



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

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March 15, 1999

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OFFICE OF THE
GENERAL COUNSEL

Chief Administrative Judge
Peter B. Bloch, Esq.
Presiding Officer
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, D. C. 20555

OFFICE OF SECRETARY
BUREAU OF APPELLATE
ADJUDICATION

In the Matter of
HYDRO RESOURCES, INC.
Docket No. 40-8968-ML

Dear Judges Bloch and Murphy:

Pursuant to Judge Bloch's March 3, 1999 order, and 10 C.F.R. § 2.1233, the staff is required to answer under oath or affirmation three questions concerning technical qualifications of Hydro Resources, Inc. (HRI). The March 3 order requested the staff to file its answers simultaneously with those being filed on behalf of HRI. Counsel for HRI have advised the undersigned that HRI's answers are in route to the parties via courier. Accordingly, the staff hereby files its answers to Judge Bloch's questions. See the enclosed affidavit of Robert Carlson.

Sincerely,

John T. Hull
for John T. Hull
Counsel for NRC Staff

Enclosure: As stated

cc w/enclosure:

Diane Curran, Esq.
Jep Hill, Esq.
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Appellate Adjudication
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Office of the Secretary (2)

SECY-EHD-006

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE PRESIDING OFFICER

In the Matter of)
)
HYDRO RESOURCES, INC.) Docket No. 40-8968-ML
2929 Coors Road, Suite 101)
Albuquerque, New Mexico 87120)

AFFIDAVIT OF ROBERT D. CARLSON

I, Robert D. Carlson, being duly sworn, state as follows:

1. I am competent to make this affidavit, and the factual statements herein are true and correct to the best of my knowledge, information, and belief.
2. I am employed by the U.S. Nuclear Regulatory Commission (NRC), in the Office of Nuclear Material Safety and Safeguards. I presently work in the Division of Waste Management's Uranium Recovery Branch. I am the Project Manager of Hydro Resources, Inc.'s (HRI's) proposed in situ leach (ISL) uranium mining project at Crownpoint, New Mexico, and have served in this capacity since August 1996. In my current position, I oversee all aspects of regulating HRI's license to operate its Crownpoint Project. As Project Manager, I managed the environmental and safety reviews of HRI's license application, and supervised the development of HRI's source materials license. I have worked at the NRC since March 1991, in the Division of Waste Management, in various project management capacities.
3. My resume, which was previously filed in this proceeding as an attachment to my February, 1998, affidavit, accurately describes my general background, training, and qualifications to express the opinions stated herein.

4. In preparation of filing this affidavit, I reviewed the Presiding Officer's Order dated March 3, 1999, and the documents referenced therein. In the numbered paragraphs below, I repeat the Presiding Officer's questions, and provide my answers thereto.

5. What is the factual basis for finding that HRI is qualified for licensing by reason of training and experience.

Before issuing HRI its license, the Staff determined that HRI met the general requirements for issuance of a source material license, in accordance with 10 CFR § 40.32. *See* the Staff's December, 1997 Safety Evaluation Report (SER), at 34. With respect to HRI's technical qualifications, the Staff's safety determination was based on (1) the experience HRI's corporate parent, Uranium Resources, Inc., has in operating other ISL uranium mining facilities; and (2) HRI's proposed organizational structure (including the expertise and training requirements of key HRI corporate positions). *See* SER, at pages 3-7. These key positions include those of Radiation Safety Officer (RSO), and Radiation Safety Technician (RST). The training and experience requirements for the RSO and RST are controlled by HRI's license. *See* HRI License Condition (LC) 9.7. *See also* LC 9.8 (regarding the establishment of written standard operating procedures), and LC 9.10 (regarding changes affecting HRI's radiation safety personnel). However, there is no regulatory authority requiring that a 10 CFR Part 40 license applicant provide, as part of the application process, the names of individuals who will fill positions within its organization.

It is understood, based on conversations with HRI, that HRI plans to fill management positions (e.g., President, VP for Health, Safety, and Environmental Affairs, and VP for Technology) from those holding similar positions at Uranium Resources, Inc. Uranium Resources, Inc., has over 20 years of ISL mining experience in Texas and Wyoming. Uranium Resources, Inc., has shown during this time that it possesses the expertise to conduct ISL mining operations, and complete

restoration activities.

6. To what extent, if any, is the financial condition of HRI relevant to a determination that it is qualified by reason of training and experience.

The financial condition of HRI is completely irrelevant in determining whether it is qualified by reason of training and experience. These are two separate issues having no bearing on each other. Specifically, HRI has demonstrated that it meets the NRC's requirement in the areas of training and experience for use of source materials, as discussed in ¶ 5 above. With respect to HRI's financial condition, the Staff need only determine that HRI is able to obtain the requisite surety to cover all restoration and decommissioning costs, in accordance with 10 CFR Part 40, Appendix A, Criterion 9. *See also* HRI LC 9.5. The Staff is currently reviewing HRI's recent submittals dated December 11, 1998 (concerning proposed performance bond and trust agreement), and February 4, 1999 (regarding restoration costs at Church Rock). Based on its review, the Staff will determine whether HRI meets the NRC's requirements for the appropriate surety amount and bonding mechanism.

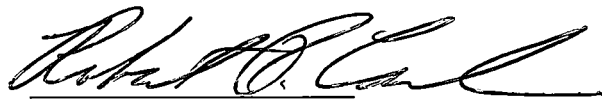
7. To what extent, if any, is the Texas investigation and allegations referenced by Intervenors relevant to a determination that HRI is qualified for licensing by reason of training and experience? *See* Intervenor Brief at Attachment 3.^[1]

The TDH's NOV obviously has no relevance to the Staff's safety determination referenced in ¶ 5 above, since the NOV post-dates the Staff's safety determination. I have not seen any response to the NOV that Uranium Resources, Inc., may have filed, and am thus in no position to judge the merits of the NOV. Additionally, assuming the NOV's charges are correct, I do not

¹ I assume that the Presiding Officer is referring to a Texas Department of Health (TDH) letter to Uranium Resources, Inc., dated November 20, 1998, with an attached Notice of Violation (NOV) issued by the TDH, also dated November 20, 1998, both of which were attached as Exhibit 3 to the Intervenors' January 11, 1999 written presentation on technical qualification (and other) issues.

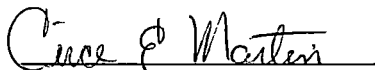
know which Uranium Resources, Inc., personnel are at fault, or whether any of those individuals would be employed by HRI in New Mexico.

8. The statements expressed above are true and correct to the best of my knowledge, information, and belief.



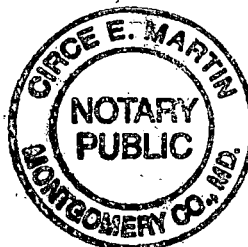
Robert D. Carlson

Sworn and subscribed to before me this 15th day of March, 1999



Notary Public

My commission expires: March 29, 1999



CIRCE E. MARTIN
NOTARY PUBLIC STATE OF MARYLAND
My Commission Expires March 29, 1999