



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

February 21, 1997

40-8968

Ms. Aimee R. Boulanger
Mineral Policy Center
P.O. Box 2414
Durango, CO 81302

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

Dear Ms. Boulanger:

I am responding to your January 14, 1997, letter to Chairman Jackson and Joseph J. Holonich, Chief of the Uranium Recovery Branch. Your letter was sent in support of a December 6, 1996, letter received by the U.S. Nuclear Regulatory Commission from Ms. Susan Jordan of the New Mexico Environmental Law Center, who is representing the interests of both the Eastern Navajo Dine Against Uranium Mining and the Southwest Research and Information Center. In her letter, Ms. Jordan requested that the NRC issue a Supplemental Draft Environmental Impact Statement (SDEIS) for the Hydro Resources, Inc. (HRI) proposed uranium solution mining project at Crownpoint, New Mexico, and establish a Local Public Document Room (LPDR) at the Crownpoint site. The position taken in your letter is that the NRC should reconsider the merits of Ms. Jordan's requests.

After carefully reviewing your letter, the NRC maintains its original position of not issuing a SDEIS, nor establishing an LPDR at Crownpoint at this time. Enclosed for your information is a copy of the December 24, 1996, response to Ms. Jordan providing the details of the NRC's decision. In addition, I would like to take this opportunity to further address other concerns you raise in your January 14th letter.

Specifically, you assert that "Mineral Policy Center has seen no compelling data to substantiate the claim that ISL [in situ leach] uranium projects can return groundwater to baseline conditions." You further state that this is particularly "alarming" in the case of the proposed ISL project at Crownpoint because of its proximity to the town's drinking water and livestock wells.

Regarding this issue, HRI has submitted groundwater restoration demonstration data from similar HRI production-scale ISL operations in Texas. Based on its analyses of this data and additional supporting information, the NRC staff has concluded that HRI can restore the groundwater at Crownpoint to either average pre-mining baseline conditions or Federal drinking water standards as a primary or secondary restoration goal, respectively. Furthermore, HRI has committed to completing a restoration demonstration at each of the three proposed project sites within 18 months of when mining operations commence. Prior to the injection of lixiviant at either the Unit 1 or Crownpoint site, HRI would be required to conduct an acceptable production-scale restoration demonstration at the Church Rock site. Restoration tests conducted to date have shown that some groundwater parameters can be restored to average pre-

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mining well field concentrations, and that all parameters can eventually be restored to water use standards.

The NRC will require HRI to sufficiently bond for each mining site to ensure full compliance with required restoration goals. As an additional safety measure, prior to mining at the Crownpoint site, HRI will be required to relocate the town's drinking water wells that may potentially be impacted by mining operations to an alternate location. HRI will coordinate this effort with the appropriate agencies and regulatory authorities, including the Bureau of Indian Affairs, the Navajo Nation Department of Water Development and Water Resources, Navajo Nation Environmental Protection Agency, and the Navajo Tribal Utility Authority, to determine the appropriate placement of the new wells. The water source at this new location will be of equal quantity and quality to that found at the original site.

Another concern expressed by you is that requirements of the National Historic Preservation Act of 1966, as amended (NHPA), have not been adequately fulfilled in that "identification and proper protection of traditional cultural properties remains to be accomplished."

In response to this issue, it should be noted that Section 106 of NHPA requires Federal agencies to take into account the effects of their undertakings on cultural resources (i.e., archeological, historical, and traditional properties eligible for or listed on the National Register of Historic Places). To this end, archeological surveys of areas within the proposed project sites are ongoing. Also underway is a detailed traditional cultural property survey, which is being conducted by professional archeologists and ethnographers with input from local Native American practitioners and residents. The results of these surveys will be reviewed by the New Mexico State Historic Preservation Office (NMSHPO) and the Navajo National Historic Preservation Department (NNHPD). Other parties invited to participate in the review are the Pueblo of Zuni, the Pueblo of Acoma, the Pueblo of Laguna, the Hopi Tribe, and the All Indian Pueblo Council.

Because the project is to be developed incrementally over a 20-year period, and the potential area of disturbance is vast, the NRC staff has concluded that research methodologies and interpretations could change during the proposed license term. To address this, the NRC staff has determined that the cultural resources review and cultural property survey be limited to the area proposed for development during the first five years of HRI's license term. HRI has committed in its cultural resource management plans to survey all properties within its lease area, including verification of previously identified sites. Prior to beginning mining operations, HRI is required to complete all cultural surveys within the first five-year area, subject to NRC, NMSHPO, and NNHPD review and approval.

