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May 20, 1998

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OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

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:

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- 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 on land 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.

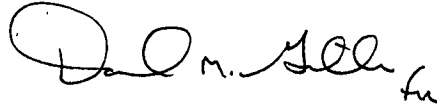
If your office has any questions, please contact Mr. Robert Carlson, NRC's Project Manager of the HRI mining project, at (301) 415-8165. If no response from your office is received within 30 days of your receipt of this letter with respect to Sections 8 and 12, the NRC staff will assume that your office 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,

Dr. L. Sebastian

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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 "J. J. Holonich" with a stylized flourish at the end.

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

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cc: for letter dated 5/20/98

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