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USNRCOctober 16, 1998
'98 OCT 20 A 9:44UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
BEFORE THE COMMISSIONOFFICE OF SECRETARY
RULEMAKING AND
ADJUDICATIONS STAFF

In the Matter of)	
)	
HYDRO RESOURCES, INC.)	Docket No. 40-8968-ML
(2929 Coors Road, Suite 101)	ASLBP No. 95-706-01-ML
Albuquerque, NM 87120))	
)	

**ENDAUM'S AND SRIC'S REQUEST FOR EXPEDITED
REVIEW OF PETITION FOR REVIEW**

Intervenors Eastern Navajo Diné Against Uranium Mining ("ENDAUM") and Southwest Research and Information Center ("SRIC") request expedited review of their Petition for Review of Memorandum and Order (Scheduling and Partial Grant of Motion for Bifurcation) (September 22, 1998), filed October 7, 1998 ("Petition for Review"). Expedited review by October 23, 1998, is necessary in light of an October 13, 1998, Order, which denies ENDAUM and SRIC's request for reconsideration of the schedule for filing briefs and testimony in the bifurcated proceeding, such that Intervenors must now begin to file briefs and testimony by November 6, 1998.

Memorandum and Order (Reconsideration of the Schedule for the Proceeding) (October 13, 1998) ("October 13 Order"). The October 13 Order also adds to the confusion surrounding bifurcation. *Id.* at 4. Review by the Commission must be expedited in order to ensure that any relief granted by the Commission on the bifurcation issue is meaningful and timely.

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In conformance with the Presiding Officer's September 22 Order, ENDAUM and SRIC submitted a schedule whereby they would file their written presentations on November 6, December 7, January 7, and February 1. Notice in Response to Memorandum and Order (Scheduling and Partial Grant of Motion for Bifurcation) of September 22, 1998 (October 2, 1998). ENDAUM and SRIC also filed, with the other Intervenor, a request for reconsideration of the scheduling order.¹ On October 13, 1998, the Presiding Officer issued a Memorandum and Order (Reconsideration of the Schedule for the proceeding ("October 13 Order")), which denied Intervenor's joint motion for reconsideration of the scheduling order.²

Now that their request for reconsideration of the schedule has been denied, ENDAUM and SRIC face the first deadline for their written presentations on November 6. The September 22 and October 13 Orders cause confusion as to which issues raised by the Intervenor are ripe and which issues must be deferred until some later hearing.³ By having to guess at which issues fall within the scope of issues that

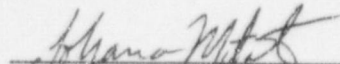
¹Joint Motion for Reconsideration by ENDAUM, SRIC, Marilyn Morris, and Grace Sam of Memorandum and Order (Scheduling and Partial Grant of Motion for Bifurcation) of September 22, 1998 (September 30, 1998).

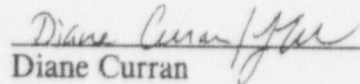
²The Order also denies ENDAUM's and SRIC's request for directed certification of the bifurcation order, and in doing so, expands on the Presiding Officer's rationale for the September 22 bifurcation decision. It addresses, for the first time, the issue of segmentation under the National Environmental Policy Act ("NEPA"). Adopting the position of the licensee, the Order asserts that the September 22 Order "in no way segments the NEPA process, but rather merely sets a logical schedule for reviewing all of Intervenor's concerns pertaining to the HRI license, including the environmental impact statement drafted by NRC." October 13 Order at 4.

³For instance, it is unclear which issues may be heard now under the category of challenges to the "validity of the license." September 22 Order at 2. The license itself covers all four mining sites: Section 8, Section 17, Unit 1 and Crownpoint. Presumably, noncompliance with NEPA's requirements for all four licensed sites would affect the "validity" of the license. (For instance, the license would be invalid if it were not supported by an EIS that adequately considered the environmental impacts of the entire project.) Yet, the October 13 Order indicates that the

are ripe for litigation, Intervenor's risk briefing too many or too few issues, thus either wasting limited resources or losing the opportunity to brief issues that they mistakenly believed were outside the scope of the hearing.

Any delay in resolving the bifurcation issue will now seriously undermine ENDAUM and SRIC's ability to clarify the issues that must be addressed and adequately prepare testimony. A stay of this proceeding will have little meaningful effect if it is not imposed until after they submit their presentations on November 6. Accordingly, ENDAUM and SRIC respectfully request the Commission to expedite review of their Petition for Review and decide whether to review the September 22 Order and grant a stay by October 23, 1998.


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CERTIFICATE OF SERVICE

I hereby certify that:

On October 16, 1998, I caused to be served copies of the following:

ENDAUM's and SRIC's REQUEST FOR EXPEDITED REVIEW

upon the following persons by U.S. mail, first class, and in accordance with the requirements of 10 C.F.R. § 2.712. The parties marked by an asterisk (*) were also served by e-mail. The envelopes were addressed as follows:

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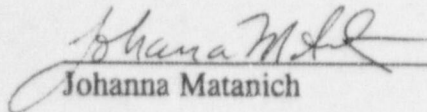
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