



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

May 1, 1998

Mr. Bennie Cohoe, Executive Director
Navajo Nation Environmental Protection Agency
P.O. Box 9000
Window Rock, AZ 86515

SUBJECT: FINAL ENVIRONMENTAL IMPACT STATEMENT FOR THE CROWNPOINT,
NEW MEXICO *IN SITU* LEACH URANIUM MINING PROJECT

Dear Mr. Cohoe:

I am writing in response to your June 30, 1997, letter addressed to Mr. Robert D. Carlson of my staff regarding Navajo Nation Environmental Protection Agency's (NNEPA's) comments on the Final Environmental Impact Statement (FEIS) for Hydro Resources, Inc. (HRI's) proposed *in situ* leach uranium mining project at Crownpoint, NM. In this letter, you requested that the U.S. Nuclear Regulatory Commission (NRC) staff's attention be directed to the comments attached therein, and to contact you if there were any questions.

Based on the NRC staff's review of this document, I believe that most of NNEPA's comments were addressed in either the FEIS, the Safety Evaluation Report, the source materials license issued to HRI, or during the staff's review of other related license application documents submitted by the licensee. The details of many areas that NNEPA commented on, such as waste retention ponds or liquid waste disposal options, have not yet been submitted by HRI because the licensee has not determined which disposal option(s) it will choose. As the NRC conducts its review of these areas, we will take your comments into consideration. The specific concerns expressed by NNEPA in other areas, such as emergency response, can be handled best through a memorandum of agreement between HRI and the local response authorities. Additionally, HRI will be required to obtain all necessary permits and licenses for areas or activities outside of the NRC's regulatory authority (e.g., underground injection permits, construction permits, etc.) prior to injection of lixiviant. For each of these areas of concern, the NRC has emplaced specific license conditions to ensure that HRI complies with these requirements.

If you have any questions concerning this subject, please contact Mr. Carlson of my staff at (301) 415-8165.

Sincerely,

A handwritten signature in cursive script, reading "Joseph J. Holonich".

Joseph J. Holonich, Chief
Uranium Recovery Branch
Division of Waste Management
Office of Nuclear Material Safety
and Safeguards



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

May 20, 1998

Lynne Sebastian, Ph.D., State Historic
Preservation Officer
Historic Preservation Division
Office of Cultural Affairs
228 East Palace Avenue
Santa Fe, NM 87501

SUBJECT: DETERMINATION OF EFFECT FOR THE CHURCH ROCK SECTION 8 AND
CROWNPOINT SECTION 12 PORTIONS OF THE CROWNPOINT, NEW
MEXICO PROJECT

Dear Dr. Sebastian:

In response to a letter from Glenna Dean of your staff, dated November 20, 1997, and pursuant to National Historic Preservation Act (NHPA) requirements, the staff of the U.S. Nuclear Regulatory Commission (NRC) is consulting with your office for purposes of making a determination of effect regarding Section 8, a portion of the proposed Hydro Resources, Incorporated (HRI) uranium mining project located about seven miles north of Church Rock, New Mexico (Sections 8 and 17, T16N, R16W), and Section 12 (T17N, R13W), an area located about two miles north of Crownpoint, New Mexico. These areas were surveyed, as reflected in the report prepared by the Museum of New Mexico's Office of Archaeological Studies *Cultural Resources Inventory* (1997) (OAS Report), which your office has reviewed. Separate NHPA consultations will be conducted prior to any additional undertakings which HRI may pursue under its NRC license.

The NRC staff concurs with the OAS Report regarding the archaeological sites on Section 8 and Section 12 found eligible for inclusion in the *National Register of Historic Places*. More specifically, the NRC staff agrees that these sites qualify as historic properties, and are thus eligible for inclusion, based on their potential to contribute important information to the understanding of regional prehistory or history (Criterion D for listing in the *National Register of Historic Places*, 36 CFR § 60.4). No traditional cultural properties were identified at or near any of the project areas identified above (Sections 8, 17, and 12).

The NRC staff has applied 36 CFR § 800.5 ("Assessing effects") and 36 CFR § 800.9 ("Criteria of effect and adverse effect"), and proposes to determine that any HRI undertakings on Sections 8 and 12, as described above, would have no effect on the historic properties located therein. The NRC staff seeks your concurrence on this proposed finding of no effect, which is based on the following:

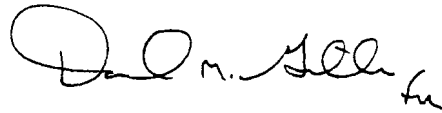
- Sections 8 and 17 (T16N, R16W), and Section 12 (T17N, R13W) have been surveyed for archaeological resources and traditional cultural properties. Historic properties eligible for inclusion in the *National Register* were identified on Section 8 and Section 12. No such properties were identified on Section 17.
- All eligible and potentially eligible historic properties on Sections 8 and 12 would be fenced, as necessary, to preclude intrusion during any construction, mining, or other ground-disturbing activity. The recommended fencing (as identified in the OAS Report) would serve both as a mechanical equipment barrier and to discourage casual foot traffic trespass. Fencing would remain in place throughout construction and mining phases, and it would not be removed until after site reclamation processes have been concluded following completion of mining. This protective measure will assure that the characteristics of the historic properties will not be changed by the undertaking. If unanticipated circumstances arise such that an effect on any eligible or potentially eligible historic property cannot be avoided, consultation with your office and other appropriate parties will be reopened.
- All ground-disturbing activities within the vicinity of the historic properties (the areas as identified in the OAS Report) will be monitored by an archaeologist. Within the HRI project areas surveyed in the OAS Report, the site archaeologist will have authority to stop ground-disturbing activity in the event that previously undetected subsurface cultural resources are identified. The development of treatment protocols for the unexpected discovery of human remains will be initiated as necessary within the framework of 36 CFR § 800.11, the Native American Graves Protection and Repatriation Act, and existing New Mexico State regulations or Navajo Nation regulations (as applicable) regarding treatment of unmarked burials and protection of human remains.
- As discussed in the OAS Report, adequate consultation with local traditional practitioners has occurred and no traditional cultural properties have been identified in or near Sections 8, 17, and 12.

