



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street
San Francisco, CA 94105-3901

23 June 1997

40-8968

Mr. Joseph J. Holonich, Chief
Uranium Recovery Branch
Division of Waste Management
Office of Nuclear Material Safety and Safeguards
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Subject: Request for Materials Sent to U.S. Environmental Protection Agency by
New Mexico Environmental Law Center

Dear Mr. Holonich:

Please find enclosed the materials transmitted to our office on May 27, 1997 by the New Mexico Environmental Law Center on behalf of the Eastern Navajo Dine' Against Uranium Mining. The documents pertain to the final environmental impact statement developed by your office for the Crownpoint Uranium Solution Mining Project. In a conference call on the subject, members of your staff requested these materials. This letter constitutes our formal transmission of the documents to your office. Should you have any questions on this matter, please contact Ephraim Leon-Guerrero at (415) 744-1832.

Sincerely,

Laura Tom Bose

Laura Tom Bose, Chief
Ground Water Office (WTR-9)

NLOS 1/1

enclosures (8)

cc: Robert Carlson, NRC (without enclosures)
Susan Jordan, NMELC (without enclosures)

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PDR ADOCK 04008968
C PDR



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NEW MEXICO ENVIRONMENTAL LAW CENTER

(VIA FEDERAL EXPRESS)

May 27, 1997

Ephraim Leon-Guerrero
Groundwater Office (WTR-9)
U.S. Environmental Protection Agency, Region IX
75 Hawthorne Street
San Francisco, CA 94105-3901

Re: HRI-Crownpoint Proposed ISL Uranium Mining Operations

Dear Mr. Leon-Guerrero:

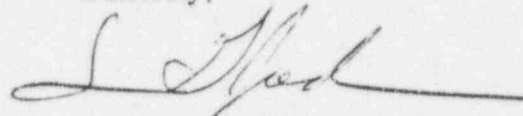
Pursuant to my facsimile letter of today's date, please find enclosed the following documents for your review:

1. An enlarged, color version of the map we provided you showing homes, schools, churches, the community hospital, and other facilities on or near the proposed mining and processing sites;
2. ENDAUM's Request for Evidentiary Hearing and Petition for Leave to Intervene in the Matter of Hydro Resources Inc., ASLBP No. 95-706-01-ML, filed with the Atomic Safety and Licensing Board February 15, 1995 (attachments omitted);
3. ENDAUM's Motion (Response) to Request of Hydro Resources Inc. to Deny All Petitions for an Evidentiary Hearing, ASLBP No. 95-706-01-ML, filed with the Atomic Safety and Licensing Board March 20, 1995 (including declarations describing ENDAUM members' use of water and land that would be impacted by the Project);
4. A letter from Ruby A. Spencer, Navajo Area Indian Health Service, to Chris Shuey, SRIC, dated December 17, 1996, enclosing infant death rates and ambulatory care diagnoses for the Crownpoint service area (also attached) and providing sources for additional information on cancer, waterborne contaminants, and occupational exposures;
5. The Crownpoint Healthcare Facility Safety Committee Position Statement Regarding the In-Situ-Leach Uranium Mine Proposed by Hydro Resources, Inc.;
6. The cover page from W.P. Staub, et al., "An Analysis of Excursions at Selected In Situ Uranium Mines in Wyoming and Texas," NUREG/CR-396, July 1986 (an

extensive report available from the NRC detailing serious problems at other ISL uranium mine sites); and

