclamation costs.

III. REQUESTED DOCUMENTS

12. I have reviewed the “Requested Documents” listed by Intervenors in their December 29, 2004 Subpoena Request. As a general proposition, I have determined that Intervenors’ representation that the Requested Documents are cited or referenced “throughout the record” is greatly exaggerated. Based on my review of HRI’s license application, the documents submitted to NRC Staff for their review, and Intervenors’ Requested Documents, I have determined that Intervenors’ Requested Documents are either already in the record or were never requested or

considered by NRC Staff during the license application review process. Therefore, since these Requested Documents were never provided and were not reviewed by NRC Staff, they are irrelevant to this proceeding. Each Requested Document is addressed in turn below.

13. Intervenor's December 29, 2004, Subpoena Request at ¶ II.1. This paragraph discusses the COP Rev 0.0's reference to fence diagrams and/or structural cross sections. COP Rev 0.0 was prepared as the first "working draft" of the COP to be provided to NRC Staff for HRI's license application. In this "working draft," the reference to "Fence Diagrams" was an *error* that was corrected in COP Rev. 2.0, which was prepared and submitted to NRC Staff on August 15, 1997, and is currently part of the administrative record. *See* Attachment 1. No fence diagrams were requested by NRC Staff during its review of HRI's license application and no such diagrams were supplied to NRC Staff by HRI in support of the Crownpoint License Application. Therefore, this particular Requested Document should not be relevant to this proceeding.

14. Further, there is no reference to "structural" cross sections in the COP Rev. 0.0. Cross Sections that were supplied to NRC Staff in support of the Crownpoint License Application are described in ¶ 1 of the October 16, 1998 letter from HRI to Bob Carlson of NRC Staff, which I prepared and signed ("October 16, 1998 letter") and are currently in the administrative record. *See* Attachment 2. Therefore, this particular Requested Document should not be relevant to this proceeding.

15. Intervenor's December 29, 2004, Subpoena Request at ¶ II.1. cites the Reed Report *Analysis of Hydrodynamic Control, HRI, Inc., Crownpoint and Churchrock New Mexico Uranium Mines* "Structural" Cross Sections/Fence Diagrams. The meaning of the portion of the Reed report regarding "structural" cross sections was covered in the October 16, 1998 letter referenced above. Further, there are no references to fence diagrams in the Reed report. Therefore, this Requested Document is irrelevant to this proceeding.

16. Moreover, as described in the October 16, 1998 letter: "...as described in Section 8 of the COP, the geologic analysis and hydrological testing that is submitted after wellfield installation is provided to regulators as positive proof that the mine unit will perform as specified in the license. An infinite amount of drill holes could not replace the confidence that is derived from the actual wellfield testing." The same statement would hold true for interpretation of widely spaced exploration drill hole data, such as fence diagrams. For this reason the Requested Documents specified in ¶ II.1 were never requested or considered by NRC Staff in the license application review process and, therefore, should be irrelevant to this proceeding.

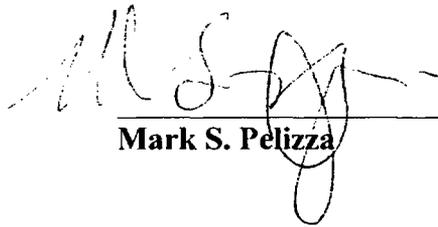
17. Intervenor's December 29, 2004, Subpoena Request at ¶ II.2. This paragraph requests additional information on Borehole 2.8/17/7. The geophysical log for 2.8/17/7 is currently in the administrative record on Figure 2.6-4 of the Churchrock Revised Environmental Report revised October 11, 1994. There is no camera information, rock core, core photos or driller or logger notes available for this hole, and no such documents were ever submitted to or requested by NRC Staff in the license application process. Therefore, these Requested Documents should be irrelevant to this proceeding.

18. Intervenors' December 29, 2004, Subpoena Request at ¶ II.3. This paragraph requests additional information on wells CP-1 & CP-4. As was clearly stated in HRI's license application documents in the administrative record and as shown in Intervenors' December 29, 2004, Subpoena Request at Exhibit 4, these wells were never used in HRI's pump test analysis, because they were abandoned as a result of redevelopment construction problems. Well CP-10 was drilled as a replacement well and was used in the hydrologic testing. The site-specific aquifer testing information in NUREG-1508 at p. 3-29 never cited CP-1 and CP-4 and never depended on information from these holes. As a result, no CP-1 and CP-4 data was submitted to or requested by NRC Staff in the license review process and, therefore, these Requested Documents should not be relevant to this proceeding.