As reflected in the enclosed letter to Dr. Alan Downer, the Navajo Nation's Historic Preservation Officer, dated May 20, 1998, the NRC staff is consulting with his office regarding Section 17, the portion of HRI's Church Rock site located c and held in trust for the Navajo Nation. The NRC staff will consider any written comments your office submits within 15 days of your receipt of this letter with respect to the Section 17 findings discussed in the enclosed letter.

If your office has any questions, please contact Mr. Robert Carlson, NRC's Project Manager of the HRI mining project, at (301) 415-8165. If no response from your office is received within 30 days of your receipt of this letter with respect to Sections 8 and 12, the NRC staff will assume that your office concurs in the proposed determination that any HRI undertakings on Sections 8 and 12 would have no effect on the historic properties located there. If your office so concurs,

or does not otherwise submit any objections to the NRC staff's proposed determination, then pursuant to 36 CFR § 800.5 (b), the staff would consider the NHPA process to be concluded with respect to Sections 8 and 12.

Sincerely,

A handwritten signature in black ink, appearing to read "Joe M. Holonich". The signature is fluid and cursive, with a large initial "J" and "H".

Joseph J. Holonich, Chief
Uranium Recovery Branch
Division of Waste Management
Office of Nuclear Material Safety
and Safeguards

Enclosure: As stated

cc: Service list attached

Dr. L. Sebastian

-4-

cc: for letter dated 5/20/98

Office of Commission Appellate
Adjudication
Mail Stop O-16G15
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Chief Administrative Judge
B. Paul Cotter, Jr., Esq.
Presiding Officer
Atomic Safety and Licensing Board
Mail Stop T-3F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Administrative Judge
Thomas D. Murphy
Special Assistant
Atomic Safety and Licensing Board
Mail Stop T-3F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Secretary (2)
Attn: Rulemakings and Adjudication Staff
Mail Stop O-16C1
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Adjudicatory File(2)
Atomic Safety and Licensing Board
Mail Stop T-3F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Atomic Safety and Licensing Board Panel
Mail Stop T-3F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555

John T. Hull, Esq.(2)
Mitzi A. Young, Esq.
Office of the General Counsel
Mail Stop O-15B18
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Jep Hill, Esq.
Jep Hill and Associates
PO Box 2254
Austin, Texas 78768-2254

Richard F. Clement, Jr.
President
Hydro Resources, Inc.
2929 Coors Road
Suite 101
Albuquerque, New Mexico 87120

Lila Bird, Executive Director
Water Information Network
PO Box 4524
Albuquerque, New Mexico 887106

Mitchell W. Capitan, President
Eastern Navajo-Dine' Against
Uranium Mining
PO Box 471
Crownpoint, New Mexico 87313

Diane Curran, Esq.
Harmon, Curran, Spielberg,
& Eisenberg, L.L.P.
2001 S Street, N.W., Suite 430
Washington, DC 20009

Lori Goodman
Dine' CARE Navajo Nation
10 A Town Plaza, S-138
Durango, Colorado 81301

Mary Lou Jones, President
Zuni Mountain Coalition
PO Box 39
San Rafael, New Mexico 87501

Susan G. Jordan, Esq.
New Mexico Environmental Law Center
1405 Luisa Street, Suite 5
Santa Fe, New Mexico 87505

Bernadine Martin
PO Box 370
Crownpoint, New Mexico 87313

W. Paul Robinson
Chris Shuey
Southwest Research and
Information Center
PO Box 4524
Albuquerque, New Mexico 87106

Mervyn Tilden
PO Box 457
Church Rock, New Mexico 87311

Anthony J. Thompson, Esq.
Paul Gormley, Esq.
Counsel for Hydro Resources, Inc.
Shaw, Pittman, Potts & Trowbridge
2300 N Street, N.W.
Washington, DC 20037-1128

Jon J. Indall
Comeau, Maldegen, Templeman
and Indall, LLP
141 East Palace Avenue
Santa Fe, New Mexico 87504-0669



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

May 20, 1998

Mr. James Copeland
Bureau of Land Management
Farmington District Office
1235 La Plata Highway
Farmington NM 87401

SUBJECT: HISTORIC PROPERTIES ON PORTIONS OF THE HYDRO RESOURCES, INC.
URANIUM MINING PROJECT AREAS

Dear Mr. Copeland:

As indicated in the enclosed letter to Dr. Lynne Sebastian, dated May 20, 1998, the U.S. Nuclear Regulatory Commission (NRC) staff is consulting with the New Mexico State Historic Preservation Officer (SHPO) pursuant to the National Historic Preservation Act (NHPA). The consultation regards a portion of the proposed Hydro Resources, Incorporated (HRI) uranium mining project located in Sections 8 and 17 (T16N, R16W) about seven miles north of Church Rock, New Mexico; and Section 12 (T17N, R13W), located about two miles north of Crownpoint, New Mexico. NHPA Section 106 and the regulations through which it is implemented (36 CFR 800) require federal agencies to take into account the effects of undertakings on any historic properties eligible for, or listed in, the *National Register of Historic Places*.

As documented in the Museum of New Mexico's Office of Archaeological Studies report (OAS Report) (see letter addressed to your office dated June 19, 1997, enclosing a copy of the OAS Report), historic properties eligible for inclusion in the *National Register* were found in Section 8 (T16N, R16W) and Section 12 (T17N, R13W). No such properties were found on Section 17 (T16N, R16W). No traditional cultural properties were identified at or near any of these project areas. As discussed more fully in the enclosed letter to Dr. Sebastian, the NRC staff proposes to determine that any HRI undertakings on Sections 8 and 12, as described above, would have no effect on the historic properties located there.