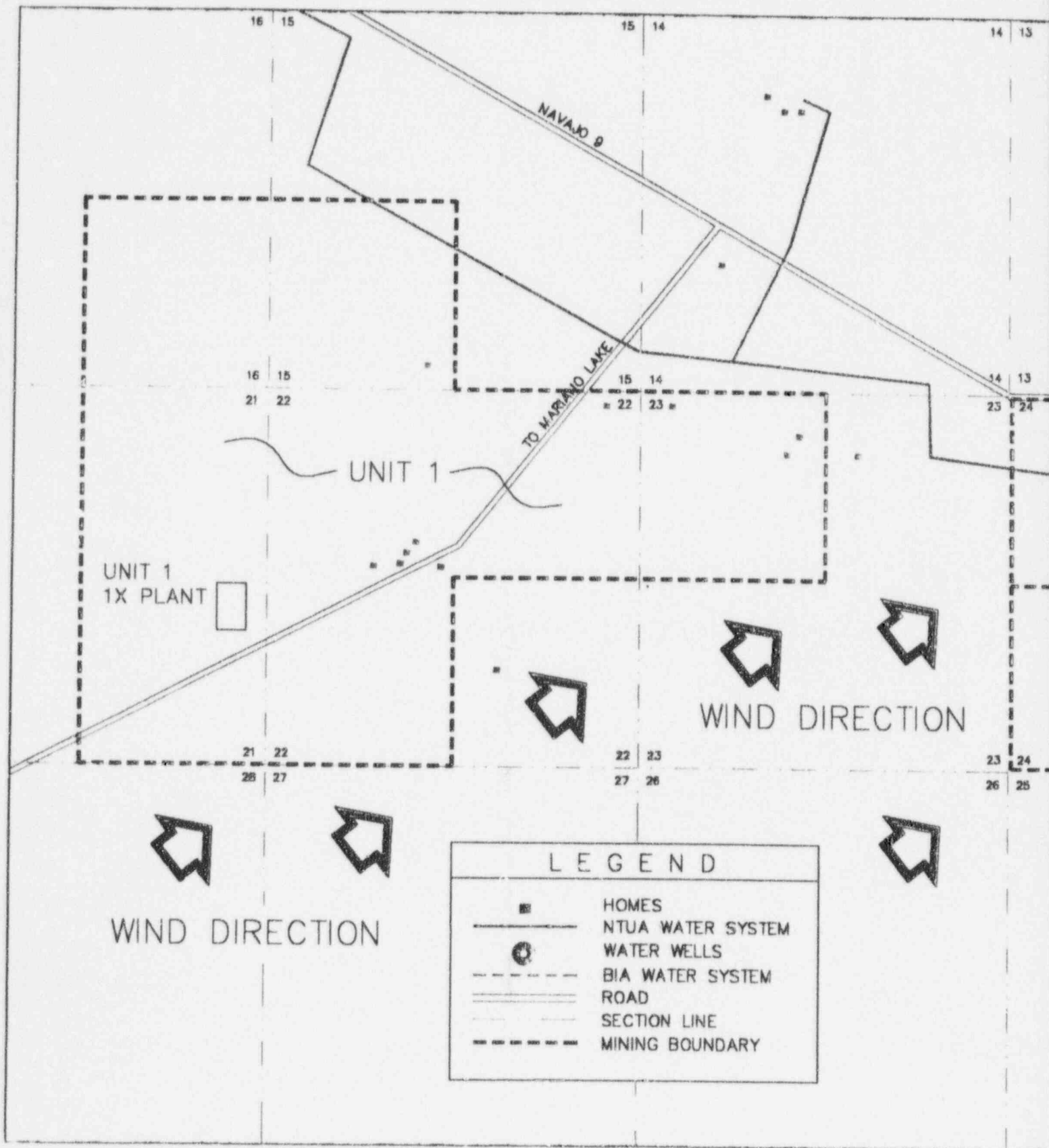
7. Sign-in sheets from the briefing by our hydrology and geochemistry consultants, and the meeting with ENDAUM on May 20.

