

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

DOCKETED
USNRC

May 9, 2005 (3:55pm)

Before Administrative Judges:
E. Roy Hawkins, Presiding Officer
Dr. Richard F. Cole, Special Assistant
Dr. Robin Brett, Special Assistant

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

In the Matter of:

Hydro Resources, Inc.
P.O. Box 777
Crownpoint, NM 87313

)
)
) Docket No.: 40-8968-ML

)
) Date: May 4, 2005
)

HYDRO RESOURCES, INC.'S RESPONSE IN OPPOSITION TO
INTERVENORS' WRITTEN PRESENTATION REGARDING
GROUNDWATER, GROUNDWATER RESTORATION AND FINANCIAL
ASSURANCE

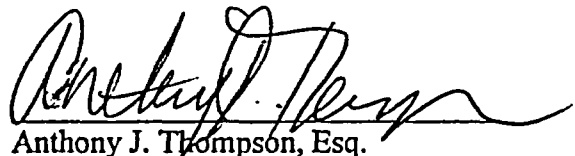
SUBMISSION OF INDEX FOR WRITTEN PRESENTATION ATTACHMENTS

Hydro Resources, Inc. (HRI), by its undersigned counsel of record, hereby presents this Submission of Index for Written Presentation Attachments for HRI's filing of April 21, 2005 entitled *Hydro Resources, Inc.'s Response in Opposition to Intervenor's Written Presentation Regarding Groundwater, Groundwater Restoration and Financial Assurance*.

In its April 21, 2005 filing, HRI did not offer any attachments to the legal brief portion of its written presentation. However, HRI did offer several expert affidavits that contained multiple attachments in support of their conclusions. In response to the Presiding Officer's directive of April 28, 2005, HRI hereby submits this index of all

attachments submitted in support of HRI's affidavits. This index is appended to this filing as a bound supplement.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Anthony J. Thompson', written over a horizontal line.

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NUCLEAR REGULATORY COMMISSION

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GROUNDWATER, GROUNDWATER RESTORATION AND
FINANCIAL ASSURANCE**

INDEX OF ATTACHMENTS

1. EXHIBIT A: AFFIDAVIT OF MARK S. PELIZZA (2005)

- **ATTACHMENT A:** Attachment A to Exhibit A presents water quality data from multiple United States *in situ leach* (ISL) uranium recovery projects. The first set of documents in Attachment A provides natural water quality data for these ISL projects, including concentrations of uranium, radium, and, in some cases, radon, gross alpha, and gross beta. The second set of documents provides project-specific water quality data, including the "highest value," average, and relevant drinking water standard for these five constituents or activity levels.

This Attachment is offered in support of the expert testimony of Mr. Mark Pelizza and is referenced at ¶¶ 35, 36, 37 & 208 of Exhibit A.

- **ATTACHMENT B:** Attachment B to Exhibit A presents water quality analyses from laboratory testing for the Church Rock Section 17 proposed uranium recovery site. These water quality analyses provide data regarding major and secondary constituents at the Church Rock Section 17 site, including common ions, trace metals, uranium and radium 226.

This Attachment is offered in support of Mr. Pelizza's expert testimony and is referenced at ¶ 46 of Exhibit A.

- **ATTACHMENT C:** Attachment C to Exhibit A presents HRI's Crownpoint Consolidated Operations Plan, Revision 2.0, which provides most, if not all, of the major procedures and protocols for the CUP. The COP provides procedures and protocols for items such as the determination of upper control limits (UCLs), well drilling and installation, and radiation safety.

This Attachment is cited throughout Mr. Pelizza's expert affidavit as evidence of the performance-based nature of HRI's license.

- **ATTACHMENT D:** Attachment D to Exhibit A presents water quality reports for a site-specific wellfield in the Unit One uranium recovery site. These water quality reports were compiled using data from Mobil Oil Corporation and provide water quality data for sampling locations on multiple dates for constituents such as calcium, magnesium, uranium, radon, and radium.

This Attachment is offered in support of Mr. Pelizza's expert testimony and is referenced at ¶¶ 55 of Exhibit A.

- **ATTACHMENT E:** Attachment E to Exhibit A presents HRI's well-field layout for a wellfield within the Unit 1 site, based on data from the Mobil Oil Corporation. This model provides well locations and water quality reference points for radium-226, radon-222, uranium, gross alpha, and gross beta.

This Attachment is offered in support of Mr. Pelizza's expert testimony and is referenced at ¶¶ 149 & 252 of Exhibit A.