The NRC staff will consider any written comments you submit within 15 days of your receipt of this letter with respect to this proposed determination of no effect.

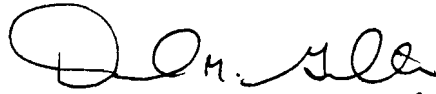
The NRC staff is also consulting with Dr. Alan Downer, the Director of the Navajo Nation Historic Preservation Department, as reflected in the enclosed letter to him dated May 20, 1998. This consultation regards the above-described Section 17, on which no historic properties eligible for inclusion in the *National Register* were found. Regarding this finding, the NRC staff will consider any written comments you submit within 15 days of your receipt of this letter.

J. Copeland

-2-

If you have any questions, please contact Mr. Robert Carlson, NRC's Project Manager of the HRI mining project, at (301) 415-8165.

Sincerely,



Joseph J. Holonich, Chief *fu*
Uranium Recovery Branch
Division of Waste Management
Office of Nuclear Material Safety
and Safeguards

Enclosures: As stated *

cc: Service list attached *Copies of the enclosures are included in your package

cc: for letter dated 5/20/98

Office of Commission Appellate
Adjudication
Mail Stop O-16G15
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Chief Administrative Judge
B. Paul Cotter, Jr., Esq.
Presiding Officer
Atomic Safety and Licensing Board
Mail Stop T-3F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Administrative Judge
Thomas D. Murphy
Special Assistant
Atomic Safety and Licensing Board
Mail Stop T-3F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Secretary (2)
Attn: Rulemakings and Adjudication Staff
Mail Stop O-16C1
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Adjudicatory File(2)
Atomic Safety and Licensing Board
Mail Stop T-3F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Atomic Safety and Licensing Board Panel
Mail Stop T-3F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555

John T. Hull, Esq. (2)
Mitzi A. Young, Esq.
Office of the General Counsel
Mail Stop O-15B18
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Jep Hill, Esq.
Jep Hill and Associates
PO Box 2254
Austin, Texas 78768-2254

Richard F. Clement, Jr.
President
Hydro Resources, Inc.
2929 Coors Road
Suite 101
Albuquerque, New Mexico 87120

Lila Bird, Executive Director
Water Information Network
PO Box 4524
Albuquerque, New Mexico 887106

Mitchell W. Capitan, President
Eastern Navajo-Dine' Against
Uranium Mining
PO Box 471
Crownpoint, New Mexico 87313

Diane Curran, Esq.
Harmon, Curran, Spielberg,
& Eisenberg, L.L.P.
2001 S Street, N.W., Suite 430
Washington, DC 20009

Lori Goodman
Dine' CARE Navajo Nation
10 A Town Plaza, S-138
Durango, Colorado 81301

Mary Lou Jones, President
Zuni Mountain Coalition
PO Box 39
San Rafael, New Mexico 87501

Susan G. Jordan, Esq.
New Mexico Environmental Law Center
1405 Luisa Street, Suite 5
Santa Fe, New Mexico 87505

J. Copeland

-4-

Bernadine Martin
PO Box 370
Crownpoint, New Mexico 87313

W. Paul Robinson
Chris Shuey
Southwest Research and
Information Center
PO Box 4524
Albuquerque, New Mexico 87106

Mervyn Tilden
PO Box 457
Church Rock, New Mexico 87311

Anthony J. Thompson, Esq.
Paul Gormley, Esq.
Counsel for Hydro Resources, Inc.
Shaw, Pittman, Potts & Trowbridge
2300 N Street, N.W.
Washington, DC 20037-1128

Jon J. Indall
Comeau, Maldegen, Templeman
and Indall, LLP
141 East Palace Avenue
Santa Fe, New Mexico 87504-0669



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

May 20, 1998

Alan S. Downer, Ph.D., Director
Navajo Nation Historic Preservation Department
ATTN: Mr. Peter Noyes
P.O. Box 4950
Window Rock, AZ 86515

SUBJECT: HYDRO RESOURCES, INC.'S URANIUM MINING PROJECT,
CHURCH ROCK SECTION 17 - NO HISTORIC PROPERTIES FOUND

Dear Dr. Downer:

In my letter to you dated January 31, 1997, the staff of the U.S. Nuclear Regulatory Commission (NRC) requested National Historic Preservation Act (NHPA) consultation with your office regarding HRI's activities to occur on Navajo Tribal lands. Pursuant to the subsequent agreement entered into in April 1997, between the Navajo Nation and the National Park Service, for NHPA purposes you became the historic preservation officer with respect to undertakings occurring on Navajo Tribal lands, in addition to retaining responsibility for administering the Navajo Nation historic preservation laws on various tribal lands, and those lands held in trust for the Navajo Nation.

As stated in the enclosed letter to New Mexico's State Historic Preservation Officer (SHPO), dated May 20, 1998, the NRC staff is consulting with New Mexico's SHPO for purposes of making a determination of effect regarding Section 8, a portion of the proposed HRI uranium mining project located about seven miles north of Church Rock, New Mexico (Sections 8 and 17, T16N, R16W), and Section 12 (T17N, R13W), an area located about two miles north of Crownpoint, New Mexico. Sections 8, 12, and 17 were surveyed, pursuant to NHPA requirements, as reflected in the report prepared by the Museum of New Mexico's Office of Archaeological Studies *Cultural Resources Inventory* (1997) (OAS Report). The NRC staff sent your office a copy of the OAS Report in June 1997.

