

ATTACHMENT F

Balloonist:
Third
attempt
won't
be last
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THE TRUTH WELL TOLD
Independent

Uranium mine still faces hurdles, hoops

By Malcolm Brenner
Staff Writer

GALLUP — Hydro Resources, Inc. got its mining license from Nuclear Regulatory Commission on Tuesday, but that doesn't mean the Dallas-based company's troubles are over.

"It's not like tomorrow they're going to start producing uranium," said Chris Shuey, with the Southwest Research and Information Center in Albuquerque. "Obviously, they can't. They've got to jump through a number of hoops."

HRI wants to leach-mine uranium under the Navajo Nation's Crownpoint and Church Rock chapters and build a processing plant for it in Crownpoint. The SWRIC and seven other groups and individuals opposed to the mining have petitioned B. Paul Cotter Jr., the NRC's administrative law judge, for an evidentiary hearing.

The hearing would air complaints about problems with the license and possible harmful effects of the mining, but Cotter's decision is months off. In the meantime, the NRC may have erred, Shuey said, by not requiring HRI to fulfill the license requirements before granting the license.

"Now our contention is that you can't get a license until you jump through those hoops," he said. "You cannot get a license and then be on your best behavior to jump through the hoops."

Some of the hoops facing HRI include jurisdictional issues, federal environmental permits, lawsuits, technical obstacles, a multi-million dollar surety bond and the intransigence of local residents opposed to the mining.

And that list is probably incomplete.

Spokespersons with the NRC did clarify some of the issues raised in its Jan. 6 press release announcing the license. A reference to obtaining permits from the State of Utah was just a misprint, said Joe Holonich, chief of the NRC's Uranium Recovery Branch.

HRI wants to mine three sites: near Church Rock, in an area called Unit 1, and just outside Crownpoint, the seat of the Navajo Nation's Eastern Agency. The company will be required to do so in that order.

If HRI cannot demonstrate that Church Rock's water has been successfully restored to either state or federal drinking water standards — which ever is higher — it will not be

permitted to begin mining at the Unit 1 site or in Crownpoint, said Bob Carlson, the NRC's project manager for the mining operation.

To further protect Crownpoint's water, the NRC has asked HRI to move drinking water wells operated by the Bureau of Indian Affairs and the Navajo Tribal Utilities Authority. The wells are the only source of potable water for more than 10,000 residents of the Crownpoint area.

"Their proximity to the town makes this site unique," Holonich said.

HRI has already agreed to do that — but the NTUA has gone on record as saying it doesn't agree to the plan.

Originally, HRI contended it could control the pressure in its wells so precisely that there was no chance of lixiviant, the water-based mining solution, infiltrating the town's water supply.

But, "As a regulatory agency, we like to take a conservative posture," Holonich said. "If NTUA says 'We're never going to move those wells,' then HRI has got to make the decision either to abandon that unit, or it could come in and ask that that condition be removed from the

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license," which would trigger another hearing.

The requirement to move the wells shows the government has doubts about HRI's ability to prevent drinking water contamination, Shuey said.

Mark Pelizza, HRI's environmental manager in Dallas, wasn't worried. He was confident that HRI would be able to demonstrate its concern and control to the NTUA.

"If we can't come to an agreement, that development will never occur," Pelizza said.

On the legal side, HRI is fighting on two fronts.

The 10th Circuit Court of Appeals in Denver, Colo., is hearing a jurisdiction suit. The State of New Mexico Bureau of Mines and Minerals and HRI are suing the U.S. Environmental Protection Agency over its July 1997 decision that the Crownpoint mining site is in Indian Country and thus falls under federal EPA restrictions.

HRI isn't contesting jurisdiction over Church Rock and Unit 1.

In 1986, Shuey said, HRI changed the boundaries of the Crownpoint site by selling some land to escape the jurisdiction issue.

Pelizza denied that, but he admits the issue is complicated.

"In the checkerboard area, things are fuzzy," he said. "We have every type of land ownership that I think exists." He proposed that the nation, state and the EPA share jurisdiction, although he didn't say how that could be done.

In district court, the Navajo Justice Department is challenging HRI's request to the New Mexico State engineer to transfer water rights from the state to the company. The Nation contends that the Navajo Water Code supercedes the state engineer's authority, and that there isn't enough water for HRI's uses.

Pelizza said the lawsuits aren't related to the license and wouldn't slow down operations. But the NRC said differently.

"What we require is that they have to have all the permits from the necessary regulatory agencies," Holonich said. "They're going to have to show us that they've settled the issue on the jurisdictional dispute."

"In our point of view, they're a pretty tough regulator," Pelizza said of the NRC.

Shuey disagreed. Mining issues aside, he was still concerned that the processing plant would be releasing radioactive materials into the Crownpoint community for 20 years — the life of the mining project.

"The license is a real slap in the face," Shuey said. "It's the NRC ignoring the substantial issues that are in dispute in this case."