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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

'99 APR 21 P3:12

ATOMIC SAFETY AND LICENSING BOARD PANEL

Before Administrative Judges:
Peter B. Bloch, Presiding Officer
Thomas D. Murphy, Special Assistant
Robin Brett, Special Assistant

OFFICE OF SECRETARY
RULEMAKING AND
ADJUDICATION STAFF

SERVED APR 21 1999

In the matter of

HYDRO RESOURCES, INC.
(2929 Coors Road
Suite 101
Albuquerque, New Mexico 87120)

Docket No. 40-8968-ML

Re: Leach Mining
and Milling License

ASLBP No. 95-706-01-ML

MEMORANDUM AND ORDER
(Questions)

The Presiding Officer directs the parties, pursuant to 10 C.F.R. § 2.1233(a), to respond to the questions set forth below. The answers are relevant to Intervenor's (SRIC, ENDAUM and the Sams) concerns about groundwater, the adequacy of the Final Environmental Impact Statement, NUREG-1508, February 1977 (FEIS), and environmental justice.

1. Based on the experience of Uranium Resources, Inc. (URI) and of the *in situ* leach mining (ISL) industry generally, as well as the laboratory work reported in the Final Environmental Impact Statement, NUREG-1508, February 1997, Tables 4.8 and 4.9 at pp. 4-32, 33, what *important* difficulties (including unlikely but foreseeable difficulties) may reasonably be considered for the Crownpoint Uranium Project (CUP)

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concerning restoration of groundwater quality at Churchrock Section 8? What environmental costs may reasonably be expected to result from foreseeable difficulties?¹

2. Based on local geology, what assurance is there concerning the likelihood of the existence of shears, fractures, and joints that could transmit appreciable quantities of water above or below the Westwater aquifer?² How much greater assurance may reasonably be anticipated prior to commencing ISL operations at Churchrock Section 8? What environmental costs may reasonably be expected to result from foreseeable difficulties at Churchrock Section 8?

3. Qualitatively and, if possible, quantitatively, what are the effects on the quality of water that may reasonably be foreseen at the closest private water wells to Churchrock Section 8, resulting from the poorest foreseeable condition of groundwater after restoration is completed?

4. What are the adjusted benefits of the CUP, as stated in the FEIS, for one or two prices of yellowcake that are at or above the minimum price at which HRI would commence work on this project? (This is important because the price of uranium fluctuates and a reasonable cost/benefit picture requires an assessment of benefits at more than one arbitrary price.)

¹The Presiding Officer acknowledges the information contained in the Affidavit of Mark S. Pelizza Pertaining to Water Quality Issues, at 60-78. None of the issues addressed in that affidavit are a part of this question, which is concerned about estimating the *a priori* risk that baseline values will not be restored.

²See Affidavit of Frank Lee Lichnovsky, February 19, 1999 at 24-25, commenting on the absence of faults and mentioning a "pump test" but not assessing the extent of the risk that could occur through undetected shears, fractures or joints.

5. Because of financial and market uncertainties, it is foreseeable that Churchrock Section 8 will be the only section developed. What are the governmental needs that arise because of the CUP? Would local governments need to make any capital expenditures that might not be recouped if the CUP suspended or terminated mining operations without going beyond Section 8? In light of the financial situation of local governments, would environmental justice considerations require indemnification or assurances to local governments for possible losses?³

6. What are the financial effects of uncertainties about the application of a tax on the CUP by the Navajo Nation? In light of these uncertainties and the possibility of litigation about this tax, are the parties willing to offer to begin negotiation with relevant governments? Have negotiations begun? Are negotiations producing results?

7. For Churchrock Section 8 (and 28 days later for the entire CUP⁴): What is your comparative analysis of the NRC Staff-Recommended Action to: (1) the non-action alternative, and (2) Alternative 2 (modified action) -- including a concise, descriptive summary of the advantages and disadvantages of the options? See CEQ "Memorandum to Agencies; Answers to 40 Most Asked Questions on NEPA Regulations," 46 Fed. Reg. 18,026; see also 40 C.F.R. § 1502.14 (Council on Environmental Quality, guidance). *Louisiana Energy Services, L.P.* (Claiborne Enrichment Center), CLI-98-3, 47 NRC 77, 98 (and 97-99) (1998). In your answers to this question, please consider the answers to the questions set forth above in your overall discussion.

³ See *Louisiana Energy Services, L.P.* (Claiborne Enrichment Center), CLI-98-3, 47 NRC 77, 100 (1998).

⁴These answers may not be required to complete the determination of whether or not HRI may proceed to mine Churchrock Section 8.

8. Intervenors Groundwater Exhibit L quotes Cowan (1991), who states that near Church Rock, channelways "15-30 m. thick" occur "which would affect fluid flow." SRIC/ENDAUM will please promptly provide a reference for the citation so that we may discover whether Cowan says anything about the width of these channelways.

ORDER

For all the foregoing reasons and upon consideration of the entire record in this matter, it is this 21ST day of April, 1999, ORDERED, that:

1. Answers to the questions set forth in the Memorandum, above, may be delivered to the service list by close of business May 10, 1999.

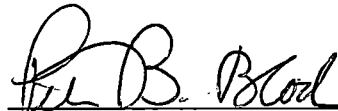
2. Parties other than the Staff of the Nuclear Regulatory Commission may choose not to answer Questions 1-7, above.

3. Parties may respond to the answers filed under ordering paragraph (1.), above, by delivering the responses to the service list by close of business May 24, 1999.

4. Answers to paragraph 7 of the Memorandum, concerning "the entire CUP," may be delivered to the service list by close of business June 7, 1999 and the responses to these answers may be delivered to the service list by close of business June 21, 1999.

5. Motions for extensions of time for any of the deadlines set forth in this Order shall be filed by delivering the motions to the service list by close of business April 28, 1999. Prior to filing these motions, the filing party must consult with the other parties and attempt to reach consensus concerning the request and subsequent adjustments in the deadline for responses.

6. In order to expedite this proceeding in case a supplement to the FEIS may be required, the Staff is requested to prepare its answers to questions 1-7, posed in the memorandum, in a form suitable for a supplement to the FEIS.



Peter B. Bloch, Administrative Judge
Presiding Officer

Rockville, Maryland

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of
HYDRO RESOURCES, INC.

Docket No.(s) 40-8968-ML

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB MEMO & ORDER (QUESTIONS) have been served upon the following persons by U.S. mail, first class, except as otherwise noted and in accordance with the requirements of 10 CFR Sec. 2.712.

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

Administrative Judge
Peter B. Bloch
Presiding Officer
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555

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

John T. Hull, Esq.
Mitzi A. Young, Esq.
Office of the General Counsel
Mail Stop - 0-15 B18
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Diane Curran, Esq.
Harmon, Curran, Spielberg
& Eisenberg, L.L.P.
1726 M Street, NW, Suite 600
Washington, DC 20036

Douglas Meiklejohn, Esq.
New Mexico Environmental Law Center
1405 Luisa Street, Suite 5
Santa Fe, NM 87505

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

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

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LB MEMO & ORDER (QUESTIONS)

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

Mitchell Capitan, President
ENDAUM
P.O. Box 471
Crownpoint, NM 87313

Anthony J. Thompson, Esq.
Shaw, Pittman, Potts & Trowbridge
2300 N Street, NW
Washington, DC 20037

Administrative Judge
Robin Brett
U.S. Geological Survey
917 National Center
Reston, VA 20192

Grace Sam
P.O. Box 85
Church Rock, NM 87311

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

Dated at Rockville, Md. this
21 day of April 1999


Office of the Secretary of the Commission