Sincerely,

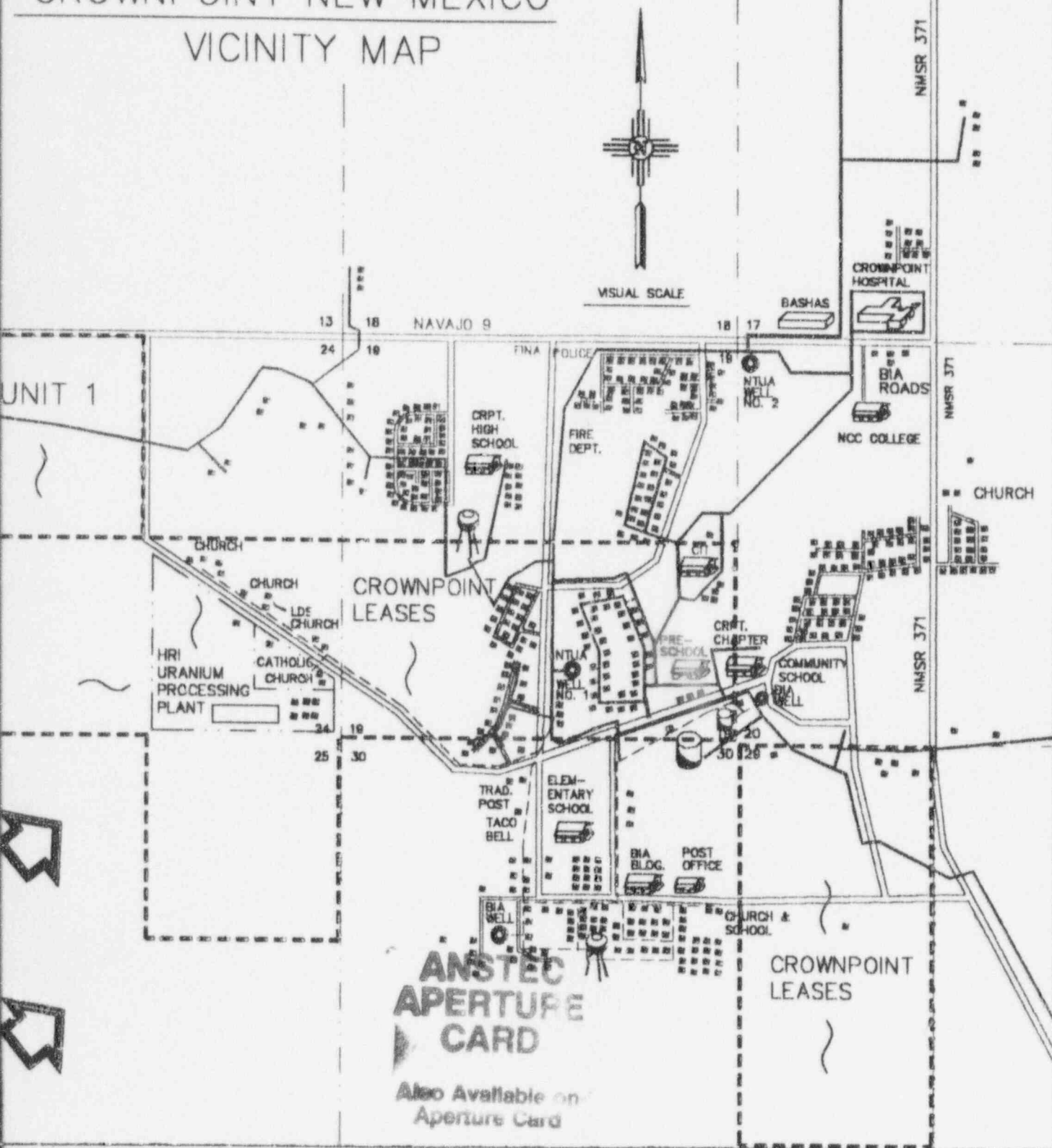
A handwritten signature in black ink, appearing to read 'S. Jordan', with a long horizontal flourish extending to the right.

Susan G. Jordan
Staff Attorney

encl.



CROWNPOINT NEW MEXICO VICINITY MAP



9707010026-1

EASTERN NAVAJO DINEH AGAINST URANIUM MINING
P.O. Box 471, Crownpoint, New Mexico 87313
505-786-5341

(Transmitted by facsimile on March 20, 1995,
and by Federal Express on March 20 and 21, 1995)

March 20, 1995

Secretary
U.S. Nuclear Regulatory Commission
Mail Stop OWFN-16/G15
Attn: Docketing and Service Branch
Washington, DC 20555

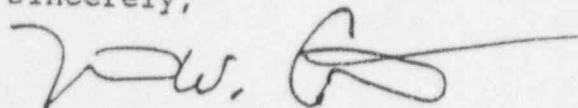
The Hon. B. Paul Cotter, Jr.
Presiding Officer and Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Dear Secretary and Judge Cotter:

Eastern Navajo Dine Against Uranium Mining is submitting the attached motion and response pursuant to the Presiding Officer's Memorandum and Order of January 20, 1995. The original of this motion and response, including the notarized versions of several affidavits, are being sent to the Secretary via Federal Express. A copy is being faxed to the Secretary's office and to the office of the Presiding Officer.

