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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE COMMISSION

OFFICE OF SECRETARY
RULEMAKING AND
ADJUDICATIONS STAFF

_____)	
In the Matter of:)	
)	
HYDRO RESOURCES, INC.)	Docket No. 40-8968-ML
2929 Coors Road, Suite 101)	ASLBP No. 95-706-01-ML
Albuquerque, NM 87120)	
_____)	

HYDRO RESOURCES, INC.'S RESPONSE
TO EASTERN NAVAJO DINÉ AGAINST URANIUM MINING'S, SOUTHWEST
RESEARCH AND INFORMATION CENTER'S, AND GRACE SAM'S AND MARILYN
MORRIS' PETITION FOR INTERLOCUTORY REVIEW OF MEMORANDUM AND
ORDER (PROCEDURAL ISSUES) OF FEBRUARY 4, 1999 AND REQUEST FOR STAY

In the above captioned Subpart L proceeding, Intervenors Eastern Navajo Dine' Against Uranium Mining ("ENDAUM"), Southwest Research and Information Center ("SRIC"), and Grace Sam and Marilyn Morris (jointly, hereinafter "Intervenors") challenge Hydro Resources, Inc.'s ("HRI's") license to construct and operate in-situ leach ("ISL") uranium mining facilities at Church Rock Section 8, located in McKinley County, New Mexico. The proceeding has been the subject of several scheduling motions by the parties, and orders by the Presiding Officer and the Commission. Most recently, the Commission issued an order on January 29, 1999, pursuant to its *sua sponte* supervisory authority over adjudications, vacating the January 21, 1999 order (*reaffirmed* on January 25, 1999), by the Presiding Officer which extended the deadline for

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**U.S. NUCLEAR REGULATORY COMMISSION
RULEMAKING & ADJUDICATIONS STAFF
OFFICE OF THE SECRETARY
OF THE COMMISSION**

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Intervenors' final briefs from February 1 until March 5.¹ CLI-99-1, 48 NRC ____, ____ (Jan. 29, 1999), slip op. ("Commission's Order"). The Commission's order requires Intervenors to file their final briefs by February 16, noting that Intervenors had only requested an extension until February 16 and that the Presiding Officer granted them until March 5, "nearly three weeks *more* than intervenors themselves had requested." Commission's Order at 2 (emphasis in original). As it has on several prior occasions in this proceeding, the Commission also stressed its general interest in fair but speedy decision making. Commission Order at 2-3, *see also*, CLI-98-16, 48 NRC ____, ____ (Sept. 15, 1998), slip op. at 1; CLI-98-22, 48 NRC ____, ____, (Oct. 23, 1998) slip op. at 3.

Undeterred, Intervenors filed yet another motion on February 3 requesting permission to file motions for leave to reply and/or request oral presentations after their final presentations and for an extension of the filing date from February 16 to February 23. On February 4, the Presiding Officer denied the motion based on the Commission's explicit order not to extend deadlines beyond those prescribed in the order.

Determined to file yet more paper in this matter and require HRI to expend more resources, Intervenors filed an eleven page request for interlocutory review of the Presiding Officer's February 3 order arguing in sum that "the changes in the filing schedule over the last several weeks have caused extreme prejudice to Intervenors' ability to prepare their case." Petition for Interlocutory Review at 6. Intervenors' claims of hardship and prejudice are unfounded. As stated above, Intervenors had only requested an extension until February 16 to file their final brief; the Presiding Officer granted them until March 5, "nearly three weeks *more*

¹ The Presiding Officer's order was issued in response to a motion filed by Intervenors on January 19, 1999, requesting an extension until February 16 to file their final briefs.

than intervenors themselves had requested.” Commission’s Order at 2 (emphasis in original). Thus, the Commission *granted* Intervenor’s motion for an extension and has permitted them to file on February 16, the date *they requested* in their motion for an extension.

Intervenors argue that they should be granted additional time because they relied on the March 5 filing date and used the additional time for more thorough preparation of their case. Additionally, Intervenor audaciously state that their requested extension “will not prejudice any party.” Intervenor’s arguments are outrageous and previously have been rejected by the Commission. HRI, with few resources, fewer experts, and fewer lawyers, has thus far managed to comply with the briefing schedule originally established by the Presiding Officer. Contrary to Intervenor’s flippant assertion, HRI *is* prejudiced every week that this proceeding drags on as HRI must rely on the capital markets to obtain working capital and prolonging this proceeding makes this task increasingly more difficult and expensive. Intervenor’s repeated procedural motions suggest that they are only too aware that HRI *is* prejudiced by every extension or delay. Intervenor should not be permitted, to HRI’s substantial detriment, to further drag out this proceeding because they are ill-prepared put on their case.²

For the reasons stated above, and for those stated in HRI’s brief of January 25, 1999, Intervenor’s petition should be DENIED, and the proceeding continue as scheduled.

² It bears mention that at the outset of this proceeding, Intervenor strenuously objected to the bifurcation and delay of this proceeding arguing that Intervenor were *ready to brief all issues* as to *all sites* projected to be part of the Crownpoint Uranium Project. See ENDAUM’s and SRIC’s Opposition to HRI’s Request for Reconsideration or Clarification of LBP-98-9 and Request for Bifurcation (June 22, 1998).

Respectfully submitted this 5th day of February, 1999.

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Albuquerque, NM 87120)
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Docket No. 40-8968-ML
ASLBP No. 95-706-01-ML

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing documents, HYDRO RESOURCES, INC.'S RESPONSE TO EASTERN NAVAJO DINÉ AGAINST URANIUM MINING'S, SOUTHWEST RESEARCH AND INFORMATION CENTER'S, AND GRACE SAM'S AND MARILYN MORRIS' PETITION FOR INTERLOCUTORY REVIEW OF MEMORANDUM AND ORDER (PROCEDURAL ISSUES) OF FEBRUARY 4, 1999 AND REQUEST FOR STAY, in the above-captioned proceeding have been served on the following by first-class mail on this 5th day of February, 1999.

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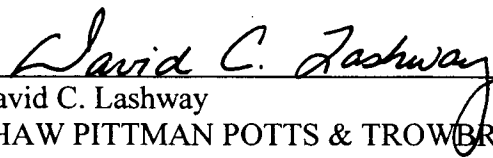
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