July 7, 2008

Mr. Mark S. Pelizza, President
Hydro Resources, Inc.
650 S. Edmonds Lane
Lewisville, TX 75067

SUBJECT: COMPLIANCE WITH 10 CFR 40.42's TIMELY DECOMMISSIONING REQUIREMENTS

Dear Mr. Pelizza:

On November 5, 1996, the U.S. Nuclear Regulatory Commission (NRC) staff issued NRC Administrative Letter 96-05 to inform all materials and fuel cycle licensees of their responsibility to comply with the requirements of the Rule, "Timeliness in Decommissioning of Material Facilities" (59 FR 36026-36040, July 15. 1994). Revision 1 of NRC Administrative Letter 96-05 (Enclosure) was issued by the staff on July 14, 1998 to incorporate several changes to the original NRC Administrative Letter.

As noted in the Enclosure, the Timeliness Rule amended 10 CFR Parts 2, 30, 40, 70, and 72 and established definitive criteria for the timely decommissioning of material facilities upon the termination of operations. As indicated in the Enclosure, the Timeliness Rule applies to *in situ* leach (ISL) uranium recovery facilities. The purpose of this letter is to remind Hydro Resources, Inc. (HRI) of its obligation to comply with the various elements of the Timeliness Rule at the Crownpoint Uranium Project (CUP) where HRI plans to conduct uranium recovery operations. The rule's requirements that are applicable to the CUP are set forth in 10 CFR Section 40.42 and cover HRI's mine units where contaminated groundwater will need to be restored.

The separate outdoor area provisions (see, e.g., 10 CFR 40.42(d)) mean that the timeliness requirements apply to the CUP on a mine unit-by-mine unit basis. This application reflects the common practice whereby ISL uranium recovery and subsequent groundwater restoration is typically conducted in a sequential manner, in which groundwater restoration may be occurring in one mine unit while active uranium recovery is taking place in another mine unit. Once HRI decides to terminate the principal activity of uranium recovery in a particular mine unit, even though licensed activities may continue to be conducted at other CUP locations, restoration of that mine unit must be initiated on a timely basis.

In conformance with 10 CFR Part 40.42(d), HRI must thus notify NRC and initiate decommissioning (groundwater restoration) in accordance with its approved restoration plan within 60 days of a decision to permanently cease injection of lixiviant in a particular CUP mine unit. Cessation of lixiviant injection would signify HRI's intent to shift from the principal activity of uranium production to the initiation of groundwater restoration. HRI must then select and initiate the sequence of restoration activities (groundwater sweep and permeate injection) that HRI considers appropriate for each mine unit, consistent with its approved restoration plan. While the NRC recognizes that residual uranium in the groundwater may still be recovered following the cessation of lixiviant injection and the initiation of groundwater restoration, the

NRC's position is that the recovery of uranium then becomes incidental to groundwater restoration.

As specified in 10 CFR Part 40.42(h)(1), HRI must also complete mine unit restoration within 24 months after mine unit restoration is initiated. If mine unit restoration requires more than 24 months to complete, HRI must notify the NRC and request an alternate schedule for completion of decommissioning, along with adequate justification for the request. The NRC recognizes that, in many cases, groundwater restoration may take several years or more to complete in a given mine unit. Nevertheless, extensions for restoration beyond 24 months must ensure that decommissioning/restoration will be completed as soon as practical, and that the health and safety of workers and the public will be protected.

HRI should review the Enclosure for a more complete explanation of the Timeliness Rule requirements and flexibility. NUREG-1757, "Consolidated Decommissioning Guidance," also contains information to aid licensees in complying with the Timeliness Rule.

If you have any questions regarding this letter, please contact Bill von Till of my staff at (301) 415-0598, or by e-mail, to rwv@nrc.gov.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice for Domestic Licensing Proceedings and Issuance of Orders," a copy of this letter will be available for public inspection in the NRC Public Document Room or from the Publicly Available Records component of NRC's Agencywide Documents Access and Management System (ADAMS). ADAMS is accessible from the NRC Web site at http://www.nrc.gov/reading-rm/adams.html.

Sincerely,

/RA/

Keith I. McConnell, Deputy Director
Decommissioning and Uranium Recovery
Licensing Directorate
Division of Waste Management
and Environmental Protection
Office of Federal and State Materials
and Environmental Management Programs

Docket No.: 40-8968
License No.: SUA-1580

Enclosure:
NRC Administrative Letter 96-05, Rev. 1

cc: K. Gallegos, NMED
M. Leavitt, NMED
J. Schoeppner, NMED
K. Sweeney, NMA

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