

DOCKETED
USNRC

October 2, 1998
'98 OCT -7 A10 :44

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

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

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

**ENDAUM'S AND SRIC'S NOTICE IN RESPONSE TO MEMORANDUM
AND ORDER (SCHEDULING AND PARTIAL GRANT OF
MOTION FOR BIFURCATION) OF SEPTEMBER 22, 1998**

This notice is filed pursuant to the Presiding Officer's Memorandum and Order
(Scheduling and Partial Grant of Motion for Bifurcation) (September 22, 1998)

("September 22 Order"). The September 22 Order provides that:

Intervenors shall divide their presentation into four roughly equal
segments that will be filed on four dates that are roughly equally spaced
between now and February 1, 1999. Within 10 days from today, they
shall notify the service list in writing concerning the content and dates of
their presentations.

Id. at 4.

Intervenors Eastern Navajo Diné Against Uranium Mining ("ENDAUM") and
Southwest Research and Information Center ("SRIC") hereby provide notice of the
content and dates of their presentations.

At the outset, ENDAUM and SRIC wish to point out that by filing this notice,
they do not in any respect waive the arguments set forth in their Joint Motion for

19614

COMMISSION
STAFF
OFFICE OF THE SECRETARY
OF THE COMMISSION

Document Statistics

Postmark Date 10/2/98
Copies Received 3
Add'l Copies Requested 0
Special Distribution
OGC, KIDS

Reconsideration of the September 22 Order, in which they have requested that the schedule for this case be reconsidered and modified. *See* Joint Motion for Reconsideration by ENDAUM, SRIC, Marilyn Morris, and Grace Sam of Memorandum and Order (Scheduling and Partial Grant of Motion for Bifurcation) of September 22, 1998 (September 30, 1998) ("Joint Motion"). As demonstrated in the Joint Motion, it is impossible for Intervenors' expert witnesses to prepare their analyses before February 1, 1999, let alone submit four roughly equally spaced filings before February 1, 1999. *Id.* at 16. Moreover, the September 22 Order was based on misconceptions or inadequate information by the Presiding Officer. *Id.* at 1-2, 6-16.

By adhering to the September 22 Order, ENDAUM and SRIC can only repackage the arguments and evidence set forth in their areas of concern and in their January, 1998 stay motion, rather than make adequate evidentiary and legal presentations in their admitted areas of concern. Some areas of concern will likely be abandoned because inadequate time has been allocated. *Id.* at 16. This will deprive the Intervenors of their right to a meaningful hearing. *See* Joint Motion for Reconsideration at 7, 14. It is therefore with heavy reservations that ENDAUM and SRIC provide the following dates and content of their presentations. ENDAUM and SRIC reserve their right to challenge the September 22 Order before the Commission and before the federal Circuit Court, if necessary, at a later date.

Because the Presiding Officer has stated that these dates may be *roughly equally*

spaced, ENDAUM and SRIC have incorporated a small amount of flexibility in this schedule to avoid filing their presentations immediately following the upcoming holidays. And, each deadline contains either two or three presentation topics, which is consistent with the Presiding Officer's order requiring each segment to be roughly equal.

November 6, 1998

- Performance-based licensing, and related concerns
- Liquid waste disposal, surface water protection; adequacy of consideration in the EIS, and related concerns

December 7, 1998

- Compliance with NHPA; NGPRA; related cultural resource issues; adequacy of consideration in EIS, and related concerns
- Transportation of radioactive and hazardous materials and wastes; adequacy of consideration in EIS; related concerns

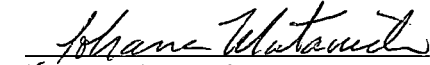
January 7, 1999

- Groundwater protection, adequacy of financial assurance, adequacy of information and consideration of groundwater impacts in EIS, and related concerns
- HRI qualifications in training and experience; adequacy of consideration in EIS; related concerns
- Air emissions controls; adequacy of consideration in EIS, related concerns

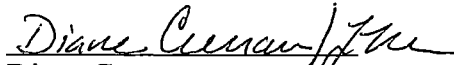
February 1, 1999

- NEPA consideration of action alternatives; cumulative impacts of project; segmentation of assessment of impacts; consideration of mitigation; failure to supplement FEIS; related concerns
- Environmental justice; consideration of health impacts; impacts on property values in low income minority community; designation of Navajo Nation EPA as cooperating agency
- NEPA purpose, need and cost-benefit analysis, consideration of economic risks and impacts; no action alternative; related concerns

Respectfully, Submitted this 2nd day of October, 1998,



Johanna Matanich
Douglas Meilkejohn
Douglas W. Wolf
NEW MEXICO ENVIRONMENTAL
LAW CENTER
1405 Luisa Street, Suite 5
Santa Fe NM 87505
(505) 989-9022



Diane Curran
HARMON, CURRAN, SPIELBERG,
& EISENBERG, LLP
2001 "S" Street, Suite 430
Washington DC 20009
(202) 328-3500

DOCKETED
USNRC

October 2, 1998

98 OCT -7 A10:44

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

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

Before Administrative Judge Peter B. Bloch, Presiding Officer

_____)	
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)	
_____)	

CERTIFICATE OF SERVICE

I hereby certify that:

On October 2, 1998, I caused to be served copies of the following:

ENDAUM'S and SRIC's Notice in Response to Memorandum and Order (Scheduling and Partial Grant of Motion ofr Bifurcation) of September 22, 1998

upon the following persons by U.S. mail, first class, and in accordance with the requirements of 10 C.F.R. § 2.712. The parties marked by an asterisk (*) were also served by e-mail. 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

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

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

Mervyn Tilden
Mary Lou Jones
Zuni Mountain Coalition
P.O. Box 39
San Rafael, NM 87051

Roderick Ventura*
Samuel D. Gollis
DNA - People's Legal Services, Inc.
PO Box 306
Window Rock, AZ 86515

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

Dated at Santa Fe, New Mexico,
October 2, 1998,



Johanna Matanich

Richard Packie, Executive Director
Water Information Network
P.O. Box 4524
Albuquerque, NM 87106

Mervyn Tilden
P.O. Box 457
Church Rock, NM 87311

Lori Goodman
Diné CARE
Navajo Nation
10-A Town Plaza, S-138
Durango, CO 81301

Jon J. Indall
Joseph E. Manges
COMEAU, MALDEGEN,
TEMPLEMAN & INDALL, LLP*
P.O. Box 669
Santa Fe, NM 87504-0669

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

Anthony J. Thompson
Frederick Phillips
Barry S. Neuman
David H. Kim
SHAW, PITTMAN, POTTS &
TROWBRIDGE*
2300 "N" Street, N.W.
Washington, D.C. 20037-1128