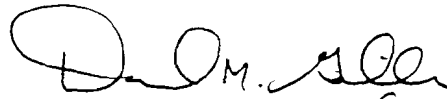
The NRC staff is consulting with your office regarding the above-described Section 17, land which is held in trust for the Navajo Nation. The NRC staff concurs with the OAS Report's finding that no historic properties (i.e., cultural properties as defined in the Navajo Nation Cultural Resources Protection Act) eligible for listing in the *National Register of Historic Places* or in the *Navajo Nation Register of Cultural Properties and Cultural Landmarks* are located within Section 17. The OAS Report found that the only cultural resources identified in Section 17 are isolated occurrences unlikely to yield information beyond that already documented in the survey performed. Pursuant to 36 CFR § 800.4 (d), the NRC staff considers the NHPA Section 106 process to be concluded with respect to the Section 17 area surveyed in the OAS Report based on the finding that no historic properties are located within Section 17. Pursuant to § 101(d) of the Navajo Nation Cultural Resources Protection Act (NNCRPA), the NRC staff requests approval to implement the undertaking (as described above and in previous communications) on Section 17, again based on the above-described findings.

As stated in the enclosed letter, with respect to Section 17 and the other HRI project areas surveyed in the OAS Report, the site archaeologist will have authority to stop ground-disturbing activity in the event that previously undetected subsurface cultural resources are identified. The development of treatment protocols for the unexpected discovery of human remains will be initiated as necessary within the framework of 36 CFR § 800.11, the Native American Graves Protection and Repatriation Act, and existing New Mexico State regulations or Navajo Nation regulations (as applicable) regarding treatment of unmarked burials and protection of human remains.

Separate NHPA Section 106 and NNCRPA consultations will be conducted with your office prior to any additional undertakings which HRI may pursue under its NRC license on lands falling within your NHPA and/or NNCRPA jurisdiction.

If your office has any questions, please contact Mr. Robert Carlson, NRC's Project Manager of the HRI mining project, at (301) 415-8165. If no response from your office is received within 30 days of your receipt of this letter with respect to Section 17, the NRC staff will assume that your office, for NNCRPA purposes, approves HRI's undertaking on Section 17. The NRC staff will consider any written comments your office submits within 15 days of your receipt of this letter with respect to the findings regarding Sections 8 and 12 discussed in the enclosed letter to New Mexico's SHPO.

Sincerely,



Joseph J. Holonich, Chief
Uranium Recovery Branch
Division of Waste Management
Office of Nuclear Material Safety
and Safeguards

Enclosure: As stated

cc: Service list attached

Dr. A. Downer

-3-

cc: for letter dated 5/20/98

Office of Commission Appellate
Adjudication
Mail Stop O-16G15
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Chief Administrative Judge
B. Paul Cotter, Jr., Esq.
Presiding Officer
Atomic Safety and Licensing Board
Mail Stop T-3F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Administrative Judge
Thomas D. Murphy
Special Assistant
Atomic Safety and Licensing Board
Mail Stop T-3F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Secretary (2)
Attn: Rulemakings and Adjudication Staff
Mail Stop O-16C1
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Adjudicatory File(2)
Atomic Safety and Licensing Board
Mail Stop T-3F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Atomic Safety and Licensing Board Panel
Mail Stop T-3F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555

John T. Hull, Esq.(2)
Mitzi A. Young, Esq.
Office of the General Counsel
Mail Stop O-15B18
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Jep Hill, Esq.
Jep Hill and Associates
PO Box 2254
Austin, Texas 78768-2254

Richard F. Clement, Jr.
President
Hydro Resources, Inc.
2929 Coors Road
Suite 101
Albuquerque, New Mexico 87120

Lila Bird, Executive Director
Water Information Network
PO Box 4524
Albuquerque, New Mexico 887106

Mitchell W. Capitan, President
Eastern Navajo-Dine' Against
Uranium Mining
PO Box 471
Crownpoint, New Mexico 87313

Diane Curran, Esq.
Harmon, Curran, Spielberg,
& Eisenberg, L.L.P.
2001 S Street, N.W., Suite 430
Washington, DC 20009

Lori Goodman
Dine' CARE Navajo Nation
10 A Town Plaza, S-138
Durango, Colorado 81301

Mary Lou Jones, President
Zuni Mountain Coalition
PO Box 39
San Rafael, New Mexico 87501

Susan G. Jordan, Esq.
New Mexico Environmental Law Center
1405 Luisa Street, Suite 5
Santa Fe, New Mexico 87505

Dr. A. Downer

-4-

Bernadine Martin
PO Box 370
Crownpoint, New Mexico 87313

W. Paul Robinson
Chris Shuey
Southwest Research and
Information Center
PO Box 4524
Albuquerque, New Mexico 87106

Mervyn Tilden
PO Box 457
Church Rock, New Mexico 87311

Anthony J. Thompson, Esq.
Paul Gormley, Esq.
Counsel for Hydro Resources, Inc.
Shaw, Pittman, Potts & Trowbridge
2300 N Street, N.W.
Washington, DC 20037-1128

Jon J. Indall
Comeau, Maldegen, Templeman
and Indall, LLP
141 East Palace Avenue
Santa Fe, New Mexico 87504-0669



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

May 20, 1998

Ms. Jenni Denetsone, Area Realty Officer
Bureau of Indian Affairs
Navajo Area Office
Real Estate Services
PO Box 1060
Gallup, NM 87305-1060

SUBJECT: HISTORIC PROPERTIES ON PORTIONS OF THE HYDRO RESOURCES, INC.
URANIUM MINING PROJECT AREAS

Dear Ms. Denetsone:

As indicated in the enclosed letter to Dr. Lynne Sebastian, dated May 20, 1998, the U.S. Nuclear Regulatory Commission (NRC) staff is consulting with the New Mexico State Historic Preservation Officer (SHPO) pursuant to the National Historic Preservation Act (NHPA). The consultation regards a portion of the proposed Hydro Resources, Incorporated (HRI) uranium mining project located in Sections 8 and 17 (T16N, R16W) about seven miles north of Church Rock, New Mexico; and Section 12 (T17N, R13W), located about two miles north of Crownpoint, New Mexico. NHPA Section 106 and the regulations through which it is implemented (36 CFR 800) require federal agencies to take into account the effects of undertakings on any historic properties eligible for, or listed in, the *National Register of Historic Places*.

