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USNRC

TO: Dockets

February 23, 2005 (3:30 pm)

FROM: ASLBP
Judge Hawkens

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

DATE: February 17, 2005

RE: Hydro Resources, Inc., Docket No. 40-8968-ML, ASLBP No. 95-706-01-ML

Attached for your retention is correspondence, dated February 2, 2005, from the Rose Marie Cecchini of the Office of Peace, Justice & Creation Stewardship, addressed to Judge Moore. This correspondence relates to the above-referenced proceeding, and it should be treated as a limited appearance written statement of views (10 C.F.R. § 2.1211(a) (Jan. 1, 2004)). As provided in section 2.1211(a), a "limited appearance statement is not to be considered part of the decisional record" (ibid.).



Office of Peace, Justice & Creation Stewardship

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February 2, 2005

Administrative Judge Thomas S. Moore
Presiding Officer
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F 23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Dear Judge Moore,

On the U.S. Nuclear Regulatory Commission website, I learned that: “NRC’s primary mission is to protect **the public health and safety, and the environment from the effects of radiation from nuclear reactors, materials, and waste facilities.** We also regulate these nuclear materials and facilities to promote the common defense and security.”

While we may have cause for assurance based on these value statements about public health and safety, our experiences are quite the opposite as New Mexico communities facing the imminent threat of proposed plans by Hydro Resources, Inc. to construct and operate four in-situ leach uranium mines in Church Rock (Section 8 and Section 17), four miles north of Church Rock chapter, 10 miles east of Gallup, and in Crownpoint (Unit 1 and Crownpoint).

As people of faith in Gallup Diocese, we are deeply concerned about the moral, ethical and environmental justice issues involved in HRI’s proposed insitu leach uranium mining project. From our faith-inspired covenant relationship with God and all God’s creation, we are strongly opposed to HRI’s proposed mining for the following fundamental reasons, embodying the values we uphold:

- + The HRI project is actually a large-scale experiment involving a poisonous substance, uranium. Such a risky experimental project has never before been attempted in such close proximity to human communities, combined populations of over 40,000, who are dependent upon these water reserves.
 - + HRI’s insitu leach mining inside the aquifers at Church Rock and Crownpoint will invade, irreversibly contaminate and desecrate these water reserves by their leaching operations, releasing dissolved radioactive materials that will migrate into complex, multi-strata, underground alluvial river formations in the aquifers, which monitoring wells have been proven entirely ineffective in preventing.
 - + There is no scientific evidence, whatsoever, to show that uranium contaminated and desecrated waters have ever been restored to safe levels for drinking or use again.
-

From our faith-based perspective, Judge Moore, this is not simply a case of expediting administrative rules to insure HRI's license to leach uranium mining out of the life-sustaining waters in aquifers at Church Rock and Crownpoint. The underlying, irreconcilable conflicts in values need to be made very clear from the perspective of our human communities who will suffer the life-threatening consequences from HRI's proposed uranium mining.

If criminal elements were plotting an attack to poison the vital water reserves of communities in the U.S., there is no doubt that law enforcement, the FBI and Homeland Security would pursue and apprehend those responsible for such a threat to national security. Federally approved poisoning of human communities' vital water reserves evoke scenarios from Iraq and Sudan where oppressive rulers have carried out ruthless genocide to advance their insatiable quest for power at any cost. But this is not Iraq. This is the United States, proclaiming itself to the world as 'a model of democracy,' where inalienable, God-given human rights and the dignity of all people, of every race, culture or creed, are enshrined in our U.S. Constitution and Bill of Rights. As citizens of our democratic nation, we believe we have the right and serious responsibility to actively protest the violations of human rights, social justice and environmental justice evident in this case.

All of us are part of one interrelated web of life. In this web, water and life are inseparable. To irreversibly contaminate and desecrate water resources vital for life, the sole water upon which human communities are dependent, reducing water's value to a mere commodity to maximize HRI's corporate profit-making is tantamount, we believe, to blaspheming the Creator of this marvelous universe.

A further concern we have in this case is the environmental racism taking place, as aptly described by Dr. John Fogarty, medical doctor at the IHS Hospital in Crownpoint:

"Despite widespread Navajo opposition to further uranium mining, the U.S. Nuclear Regulatory Commission (NRC) in 1998 granted a license to a mining company to open four new insitu leach mines in Crownpoint and Church Rock, New Mexico. These mines will contaminate the only source of drinking water for 15,000 Navajos, according to the expert testimony of hydrologists, geochemists and geologists hired by the communities to review the mining proposals...Nonetheless, an NRC administrative law judge in August 1999 upheld the NRC staff's issuance of the license, saying that the past impacts of uranium mining on the Navajo people, while 'regrettable', were irrelevant to the question of whether the mines could be opened or operated safely. (USNRC, 1999).