- **ATTACHMENT F:** Attachment F to Exhibit A presents HRI's "roll front" trend grid map for the Crownpoint and Unit One uranium recovery sites.

This Attachment is submitted in support of Mr. Pelizza's expert testimony and is referenced at ¶ 67, fn. 4 of Exhibit A.

- **ATTACHMENT G:** Attachment G to Exhibit A presents excerpts from HRI's Restoration Action Plans (RAP) for the CUP. These excerpts specifically discuss water quality analyses for the Crownpoint and Unit One uranium recovery sites and, they state that groundwater within the ore zones exhibits elevated radionuclide concentrations.

This Attachment is not cited in Exhibit A but is provided as reference.

- **ATTACHMENT H:** Attachment H to Exhibit A presents water quality data and analyses for Uranium Resources, Inc.'s (URI's) Vasquez ISL uranium recovery project in the State of Texas. This Attachment provides water quality data for major and secondary constituents at the Vasquez project for "area wide", "monitoring," and production wells.

Attachment H is referenced at ¶ 77, fn. 7 of Exhibit A.

- **ATTACHMENT I:** Attachment I to Exhibit A presents three (3) letters from the United States Environmental Protection Agency (EPA) granting aquifer exemptions and exemption extensions for URI's Vasquez, Rosita and Kingsville Dome ISL uranium recovery projects. These letters reference specific provisions of EPA's Underground Injection Control (UIC) program regulations regarding aquifer exemptions and the requirements described therein and document Mr. Pelizza's assertion that these types of exemptions are issue portions of fresh water aquifers.

Attachment I is referenced at ¶¶ 84, 93, & 101 of Exhibit A.

- **ATTACHMENT J:** Attachment J to Exhibit A presents water quality data and analyses for Uranium Resources, Inc.'s Production Area 1 of (URI's) Kingsville Dome ISL uranium recovery project in the State of Texas. This Attachment provides water quality data for major and secondary constituents at the Kingsville Dome project for "area wide", "monitoring," and production wells.

Attachment J is referenced at ¶ 85 of Exhibit A.

- **ATTACHMENT K:** Attachment K to Exhibit A presents water quality data and analyses for Uranium Resources, Inc.'s Production Area 2 of (URI's) Kingsville Dome ISL uranium recovery project in the State of Texas. This Attachment provides water quality data for major and secondary constituents at the Kingsville Dome project for "area wide", "monitoring," and production wells.

Attachment K is referenced at ¶ 94 of Exhibit A.

- **ATTACHMENT L:** Attachment L to Exhibit A presents excerpts from the environmental assessment, safety evaluation report, and proposed license conditions issued by the Bureau of Radiation Control of the Texas Department of Health for URI's Kingsville Dome ISL uranium recovery project. These excerpts are presented to provide additional information on geologic conditions at URI's ISL uranium recovery projects.

Attachment L is referenced at ¶¶ 102 & 124 of Exhibit A.

- **ATTACHMENT M:** Attachment M to Exhibit A presents Texas UIC program regulations for Class III Well Production Area Development. These regulations are provided to demonstrate that there are appropriate circumstances where groundwater restoration values may be amended and the requirements for amending such values at URI's Texas ISL uranium recovery projects.

Attachment M is referenced at ¶ 114, fn. 9 of Exhibit A.

- **ATTACHMENT N:** Attachment N to Exhibit A presents excerpts from the Draft Environmental Impact Statement issued by NRC for the Teton Project in the State of Wyoming. These excerpts provide information regarding site geologic conditions for the Teton project and to demonstrate that such conditions resemble those at the CUP.

Attachment N is referenced at ¶ 125 of Exhibit A.

- **ATTACHMENT O:** Attachment O to Exhibit A presents information regarding geologic conditions at the Crow Butte ISL uranium recovery project in the State of Nebraska. This information is provided to demonstrate that geologic conditions at a Nebraska ISL uranium recovery project are similar to those of the CUP.

Attachment O is referenced at ¶ 126 of Exhibit A.

- **ATTACHMENT P:** Attachment P to Exhibit A presents drawdown maps and analyses for Crownpoint prepared by Mobil Oil Corporation and are offered in support of HRI's water quality data and analyses for the CUP.

Attachment P is referenced at ¶¶ 143, fn. 17 & 151 of Exhibit A.

- **ATTACHMENT Q:** Attachment Q to Exhibit A presents an Order from the Eleventh Judicial Court District for the State of New Mexico regarding the Church Rock Section 17 uranium recovery site.

Attachment Q is referenced at ¶ 173 of Exhibit A.