ENDAUM appreciates your consideration of this filing and looks forward to your favorable action.

Sincerely,



Mitchell W. Capitan, President

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CERTIFICATE OF SERVICE

I hereby certify that copies of ENDAUM's Motion and Response of March 20, 1995, was served upon the following persons by facsimile transmission, overnight mail and-or U.S. mail, first class.

Office of Commission Appellate
Adjudication
U.S. Nuclear Regulatory Comm.
Washington, DC 20555

Thomas D. Murphy, Special Asst.
Administrative Judge
Atomic Safety and Licensing
Board Panel
U.S. Nuclear Regulatory Comm.
Washington, DC 20555

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Administrative Judge
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Sherwin Turk, Esq.
Office of the General Counsel
U.S. Nuclear Regulatory Comm.
Washington, DC 20555

Mary Lou Jones
Zuni Mountain Coalition
P.O. Box 39
San Rafael, NM 87051

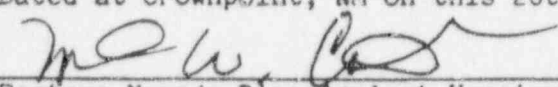
Lori Goodman, Spokeswoman
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Grace Sam
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Gallup, NM 87325

Bernadine Martin
P.O. Box 370
Crownpoint, NM 87313

Mr. Jep Hill, Esq.
816 Congress Ave., Suite 1100
Austin, TX 78701

Dated at Crownpoint, NM on this 20th day of March, 1995.



Eastern Navajo Dine Against Uranium Mining

Administrative Judge
Thomas D. Murphy, Special Assistant

ASLBP No. 95-706-01-ML

45033(17) 242 JBP

I. BACKGROUND

ENDAUM filed an amended petition requesting an evidentiary hearing on February 15, 1995, pursuant to Paragraph 1 of the Presiding Officer's Memorandum and Order of January 20, 1995. In doing so, ENDAUM sought to understand more fully the requirements for petitions for hearings and requests for leave to intervene as codified at 10 CFR 2.105. Nothing in these regulations give members of the lay public direction in what constitutes adequate showing of standing and issues of concern. Apparently, the essential elements for these filings have been established by case law before the Atomic Safety and Licensing Board Panel ("ASLBP"). While ENDAUM has sought legal advice in this matter, it has not been able to retain counsel because of a lack of funding. As such, we have not been able to fully examine the apparently large body of ASLBP case law that may be applicable to this proceeding.

Notwithstanding this constraint, we have tried to address the requirements of the regulations in a responsible and professional manner while communicating to the ASLBP and the NRC the widespread community concern about the proposed uranium in situ leach ("ISL") mines. This combined motion and response is intended to (1) elaborate on the demonstration of standing made by ENDAUM in its February 15 filing; (2) address misleading statements and insulting remarks in HRI's response of February 25, 1995; and (3) further discuss the significant issues that are in dispute in this case, especially in light of the substantial deficiencies identified in the Draft Environmental Impact Statement ("DEIS"; NUREG-1508) by

many commenters, including the Navajo Nation, and the doubts raised by these commenters that HRI can successfully mine uranium in and next to the town of Crownpoint without jeopardizing public health and safety.

II. ENDAUM HAS DEMONSTRATED STANDING TO INTERVENE IN THIS LICENSING PROCEEDING

There are three parts to ENDAUM's demonstration that it should be granted standing to intervene in this licensing proceeding: (1) its amended petition of February 15 was filed in a timely manner; (2) it truly represents a wide number of people who will or may be adversely affected by the proposed mines; and (3) the proposed mines, if licensed, will cause injury in fact to ENDAUM and its members. Each of these issues are discussed in this section.

