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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

'97 JAN 22 A10:52

ATOMIC SAFETY AND LICENSING BOARD PANEL

Before Chief Administrative Judge
B. Paul Cotter, Jr., Presiding Officer

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

Administrative Judge
Thomas D. Murphy, Special Assistant

_____)	
In the Matter of)	
)	
HYDRO RESOURCES, INC.)	Docket No. 40-8968-ML
12750 Merit Drive)	
Suite 1210 LB12)	ASLBP No. 95-706-01-ML
Dallas, TX 75251)	
_____)	

**REPLY OF ENDAUM AND SRIC TO HRI'S RESPONSE TO NOTICE OF
ENTRY OF APPEARANCE**

Eastern Navajo Diné Against Uranium Mining ("ENDAUM") and Southwest Research and Information Center ("SRIC") respectfully urge this Panel to deny the request of HRI to strike as to SRIC the Notice of Entry of Appearance filed by New Mexico Environmental Law Center on behalf of ENDAUM and SRIC. HRI makes no objection to the Notice of Entry of Appearance with respect to ENDAUM.

HRI's Response ignores the regulations at 10 C.F.R. § 2.713(b) providing for appearances, misconstrues the Hearing Officer's January 9, 1995 Memorandum and Order (Setting Schedule for Filings) ("January 9, 1995 Order"), and attempts to bypass

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the procedure for ruling on petitions for intervention at 10 C.F.R. § 1205.

First, the Notice of Entry of Appearance complies with 10 C.F.R. § 2.713(b).

That regulation provides in pertinent part:

A party may be represented by an attorney-at-law provided the attorney is in good standing and has been admitted to practice before any Court of the United States, the District of Columbia, or the highest court of any State, territory, or possession of the United States. Any person appearing in a representative capacity shall file with the commission a written notice of appearance which shall state his or her name, address, and telephone number; the name and address of the person on whose behalf he or she appears; and, in the case of an attorney-at-law, the basis of his or her eligibility as a representative

NMELC's Notice of Entry of Appearance on behalf of ENDAUM and SRIC meets these requirements. Nothing more is necessary to perfect an entry of appearance.

Second, assuming *arguendo* that this Panel may consider HRI's Response, SRIC did not "abandon[] its participation in this proceeding when it failed to submit an adequate hearing request and then failed to submit an amended hearing request." HRI Response at 1-2.¹ In its January 9, 1995 Order, this Panel determined that a new schedule should be established for filing amended petitions and initial answers "in the interest of fairness to all potential participants." January 9, 1995 Order at 4. Plainly, this Panel did not consider the inadequacies of any of the petitions initially filed to constitute an "abandonment."

¹ Indeed, applying HRI's reasoning to its own failure to timely file an answer to the petitions (January 9, 1995 Order at 2) would result in a determination that HRI abandoned its participation in this proceeding.

Moreover, subsequent to the amendment date provided in the Order, this Panel has correctly not treated SRIC as "abandoning" this proceeding. This Panel has continued to refer to SRIC as a "petitioner"² and to serve documents on SRIC served on other petitioners. It was reasonable for SRIC staff, who were not represented by counsel at the time of the Order, to infer from the language of the January 9, 1995 Order that SRIC's petition was adequate without amendment. The January 9, 1995 Order states that "most of the petitions are in some regard deficient" and "some petitioners do not specifically address their interest." Order at 3 (emphasis added). SRIC's petition, however, describes with specificity the interest and standing of SRIC staff member Raymond Morgan, as well as that of the organization itself, its staff, and its board. SRIC Petition (December 14, 1994) at 2.

Third, SRIC is entitled to this Panel's determination on whether to grant it intervenor status pursuant to 10 C.F.R. § 1205, a determination that remains in abeyance. See September 13, 1995 Order. HRI would have the Panel, in effect, bypass the procedure required by 10 C.F.R. § 1205.

For the foregoing reasons, ENDAUM and SRIC respectfully urge this Panel to deny the request of HRI to strike as to SRIC the Notice of Entry of Appearance.

² Memorandum and Order (Proceeding Status) of September 13, 1995 ("September 13, 1995 Order") at 1.

Dated: January 15, 1997

Respectfully submitted,

A handwritten signature in cursive script, appearing to read 'Susan G. Jordan', written over a horizontal line.

Susan G. Jordan

Douglas Meiklejohn

Douglas W. Wolf

NEW MEXICO ENVIRONMENTAL LAW
CENTER

Attorneys for ENDAUM and SRIC

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CERTIFICATE OF SERVICE

I hereby certify that on January 15, 1997 copies of REPLY OF ENDAUM AND SRIC TO HRI'S RESPONSE TO NOTICE OF ENTRY OF APPEARANCE and LETTER OF JANUARY 15, 1996 FROM SUSAN G. JORDAN TO CARL J. PAPERIELLO were served upon the following persons by U.S. mail, first class, and in accordance with the requirements of 10 C.F.R. Sec. 2.712.

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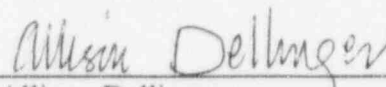
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Dated at Santa Fe, NM this
15th day of January 1997.


Allison Dellinger