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May 24, 1999

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

'99 MAY 25 P4:15

ORIGINAL

BEFORE THE COMMISSION

OFFICE OF
RULEMAKING AND
ADJUDICATION 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

**HYDRO RESOURCES, INC.'S OPPOSITION
TO INTERVENORS' MOTION FOR RECONSIDERATION OF COMMISSION'S
MAY 3, 1999 ORDER**

Hydro Resources, Inc. ("HRI"), licensee herein, opposes the motion of Eastern Navajo Dine Against Uranium Mining ("ENDAUM") and Southwest Research and Information Center ("SRIC") (hereinafter, jointly, "Intervenors") for reconsideration of the Commission's May 3, 1999 Order (the "Order") limiting Intervenors' petition for review to thirty pages. The Order clearly is within the Commission's broad discretion to facilitate orderly, expeditious hearings, arguably allows Intervenors more pages to petition for review than they otherwise are entitled to, and does not impinge on "meaningful public participation" as provided by the Atomic Energy Act.

ARGUMENT

The Subpart G regulation governing the procedural aspects of Intervenors' petition for review states that "[a] petition for review under this paragraph must be *no longer than* ten (10) pages. . . ." 10 C.F.R. § 2.786(b)(2) (emphasis added). The regulations impose no restriction on

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the Commission requiring that such a petition be *less than* ten pages in length. Surely, inherent in the Commission's authority to oversee the implementation of the statutes and regulations the Commission is charged with enforcing is the discretion to impose order on the proceedings before it, to ensure that those proceedings are orderly and expeditious. Section 2.718 expressly provides that "[a] presiding officer has the duty to conduct a fair and impartial hearing according to law, *to take appropriate action to avoid delay, and to maintain order. He has all powers necessary to those ends.*" 10 C.F.R. §2.718 (emphasis added). It stands to reason that the Commission is charged with the same duty and imbued with the same powers.

In the instant case, the presiding officer might have issued a single opinion addressing all ten of Intervenors' areas of concern, arguably entitling the Intervenors to a single petition for review not longer than ten pages. The presiding officer chose to exercise his discretionary powers, presumably for the administrative convenience of himself and the parties, to address Intervenors' multiple concerns in a series of partial decisions. Likewise, the Commission has exercised its discretionary powers, presumably, too, in the interest of administrative ease and efficiency, to limit to thirty the number of additional pages Intervenors may put before the Commission in requesting review. Particularly here, in a Subpart L hearing designed to provide for the expeditious review of the public's concerns commensurate with the level of risk presented, the Commission's exercise of this discretion is appropriate.

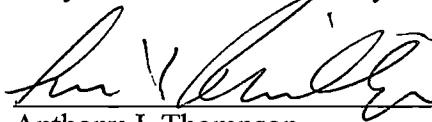
Intervenors' claim that the complained-of page limit infringes "Intervenors' rights to a meaningful hearing opportunity" (Intervenors' Motion at 6) is belied by the record as cited by Intervenors themselves. "Intervenors' groundwater presentation, for example, was divided into five volumes, filed with extensive expert testimony and a 69 page legal brief." Intervenors'

Motion at 5-6. In fact, Intervenors have filed more than 8,000 pages in this matter to date, elaborately airing their concerns and amply availing themselves of a "meaningful hearing opportunity." Consistent with their penchant for voluminous filings at each stage of this proceeding, Intervenors' Motion suggests that requiring Intervenors' request for review to be concise necessarily deprives Intervenors of a meaningful hearing opportunity. The Commission's Order allots Intervenors thirty pages to state why the Commission should review rulings on six issues; the Order is reasonable and is within the Commission's inherent authority to ensure orderly and expeditious Subpart L hearings.

CONCLUSION

For the reasons set forth above, HRI respectfully requests that Intervenors' Motion for Reconsideration be DENIED.

Respectfully submitted this 24th day of May, 1999.



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_____)	

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing documents, HYDRO RESOURCES, INC.'S OPPOSITION TO INTERVENORS' MOTION FOR RECONSIDERATION OF MAY 3, 1999 ORDER, in the above-captioned proceeding were sent to the following overnight mail on this 24th day of May, 1999.

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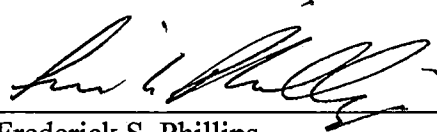
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