- A. ENDAUM's petition was timely because it complied with the Presiding Officer's filing schedule and because it was the amended request that would have been filed by Petitioner Bernadine Martin.

ENDAUM's amended petition requesting an evidentiary hearing was and is timely for two reasons: First, it was filed on February 15, 1995, thereby complying with the revised filing schedule prescribed in the Presiding Officer's Memorandum and Order of January 20, 1995. And second, it was essentially the same amended petition that could have been filed by Bernadine Martin, one of the seven original petitioners.

ENDAUM argued in its February 15 petition that its request for an evidentiary hearing was an "amended" request because the

organization had subsumed at least two individuals who wrote and filed letters requesting a hearing by the deadline on December 14, 1994. ENDAUM Petition at 12. In the event the Presiding Officer did not find ENDAUM's petition to be timely within the meaning of 10 CFR 2.1205(c), ENDAUM offered argument and information showing that the request was "excusable" and otherwise would not prejudice any other party to the proceeding.

In this motion and response, ENDAUM presents the sworn affidavits of several of its officers and members to support its claim that its petition was in fact timely, that only the name of the petitioner changed. All of these affidavits have been properly sworn before a notary public; the original copies of these affidavits are being filed with the Presiding Officer.

The first sworn testimony addressing this matter is contained in the affidavit of ENDAUM president Mitchell W. Capitan, which is appended as **Exhibit A**. In Paragraph 22 of **Exhibit A**, Mr. Capitan explains that the group's decision to seek an evidentiary hearing was made during a meeting on December 12, 1994:

"[I]t was always my intention and. . .the intention of many residents of the affected communities to form an organization for the purpose of voicing our collective opposition to these mines. . . .The notes and minutes of these meetings clearly reflect these intentions. In fact, the notes of our group's first meeting on December 12, 1994, show clearly that the group authorized Bernadine Martin to write a letter on behalf of the group, requesting a hearing on the proposed uranium mines. Ms. Martin's letter of December 13, 1994, reflected the fact that she was writing on behalf of 'a group of concerned citizens who reside in and around Crownpoint, New Mexico.' I believe that ENDAUM's February 15 petition was timely in the sense that it was the response of petitioner Bernadine Martin and many other concerned residents, given simply under a different

name."

Exhibit A at 11.

Mr. Capitan's recollections of the decision of the "group of concerned citizens" on December 12 are substantiated in the affidavits of Bernadine Martin (Exhibit B), Grace A. Tsosie (Exhibit C) and Calvin Murphy (Exhibit D), and the notes of the group's December 12, 1994, meeting (Exhibit E). An affidavit made by Rita Capitan and appended as Exhibit F attests that Ms. Capitan prepared the notes of the meeting of December 12.

Ms. Martin's affidavit reviews the sequence of events which led up to the filing of ENDAUM's February 15 petition and her own involvement in those events. In Paragraphs 9, 12 and 13 of her affidavit, Ms. Martin states the relevant facts regarding ENDAUM's petition:

"[I]n filing my letter of December 13, 1994, . . . I was acting on behalf of myself and a group of individuals who were, and remain, concerned about the impacts of the proposed mines. . . . I did not file an amended request for hearing in my own name because I assumed, in good faith, that my interests and those of my family would be subsumed with the interests of other 'concerned citizens of Crownpoint' in ENDAUM's petition. . . . [M]y strong belief is that the group named 'Eastern Navajo Dine Against Uranium Mining' is the same as the 'group of concerned' to which I referred in my letter to the NRC of December 13, 1994."

Exhibit B at 5.

Grace A. Tsosie was present at the initial meetings of the group and gave her recollection of the events of December 12 in Paragraphs 4 and 5 of her affidavit. Ms. Tsosie stated that the group agreed with Mr. Capitan's suggestion to have Bernadine Martin write NRC requesting a hearing on the proposed mines. Ms. Tsosie

stated that the group which named itself Eastern Navajo Diné Against Uranium Mining "is the same group of people that asked Bernadine Martin to write the letter back in December." Exhibit C at 2-3.

