

August 30, 1999

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

The Honorable Peter B. Bloch, Presiding Officer

In the Matter of)
)
HYDRO RESOURCES, INC.)
P.O. Box 15910)
Rio Rancho, NM 87174)
_____)

Docket No. 40-8968-ML

ASLBP No. 95-706-01-ML

OFFICE OF THE SECRETARY
RULES AND PROCEDURES
ADJUDICATION DIVISION

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**ENDAUM'S AND SRIC'S MOTION FOR
EXTENSION OF TIME TO RESPOND TO
MOTION FOR SUSPENSION, ETC.**

Intervenors Eastern Navajo Diné Against Uranium Mining ("ENDAUM") and Southwest Research and Information Center ("SRIC") hereby request an extension of the time for responding to Hydro Resources, Inc.'s ("HRI's") Motion for Suspension Or, In the Alternative, Reprimand or Censure and Request for Attorneys Fees (August 26, 199) ("HRI's Motion"). In a twenty-plus page motion, HRI launches a broad and scurrilous attack on the integrity of counsel for ENDAUM and SRIC, and seeks the severest penalties for their alleged misconduct, including censure, dismissal from this proceeding, and the award of millions of dollars in attorneys fees. The gravity of the attack is matched only by its utter lack of foundation.

By its apparent design, the timing of HRI's Motion will have the effect of diverting ENDAUM's and SRIC's resources away from the substance of this case to

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Department of Justice

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HRI's meritless attack on the integrity of ENDAUM's and SRIC's lawyers.¹ Under the Commission's procedural regulations, ENDAUM and SRIC have ten days, or until September 7, in which to answer the charges made by HRI. During most of this time, ENDAUM and SRIC are also required to prepare their final 60-page petition for review on the Presiding Officer's last three partial initial decisions regarding six major issues in the case: financial and technical qualifications, air emissions, groundwater protection, cumulative impacts, NEPA, and Environmental Justice. *See* CLI-99-18, 50 NRC 411 (1999). ENDAUM and SRIC have been given only 14 days to undertake this enormous endeavor, and the final petition for review is due on September 3. *Id.* The appeal requires the review of over a hundred pages of decisions by the Presiding Officer, and hundreds of pages of briefs and evidence presented by the parties. This leaves virtually no time for ENDAUM and SRIC to respond to HRI's Motion.

Given the gravity of the charges leveled by HRI against ENDAUM's and SRIC's attorneys, and given the dire effect that the relief sought by HRI would have on ENDAUM and SRIC's interest in this case as well as the reputation of their attorneys, ENDAUM and SRIC must be given an adequate and meaningful opportunity to respond. ENDAUM and SRIC therefore request an extension until September 17, 1999, for responding to HRI's Motion. Taking into account the weekend and the

¹As discussed below, the events of which HRI complains occurred months ago. The only conceivable purpose for the timing of HRI's Motion is to harass ENDAUM and SRIC and their counsel while they are preparing their final petition for review.

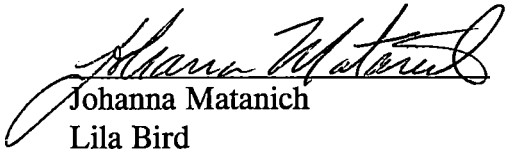
Labor Day holiday following September 3, such an extension would give ENDAUM and SRIC ten days after the filing of their final petition for review in which to respond to HRI's motion. The requested extension would have little or no adverse effect on HRI. The proceeding before the Presiding Officer concerning Section 8 and the adequacy of the license itself is now over, and the only immediate requirement for a filing by ENDAUM and SRIC is the Presiding Officer's request for a brief concerning the schedules and procedures for the rest of the case, on or before September 28, 1999. *Hydro Resources, Inc.*, LBP-99-30, 50 NRC ____, *slip. op.* at 80 (August 20, 1999). Any conceivable harm to HRI that might be caused by ENDAUM's and SRIC's counsel's participation in the preparation of that filing, would be far outweighed by the harm to ENDAUM and SRIC if they are not given an adequate opportunity to respond to the extremely serious charges in HRI's Motion. Moreover, the Presiding Officer should not grant HRI the unfair advantage it seeks by filing this untimely motion. All of the events complained of by HRI occurred months ago, the most recent being allegedly *ex parte* statements by Diane Curran to the Commissioners over two months ago, on June 17, 1999. HRI had no justification for waiting until now to file its motion, and the only apparent motivation is to compromise ENDAUM's and SRIC's appeal to the Commission.

ENDAUM and SRIC have attempted to contact counsel for HRI and the NRC Staff regarding this request. Counsel for HRI stated it opposes this motion.

ENDAUM and SRIC were unable to reach counsel for the Staff for its position.

For the foregoing reasons, ENDAUM and SRIC request a ten day extension of time to file their response to HRI's Motion, until September 17, 1999.

Respectfully Submitted,



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August 30, 1999

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD PANEL

Before Administrative Judge Peter B. Bloch, Presiding Officer

In the Matter of)
)
HYDRO RESOURCES, INC.)
2929 Coors Road)
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_____)

Docket No. 40-8968-ML
ASLBP No. 95-706-01-ML

OFFICE OF THE SECRETARY
RULEMAKING AND ADJUDICATION STAFF

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CERTIFICATE OF SERVICE

I hereby certify that:

On August 30, 1999, I caused to be served copies of the following:
INTERVENORS' MOTION FOR EXTENSION OF FILING DEADLINE
EXPEDITED REVIEW REQUESTED

to the following parties marked by an asterisk via e-mail. Service was also made upon the following persons by U.S. mail, first class, and in accordance with the requirements of 10 C.F.R. § 2.712. The envelopes were addressed as follows:

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Dated at Santa Fe, New Mexico,
August 30, 1999,


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