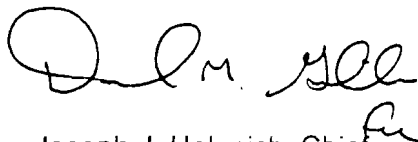
As documented in the Museum of New Mexico's Office of Archaeological Studies report (OAS Report) (see letter addressed to your office dated June 19, 1997, enclosing a copy of the OAS Report), historic properties eligible for inclusion in the *National Register* were found in Section 8 (T16N, R16W) and Section 12 (T17N, R13W). No such properties were found on Section 17 (T16N, R16W). No traditional cultural properties were identified at or near any of these project areas. As discussed more fully in the enclosed letter to Dr. Sebastian, the NRC staff proposes to determine that any HRI undertakings on Sections 8 and 12, as described above, would have no effect on the historic properties located there.

The NRC staff will consider any written comments you submit within 15 days of your receipt of this letter with respect to this proposed determination of no effect.

The NRC staff is also consulting with Dr. Alan Downer, the Director of the Navajo Nation Historic Preservation Department, as reflected in the enclosed letter to him dated May 20, 1998. This consultation regards the above-described Section 17, on which no historic properties eligible for inclusion in the *National Register* were found. Regarding this finding, the NRC staff will consider any written comments you submit within 15 days of your receipt of this letter.

If you have any questions, please contact Mr. Robert Carlson, NRC's Project Manager of the HRI mining project, at (301) 415-8165.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Holonich". The signature is fluid and cursive, with a large initial "J" and a stylized "H".

Joseph J. Holonich, Chief
Uranium Recovery Branch
Division of Waste Management
Office of Nuclear Material Safety
and Safeguards

Enclosures: As stated *

cc: Service list attached *Copies of the enclosures are included in your package

cc: for letter dated 5/20/98

Office of Commission Appellate
Adjudication
Mail Stop O-16G15
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Chief Administrative Judge
B. Paul Cotter, Jr., Esq.
Presiding Officer
Atomic Safety and Licensing Board
Mail Stop T-3F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Administrative Judge
Thomas D. Murphy
Special Assistant
Atomic Safety and Licensing Board
Mail Stop T-3F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Secretary (2)
Attn: Rulemakings and Adjudication Staff
Mail Stop O-16C1
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Adjudicatory File(2)
Atomic Safety and Licensing Board
Mail Stop T-3F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Atomic Safety and Licensing Board Panel
Mail Stop T-3F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555

John T. Hull, Esq.(2)
Mitzi A. Young, Esq.
Office of the General Counsel
Mail Stop O-15B18
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Jep Hill, Esq.
Jep Hill and Associates
PO Box 2254
Austin, Texas 78768-2254

Richard F. Clement, Jr.
President
Hydro Resources, Inc.
2929 Coors Road
Suite 101
Albuquerque, New Mexico 87120

Lila Bird, Executive Director
Water Information Network
PO Box 4524
Albuquerque, New Mexico 887106

Mitchell W. Capitan, President
Eastern Navajo-Dine' Against
Uranium Mining
PO Box 471
Crownpoint, New Mexico 87313

Diane Curran, Esq.
Harmon, Curran, Spielberg,
& Eisenberg, L.L.P.
2001 S Street, N.W., Suite 430
Washington, DC 20009

Lori Goodman
Dine' CARE Navajo Nation
10 A Town Plaza, S-138
Durango, Colorado 81301

Mary Lou Jones, President
Zuni Mountain Coalition
PO Box 39
San Rafael, New Mexico 87501

Susan G. Jordan, Esq.
New Mexico Environmental Law Center
1405 Luisa Street, Suite 5
Santa Fe, New Mexico 87505

Bernadine Martin
PO Box 370
Crownpoint, New Mexico 87313

W. Paul Robinson
Chris Shuey
Southwest Research and
Information Center
PO Box 4524
Albuquerque, New Mexico 87106

Mervyn Tilden
PO Box 457
Church Rock, New Mexico 87311

Anthony J. Thompson, Esq.
Paul Gormley, Esq.
Counsel for Hydro Resources, Inc.
Shaw, Pittman, Potts & Trowbridge
2300 N Street, N.W.
Washington, DC 20037-1128

Jon J. Indall
Comeau, Maldegen, Templeman
and Indall, LLP
141 East Palace Avenue
Santa Fe, New Mexico 87504-0669



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Farmington District Office
1235 La Plata Highway, Suite A
Farmington, New Mexico 87401

IN REPLY REFER TO:
8100 (07600)

JUN 1 1998

Mr. Robert Carlson
Nuclear Regulatory Commission
Uranium Recovery Branch
Division of Waste Management
Office of Nuclear Material Safety and Safeguards
Washington, DC 20555-0001

Dear Mr. Carlson:

On May 26, 1998, we received a letter from Mr. Joseph J. Holonich dated May 20, 1998. The letter concerns historic properties on portions of the Hydro Resources Inc. uranium mining project areas near Church Rock and Crownpoint, New Mexico. Public Lands administered by the Farmington District of the Bureau of Land Management are administered in the NE1/4 and the W1/2 of Section 8, T. 16 N., R. 16 W. As we currently understand the project, no mining activities are proposed for Public Lands at this time, and no sites on Public Lands appear threatened. In the event that mining activities extend unto Public Lands, we agree that as long as significant or potentially significant cultural properties are avoided the undertaking will have no effect on the properties located there.

We have no comments regarding cultural resources on non-Public Lands involved in this undertaking.