- **ATTACHMENT R:** Attachment R to Exhibit A presents a letter and order from the New Mexico State Engineer regarding HRI's ability to utilize water in the Crownpoint Section 24 uranium recovery site.

Attachment R is referenced at ¶ 175 of Exhibit A.

- **ATTACHMENT S:** Attachment S to Exhibit A presents a letter from Cotter Corporation, a conventional uranium milling facility that is authorized to accept 11e.(2) byproduct material created from uranium recovery operations. This letter

is offered in support of Mr. Pelizza's analysis regarding the appropriate costs for disposal of 11e.(2) byproduct material from CUP uranium recovery operations.

Attachment S is referenced at ¶¶ 248 & 253 of Exhibit A.

- **ATTACHMENT T:** Attachment T to Exhibit A presents the Radioactive Material License for Waste Control Specialists, LLC, another potential disposal location for 11e.(2) byproduct material created as a result of CUP uranium recovery operations.

Attachment T is not cited in Exhibit A but is provided as reference.

- **ATTACHMENT U:** Attachment U to Exhibit A presents HRI's NRC license to conduct ISL uranium recovery operations at the CUP.

Attachment U is referenced in multiple locations in Exhibit A.

- **ATTACHMENT V:** Attachment V to Exhibit A presents miscellaneous documents referenced by Mr. Pelizza in Exhibit A. These documents, in order of presentation, are: (1) HRI's Church Rock Revised Environmental Report and relevant excerpts referenced in Exhibit A, (2) Crownpoint In Situ-Mining Technical Report and relevant excerpts referenced in Exhibit A, (3) Unit One UIC Application and Technical Report submitted to EPA Region 9, Data Summary Report for Crownpoint, Pumping Test, and (4) the Crownpoint RAP submitted to and approved by NRC Staff.

These documents are referenced in multiple locations in Exhibit A.

- **ATTACHMENT W:** Attachment W to Exhibit A presents the Church Rock water rights decision from the New Mexico State Engineer.

Attachment W is referenced at ¶ 174 of Exhibit A.

- **ERATTA:** As Eratta attachment includes Cross sections from Churchrock Environmental Report, March 1993, Section 2.6.2; Unit 1 Project, UIC Application and Technical Report 1992, Appendix D-1; Supplementary Environmental Report 1989, Section 2.6, that were referenced in ¶¶ 144 - 147 of Exhibit A. These cross sections are used to illustrate the nature of underlying and overlying aquitards and the absence of sedimentary channel type structures at the project sites.

2. **EXHIBIT B: AFFIDAVIT OF CRAIG BARTELS (2005)**

- **ATTACHMENT A:** Attachment A to Exhibit B presents the *curriculum vitae* of Exhibit B's affiant, Mr. Craig S. Bartels.

This Attachment is offered in support of Mr. Bartels' professional qualifications described at ¶ 2 of Exhibit B.

- **ATTACHMENT B:** Attachment B to Exhibit B presents a potentiometric surface figure of the Westwater Formation at Church Rock [reproduced from Final Environmental Impact Statement (FEIS), Figure 3.11, page 3-37].

This Attachment is referenced at ¶¶ 22, 23, & 24 of Exhibit B.

- **ATTACHMENT C:** Attachment C to Exhibit B is a scaled map showing the location of the Teton Push-Pull pilot test relative to Church Rock observation wells, CR-6 and CR-8. This map is used in analyzing the proposed contamination scenario of Intervenor's affiant, Abitz.

This Attachment is referenced at ¶¶ 2, 22, & 24 of Exhibit B.

- **ATTACHMENT D:** Attachment D to Exhibit B presents the Push-Pull pilot test information for the Teton project and provides specific data regarding such testing.

This Attachment is referenced at ¶ 22 of Exhibit B.

- **ATTACHMENT E:** Attachment E to Exhibit B presents excerpts of Abitz's affidavit of January 8, 1999 and resubmitted as Exhibit B of Abitz's current affidavit of March 3, 2005. This regards water quality used by Mr. Bartels in Exhibit B.

This Attachment is referenced at ¶¶ 53, 62, 65 & 66 of Exhibit B.

- **ATTACHMENT F:** Attachment F to Exhibit B presents excerpts from Intervenor's affiant, Wallace, in support of Intervenor's most recent request to supplement the Final Environmental Impact Statement (FEIS) for the Church Rock Sections 8 and 17 uranium recovery sites.

This Attachment is referenced at ¶ 70 of Exhibit B.