19. Intervenors' December 29, 2004, Subpoena Request at ¶ II.3. This paragraph asks for driller's logs for CP-1 through CP-10. Again, these were never requested or considered by NRC Staff in the license application review process, because lithologic logs provide very limited, if any, information that could be utilized to characterize the degree of interformational transfer of water in the reservoir or hydrological properties of the mine. As stated in ¶ 16 above, the wellfield pump testing that is required during development is the industry standard for ISL hydrological analysis and, therefore, this Requested Document should be not relevant to this proceeding.

20. This concludes my Affidavit.

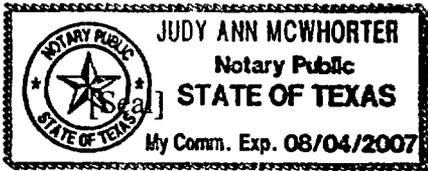
I declare on this January 7, 2005 at Lewisville, Texas, under penalty of perjury that the foregoing is true and correct.

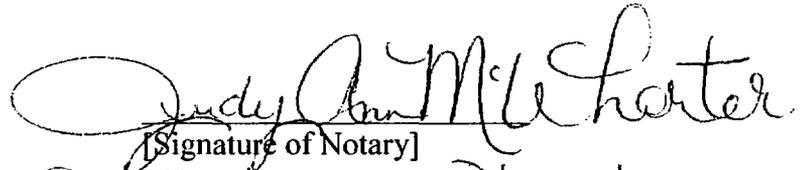


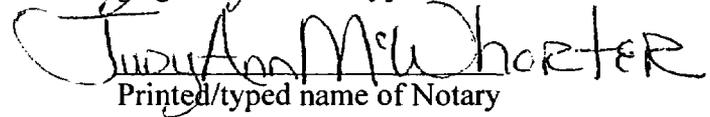
Mark S. Pelizza

ACKNOWLEDGEMENT

SUBSCRIBED and SWORN TO before me, the undersigned authority, on January 7th, 2005 by Mark S. Pelizza.





[Signature of Notary]


Printed/typed name of Notary

Notary public for the State of Texas. My commission expires 8-4-, 2007.

ATTACHMENT 1

**CROWNPOINT URANIUM PROJECT
CONSOLIDATED OPERATIONS PLAN**

**HRI, Inc.
2929 Coors Road
Albuquerque, New Mexico**

**Revision 2.0
August 15, 1997**

#2- 025

8.2 Underlying Zones

Underlying the host sand at Churchrock, Crownpoint, and Unit One, is the Recapture member, and then the Cow Springs member of the Morrison Formation. There is little site specific data on the thickness of the Recapture shale. However, the information which is available on drilling through the Recapture shale provide strong evidence of the shales quality as an aquitard. Specifically, the Recapture shale is 250 feet thick, and is high quality shale. Given that the Recapture has been minimally penetrated, there is little potential for interformational transfer of mine fluids which will effect the any underlying sand. The primary risk to any underlying water bearing sand will be deep drilling through the confining shale section which, if not properly abandoned, could provide a conduit for fluid migration.

HRI does not propose to monitor the Cow Springs aquifer. Prior to the injection of lixiviant at any of the three project sites, HRI will collect sufficient water quality data to generally characterize the water quality of the Cow Springs aquifer beneath the project sites, and will conduct sufficient hydrological confinement tests to determine if the Cow Springs aquifer beneath the sites is hydraulically confined from the Westwater Canyon aquifer.

8.3 Effects of Old Mine Workings at Churchrock

The mine tunnels at the Old Churchrock underground mine site are opened into the Brushy Basin, and the Westwater Canyon sands, both part of the Morrison formation. To the best of HRI's knowledge, the workings themselves do not extend up into the Dakota sand. However, the shaft does appear to be opened slightly into the Dakota, one to two feet at the very bottom of the sand. As evidenced by the mine workings in Section 17 of the Churchrock area, uranium mineralization occurs in the Brushy Basin sandstone, as well as the Westwater Canyon. In addition, geologic evaluation of this area shows that significant ISL uranium reserves are contained in the Dakota formation. If HRI's ongoing evaluation of the Churchrock geology indicate that mining in the sands overlying the Westwater is economically, and technically feasible, applications for ISL mining in those zones will be made to all appropriate regulating entities, and proper authorizations will be received by HRI before such mining occurs. HRI will monitor the aquifer immediately overlying any host mining sands with monitor wells spaced at one well per four acres. Thus, if mining is taking place in the Brushy Basin sandstone, HRI will propose that the Dakota sand will have monitor wells placed at one well per four acres in the area above

ATTACHMENT 2

HRI, INC.

(A Subsidiary of Uranium Resources, Inc.)

