

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.	)	Docket No. 40-8968-ML
P.O. Box 15910	)	
Rio Rancho, NM 87174	)	ASLBP No. 95-706-01-ML
_____	)	

**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, 1999) ("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

SECY-EHD-006

20780

DOCKETED  
USNRC

99 SEP -1 P3:34

OFFICE OF THE  
PRESIDENTIAL  
ADVISORY BOARD  
ON SCIENCE AND  
TECHNOLOGY

U.S. DEPARTMENT OF JUSTICE  
FEDERAL BUREAU OF INVESTIGATION

Case No.                       
Date                     

Report of                     

Postmark Date 8/30/99  
Copies Received 3  
Add'l Copies Reproduced 0  
Special Distribution                     

OGC, RIDS

HRI's meritless attack on the integrity of ENDAUM's and SRIC's lawyers.<sup>1</sup> 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

---

<sup>1</sup>As 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.

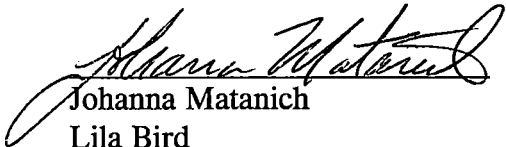
Labor Day holiday following September 3, such an extension would give ENDAUM and SRIC ten days after the filing of their final petition for review in which to respond to HRI's motion. The requested extension would have little or no adverse effect on HRI. The proceeding before the Presiding Officer concerning 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,



Johanna Matanich  
Lila Bird  
Douglas Meiklejohn  
NEW MEXICO  
ENVIRONMENTAL LAW CENTER  
1405 Luisa Street Suite 5  
Santa Fe, N.M. 87505  
(505) 989-9022



Diane Curran  
HARMON, CURRAN, SPIELBERG,  
& EISENBERG, LLP  
1726 "M" Street, Suite 600  
Washington DC 20036  
(202) 328-3500

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 )

Suite 101 )

Albuquerque, NM 87120 )

Docket No. 40-8968-ML

ASLBP No. 95-706-01-ML

OFFICE OF THE  
SECRETARY  
ADJUDICATION  
STAFF

99 SEP -1 P3:35

DOCKETED  
USMRC

**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:

Office of the Secretary\*  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555-0001  
Attn: Rulemakings and Adjudications  
Staff

Administrative Judge  
Peter B. Bloch\*  
Atomic Safety and Licensing Board  
Mail Stop - T-3 F23  
U.S. Nuclear Regulatory Commission  
Washington D.C. 20555

Office of Commission Appellate  
Adjudication  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555

Administrative Judge  
Thomas D. Murphy\*  
Special Assistant  
Atomic Safety and Licensing Board  
Mail Stop - T-3 F23  
U.S. Nuclear Regulatory Commission  
Washington DC 20555

Jep Hill, Esq.  
Attorney for Hydro Resources, Inc.  
Jep Hill & Associates  
P.O. Box 2254  
Austin, TX 78768

Mitzi Young  
John T. Hull  
Office of the General Counsel\*  
Mail Stop - O-15 B18  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555

Samuel D. Gollis  
Hopi Legal Services\*  
PO Box 558  
Keams Canyon, AZ 86034

Diane Curran  
HARMON, CURRAN, SPIELBERG &  
EISENBERG, LLP\*  
2001 "S" Street, N.W., Suite 430  
Washington DC 20009

Levon Henry, Attorney General  
Steven J. Bloxham, Esq.  
Navajo Nation Department of Justice  
P.O. Drawer 2010  
Window Rock, AZ 86515

Anthony J. Thompson  
Frederick Phillips  
David Lashway  
SHAWPITTMAN\*  
2300 "N" Street, N.W.  
Washington, D.C. 20037-1128

William Paul Robinson  
Chris Shuey  
Southwest Research and Information  
Center  
P.O. Box 4524  
Albuquerque, NM 87106

Mitchell Capitan  
ENDAUM  
P.O. Box 150  
Crownpoint, NM 87313

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

  
Johanna Matanich