- **ATTACHMENT G:** Attachment G to Exhibit B presents Mr. Bartels' expert affidavit prepared in support of HRI's Response to Intervenor's most recent request to supplement the Final Environmental Impact Statement (FEIS) for the Church Rock Sections 8 and 17 uranium recovery sites, along with two supporting documents.

This Attachment is referenced at ¶ 70 & 162 of Exhibit B.

- **ATTACHMENT H:** Attachment H to Exhibit B presents the Memorandum and Order from Judge Thomas S. Moore, the previous Presiding Officer in this proceeding, regarding Intervenor's Request to Supplement the FEIS. This Memorandum and Order is used by Mr. Bartels to support his analyses regarding CUP geologic conditions and groundwater flow rates and his critique of Intervenor's testimony.

This Attachment is referenced at ¶ 70 of Exhibit B.

- **ATTACHMENT I:** Attachment I to Exhibit B presents Mr. Bartels' expert affidavit prepared in support of HRI's February, 1999 written presentation regarding groundwater issues for the Church Rock Section 8 uranium recovery site. This affidavit is referenced by Mr. Bartels as support for his statements and conclusions in Exhibit B.

This Attachment is referenced at ¶¶ 84, 95, 139 & 142 of Exhibit B.

- **ATTACHMENT J:** Attachment J to Exhibit B presents excerpts from HRI's pump test analysis for the CUP from February, 1992 and is offered in support of Mr. Bartels' analyses regarding CUP pump testing and preparation of relevant pump testing sections of HRI's license application and supporting submittals. This document also contains several tables and figures that provide specific pump testing data and analyses.

This Attachment is referenced throughout Exhibit B starting at ¶ 119.

- **ATTACHMENT K:** Attachment K to Exhibit B presents excerpts from HRI's answer to NRC Staff's Request for Additional Information (RAI) question #99 regarding sensitivity analyses for and groundwater flow rates from the Unit One uranium recovery site. This information includes discussions of permeability, storativity, porosity, anisotropy, and flow rate variability of the Crownpoint municipal wells and is offered in support of the technical data and analyses submitted by HRI for its license application.

This Attachment is referenced at ¶¶ 100, 162, 164-165, & 172 of Exhibit B.

- **ATTACHMENT L:** Attachment L to Exhibit B presents answers to NRC Staff's RAI Q1/81 regarding water resource protection. This Attachment includes historic water resource data and comparison figures for the Westwater and Dakota.

This Attachment is referenced at ¶ 170 of Exhibit B.

- **ATTACHMENT M:** Attachment M to Exhibit B presents answers to NRC Staff's RAI Q2/81 regarding objectives and methodologies for evaluating the vertical confinement by pumping tests in a well field before lixiviant is introduced.

This Attachment is referenced at ¶ 175 of Exhibit B.

- **ATTACHMENT N:** Attachment N to Exhibit B presents excerpts from Exhibit B of Intervenor's affiant Wallace's March 7, 2005 testimony. This information is offered in support of Mr. Bartels' critique of Intervenor's testimony regarding the nature of the aquifer(s) sought to be exempted for ISL uranium recovery by HRI.

This Attachment is referenced at ¶¶ 80, 83, 92, 129, & 166 of Exhibit B.

- **ATTACHMENT O:** Attachment O to Exhibit B presents a comparison of computer generated contour maps for drawdown with those presented by Wallace in his Exhibit B of 2005.

This Attachment is referenced at ¶¶ 92, 104, 106, 109, & 115-117 of Exhibit B.

- **ATTACHMENT P:** Attachment P to Exhibit B presents excerpts from answers to NRC Staff's RAI Q1/84 regarding details of flowrates of the Crownpoint municipal wells used in HRI's analysis of the 1992 Crownpoint pump test.

This Attachment is referenced at ¶¶ 119-120, 123 & 126 of Exhibit B.

- **ATTACHMENT Q:** Attachment Q to Exhibit B presents excerpts from the analysis of the 1992 Crownpoint pump test showing HRI model calibration across 4300+ minutes. This information is offered in support of Mr. Bartels' critique of Intervenor's testimony regarding their claimed calibration to a single drawdown presented by Wallace in his testimony of 2005.

This Attachment is referenced at ¶¶ 127 & 129 of Exhibit B.

