

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED 08/21/00

COMMISSIONERS:

SERVED 08/21/00

Richard A. Meserve, Chairman
Greta Joy Dicus
Nils J. Diaz
Edward McGaffigan, Jr.
Jeffrey S. Merrifield

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

CLI-00-15

MEMORANDUM AND ORDER

On May 25, 2000, we issued an order in this docket prohibiting Hydro Resources, Inc. (HRI), from using its already-issued license for in situ leach mining operations at the so-called "Crownpoint Uranium Project" in New Mexico. See CLI-00-08, 51 NRC 227 (2000). We reasoned that HRI had failed to submit sufficient financial assurance information, or to obtain the requisite NRC staff approval of a financial assurance plan, even for the one site, "Church Rock, Section 8," where HRI had plans to begin operations in the foreseeable future. See id., at 239-43. We gave HRI 180 days to submit a financial assurance plan, and provided intervenors an opportunity to litigate the adequacy of the proposed plan. See id., at 242. In the meantime, as a matter of our "equitable discretion to fashion sensible remedies," we left the HRI license in force but added a condition prohibiting use of the license until HRI supplied the missing financial assurance information and obtained NRC staff approval of a financial assurance plan. See id., at 241-42 & n.18.

Intervenors have moved for partial reconsideration of our order. They maintain that we should have revoked HRI's license rather than simply prohibited its use. We disagree. The hearing process in this case has largely taken place after NRC staff issuance of the HRI license, as permitted by our procedural rules governing materials licensing. See 10 C.F.R. Part 2, Subpart L. Intervenors correctly point out that Subpart L's authorization of post-licensing hearings carries with it a Commission obligation to set aside wrongfully-issued licenses when the hearing process uncovers fatal defects. Some licensing defects, however, such as a failure to provide sufficient information, by their nature do not call for revoking a license outright, for a prompt cure may be possible without compromising the public health and safety and without defeating intervenors' hearing rights.

That is the case here. We have required HRI to submit a financial assurance plan. In the meantime, HRI cannot use its license. Our approach does not prejudice intervenors, as we have guaranteed their right to challenge HRI's ultimate financial assurance showing, and the presiding officer, and ultimately the Commission itself, stand ready to reject HRI's license should HRI's showing prove inadequate.

The motion for partial reconsideration is denied.

IT IS SO ORDERED.

For the Commission⁽¹⁾

/RA/

Annette L. Vietti-Cook
Secretary of the Commission

Dated at Rockville, Maryland,
this 21st day of August, 2000.

1. Commissioner Dicus was not available for affirmation of this Memorandum and Order. Had she been present, she would have affirmed the Memorandum and Order.