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UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001
January 31, 1997

Dr. Alan S. Downer
Navajo Nation Historic Preservation
Department (ATTN: Peter Noyes)
Box 4950
Window Rock, Arizona 86515

SUBJECT: HYDRO RESOURCES, INC. SOLUTION MINING PROJECT AT CROWNPOINT, NM

Dear Dr. Downer:

The U.S. Nuclear Regulatory Commission (NRC) is reviewing a license application submitted by Hydro Resources, Incorporated (HRI) to construct and operate an *in situ* leach uranium mining facility near Crownpoint, New Mexico. Three separate sites, Church Rock, Unit 1, and Crownpoint, would be mined under this license. Initial uranium processing would occur at satellite processing facilities HRI proposes to construct at the Church Rock and Unit 1 sites. Uranium slurry would be shipped by truck from these satellite facilities to HRI's existing central processing facility in Crownpoint. Much of the proposed project area is Tribal trust land and allotted land. The proposed activity is described in detail in Attachments A and B to this letter.

You were previously notified of this proposed activity, and of NRC's consultation with the New Mexico State Historic Preservation Office (SHPO) regarding the proposed activity. With that notification, you received a detailed project description, maps, and a bibliography. Pursuant to Section 106 of the National Historic Preservation Act (NHPA) of 1966 (as amended through 1992), the Navajo Nation Cultural Resources Protection Act, and to your role as contract agent for the Bureau of Indian Affairs, the NRC requests consultation with the Navajo Nation Historic Preservation Department. It is our understanding that Navajo Nation Tribal Code (specifically, the Navajo Nation Cultural Resources Protection Act) requires approval by the Navajo Nation Preservation Officer of activities occurring on Navajo Tribal lands.

Also, through preliminary consultation with your staff, we have been informed that you are in possession of a letter of approval from the U.S. National Park Service allowing you to act as the SHPO for Navajo lands. Therefore, we are aware of the possibility that you could assume SHPO activities sometime during the Section 106 consultation process. It is our understanding that because consultation under Tribal code would be consistent with Section 106 consultation, no additional consultation (for Section 106 purposes) would be required in the event that you assume SHPO activities before the project's implementation. Because the NRC is the lead agency for this project, we will continue consultation with the New Mexico SHPO during the interim period.

The license term for the proposed activity would be 20 years. Because the project is to be developed incrementally, the project's potential area of disturbance is vast, and the research methodologies and interpretations could

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change during the proposed license term, the NRC proposes that this review be limited to the area proposed for development in the first five years of HRI's license term. The development area, including the buffer area added for monitoring wells and peripheral disturbance, is hereafter referred to as the five-year project area (please see Attachments C and D of your initial project notification letter).

Because the first step in this review process is determining whether the project area contains any sites, structures, or properties listed on or potentially eligible for listing on the National Register of Historic Places and the Navajo Nation Register of Cultural Properties and Cultural Landmarks, NRC and HRI have taken initial steps in identifying resources in the project area. A cultural resources consultant to HRI has drafted cultural resource management plans for the Crownpoint, Unit 1, and Church Rock sites (See Attachments E, F, and G). These plans identify areas within the project area that have previously been subjected to archaeological survey, and archaeological sites that were identified in the course of surveying. However, two shortcomings exist. First, not all of the area has been surveyed for archaeological resources. Second, no previous survey work in the project area has attempted to identify traditional cultural properties that are potentially eligible for the Register.

To remedy the first shortcoming, HRI has committed in its cultural resource management plans to survey all property within its lease area, including verification of previously identified sites. An archaeological research firm, licensed by the state and the Navajo Nation and under contract to HRI, will conduct a Phase I (or Class III, in BLM terms) archaeological survey of those parts of the five-year area that have not been previously surveyed. The survey of Section 12 T17N R13W and the 1977 survey of the Church Rock area (Ford and DeHoff 1977) are suspected to be inadequate. Therefore, the contractor will resurvey these areas, with the exception of the SE 1/4 of Section 8 at the Church Rock site, which already has been re-surveyed. Also, the contractor will verify and define the boundaries of sites that were identified in the re-survey of this 1/4 section and all other areas within the five-year project area that have been previously surveyed. Attachments C and D indicate the areas that will be surveyed, those that will be resurveyed, and those that will be verified. Results of these surveys will be reviewed by the NRC and provided to your office. HRI has also committed, in its cultural resource management plans and in subsequent communications, to a "total avoidance" plan (i.e., all activities would be located so as to avoid any archaeological site).

Steps to remedy the second shortcoming - the absence of information about traditional cultural properties - are currently underway. As the National Environmental Policy Act (NEPA) review process is proceeding ahead of the NHPA Section 106 process, HRI's cultural resource consultant has sought preliminary information about traditional cultural properties from the following local tribes and pueblos: the Navajo, the Hopi, the Zuni, the Laguna, the Acoma, and the All Indian Pueblo Council. A letter report summarizing the preliminary information received from these parties will be submitted to your office when it is completed. A thorough follow-up of the preliminary information will be

Downer, A. S.

-3-

conducted by experienced, local ethnographers in conjunction with the archaeological survey work. Cultural resource specialists of some of the aforementioned tribes and pueblos have indicated that the additional archaeological surveys may provide information about traditional cultural properties in the area. Therefore, the final information and report about traditional cultural properties will depend on and likely be done in conjunction with the archaeological resources report.

HRI's proposed policy of total avoidance of archaeological resources should preclude the disturbance of human remains. Nevertheless, there is a slight possibility that human remains would be encountered during ground-breaking or ground-disturbing activities. Such finds will be handled on a case-by-case basis through the implementation procedures of the appropriate law, either the federal Native American Graves Protection and Repatriation Act and the Navajo Nation Policies and Procedures Concerning the Protection of Cemeteries, Gravesites and Human Remains on Indian lands, or the New Mexico state law protecting human burials on other lands.

As noted above, the NHPA Section 106 review process already is underway with the New Mexico SHPO. Parties, in addition to the Navajo Nation, that have been informed of the initiation of the Section 106 process are the Hopi Tribe, the Pueblo of Zuni, the Pueblo of Acoma, the Pueblo of Laguna, the All Indian Pueblo Council, the Bureau of Land Management, the Bureau of Indian Affairs, and the Navajo Crownpoint and Church Rock Chapter Houses.

NRC would appreciate a response to this letter from your office that would include, as necessary, any direction or advice about advancing the review process and comments about the intended or ongoing survey work.

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

Sincerely,

JS
Joseph J. Holonich, Chief
Uranium Recovery Branch
Division of Waste Management
Office of Nuclear Material Safety
and Safeguards

Enclosures: As stated

cc: See attached list (w/o encl.)

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