Boulanger, A.

/3/

February 21, 1997

I hope this information responds to your letter. If you have any questions concerning this subject, please feel free to contact either me or Mr. Joseph Holonich of my staff. I can be reached at (301) 415-7800, and Mr. Holonich can be reached at (301) 415-7238.

Sincerely,

Original signed by

Carl J. Paperiello, Director
Office of Nuclear Material Safety
and Safeguards

Enclosure: As stated

cc: R. Clement, HRI
See Attached List

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DOCUMENT NAME: S:\DWM\URB\RDC\HRI\MPC.LTR

*See Previous Concurrence CP/PROOFED/FEBRUARY 20, 1997

OFC	URB	URB	DWM	NMSS		
NAME	RCarlson*	JHolonich*	JGreeves*	CPaperiello		
DATE	2/13/97	2/13/97	2/19/97	2/24/97		

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Boulanger, A.

-3-

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Sincerely,

Carl J. Paperiello, Director
Office of Nuclear Material Safety
and Safeguards

Enclosure: As stated

cc: R. Clement, HRI
See Attached List

TICKET: G970084

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OFC	URB	E	URB	E	DWM	NMSS		
NAME	RCarlson		JHolonich		JGreeves	CPaperiello		
DATE	2/13/97	H	2/13/97		2/19/97	2/ /97		

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LIST FOR LETTER TO A. BOULANGER DATED Feb. 21, 1997

Jep Hill, Esq.
Attorney for Hydro Resources, Inc.
Jep Hill & Associates
P.O. Box 2254
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Executive Director
Water Information Network
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Mary Lou Jones
Zuni Mountain Coalition
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San Rafael, NM 87501

Lori Goodman
Dine' CARE
Navajo Nation
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Durango, CO 81301

Bernadine Martin
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Marilyn Sam
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Wm. Paul Robinson
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Southwest Research and Information Center
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Albuquerque, NM 87106

Mervyn Tilden
P.O. Box 457
Church Rock, NM 873111



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

December 24, 1996

Susan G. Jordan, Esq.
New Mexico Environmental Law Center
1405 Luisa Street, Suite 5
Santa Fe, NM 87505

SUBJECT: CROWNPOINT, NEW MEXICO PROJECT

Dear Ms. Jordan:

I am responding to your letter, dated December 6, 1996, addressed to Chairman Shirley Jackson of the U.S. Nuclear Regulatory Commission, and Mr. Joseph J. Holonich, Chief of the Uranium Recovery Branch, Office of Nuclear Material Safety and Safeguards. In your letter, you request that the NRC issue a Supplemental Draft Environmental Impact Statement (SDEIS) for the Hydro Resources, Inc. (HRI) Crownpoint, NM proposed uranium solution mining project. As justification for this request, you cite what you believed to be significant new information that was not available at the time the Draft Environmental Impact Statement (DEIS) was published in November 1994. Therefore, you conclude that without a SDEIS, the public would not be given the ability to participate in the environmental review process as required by the National Environmental Policy Act and NRC regulations.

We appreciate your interest in this matter and have carefully considered the views expressed in your letter. However, based upon our review of the information provided in your letter, the NRC staff has determined that there is not a sufficient basis for issuing a SDEIS at this time.

The information discussed in your letter appears to be information which was provided to the NRC by HRI in response to the NRC staff's requests for additional information (RAIs), which were developed in large part based upon the many public comments we received concerning the DEIS. We do not believe that this information constitutes such "new" and "significant" information as to require the publication of a SDEIS prior to publication of a Final Environmental Impact Statement (FEIS). It is well established that a federal agency need not prepare a SDEIS to consider each new piece of information that it obtains following the publication of a DEIS. Under appropriate circumstances, a federal agency may issue an FEIS without prior publication of a SDEIS, notwithstanding the fact that additional information is placed in the FEIS to respond to public comments on the DEIS. Because the information contained in HRI's responses to the NRC RAIs was provided in order to address public comments on the DEIS, and because that information does not alter the proposed action or present significant new circumstances or information concerning that action or its impacts, the NRC staff does not believe that a SDEIS must be published prior to publication of the FEIS. Therefore, the NRC plans to publish the FEIS in January 1997.