Our records are unclear if our review of the survey report was ever sent to your office. A letter was drafted but we can not tell if it was ever finalized and mailed. For your information, we are providing those comments at this time. If this is the first you have seen of these, please accept our apologies. We do not think that any of the comments affect the undertaking at this time, nor are they in conflict with your proposed determination of no effect for this undertaking.

The report appears thorough and we appreciate the way it is structured to allow easier review by the pertinent agencies. The various site illustrations are clear and well done.

* Page 87: The first paragraph seems to be out of place, and apparently belongs after the third paragraph.

* Figure 24: The site "key" is incomplete.

* Isolates #6, 7, 36, 88, and 89 should most likely have been recorded as sites. Although they are not currently threatened, future actions in those areas should treat those locations as sites until appropriate documentation is completed. If IO #6 and 7 retain no integrity as suggested in Table 31 of the report, then a simple recording of the features and a determination that they are not eligible for the National Register of Historic Places will be relatively straight forward. Testing at IO #36, 88, and 89 would help clear up the suspicions that they may or may not be cultural sites.

* Table 32

LA 26162: Anasazi component not described in text of report; Navajo component is labeled Gobernador Phase in Table 53

LA 116115: Navajo component is best left as unknown, rather than Gobernador Phase

LA 116118: Navajo component is best left as unknown, rather than Gobernador Phase

LA 117316: Out of sequence in the table. A good line drawing of the images in the text of the report would be helpful.

LA 117317: A good line drawing of the image in the text of the report would be helpful.

* Site Records: The site records for Navajo sites LA 26158, 26162, 88877, 116113, 116115, 116118, and 117314, are miscoded with regard to the *Periods of Occupation*. The New Mexico Cultural Resource Information System (NMCRIS) manual should be followed for the correct terminology. Correct options for the *Periods Of Occupation* include Pre or Post Pueblo Revolt, Pre-Reservation, Early, Middle, or Late Reservation, Recent and unspecified Navajo. Gobernador is a phase designation and goes in the category of *Associated Phase/Complex Name*.

The identification of Gobernador Phase sites on BLM lands seems very tenuous. None of the architecture reported is diagnostic to the phase. The ceramics found at LA 88877 would indicate either a Gobernador or possibly a Cabezon Phase occupation.

What is the basis for the site boundary at LA 116115? No artifacts were located so why is the site boundary so much larger than the feature?

* National Register Eligibility: The eligibility summary presented in Table 53, unlike Table 32, does not distinguish between the various components of the sites recorded. Separate components of the same site, when evaluated, may or may not be contributing elements of the eligibility of the sites for the National Register. Our impressions from the report and site record regarding eligibility are as follows:

* Eligible: LA 26158 (Anasazi component), LA 88874, LA 116115, LA 116118 (Anasazi component),
LA 117314 (Anasazi component).


* Not Eligible: LA 26158 (historic component), LA 116113, LA 116116 (historic component), LA 116119, LA 116120 (historic component), LA 116121, LA 117314 (historic component), LA 117315, LA 117316, LA 117317, LA 117318, LA 117319.

* Need Data: LA 26162, LA 88873, LA 88874, LA 88878, LA 116116 (Anasazi component), LA 116117, LA 116118 (historic component), 116120 (Anasazi component).

* Treatment: We agree with the general treatment options for BLM sites outlined on pages 118 and 119.

If you have any questions contact Jim Copeland at 505-599-6335, or jcopelan@nm.blm.gov.

Sincerely,



Jerrold E. Crockford
Acting Land Resources Team Leader

cc:
Museum of New Mexico, OAS
NMHPD, SHPO
Navajo Nation HPD



GARY E. JOHNSON
GOVERNOR

STATE OF NEW MEXICO
OFFICE OF CULTURAL AFFAIRS
HISTORIC PRESERVATION DIVISION

VILLA RIVERA BUILDING
228 EAST PALACE AVENUE
SANTA FE, NEW MEXICO 87501
(505) 827-6320

3 June 1998

Joseph J. Holonich, Chief
Uranium Recovery Branch
Division of Waste Management
Office of Nuclear Material Safety and Safeguards
United States Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Dear Mr. Holonich:

This is in response to your letter of 20 May 1998, received by this office 27 May 1998, which made recommendations about site eligibility based on opinions offered by the Museum of New Mexico, Office of Archaeological Studies (OAS), in their survey report for the Hydro Resources, Inc. (HRI) leach uranium mining facility proposed near Crownpoint, New Mexico (Archaeology Notes 214). Your letter also recommends a finding of "no effect" for the proposed mining activities.

Forty-one archaeological sites were found in Sections 8 (T16N, R16W) and 12 (T17N, R13W). No archaeological sites were found in Section 17 (T16N, R16W). My previous letter of 20 November 1997 supported the recommendations put forward by OAS, but included five sites on BLM land (LA 116116, 116117, 116119, 116121, and 117317) and one site on private land (LA 116129) whose eligibility cannot be determined with current information. Under National Historic Preservation Act definitions, these six sites are not technically "historic properties" as they are not definitively eligible for listing in the National Register of Historic Places.

Point 2 on page two of your letter states that "All eligible and potentially eligible historic properties on Sections 8 and 12 would be fenced, as necessary, to preclude intrusion during any construction, mining, or other ground-disturbing activity." This wording would appear to include sites LA 116116, 116117, 116119, 116121, 116129, and 117317 whose eligibility remains undetermined without additional information. If HRI intends to avoid these six sites and protect them with fencing, their eligibility can remain undetermined. If HRI cannot avoid these six sites, or if mining plans change, determining eligibility becomes a point still in need of resolution.

