

October 19, 1998 DOCKETED  
USNRC

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

19656

U.S. NUCLEAR REGULATORY COMMISSION  
RULEMAKINGS & ADJUDICATIONS STAFF  
OFFICE OF THE SECRETARY  
OF THE COMMISSION

Document Statistics

Postmark Date 10/19/98 (fax rec'd 10/20)  
Copies Received                       
Add'l Copies Reproduced 12  
Special Distribution                       
SIDS (fax); RIDS

readying their presentations on Intervenor's substantive challenges to HRI's license in accordance with the schedule established by the Presiding Officer.<sup>1/</sup>

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

To obtain a stay pending appeal, Intervenor's 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.<sup>2/</sup>

Here, Intervenor's 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 Intervenor's Request for Expedited Review of their Petition for Interlocutory Appeal. For all of the foregoing reasons, HRI respectfully requests that the Commission

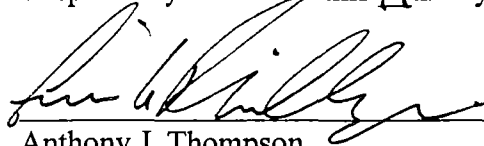
---

<sup>1/</sup> HRI takes issue with Intervenor's complaint that the Presiding Officer's September 22, 1998 and October 13, 1998 Orders "cause confusion as to which issues raised by the Intervenor's are ripe and which issues must be deferred" and that "Intervenor's risk briefing too many or too few issues. . . ." (Intervenor's Request for Expedited Review, p.2). The Presiding Officer's September 22 Order authorizes Intervenor's 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. Intervenor's, 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.

<sup>2/</sup> 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.



Anthony J. Thompson

Frederick S. Phillips

SHAW, PITTMAN, POTTS & TROWBRIDGE

2300 N Street, N.W.

Washington, D.C. 20037-1128

Tel: (202) 663-8000

Fax: (202) 663-8007

Jeptha P. Hill  
LAW OFFICE OF JEP HILL  
816 Congress Avenue  
Suite 1100  
Austin, Texas 78701-2443

ON BEHALF OF HYDRO RESOURCES, INC.  
2929 Coors Road, Suite 101  
Albuquerque, New Mexico 87120

DOCKETED  
USNRC

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

'98 OCT 20 P4:15

Before The Commission

OFF.

ADJ.

In the matter of

HYDRO RESOURCES, INC.

2929 Coors Road

Suite 101

Albuquerque, New Mexico 87120

)  
)  
) Docket No. 40-8968-ML  
)  
)

) ASLBP No. 95-706-01-ML  
)  
)

**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.

Administrative Judge  
Peter B. Bloch, Presiding Officer  
Atomic Safety and Licensing Board  
Two White Flint North  
11545 Rockville Pike  
U.S. Nuclear Regulatory Commission  
Rockville, Maryland 20852

Adjudicatory File  
Atomic Safety and Licensing Board  
One White Flint North  
11555 Rockville Pike  
U.S. Nuclear Regulatory Commission  
Rockville, Maryland 20852

Office of the Secretary  
Attn: Rulemakings and Adjudications Staff  
One White Flint North  
11555 Rockville Pike  
U.S. Nuclear Regulatory Commission  
Rockville, Maryland 20852

Office of Commission Appellate  
Adjudication  
One White Flint North  
11555 Rockville Pike  
U.S. Nuclear Regulatory Commission  
Rockville, Maryland 20852

Administrative Judge  
Thomas D. Murphy  
Special Assistant  
Atomic Safety and Licensing Board  
Two White Flint North  
11545 Rockville Pike  
U.S. Nuclear Regulatory Commission  
Rockville, Maryland 20852

Jep Hill, Esq.  
Jep Hill and Associates  
816 Congress Avenue, Suite 1100  
Austin, Texas 78701

Richard F. Clement, Jr., President  
Hydro Resources, Inc.  
2929 Coors Road, Suite 101  
Albuquerque, New Mexico 87120

Mitzi Young  
John Hull  
Office of the General Counsel  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555-0001

Mitchell W. Capitan, President  
Eastern Navajo-Diné Against  
Uranium Mining  
P.O. Box 471  
Crownpoint, New Mexico 87313

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

Lila Bird, Executive Director\*  
Water Information Network  
P.O. Box 4524  
Albuquerque, New Mexico 87106

Atomic Safety and Licensing Board Panel  
One White Flint North  
11555 Rockville Pike  
U.S. Nuclear Regulatory Commission  
Rockville, Maryland 20852

John J. Indall, Esq.  
Comeau, Maldegen, Templeman & Indall  
141 East Palace Avenue  
Santa Fe, New Mexico 87504-0669

Douglas Meikeljohn  
Johanna Matanich  
New Mexico Environmental Law Center  
1405 Luisa Street Suite 5  
Santa Fe, NM 87505

Diane Curran, Esq.  
Harmon, Curran, Spielberg & Eisenberg,  
L.L.P.  
2001 S Street, N.W., Suite 430  
Washington, D.C. 20009

W. Paul Robinson  
Chris Shuey  
Southwest Research and Information Center  
P.O. Box 4524  
Albuquerque, New Mexico 87106

Mary Lou Jones, President\*  
Zuni Mountain Coalition  
P.O. Box 39  
San Rafael, New Mexico 87051

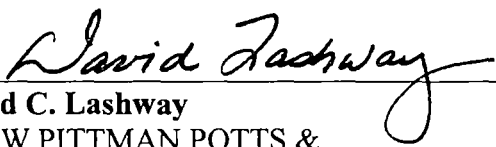
Bernadine Martin\*  
P.O. Box 370  
Crownpoint, New Mexico 87313

Marilyn Morris  
c/o Roderick Ventura  
and Samuel D. Gollis  
DNA - People's Legal Services, Inc.  
P.O. Box 306  
Window Rock, AZ 86515

Mervyn Tilden\*  
P.O. Box 457  
Church Rock, New Mexico 87311

Grace Sam  
c/o Roderick Ventura  
and Samuel D. Gollis  
DNA - People's Legal Services, Inc.  
P.O. Box 306  
Window Rock, AZ 86515

Mr. Mark Pelizza  
Vice President  
URI, Inc.  
Lockbox 12 - 12750 Merit Drive, Suite 1020  
Dallas, TX 75251

  
**David C. Lashway**  
SHAW PITTMAN POTTS &  
TROWBRIDGE  
2300 N Street, N.W.  
Washington, DC 20037  
Counsel for Hydro Resources, Inc.