Enclosure

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To the extent that you or other persons believe that the FEIS does not adequately consider the environmental impacts of the proposed action and/or requires supplementation pursuant to 10 C.F.R. § 51.92, we would encourage you to submit your views to the NRC following publication of the FEIS. Any such information will be considered by the NRC staff and, if necessary, a supplemental FEIS could then be prepared. Additionally, in the event an adjudicatory hearing is held in which your clients are afforded intervenor status, they may raise any concerns regarding the FEIS in that proceeding.

Your letter notes that all of the information submitted by the applicant is available in the NRC's Public Document Room (PDR) in Washington, DC, but because of the inability of local residents to gain access to the PDR, you request that the NRC establish a Local Public Document Room (LPDR) near the Crownpoint site. Current NRC policy is to establish LPDRs for uranium recovery sites if: (1) intervention is granted under the informal hearing procedures for materials licensing proceedings contained in 10 CFR Part 2, Subpart L; (2) the site is not near an existing LPDR; and (3) the staff determines that an LPDR is necessary. As you undoubtedly know, eight petitions for leave to intervene in the HRI licensing proceeding have been filed by various individuals and organizations that are interested in the proposed action. We expect that a decision with respect to their intervention will be made by the Presiding Officer shortly, following publication of the FEIS. In anticipation of that action, the NRC staff is preparing a hearing file that is to contain all reports and NRC-HRI correspondence relevant to this matter, so that a functional LPDR may be established in a prompt and timely manner upon the commencement of the adjudicatory proceeding. In the interim, the PDR staff in Washington, DC is prepared to assist interested individuals in any way. If you or any members of the local community would like to obtain copies of information submitted by HRI, in lieu of contacting HRI, the PDR may be contacted at (202) 634-3273/3337.

I hope this information clarifies the NRC staff's position on this matter, and responds to your concerns. If you have any questions regarding this subject, please contact Mr. Holonich of my staff at (301) 415-6643.

Sincerely,

(Original signed by)

Carl J. Paperiello, Director
Office of Nuclear Material Safety
and Safeguards

cc: See attached list

ACTION

EDO Principal Correspondence Control

FROM: DUE: 02/24/97

EDO CONTROL: G970084

DOC DT: 01/14/97

FINAL REPLY: 2/19/97

Aimee R. Boulanger
Mineral Policy Center

TO:

Chairman Jackson

FOR SIGNATURE OF :

** GRN **

CRC NO: 97-0130

Paperiello

DESC:

ROUTING:

PROPOSED IN SITU LEACH URANIUM MINE IN CROWNPOINT,
NEW MEXICO AND LOCAL CONCERNS

Thompson
Jordan
Norry
Blaha
Bangart, SP
Galante, CIO

DATE: 02/06/97

ASSIGNED TO:

CONTACT:

NMSS

Paperiello

SPECIAL INSTRUCTIONS OR REMARKS:

<u>DWM Action</u>
Due to NMSS Director's Office
By <u>2/19/97</u>
<u>rec'd 2/7/97</u>

ACTION: Holonich
Due to DWM
Director's Office: _____

CC: JG
m4

OFFICE OF THE SECRETARY
CORRESPONDENCE CONTROL TICKET

PAPER NUMBER: CRC-97-0130 LOGGING DATE: Feb 6 97

ACTION OFFICE: EDO

AUTHOR: AIMEE BOULANGER
AFFILIATION: COLORADO

ADDRESSEE: CHAIRMAN JACKSON, JOSEPH HOLONICH, NMSS

LETTER DATE: ***** *1-14-97* FILE CODE:

SUBJECT: PROPOSED IN SITU LEACH URANIUM MINE IN CROWNPOINT,
NEW MEXICO AND LOCAL CONCERNS

ACTION: Direct Reply

DISTRIBUTION: CHAIRMAN

SPECIAL HANDLING: SECY TO ACK

CONSTITUENT:

NOTES: OCM #7118

DATE DUE: Feb 24 97

SIGNATURE: . DATE SIGNED:

AFFILIATION:

7118

MINERAL POLICY CENTER

• P. O. BOX 2414 • DURANGO, COLORADO • 81302 • 303-382-0421 •

14 January 1997

Ms. Shirley Ann Jackson, Chair
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Mr. Joseph J. Holonich, Chief
High-Level Waste and Uranium Recovery Projects Branch
Division of Waste Management
Office of Nuclear Material, Safety and Safeguards
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Re: Proposed In Situ Leach Uranium Mine in Crownpoint, New Mexico and Local Concerns

