



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

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USNRC

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OFFICE OF SECRETARY  
RULEMAKING  
ADJUDICATION

Mr. Richard F. Clement, Jr., President  
Hydro Resources, Inc.  
2929 Coors Blvd., NW  
Suite 101  
Albuquerque, NM 87120

SUBJECT: RESPONSES TO STAFF'S NATIONAL HISTORIC PRESERVATION ACT  
LETTER DATED MAY 13, 1999

Dear Mr. Clement:

On June 16, 1999, the Office of the New Mexico State Historic Preservation Officer (NMSHPO) responded to the U.S. Nuclear Regulatory Commission (NRC) letter dated May 13, 1999. In this letter, the NRC staff requested the NMSHPO's concurrence with the proposed finding that the Hydro Resources, Inc. (HRI) undertakings at the proposed Crownpoint processing site, as described in the May 13 letter, and the 1998 Blinman Report attached thereto, would have no effect on the historic properties located in Section 24. The NMSHPO concurred with this finding.

Earlier, by letter dated June 7, 1999, the Navajo Nation Historic Preservation Department (NNHPD) responded to the NRC staff May 13 letter, objecting to the NMSHPO exercising any concurrence authority under the National Historic Preservation Act (NHPA). The NNHPD indicated that it, rather than the NMSHPO, has primary NHPA jurisdiction over the historic properties located in Section 24. The NNHPD also stated that the Navajo Nation Cultural Resource Protection Act (NNCRPA) is applicable to HRI's planned undertakings in Section 24.

As stated in its letter to the NNHPD dated June 25, 1999, the NRC staff determined that the NMSHPO has primary NHPA jurisdiction over the historic properties located in Section 24. Based on the NMSHPO concurrence referenced above, and pursuant to 36 CFR § 800.5(b), the NRC staff finds that the NHPA process is concluded with respect to the Section 24 properties. Accordingly, HRI may proceed with its planned mining-related activities (*i.e.*, establishing a processing facility, and related actions) in Section 24, to the extent authorized by NRC Materials License SUA-1508. However, if HRI cannot meet any of the following conditions, it must notify the NRC immediately and cease any ground-disturbing activities in the affected area.

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1. Activities in Crownpoint must be restricted to Section 24, which constitutes the area covered under this NHPA consultation. Additional NHPA and/or NNCRPA consultations will be required prior to any additional undertakings which HRI may pursue under its NRC license on other lands within the project area.
2. All eligible and potentially eligible historic properties in Section 24 will be fenced, as necessary, to preclude intrusion during any construction or other ground-disturbing activity. The recommended fencing (as identified in the Museum of New Mexico, Office of Archaeological Studies, "Cultural Resources Inventory of Proposed Uranium Solution Extraction and Monitoring Facilities at the Church Rock Site and of Proposed Surface Irrigation Facilities North of the Crownpoint Site, McKinley County, New Mexico," dated 1997) would serve as a mechanical equipment barrier, and would discourage casual foot traffic trespass. The existing fencing, and any additional fencing that may be needed, would not be removed until after site reclamation has been concluded following completion of all mining-related activities. This protective measure will assure that the characteristics of the historic properties will not be changed by the undertaking.
3. All ground-disturbing activities within the vicinity of the historic properties (the areas as identified in the 1998 Blinman Report) will be monitored by an archaeologist who will have authority to stop ground-disturbing activity in the event that previously undetected subsurface cultural resources are identified. If such a find occurs, the NRC (Mr. Robert Carlson, 301-415-8165), the NNHPD (520-871-7132), and the NMSHPO (505-827-6320) must be notified within 24 hours of the find. The development of treatment protocols for the unexpected discovery of human remains will be initiated as necessary within the framework of 36 CFR § 800.11, the Native American Graves Protection and Repatriation Act, and applicable New Mexico and Navajo Nation regulations regarding treatment of unmarked burials and protection of human remains.

Should unanticipated circumstances arise such that an effect on any eligible or potentially eligible historic property in Section 24 cannot be avoided, NHPA consultations must be reopened. The NRC staff considered the proposed Section 24 undertaking pursuant to NHPA regulations 36 CFR 800.5 and 800.9, which have since been amended.<sup>1</sup> Any future HRI undertakings under its NRC license would be subject to the amended NHPA regulations.

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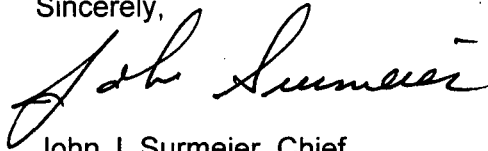
<sup>1</sup> Amendments to the NHPA regulations became effective on June 17, 1999. Since this NHPA consultation was completed prior to June 17, the amended NHPA regulations are not applicable here.

R. Clement

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If you have any questions concerning this letter, please contact Mr. Robert Carlson of my staff at (301) 415-8165.

Sincerely,



John J. Surmeier, Chief  
Uranium Recovery and  
Low-Level Waste Branch  
Division of Waste Management  
Office of Nuclear Material Safety  
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cc: Dr. Lynn Sebastian, NMSHPO  
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See attached list

HRI Mailing List - Letter dated 7/ 8/99

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