3. EXHIBIT C: AFFIDAVIT OF FRANK LEE LICHNOVSKY (2005)

- ATTACHMENT A: Attachment A of Exhibit C presents the expert affidavit prepared by Mr. Frank Lee Lichnovsky in support of HRI's February 19, 1999, written presentation regarding groundwater issues for the Church Rock Section 8 proposed uranium recovery site. HRI offers this Attachment in support of the statements and conclusions offered by Mr. Lichnovsky at ¶ 18 of Exhibit C.
- ATTACHMENT B: Attachment B to Exhibit C presents detailed figures and diagrams of geologic conditions in the San Juan Basin and at the CUP. These figures and diagrams include flow rate measurements, geologic formations and trends, and uranium roll fronts. Further, as an errata, this Attachment includes several "first-generation" copies of cross-sections submitted by HRI in its license application and which are included in Binder # 6.1 of the Hearing File.

This Attachment is referenced in multiple locations starting at ¶ 19 of Exhibit C.

4. **EXHIBIT D: AFFIDAVIT OF DAN W. MCCARN (2005)**

- **ATTACHMENT A:** Attachment A to Exhibit D presents the *curriculum vitae* for Mr. Dan W. McCarn, whose affidavit is offered by HRI in support of the geological and hydrological conditions of the CUP, as offered by HRI in its license application and as approved by NRC Staff. Attachment A is offered to support the statements regarding Mr. McCarn's professional credential referenced in ¶¶ 1 & 2 of Exhibit E.
- **ATTACHMENT B:** Attachment B to Exhibit D provides several diagrams and figures outline the depositional framework of uranium deposits in "stacked roll fronts" at Crownpoint and in other portions of the Grants uranium region and the San Juan Basin. These maps are offered in support of statements and conclusions presented by Mr. McCarn at ¶¶ 2-13 of Exhibit D.
- **ATTACHMENT C:** Attachment C to Exhibit D presents several professional and/or academic articles referenced in or quoted by Mr. Dan McCarn, an expert affiant in support of HRI's conclusions regarding CUP geological and hydrological features. The articles, in order of presentation, are as follows:
 - IAEA-TECDOC-1425: *Developments in Uranium Resources, Production, Demand and the Environment*
 - IAEA-TECDOC-1396: *Recent developments in Uranium Resources and Production with Emphasis on In Situ Leach Mining: ISL-Amenable Sandstone-Type Uranium Deposit: Global Aspects and Recent Developments in China*
 - Franz J. Dahlkamp, *Uranium Ore Deposits*
 - IAEA-TECDOC-1396: D. W. McCarn, *Recent developments in Uranium Resources and Production with Emphasis on In Situ Leach Mining: Natural and Anthropogenic Multi-Pathway Risks Associated With Naturally Occurring Uranium Mineralization in Aquifers, Scoping Calculations*
 - Dan W. McCarn, *Geology and Mineral Technology of the Grants Uranium Region 1979*

5. **EXHIBIT E: AFFIDAVIT OF RONALD CHRISTENSEN (2005)**

- **ATTACHMENT A:** Attachment A to Exhibit E presents the *curriculum vitae* for Mr. Ronald Christensen whose affidavit is offered by HRI in support of the statistical analyses used by HRI and approved by NRC Staff for the CUP. Attachment A is offered to support the statements regarding Mr. Christensen's professional credential referenced in ¶¶ 1 & 2 of Exhibit E.

6. **EXHIBIT F: AFFIDAVIT OF MICHAEL MAXON (2005)**

NO ATTACHMENTS INCLUDED

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

**Before Administrative Judges:
E. Roy Hawkins, Presiding Officer
Dr. Richard F. Cole, Special Assistant
Dr. Robin Brett, Special Assistant**

In the Matter of:)
Hydro Resources, Inc.) Docket No.: 40-8968-ML
P.O. Box 777)
Crownpoint, NM 87313) Date: May 4, 2005
_____)

CERTIFICATE OF SERVICE

THIS IS TO CERTIFY that a copy of the foregoing Hydro Resources, Inc.'s Response in Opposition to Intervenor's Written Presentation Regarding Groundwater, Groundwater Restoration and Financial Assurance, Submission of Index for Written Presentation Attachments in the above-captioned matter has been served upon the following via electronic mail and U.S. First Class Mail on this 4th day of May, 2005.

Administrative Judge,
E. Roy Hawkins
Atomic Safety and Licensing Board
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Administrative Judge
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May 4, 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 in Opposition to Intervenor's Written Presentation Regarding Groundwater, Groundwater Restoration and Financial Assurance, Submission of Index for Written Presentation Attachments 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.
Thompson & Simmons, PLLC.
Counsel of Record to HRI

Enclosures

(hydro resourcesCOVERLETTTER 5-04-05.doc)