To consider whether the judge's decision was 'environmental racism,' one does not have to think of complicated ethical, legal or scientific arguments. Rather, simply, one needs only to ask the question, would NRC license uranium mines that threaten the only water supply for a predominantly white and affluent community in Albuquerque, Santa Fe, San Francisco or New York City?" (Voices from the Earth, vol. 5, n. 1)

As concerned people of faith in Gallup Diocese, living in close proximity to HRI's proposed mining sites, we voice our strong opposition to the insitu leach uranium mining in solidarity with the Navajo people, in a collaborative movement that intends to protect human communities, wild life, native plants and the fragile environment of beautiful New Mexico.

Peace blessings,

A handwritten signature in cursive script that reads "Rose Marie Cecchini".

Rose Marie Cecchini, MM, Ph.D.
Coordinator

enc.

Shirley says mining uranium akin to committing genocide

By Kathy Helms
Diné Bureau

FORT DEFIANCE — Navajo Nation President Joe Shirley Jr. says he will immediately sign legislation banning uranium mining on Navajoland if it is approved this week by the Navajo Nation Council.

In a meeting Tuesday with grassroots representatives from Eastern Navajo Diné Against Uranium Mining and the Navajo Uranium Radiation Victims Committee, President Shirley professed his support for the Diné Natural Resources Protection Act of 2005.

"A lot of our elders have been killed, and that's resulted in a loss of culture. In a sense, genocide has been committed on us because of the mining of uranium," he said.

J. Keith Killian of the Colorado law firm, Killian, Guthro & Jensen, represents uranium miners and downwinders seeking compensation through the Radiation Exposure Compensation Act. Killian told the president that the centerpiece of the Bush Administration's energy plan is to construct a new generation of nuclear power plants fueled by uranium.

"To me, it's beyond a cultural injustice," the president said. "I'm dead-set against uranium mining on Navajoland. I'd like to outright outlaw the thing. There's no cure for uranium radiation exposure. I'll do everything I can to get the legislation passed," he said.

On Wednesday, President Shirley sent a letter to Navajo Nation Council Speaker Lawrence Morgan and each of the delegates urging their support for the Diné Natural Resources Protection Act, legislation sponsored by Resources Committee Chairman George Arthur, who represents Burnham/San Juan/Nenazad chapters on the council.

Urgent situation

"Passing this legislation is urgently needed," the president wrote. "Waiting to consider it until the spring session in April may be too late. The bill will accomplish in Navajo law an objective that I have advocated consistently since taking office two years ago: prohibiting conventional uranium mining and placing a long-term moratorium on uranium processing."

Lynnea Smith of ENDAUM was one of 15 people meeting with the president regarding the proposed

legislation. Smith said the bill would ban open pit and shaft mining of uranium and place a 25-year moratorium on in-situ leach mining of uranium.

"It really is the sovereign right of the Navajo Nation to say, 'We're going to look after our water.' Navajo groundwater contaminated by uranium mining would be rendered unusable for hundreds of thousands of years," she said.

Crownpoint Council Delegate Alice Benally said the main reason she serves on the council is to protect her community from the dangers of uranium mining. "I'm very thankful to our president for his stand on this," she said. "His response has always been the same; that he supports us."

Hydro Resources Inc. (HRI) of Texas has leased land from Navajo allottees and plans to begin in-situ leach mining in 2007 through operation of the Crownpoint Uranium Solution Mining Project, which involves injection of a solution through pipes into uranium bearing rock formations that lie below the water table.

One of the disadvantages of in-situ leach mining is the risk of spreading leaching liquid outside the uranium deposit where it subsequently can contaminate groundwater.

Benally said she agreed with Shirley's contention that financial gain is the reason some allottees oppose the protection act.

"I agree with my shi'nali that money is the reason some allottees oppose this legislation. They must remember that the water belongs to everyone and we have a right to have pure, pristine water," Benally said.

What allottees say

Members of the Eastern Navajo Allottee Association protested Monday outside the council chambers, carrying signs stating, "Why Do You Ignore Allottees?" and "Allottees: Our Land, Our Rights, Our Minerals, Our Votes."

Benjamin House, president of the allottee group, works as a consultant for HRI. He believes the in-situ process is safe and that allottees should be able to reap financial benefits from their land through lease agreements if they so desire, regardless of what the tribe does.