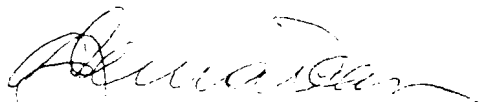
This office recommends that the eligibility of sites LA 116116, 116117, 116119, 116121, 116129, and 117317 be determined. Failing that, this office concurs that the project will have no effect on these six sites provided they are also fenced and avoided by construction, mining, or other ground-disturbing activities.

This office concurs that the proposed mining project will have no effect on the following eligible archeological sites, provided they are fenced and avoided by construction, mining, or other ground-disturbing activities:

LA 26158	LA 88875	LA 116123
LA 26159	LA 88876	LA 116124
LA 26160	LA 88877	LA 116125
LA 26162	LA 88878	LA 116126
LA 26163	LA 116111	LA 116127
LA 26164	LA 116112	LA 116128
LA 70610	LA 116114	LA 116130
LA 88871	LA 116115	LA 117314
LA 88872	LA 116118	LA 117316
LA 88873	LA 116120	LA 117319
LA 88874	LA 116122	

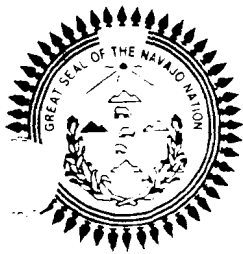
Please contact me with any questions you might have on these comments.

Sincerely,



Glenna Dean
State Archaeologist

Log 55442



THE
NAVAJO
NATION

THOMAS E. ATCITY
PRESIDENT

June 24, 1998

Joseph J. Holonich, Chief
Uranium Recovery Branch
Division of Waste Management
Office of Nuclear Material Safety and Safeguards
U.S. Nuclear Regulatory Commission
Washington D.C. 20555-0001

Dear Mr. Holonich:

The Cultural Resources Compliance Section of the Historic Preservation Department received your letter dated May 20, 1998 on June 4, 1998. Your letter referred to consultation on Navajo Tribal lands, and then specified Section 17 -- a section of trust land -- and requested consultation with the Navajo Nation Historic Preservation Officer pursuant to Section 106 of the National Historic Preservation Act under the authority of the April 1997 agreement. We have deemed your request as applicable to and appropriate to any and all lands within the exterior boundaries of the Navajo Nation (including sections 8, 12, and 17) and are responding accordingly. Further, your letter requested approval pursuant to the Navajo Nation Cultural Resources Protection Act for Navajo Nation lands. With this letter we provide approval pursuant to the NNCRPA and offer the following comments regarding the entirety of the project.

- 1) We concur, based on the information previously provided, with your proposed determinations of eligibility for each of the properties described in the OAS report.
- 2) We further concur that the undertaking described in your May 20 letters to Alan Downer and Lynne Sebastian at the New Mexico State Historic Preservation Office will have **no effect** on properties listed on or eligible to the National Register of Historic Places, provided that:
 - A) All of the eligible properties are avoided by any and all ground disturbing activity by a minimum of 50 feet; and
 - B) In the event of a discovery ["discovery" means any previously unidentified or incorrectly identified cultural resources including but not limited to archaeological deposits, human remains, or locations reportedly associated with Native American religious/traditional beliefs or practices], all operations in the immediate vicinity of the discovery must cease and the Navajo Nation Historic Preservation Department shall be notified at 520-871-7132.

We thank you for your interest in the history and heritage of the Navajo Nation. Should questions arise, please contact the Historic Preservation Office as indicated below.

Sincerely:

A handwritten signature in black ink, appearing to read "Peter T. Noyes", is written over a circular stamp or seal.

Peter T. Noyes, Supervisor
Cultural Resource Compliance Section
Historic Preservation Department
P.O. Box 4950
Window Rock, Navajo Nation, AZ 86515
(520) 871-7132



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

July 10, 1998

Mr. Richard F. Clement, Jr., President
Hydro Resources, Inc.
2929 Coors Blvd., NW
Suite 101
Albuquerque, NM 87120

SUBJECT: RESPONSES TO STAFF'S NATIONAL HISTORIC PRESERVATION ACT
LETTERS DATED MAY 20, 1998

Dear Mr. Clement:

By letters dated June 1, 3, and 24, 1998, the U.S. Nuclear Regulatory Commission (NRC) staff received responses to the subject letters from the Bureau of Land Management (BLM), the Office of the New Mexico State Historic Preservation Officer (NMSHPO), and the Navajo Nation Historic Preservation Department (NNHPD), respectively. These responses are discussed below. As of the date of this letter, no other responses have been received.

The NMSHPO concurred with the NRC staff's proposed finding that Hydro Resources, Inc. (HRI) undertakings on Section 8 at the Church Rock site, and Section 12 north of Crownpoint, would have no effect on the historic properties located therein which are eligible for inclusion in the National Register of Historic Places -- provided such properties "are fenced and avoided by construction, mining, or other ground-disturbing activities."

The NMSHPO had comments concerning six other potentially eligible sites (LA 116116, 116117, 116119, 116121, 116129, and 117317) located on Sections 8 and 12. Five of the six sites are on the public lands portion of Section 8 (i.e., the northeast quarter and western half of Section 8). These public lands are administered by the BLM and are not part of HRI's proposed mining area (although HRI owns patented Federal mining claims on these lands). LA 116129 is located on Section 12 land owned jointly by HRI and a private individual. The only potential mining-related use of the lands on which the six sites are located would be for application of treated waste water. Such use of these land parcels is one of several waste water disposal options available to HRI, as discussed in Sections 2.1.2 and 4.2.1 of the Final Environmental Impact Statement for the proposed Crownpoint, New Mexico, *in situ* leach uranium mining project. Should irrigation operations come within 100 feet of any of the sites identified above, placement of protective fencing around the site would be necessary.

The BLM's response states that if HRI's mining activities expand beyond the southeast quarter of Section 8 onto Section 8 public lands, "we agree that as long as significant or potentially significant cultural properties are avoided the undertaking will have no effect on the properties located there." Any such expansion of the mining area would first require HRI to submit a license amendment application to the NRC.

