

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

DOCKETED 02/16/05

SERVED 02/16/05

Before Administrative Judges:

E. Roy Hawken, Presiding Officer
Dr. Richard F. Cole, Special Assistant
Dr. Robin Brett, Special Assistant

In the Matter of

HYDRO RESOURCES, INC.
P.O. Box 777
Crownpoint, New Mexico 87313

Docket No. 40-8968-ML

ASLBP No. 95-706-01-ML

February 16, 2005

MEMORANDUM AND ORDER

(Order Denying Intervenors' Unopposed Motion To Modify Scheduling Order)

By unopposed motion dated February 14, 2005, Intervenors seek to modify two requirements established in the Scheduling Order of November 5, 2004. As discussed below, Intervenors' motion is DENIED.

1. Intervenors ask to be relieved from the requirement that "any party relying on licensing documents (other than the FEIS) such as HRI's Consolidated Operations Plan (COP), shall include the relevant portions of such licensing document as an exhibit accompanying the pertinent written presentation" (Order at 3). Pointing to their status as non-profit organizations, and asserting that this requirement is financially burdensome and will result in an unwieldy presentation, Intervenors request they be permitted to "simply cite to those documents by their accession number and hearing file notebook number, in addition to the specific page number of the document" (Motion at 2). This request is DENIED. The purpose of having the parties accompany their written presentations with relevant documents is to promote litigative efficiency and to facilitate the adjudicative process, which will be accomplished by making the relevant documents in this protracted proceeding with a voluminous record readily available to the parties and the Administrative Judges. Compliance with this requirement should not cause Intervenors' presentation to be "unwieldy or confusing" (Motion at 2), because Intervenors may comply with this requirement by placing the relevant documents in a separate Appendix -- a practice that is common

in litigation. To the extent a party includes a document in an Appendix, another party who relies upon or cites that document need not reproduce it again; rather, the latter party may conserve resources by simply referencing the document and citing to the former party's Appendix. We do not believe that the additional cost the parties will incur from complying with this requirement will be unduly burdensome; moreover, any incidental burden is, in our judgment, amply justified by the resultant litigative efficiency.¹

2. Intervenor also ask that they not be required to adhere to the organizational format established in the scheduling order, which – according to Intervenor – will result in undue repetition and confusion (Motion at 3). This request is DENIED. The organizational format in the scheduling order is designed to ensure each remaining area of concern is clearly identified, and squarely joined by the parties, for each remaining site. To the extent a particular argument applies to all sites, Intervenor may avoid undue repetition by making the argument for one site, and adopting the argument by reference in subsequent portions of their brief. To the extent an argument applies to only one site, Intervenor may so indicate. We do not expect that adherence to this format will result in presentations that are tainted by undue repetition or confusion.

It is so ORDERED.

BY THE PRESIDING OFFICER²

/RA/

E. Roy Hawken
ADMINISTRATIVE JUDGE

Rockville, Maryland
February 16, 2005

¹ We hasten to add that, in addition to accompanying their written presentations with relevant portions of licensing documents, the parties should also identify such documents by their accession number and hearing file notebook number, as well as the specific page number of the document.

² Copies of this Order were sent this date by internet e-mail or facsimile transmission to all participants or counsel for participants.

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB MEMORANDUM AND ORDER (ORDER DENYING INTERVENORS' UNOPPOSED MOTION TO MODIFY SCHEDULING ORDER) have been served upon the following persons by U.S. mail, first class, or through NRC internal distribution.

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[Original signed by Evangeline S. Ngbea]

Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 16th day of February 2005