2929 Coors Road NW
Suite 101
Albuquerque, N.M. 87120-2929
Telephone: (505) 633-1777
Fax: (505) 633-0777

12750 Merit Drive
Suite 1020, LB 12
Dallas, Texas 75251
Telephone: (972) 387-7777
Fax: (972) 387-7779

P.O. Box 777
Crownpoint, New Mexico 87313
Telephone: (505) 766-5845
Fax: (505) 766-5555

October 16, 1998

Mr. Bob Carlson
Project Manager
Office of Nuclear Material Safety & Safeguards
U.S. Nuclear Regulatory Commission
2 White Flint North
11545 Rockville, Pike
Mail Stop T-7J9
Washington, D.C. 20852

RE: New Mexico Environmental Law Center Information Request

Dear Mr. Carlson:

To follow-up on our telephone conversation of yesterday, I believe that most of the information requested by NMELC can be found in the record as follows:

1. Structural cross-sections and structural contour maps - The cross sections described in the Geraghty and Miller "Hydrodynamic Control" report are the same cross sections labeled as Figures 2.6-6 through 2.6-10 of the *Churchrock Revised Environmental Report*, March 1993 (Updated October 11, 1993), and labeled Figure 2.2-7 through 2.2-10 within the *Crownpoint Project In-Situ Mining Technical Report*, June 12, 1992. Cross sections for the Unit 1 location, not referenced by Geraghty and Miller, are within Appendix D-1 of the *Unit 1 UIC Application and Technical Report*, October 9, 1992. All of these reports are part of the hearing record. No structure contour maps have been required or provided.

2. Driller's logs - Monitor wells drilled at Churchrock Section 8 are CR1 through CR8 (n=8). Monitor wells drilled at Crownpoint Section 24 are CP1 through CP10 (n=10). Geophysical logs of monitor wells CR1 through CR6 along with logs from select exploration holes are duplicated on Figures 2.6-6 through 2.6-8 of the *Churchrock Revised Environmental Report*, March 1993. Geophysical logs of monitor wells CP1 through CP10 along with logs from select exploration holes are duplicated on Figure 2.2-7 through 2.2-13 within the *Crownpoint Project In-Situ Mining Technical Report*, June 12, 1992. Both of these reports are part of the hearing record. By having these cross-sections, Petitioners have log copies that have photographically been reduced to equal scale and will provide a more ready comparison of geologic data than will full size logs of different scale.

Any more detailed analysis of exploration data as closely guarded proprietary information and will not be made available. Additionally, as described in Section 8 of the COP, the geological analysis and hydrological testing that is submitted after the wellfield installation is provided to regulators as positive proof that the mine unit will perform as specified in the license. An infinite amount of drill holes could not replace the confidence that is derived from the actual wellfield testing.

Letter to Bob Carlson
October 16, 1998
Page 2

3. Orebody maps – This information is not required by NRC and is not part of the hearing record. In addition, as stated in #2 above, details of the subsurface orebody is not public information.

4. Surface elevation of boreholes – This information is not part of the hearing record and as stated in #2 above, HRI will not agree to provide the exploration database. Therefore borehole surface elevations serve no purpose.

5. Excursion scenario modeling - Petitioners have requested a copy of the software that has been licensed to HRI to perform a variety of types of multiple well subsurface analysis at ISL locations. This software is not part of the hearing record and is not available to the public unless they are willing to pay license fees.

The software simply provides a user-friendly interface to conduct millions of calculations and provide instantaneous visual results using well-known reservoir theory specified for ISL. The user provides a given combination of input parameters such as well numbers, well patterns, well spacing, permeability, formation thickness, flow rates, etc. HRI will provide licensing information so Petitioners can purchase the software directly.

6. Supplement aquifer modeling for Churchrock and Crownpoint Sites dated October 19, 1993 – I have searched my files and have not been able to locate a copy of this correspondence. To the best of my recollection the "Supplement" that Petitioners request are the mining sequence work sheets that were referenced on page 4 of the Geraghty and Miller study that was transmitted to NRC the previous day. I know of no other supplementary aquifer modeling that was done at that time. The mining sequence work sheets are attached hereto. Note that the Crownpoint worksheet is also within the October 15, 1996 (Response to NRC Comments) Q2/78 that is part of the hearing record.

7. NRC solute-transport model – I understand that this information is to be distributed by NRC.

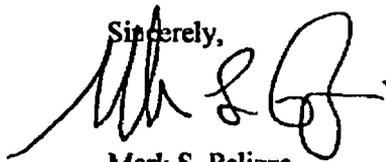
8. Copies of three Mobil references – I understand that this information is to be distributed by NRC.

9. Teton and Mobil water quality data – I understand that this information is to be distributed by NRC.

10. Vacuum drier/bag filter emission control system – HRI has described the Vacuum dryer that is proposed for the Crownpoint project initially in § 3.2 of the Churchrock Project Environmental Report dated 4-88 and most recently in the COP Rev. 2.0 § 2.5. Both of these reports are part of the hearing record. The Vacuum dryer is widely used, off the shelf, zero emission technology. Petitioners, however, they may wish to contact vendors and get additional information.

