

October 19, 1998 DOCKETED
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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

'98 OCT 20 P4:15

Before the Commission

OFFICE OF SECRETARY
RULEMAKING AND
ADJUDICATIONS STAFF

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

**HRI'S RESPONSE TO ENDAUM'S AND SRIC'S
REQUEST FOR EXPEDITED REVIEW**

**I. HRI FAVORS EXPEDITED REVIEW OF ENDAUM'S
AND SRIC'S PETITION FOR INTERLOCUTORY APPEAL**

Hydro Resources, Inc. ("HRI") favors expedited review of ENDAUM's and SRIC's Petition for Review of Memorandum and Order (Scheduling and Partial Grant of Motion for Bifurcation) (September 22, 1998) And Request for Stay, filed October 7, 1998 (hereinafter, "Petition for Review"). As discussed in HRI's Response to Endaum's and SRIC's Joint Request for Interlocutory Review of September 22, 1998 Order and Request for Stay also filed this date, HRI believes that the Petition for Review is without merit and should be denied. HRI favors expedited resolution of the Petition for Review so that it does not distract the parties from

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readying their presentations on Intervenors' substantive challenges to HRI's license in accordance with the schedule established by the Presiding Officer.^{1/}

II. ENDAUM AND SRIC ARE NOT ENTITLED TO A STAY OF THE SCHEDULING ORDER.

To obtain a stay pending appeal, Intervenors must:

- (1) make a strong showing that they are likely to prevail upon the merits of their appeal;
- (2) show that they will be irreparably harmed in the absence of the requested relief.^{2/}

Here, Intervenors do not even attempt to make the required showings. Consequently, a stay of the Presiding Officer's scheduling order is improper and must be denied.

III. CONCLUSION

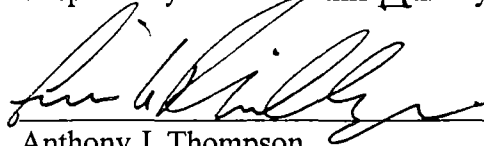
HRI concurs in Intervenors' Request for Expedited Review of their Petition for Interlocutory Appeal. For all of the foregoing reasons, HRI respectfully requests that the Commission

^{1/} HRI takes issue with Intervenors' complaint that the Presiding Officer's September 22, 1998 and October 13, 1998 Orders "cause confusion as to which issues raised by the Intervenors are ripe and which issues must be deferred" and that "Intervenors risk briefing too many or too few issues. . . ." (Intervenors' Request for Expedited Review, p.2). The Presiding Officer's September 22 Order authorizes Intervenors to submit written presentations with respect to any issues germane to the licensed project generally (i.e., issues generic to the project in its entirety) and issues germane specifically to Section 8 of the project. Issues germane specifically to later phases of the project (i.e., the geographically and temporally distinct Crownpoint, Churchrock Section 17 and Unit 1 phases of the project) are deferred. Intervenors, as the parties who have raised each of the issues underlying their challenge to HRI's license, must have some notion of how these issues conform to the Presiding Officer's scheduling order.

^{2/} Virginia Petroleum Jobbers Ass'n. v. FPC, 259 F.2d 921, 925 (D.C. Cir. 1958); 10 C.F.R. § 2.788(e).

GRANT Intervenor's Request for Expedited Review and DENY Intervenor's Appeal and Request for Stay.

Respectfully submitted this 19th day of October, 1998.



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Albuquerque, New Mexico 87120)	
)	

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing documents (Hydro Resources, Inc.'s Response To ENDAUM's and SRIC's Joint Request for Interlocutory Review of September 22, 1998 Order and Request for Stay, HRI's Response to ENDAUM's and SRIC's Request for Expedited Review) in the above-captioned proceeding have been served on the following by Facsimile or as otherwise indicated (or, in the instances where a fax number is not available, as indicated by an asterisk, by Certified Mail, Return Receipt Requested) on this 19th day of October, 1998.

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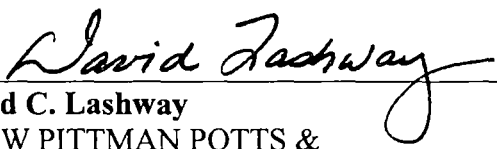
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