The NNHPD response asserts that the Navajo Nation has jurisdiction over the above-described Sections 8 and 12, in addition to control of the trust lands on Section 17 at HRI's Church Rock

site. Other than this assertion of jurisdiction, the NNHPD response largely agrees with the NMSHPO's concurrence on the NRC staff's no effect finding, except the NNHPD specifies that the proposed protective fencing on Sections 8 and 12 be placed so as to create buffer areas extending 50 feet around each eligible historic property. Regarding Section 17, the NNHPD response expressed no disagreement with the NRC staff's finding that no historic properties are located there, and approved HRI's undertaking pursuant to the Navajo Nation Cultural Resources Protection Act (NNCRPA).

Until the jurisdictional issues are resolved by the litigation now pending in the United States Court of Appeals for the Tenth Circuit, the effect of the NNHPD comments regarding Sections 8 and 12 will be uncertain.

Based on the NMSHPO concurrence discussed above, and pursuant to 36 CFR § 800.5 (b), the National Historic Preservation Act (NHPA) process is concluded with respect to Sections 8 and 12. Additionally, based on the NNHPD approval discussed above, the NNCRPA process is concluded with respect to Section 17. Accordingly, HRI may proceed with its planned mining-related activities in these areas to the extent authorized by its NRC Materials License SUA-1508. However, if HRI cannot meet any of the following conditions, it must notify the NRC immediately and cease ground-disturbing activities in the affected area.

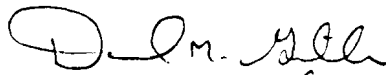
1. Activities must be restricted to Sections 8 and 17 (T16N, R16W) and Section 12 (T17N, 13W), which constitute the areas covered under this NHPA/NNCRPA consultation. Additional NHPA and/or NNCRPA consultations will be required prior to any additional undertakings which HRI may pursue under its NRC license on other lands.
2. All eligible and potentially eligible historic properties on Sections 8 and 12 will be fenced, as necessary, to preclude intrusion during any construction, mining, or other ground-disturbing activity. The recommended fencing (as identified in the Museum of New Mexico, Office of Archaeological Studies, "Cultural Resources Inventory of Proposed Uranium Solution Extraction and Monitoring Facilities at the Church Rock Site and of Proposed Surface Irrigation Facilities North of the Crownpoint Site, McKinley County, New Mexico" (OAS Report), dated 1997) would serve both as a mechanical equipment barrier, and to discourage casual foot traffic trespass. Fencing would remain in place throughout construction and mining phases, and it would not be removed until after site reclamation processes have been concluded following completion of mining. This protective measure will assure that the characteristics of the historic properties will not be changed by the undertaking.
3. All ground-disturbing activities within the vicinity of the historic properties (the areas as identified in the OAS Report) will be monitored by an archaeologist who will have authority to stop ground-disturbing activity in the event that previously undetected subsurface cultural resources are identified. If such a find occurs, the NRC (Mr. Robert Carlson, 301-415-8165), the NNHPD (520-871-7132), and the NMSHPO (505-827-6320) must be notified within 24 hours of the find. The

development of treatment protocols for the unexpected discovery of human remains will be initiated as necessary within the framework of 36 CFR § 800.11, the Native American Graves Protection and Repatriation Act, and applicable New Mexico and Navajo Nation regulations regarding treatment of unmarked burials and protection of human remains.

Should unanticipated circumstances arise such that an effect on any eligible or potentially eligible historic property cannot be avoided, NHPA and/or NNCRPA consultations must be reopened.

If you have any questions concerning this subject, please contact Mr. Robert Carlson of my staff at (301) 415-8165.

Sincerely,



Joseph J. Holonich, Chief
Uranium Recovery Branch
Division of Waste Management
Office of Nuclear Material Safety
and Safeguards

cc: HRI Service List
B. Saulsbury, ORNL

HRI Mailing List - Letter dated July 10, 1998

Office of Commission Appellate
Adjudication
Mail Stop O-16C1
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Administrative Judge
Peter B. Bloch
Presiding Officer
Atomic Safety and Licensing Board
Mail Stop T-3F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Administrative Judge
Thomas D. Murphy
Special Assistant
Atomic Safety and Licensing Board
Mail Stop T-3F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Secretary (2)
Attn: Rulemakings and Adjudications Staff
Mail Stop O-16C1
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Adjudicatory File(2)
Atomic Safety and Licensing Board
Mail Stop T-3F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Atomic Safety and Licensing Board Panel*
Mail Stop T-3F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555

John T. Hull, Esq.(2)
Mitzi A. Young, Esq.
Office of the General Counsel
Mail Stop O-15B18
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Jep Hill, Esq.
Jep Hill and Associates
PO Box 2254
Austin, Texas 78768-2254

Richard F. Clement, Jr.
President
Hydro Resources, Inc.
2929 Coors Road
Suite 101
Albuquerque, New Mexico 87120

Lila Bird, Executive Director
Water Information Network
PO Box 4524
Albuquerque, New Mexico 887106

Mitchell W. Capitan, President
Eastern Navajo-Dine' Against
Uranium Mining
PO Box 471
Crownpoint, New Mexico 87313

Diane Curran, Esq.
Harmon, Curran, Spielberg,
& Eisenberg, L.L.P.
2001 S Street, N.W., Suite 430
Washington, DC 20009

Lori Goodman
Dine' CARE Navajo Nation
10 A Town Plaza, S-138
Durango, Colorado 81301

Mary Lou Jones, President
Zuni Mountain Coalition
PO Box 39
San Rafael, New Mexico 87501

Douglas Meiklejohn
New Mexico Environmental Law Center
1405 Luisa Street, Suite 5
Santa Fe, New Mexico 87505

Bernadine Martin
Po Box 370
Crownpoint, New Mexico 87313