Dear Ms. Jackson and Mr. Holonich,

I am writing to express our organization's full support for a request made to you by Eastern Navajo Dine Against Uranium Mining (ENDAUM) and Southwest Research and Information Center (SRIC). These two groups requested that the Nuclear Regulatory Commission (NRC) issue a Supplemental Draft Environmental Impact Statement for the proposed mining project and that a public repository for all documents related to the project be established in Crownpoint. Mineral Policy Center fully supports both of these requests and urges the NRC to comply.

Mineral Policy Center is a non-profit environmental organization which works to reduce the negative impacts of hardrock mining. Our Southwest Circuit Office, in Durango, Colorado, directly assists communities in the Four Corners states who are facing specific proposed, existing and abandoned mine problems. I consider myself fortunate to have had the opportunity to have worked with both ENDAUM and SRIC over the last two years on the proposed uranium mining in the Crownpoint area.

As you are aware, Hydro Resources Inc.'s proposal to mine uranium using the "in situ leach" (ISL) technology would have significant impacts to water quality, water quantity, human health, quality of life, socioeconomics, and cultural resources. Mineral Policy Center has seen no compelling data to substantiate the claim that ISL uranium projects can return groundwater to baseline conditions. In Crownpoint, this likelihood is especially alarming due to the proximity of the proposed project to drinking water wells and due to the dependence of thousands of people throughout the Eastern Agency of the Navajo Nation on these wells for domestic and livestock uses.

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ENDAUM, a locally based group in Crownpoint, was founded for the purpose of informing its members and the larger community of the impacts of the proposed uranium mines. This is no simple task as the information is extensive, the process highly technical, the impacts serious and potentially permanent, the technology never tested on a commercial scale in New Mexico and the impacted communities are Dine, and therefore many speak traditional languages rather than English. Without any type of financial or professional compensation, ENDAUM members took on this daunting task of analyzing, understanding, and interpreting the proposed project. While their efforts have been excellent, their effectiveness has been hampered by the lack of a public repository for information relating to the project.

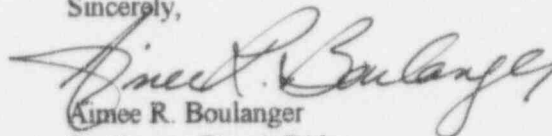
It is absolutely incumbent upon NRC to offer all related public documents in a public location, which provides easy access for Crownpoint and Church Rock residents, with convenient hours for this access, and with photocopying capacity. This should be done immediately, as it should have existed long before now. The Crownpoint office of Hydro Resources Inc. does not constitute an adequate "public" resource for this information. Environmental justice concerns, which are rife throughout this proposed project, compel a public agency to provide true, full, safe and comfortable access to all relevant information to those who will be most impacted by this project.

Mineral Policy Center also supports ENDAUM and SRIC requests for a Supplemental Draft Environmental Impact Statement. Many who commented upon the original draft, including the Environmental Protection Agency, found the project to have objectionable impacts and the draft inadequate in dealing with these impacts. As ENDAUM and SRIC's letter to you (dated December 6, 1996) illustrates, significant new relevant information has been gathered by NRC and submitted by the project proponent. The public has not had any opportunity to review or comment on this material. Issuing a Final EIS would clearly be in violation of the National Environmental Policy Act.

Also, I understand that the requirements of the National Historic Preservation Act have not been fulfilled. In particular, the identification and proper protection of traditional cultural properties remains to be accomplished. This reflects the insufficiency of the process thus far. Comprehensive gathering of cultural information, full understanding its significance, and meaningful consultation with tribes is imperative. The NRC must rectify this offensive insufficiency as soon as possible.

Mineral Policy Center appreciates this opportunity to be heard in support of the concerns and requests of Eastern Navajo Dine Against Uranium Mining and Southwest Research and Information Center. Thank you for your consideration of these important issues. We will look forward to your response.

Sincerely,


Annee R. Boulanger
Southwest Circuit Rider

cc: Mitchell Capitan, ENDAUM
Chris Shuey, SRIC
New Mexico Environmental Law Center
Environmental Protection Agency