Calvin Murphy, a founding member of ENDAUM, in his affidavit in Exhibit D further supports the understanding that the group of concerned citizens referred to in Ms. Martin's letter of December 13 is the same group that is now named Eastern Navajo Diné Against Uranium Mining.

Finally, the notes of the December 12 meeting, appended as Exhibit E, stated in relevant part:

"[Mitchell Capitan] suggested we go ahead with a petition and get Bernadine Martin to write this letter to Washington, DC (NRC). . . Most agreed that we need to continue to meet and get more people informed about this proposed mining."

Exhibit E at 2. Rita Capitan's affidavit (Exhibit F) substantiates the notes of the meeting of December 12.

- B. ENDAUM represents a wide number of people who will or may be affected by the proposed mines.

ENDAUM provides the following information to support its connection that the group represents a wide number of people who will or may be affected by the proposed mines. Mr. Capitan states in Paragraph 23 of his affidavit that nearly 90 different individuals have attended the group's public meetings, which have been held at the Crownpoint Chapter House and advertised in local newspapers and on local radio stations. Mr. Capitan states that the "vast majority [of those individuals] have expressed concern

about and opposition to the proposed mines." Exhibit A at 12. Exhibit G is a list of the individuals who attended ENDAUM's meetings on December 12, 1994; January 18, 1995; February 2, 1995; February 15, 1995; and March 9, 1995.

Further support for the notion that ENDAUM represents people directly affected by the proposed mines can be found in the affidavits of Mr. Capitan, Ms. Martin, Ms. Tsosie, Mr. Murphy, Mr. Herbert Enrico (Exhibit H) and Mr. Larry J. King (Exhibit I). Each of these individuals states how he or she will be directly affected by the proposed mines and further states his or her authorization to ENDAUM to represent them in this licensing proceeding.

C. ENDAUM has demonstrated that several of its members will suffer injury if the proposed mines are licensed

The Presiding Officer has written that a key element in any demonstration of standing is the extent to which a petitioner shows "that the intended action will cause injury in fact to the petitioner's interests." Memorandum and Order, January 9, 1995, at 3. ENDAUM believes that the sworn affidavits of several of its members in support of its February 15 petition and the sworn affidavits appended to this motion and response satisfy a showing that there is a reasonable likelihood of injury to individuals and to the affected communities. Injury is further demonstrated when the affidavits of February 15 and those attached hereto are read in concert with the significant technical and legal issues that remain in dispute in this licensing proceeding. (See Section IV of this

motion and response.) Below, we review and summarize injuries and harm asserted by the affiants testifying in support of this motion and response:

Affiants Mitchell Capitan, Grace Tsosie, Calvin Murphy, Herbert Enrico and Larry J. King state that they regularly drink water from the Crownpoint water system and believe their health and the health of their family members will be harmed if the water is contaminated by uranium solutions escaping from HRI's Unit 1 and Crownpoint mines. Exhibit A, Paragraphs 16 and 17; Exhibit D, Paragraph 11; Exhibit D, Paragraph 7; Exhibit H, Paragraph 6; Exhibit I, Paragraph 12, respectively. Ms. Tsosie, Mr. Murphy and Mr. Enrico also state in their affidavits that they use water from the Crownpoint water system for watering of their livestock and, in the cases of Ms. Tsosie and Mr. Murphy, for watering of crops grown on their allotted and permitted lands west of Crownpoint. Mr. Enrico, who is a veterinarian and member of the Eastern Navajo Health Board, notes the importance of clean water in preventing disease and sickness among livestock. Exhibit H, Paragraph 7.

Mitchell Capitan bases his belief that HRI will not be able to operate its Crownpoint mines without damaging the ground water in part on his past employment as a laboratory technician for Mobil Oil at its Section 9 Project between 1980 and 1986. Exhibit A, Paragraph 7. Mr. Capitan testifies that during his employment with Mobil, "it was common knowledge. . .that Mobil was having difficulty restoring water quality to pre-mining levels for. . .molybdenum and arsenic. . .and radium." Exhibit A, Paragraph 18.

He also observed numerous spills and leaks of process fluids, especially during the winter months were pipes broke open during freezing conditions. Exhibit A, Paragraph 20.

