



RELATED CORRESPONDENCE

DOCKET NUMBER
BYPRODUCTS 40-8968-ML

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

DOCKETED
USNRC

May 20, 1998

'98 MAY 22 A9:45

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

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

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.

SECY-040

DS03

19121

Dr. A. Downer

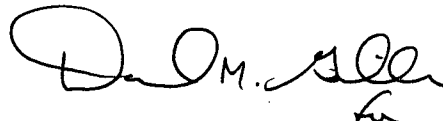
-2-

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