The proposed San Juan River Ba-

sin settlement agreement approved by council in December would extend a trunk line to the City of Gallup. From that point, "there will be provisions to have water delivered all the way around the City of Gallup to all of the communities," including Crownpoint and Church Rock, Arthur said Wednesday.

Some water sources in the Church Rock area already have shown signs of contamination, and a new source of drinking water could be a godsend. However, the Navajo-Gallup project isn't scheduled to be completed until 2020 — just a few years before the moratorium on the in-situ leach mining process would expire if the protection act passes Council.

Arthur said when HRI leases land from the allottees, it also basically gets the water that comes with it.

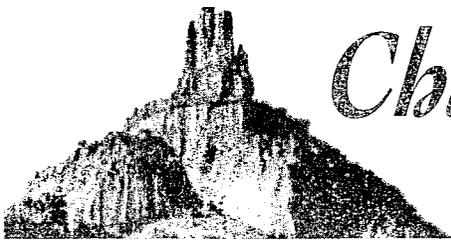
"As an allottee like myself, I would have to have all of the interest holders file a claim and ask the BIA to move it forward and to have it quantified and adjudicated, just like any other process that happens. Except that in my case as an allottee, I would have to revert to BIA, who is my trustee, to file a claim on my behalf," he said.

"This is for commercial and industrial use. For domestic use they basically don't need to do anything. But for selling, leasing, etc., they would have to have a claim to it," Arthur explained.

Water from the Navajo Indian Irrigation Project (NIIPP) is reserved for NIIP, except for instances in which the Navajo Nation would want to lease or utilize the water for purposes other than agricultural use. "The Navajo Nation has a right to NIIP waters. Presently, the only right it has to it is for agricultural use. With the settlement, that changes," Arthur said.

The Nation would be given the right to transfer water to other Navajo Nation uses. "It could be used to lease to other forms of economic development, whatever that may be — industrial, commercial, or it could be used for public domestic use," he said.

According to components of the proposed settlement, there is no limit to the annual diversion of water for municipal and industrial use.



Church Rock Chapter Decries NRC Judge's Ruling

CHURCH ROCK, NM (OCT. 22, 2004) — Church Rock Chapter President Johnny Livingston today decried a ruling by a federal administrative law judge that denied a citizen group's motion requesting the U.S. Nuclear Regulatory Commission (NRC) study the effects of proposed uranium *in situ* leach (ISL) mining on the 900-home Springstead Estates planned residential community in Church Rock Chapter.

"Apparently the Government in Washington doesn't care about the health, safety and well-being of the 4,000 people who will be living in the Springstead community within five to ten years," Livingston said in commenting on the ruling by NRC Judge Thomas Moore.

"This ruling is another example of how the NRC consistently ignores our communities' concerns about new uranium mining and why the Navajo Nation must step into this fight to protect our people," Livingston said.

Moore's ruling denied a motion by Intervenor Eastern Navajo Diné Against Uranium Mining (ENDAUM) and Southwest Research and Information Center (SRIC) that sought to have the NRC's 1997 Final Environmental Impact Statement (FEIS) for Hydro Resources, Inc.'s (HRI) Crownpoint Uranium Project supplemented to assess impacts of HRI's proposed Church Rock ISL mines on human health and the environment of Springstead Estates. The Springstead housing project, which is the largest planned housing development for Native Americans in the U.S., will be located about four miles north of Church Rock Village and about 1.5 miles south of HRI's proposed Section 8 and Section 17 mines.

The Intervenor requested supplementation of the FEIS on the grounds that the housing project was not planned at the time the impact statement was prepared between 1994 and 1997, and therefore any effects of HRI's operations on the people who will live in Springstead have not been analyzed as required by federal law. Moore ruled in part that the housing development is "speculative," that the water supply for the development is not known with certainty, and the existing FEIS adequately addresses impacts of the HRI project in the area.

"There is nothing speculative about Springstead," Livingston said. "The houses will be built there, it's only a matter of time." He noted that federal funds have been earmarked for the proposed Navajo Housing Authority (NHA) development, but construction has been put on hold temporarily until environmental studies on the housing site are completed. Those studies were requested by Church Rock Chapter two years ago to determine if past uranium mining in the area had contaminated the lands on which 900 to 1,000 single-family homes will be built.

Livingston noted that Church Rock Chapter fully supports the Springstead Estates project because it will bring needed housing to the growing community 3.5 miles east of Gallup. He also noted that the Chapter raised its own money from foundation grants to conduct radiation

monitoring at the housing site to determine if the land is safe for people to live on.