Mr. Capitan also states that he believes his health and that of his family will be harmed by exposure to contaminants in dusts routinely released from effluent ponds and the main yellowcake processing plant. He notes that the main processing plant will be located less than one-half mile and upwind of his home in the Navajo Housing Authority subdivision and less than three-quarters of a mile upwind of Crownpoint High School. Exhibit A, Paragraph 19. A land status map of the town of Crownpoint obtained from the Navajo Naton and modified by ENDAUM to show the location of the proposed processing plant and the outline of HRI's Crownpoint mine lease area and a portion of the Unit 1 lease area verifies Mr. Capitan's statements about the proximity of his home and the Crownpoint High School to these facilities. A reduced copy of this map is appended hereto as Exhibit J.

Grace A. Tsosie and Calvin Murphy base their beliefs that they will be harmed by the proposed mines on their knowledge of the countryside surrounding their homes and lands and the proximity of their homes to the proposed Unit 1 mines. Ms. Tsosie notes that her allotted lands are "sandwiched" between portions of the Unit 1 lease areas. Exhibit C, Paragraph 3. Ms. Tsosie and Mr. Murphy state that runoff from the waste water irrigation area proposed for the Unit 1 mine will cross their grazing and crop lands, thereby contaminating vegetation soils. Exhibit C, Paragraph 6; Exhibit D,

Paragraph, 5.

Mr. Enrico and Mr. King both base his belief that traffic accidents involving uranium trucks will harm their livestock or family members on personal past experiences. Mr. Enrico, who is a veterinarian and member of the Eastern Navajo Health Board, states the he has lost about eight head of cattle to traffic on Route 371, including two head of cattle which were killed just last week when hit by what witnesses described as a coal truck. Exhibit H, Paragraph 9. Mr. King recites two incidents which claimed the lives of his brother and an uncle in separate traffic accidents in the 1970s. Exhibit I, Paragraph 11. Both accidents occurred on State Route 566 in the area of the Old Church Rock Mine, which was on the same location as that proposed for HRI's Church Rock Mine. Mr. King testified that he is positive that both accidents involved "uranium ore trucks." Exhibit I, Paragraph 11.

Mr. King also states that he and his family members will be harmed by waste water applied to lands on which they have a valid grazing permit and currently graze about 30 head of cattle. Exhibit I, Paragraphs 7 and 9. These lands are the eastern half of Section 17 of Township 16 North, Range 16 West. Mr. King states that HRI's disposal of waste water on his family's grazing lands "will force us to reduce the number of cattle we graze, [and]. . . will cause our family extreme financial hardship because raising and selling cattle represent a significant portion of my father's income." Exhibit I, Paragraph 9.

Mr. King further states that HRI has never asked permission to

conduct any mining-related activities on his family's lands. Exhibit I, Paragraph 10. In Ms. Tsosie's case, she questions HRI's forthrightness because the company never told her that her land was included in the mining area until after she visited HRI's Texas facilities in 1989. Exhibit C, Paragraph 8.

Each of the affiants gave additional reasons why they believe they will be directly affected by the proposed mines at Crownpoint and Church Rock. Each presented in their second affidavits appended hereto, personal knowledge, experience and education that qualify them to make these statements. And each, with the exception of Mr. King who is giving a sworn statement for the first time, reaffirmed the information contained in the affidavits they gave in support of ENDAUM's February 15 petition. When coupled with the unresolved and disputed issues presented in Section IV of this motion and response, these members of ENDAUM have demonstrated their individual standing and that of the organization's.

III. HRI'S RESPONSE CONTAINED UNFOUNDED ASSERTIONS ABOUT THE COMPETENCY OF ENDAUM MEMBERS, AND AS SUCH, WAS INSULTING

HRI alleges in its February 25 response that some or all of the individual members of ENDAUM who gave affidavits in support of the group's February 15 petition are either not "competent" or not qualified to give testimony in this proceeding. HRI's allegations, besides being intemperate, unprofessional and prejudicial, and are largely unfounded. Minor mistakes in the form of the original affidavits do not nullify the truthfulness or relevancy of the

statements given.

