

April 16, 1998

MEMORANDUM FOR: John F. Cordes, Acting Director
Office of Commission Appellate Adjudication

FROM: John C. Hoyle, Secretary /s/

SUBJECT: STAFF REQUIREMENTS - Affirmation Session, 1:30 P.M., THURSDAY, APRIL 16, 1998,
COMMISSIONERS' CONFERENCE ROOM, ONE WHITE FLINT NORTH, ROCKVILLE,
MARYLAND (OPEN TO PUBLIC ATTENDANCE)

I. SECY-98-079- Hydro Resources, Inc., Memorandum and Order (Denying Motion for Stay and Request for Prior Hearing, Lifting Temporary Stay, Denying Motions to Strike and for Leave to Reply), LBP-98-5

The Commission⁽¹⁾ approved an order granting a temporary stay of the Atomic Safety and Licensing Board's Memorandum and Order (denying motion for stay and request for prior hearing, lifting temporary stay, denying motions to strike and for leave to reply), LBP-98-5. In that order, the Presiding Officer denied petitioners' motion for a stay of staff's grant of a materials license to Hydro Resources, Inc. The license authorized Hydro Resources to conduct an in situ leach mining and milling operation in Church Rock and Crownpoint, NM. In LBP-98-5, the Presiding Officer also lifted the temporary stay which he had issued earlier in this proceeding.

The effect of the Commission order is to stay the effectiveness of Hydro Resource's license for the short period of time necessary for the Commission to review and rule on both the petitioners' pending motion for full stay and their pending petition for review of LBP-98-5.

The Commission voted to approve the attached order granting the petitioners' request for temporary stay, pending the Commission's review of the full stay motion and petition for review.

(Subsequently, on April 16, 1998, the Secretary signed the Order.)

Attachment: As stated

cc: Chairman Jackson
Commissioner Dicus
Commissioner Diaz
Commissioner McGaffigan
EDO
OGC
CIO
CFO
OCAA
OCA
OIG
Office Directors, Regions, ACRS, ACNW, ASLBP (via E-Mail)
PDR - Advance
DCS - P1-17

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

COMMISSIONERS:

Shirley Ann Jackson, Chairman
Greta J. Dicus
Nils J. Diaz

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

CLI-98-4

MEMORANDUM AND ORDER

On April 2, 1998, the Presiding Officer issued a Memorandum and Order (LBP-98-5) in this proceeding denying a motion for full stay filed by Southwest Research and Information Center and Eastern Navajo Diné Against Uranium Mining (collectively "petitioners") and lifting a temporary stay that the Presiding Officer had previously issued on January 23, 1998 (LBP-98-3, 47 NRC 7). The subject of the petitioners' motion for full stay and the Presiding Officer's order granting temporary stay was the staff's issuance of a materials license to Hydro Resources, Inc. ("Hydro") for an in situ leach mining and milling operation in Church Rock and Crownpoint, NM.

On April 11, 1998, petitioners filed with the Commission a petition for review of LBP-98-5 and a motion for both a full and temporary stay of the effectiveness of LBP-98-5 pending the Commission's review of that order. Our regulations provide that the Commission may issue a temporary stay to preserve the status quo without waiting for the filing of an answer to a motion for stay. 10 C.F.R. 2.788(f). Petitioners have, in our view, raised serious questions which, if petitioners are correct, could affect the balance of the stay factors. We therefore issue the requested temporary stay, pending our consideration of the intervenors' petition for review and motion for a full stay.⁽²⁾ This grant of petitioners' motion should not, however, be construed as an indication of the Commission's views on the merits of petitioners' motion for full stay or petition for review.

It is so ORDERED.

For the Commission,

/s/

 John C. Hoyle
 Secretary of the Commission

Dated at Rockville, Maryland this 16th day of April, 1998

1. Section 201 of the Energy Reorganization Act, 42 U.S.C. Section 5841, provides that action of the Commission shall be determined by a "majority vote of the members present." Commissioners Dicus and McGaffigan were present in the Conference Room. Chairman Jackson and Commissioner Diaz participated in the meeting via speakerphone.

2. See, e.g., Georgia Power Co. (Vogtle Electric Generating Plant, Units 1 & 2), Docket Nos. 50-424-OLA-3 & 50-425-OLA-3, unpublished decision (September 13, 1995) (granting temporary stay to preserve status quo pending the Commission's consideration of petition for review).