Please feel free to contact me with questions pertaining to this matter.

Sincerely,



Mark S. Pelizza
Vice President
Health, Safety and Environmental Affairs

Cc: Tony Thompson

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

Before the Presiding Officer:

**Thomas S. Moore, Presiding Officer
Richard F. Cole, Special Assistant**

In the Matter of:)	
Hydro Resources, Inc.)	Docket No.: 40-8968-ML
P.O. Box 777)	
Crownpoint, NM 87313)	Date: January 10, 2005
_____)	

CERTIFICATE OF SERVICE

THIS IS TO CERTIFY that a copy of the foregoing Hydro Resources, Inc.'s Response to Intervenors Motion for Issuance of a Subpoena for the Production of Documents and to Supplement the Hearing Record and Motion for Stay of Proceedings in the above-captioned matter has been served upon the following via electronic mail and U.S. First Class Mail on this 10th day of January, 2005.

Administrative Judge,
Thomas S. Moore
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Mail Stop T-3 F23
Washington, DC 20555
Email: tsm2@nrc.gov

Administrative Judge
Richard F. Cole, Special Assistant
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Mail Stop T-3 F23
Washington, DC 20555
Email: rfc1@nrc.gov

Office of the Secretary
Attn: Rulemakings and
Adjudications Staff
U.S. Nuclear Regulatory
Commission
Mail Stop: OWFN-16 C1
Washington, DC 20555
Email: hearingdocket@nrc.gov

Mark S. Pelizza, President
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Administrative Judge, Robin Brett
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Louis Denetsosie, Attorney General
Steven J. Bloxhalm, Esq.
Navajo Nation Department of Justice
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Flagstaff, AZ 86001
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Adjudicatory File
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Mail Stop: T- 3F23
Washington, DC 20555

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Office Manager
Eastern Navajo-Diné Against
Uranium Mining
P.O. Box 150
Crownpoint, New Mexico 87313

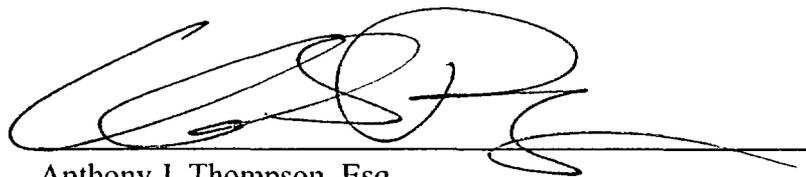
W. Paul Robinson
Chris Shuey
Southwest Research and
Information Center
P. O. Box 4524
Albuquerque, NM 87106

Eric Jantz, Esq.
Douglas Meiklejohn, Esq.
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Laura Berglan
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Atomic Safety and Licensing Board
Panel
U.S. Nuclear Regulatory
Commission
Mail Stop: T-3 F23
Washington, DC 20555

John T. Hull, Esq.
U.S. Nuclear Regulatory Commission
Office of the General Counsel
Mail Stop: O-15D21
Washington, DC 20555
Email: jth@nrc.gov

A handwritten signature in black ink, appearing to be 'AJT', with a long horizontal flourish extending to the right.

Anthony J. Thompson, Esq.
Christopher S. Pugsley, Esq.
Law Offices of Anthony J. Thompson, P.C.
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(hydro resourcesCERTIFICATEOFSERVICE.DOC)

Law Offices of Anthony J. Thompson, P.C.

1225 19th Street, NW., Suite 300
Washington, DC 20036
202-496-0780
Fax: 202-496-0783
(e-mail): ajthompson@athompsonlaw.com

January 10, 2005

BY ELECTRONIC MAIL AND U.S. FIRST CLASS MAIL

U.S. Nuclear Regulatory Commission
Office of the Secretary
Attn: Rulemaking and Adjudications Staff
Mail Stop: OWFN-16C1
Washington, DC 20555

Re: In the Matter of: Hydro Resources, Inc.
Docket No: 40-8968-ML

Dear Sir or Madam:

Please find attached for filing Hydro Resources, Inc.'s Response to Intervenors Motion for Issuance of a Subpoena for the Production of Documents and to Supplement the Hearing Record and Motion for Stay of Proceedings in the above-captioned matter. Copies of the enclosed have been served on the parties indicated on the enclosed certificate of service. Additionally, please return a file-stamped copy in the self-addressed, postage prepaid envelope attached herewith.

If you have any questions, please feel free to contact me at (202) 496-0780.
Thank you for your time and consideration in this matter.

Sincerely,



Anthony J. Thompson, Esq.
Christopher S. Pugsley, Esq.
Law Offices of Anthony J. Thompson, P.C.
Counsel of Record to HRI

Enclosures

(hydro resourcesCOVERLETTTER.doc)