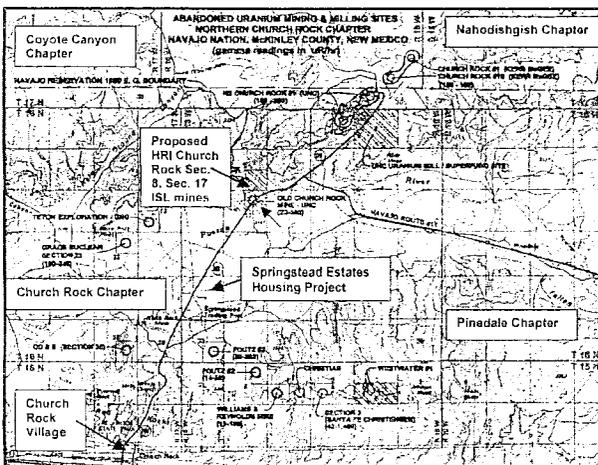
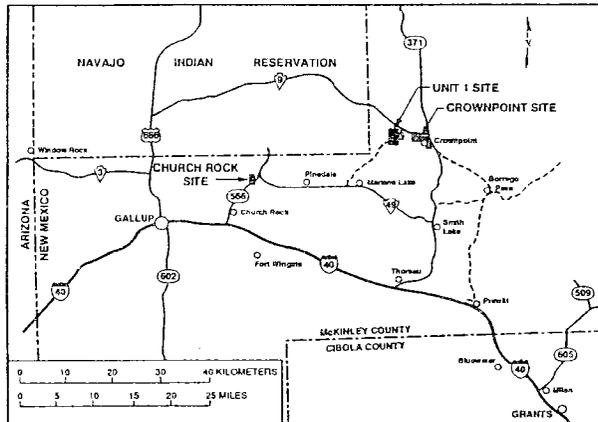
"We have an obligation to ensure our people's safety, and that's why we conducted radiation monitoring at the Springstead location in October 2003 and why we support follow-up studies

that are being conducted now by consultants to NHA," Livingston said. "But the NRC ignores its trust responsibility to our community by finding that HRI won't have an impact on Springstead without even conducting the studies necessary to make that determination."

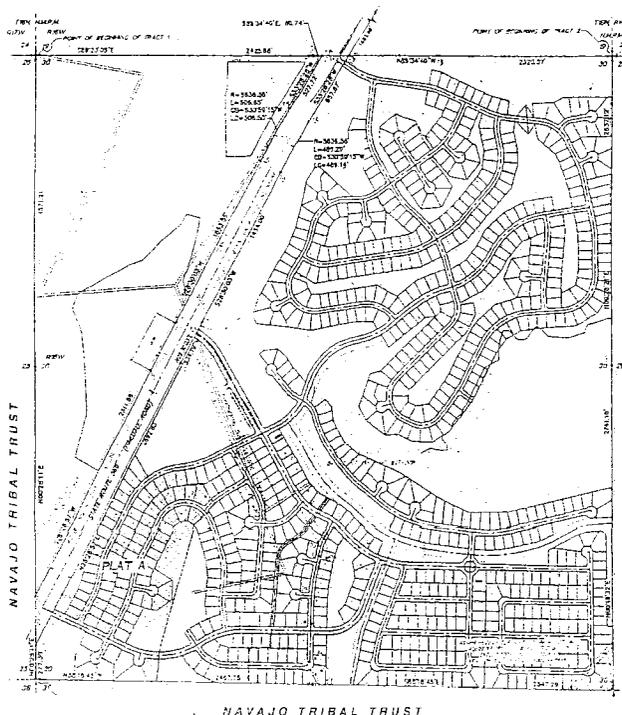
"We've watched NRC's indifference toward our community for 10 years," Livingston said. "We cannot trust the federal government to look out for our interests. We're going to have to take our own actions as a sovereign nation and a sovereign people to stop this madness."

ENDAUM and SRIC intervened in NRC's licensing of the HRI project in 1994, asserting that the proposed solution mining risks long-term contamination of the regional aquifer and presents health risks to the local communities because homes and schools are located close to the proposed mining operations. The Intervenor's adjudication of the Church Rock Section 8 site has been completed except for appeals, with the case still pending for three other mining sites — Church Rock Section 17, Unit 1 west of Crownpoint, and the central processing plant site and wellfields in the town of Crownpoint.

Church Rock Chapter is not an Intervenor in the HRI case but adopted resolutions in 2000 and 2003 opposing new uranium mining in general and the HRI project specifically.



SPRINGSTEAD ESTATES



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VOICES from the EARTH

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