As seen in the attached affidavits of Mitchell Capitan and Grace Tsosie, members of ENDAUM are taking HRI's assertions as insults and are requesting apologies. Exhibit A, Paragraph 12; Exhibit C, Paragraph 3. There is simply no basis for HRI resorting to this low level of public discourse. ENDAUM believes that individuals who have interests in this matter should have the opportunity to provide their input since their "backyards" will be affected by HRI's proposed mining activity.

In the following paragraphs, we response to each of HRI's challenges to the competency and qualifications of ENDAUM's affiants. In the end, we believe that any deficiencies in the form or substance of the original affidavits have been resolved by the second affidavits appended to this motion and response. Certainly, nothing alleged by HRI or implied by the second round of affidavits should dissuade from Atomic Safety and Licensing Board from giving full consideration and weigh to the statements of these members of ENDAUM.

Mitchell Capitan. HRI further asserted that Mitchell Capitan's original affidavit did "not include any language which would qualify Capitan generally (of sound mind, never convicted of a felony, etc.)" HRI Response at 26. Mr. Capitan explains in his second affidavit attached hereto that he is "quite 'competent' to testify to my own knowledge, experience and expertise in an evidentiary hearing." Exhibit A, Paragraph 13. He also states that he knew exactly what he was signing when he signed ENDAUM's

cover letter accompanying the February 15 petition, and that understood completely the content of the petition itself because it was prepared under his direction. Exhibit A, Paragraph 11. Mr. Capitan also questions the need to disclose any conviction, whether a felony or not, in order to testify in this matter. Exhibit A, Paragraph 13. He explains: "for the record, I have never been convicted of a felony," and requests a written apology from HRI's attorney for making such a wholly inaccurate and prejudicial inference.

Bernadine Martin. Ms. Martin's December 13, 1994, letter did not purport to represent "the general public," as HRI's attorney asserts. HRI Response at 22. Rather, as Ms. Martin states in her affidavit, the group of concerned citizens that she said she represented in her December 13 letter are individuals who came forward believing they are affected by the proposed mining activity. Exhibit B, Paragraph 4. These individuals "reside in and around Crownpoint, New Mexico" and were people who attended the December 12, 1994, meeting at which they decided to request a public hearing. Exhibit B, Paragraph 10.

ENDAUM was officially formed as an organization subsequent to December 12, 1994. It consists of a finite number of individuals with interests in the effects of the proposed mining activity and is not the "general public" as HRI's response alleges. The only prerequisite for membership is an individual's interest in ensuring that the local communities are not unduly subjected to hazardous and unsafe mining activities as proposed by HRI. To substantiate

that ENDAUM is a legitimate organization which represents individuals who share a common concern about the effects of mining in their communities, we submitted with our February 15 petition a list of "members" (Exhibit E of the February 15 petition), and we submit with this motion and response in Exhibit G a list of people who have attended ENDAUM's five public meetings through March 9. Furthermore, Mr. Capitan states in his second affidavit that the vast majority of the individuals who have attended ENDAUM's meetings have been at least concerned, if not outright opposed, to the proposed HRI mines. Exhibit A, Paragraph 23.

By proper vote on February 2, the ENDAUM elected Mitchell Capitan as the organization's president. Mr. Capitan now has the authority to speak for ENDAUM (the "amorphous group" HRI refers to in its response), of which Ms. Martin considers herself a member. See Exhibit B, Paragraphs 11, 12.

Grace Tsosie. Ms. Tsosie reaffirms the statements she made in her original affidavit (Exhibit C of ENDAUM's February 15 petition). She makes clear that two of the proposed mines would "sandwich" her allotted lands. Exhibit C, Paragraph 3. HRI's attempt at discounting Ms. Tsosie's standing while recognizing her "recitals" (i.e., her residence, use of water, grazing lands, use of herbs and plants, and cultivation of food crops) is surprising. Ms. Tsosie's affidavit clearly provides testimony that the very location of her home will be very much affected by the proposed mining activities.

Ms. Tsosie refutes HRI's allegation that she is not competent

to give testimony in this matter and expects an apology from HRI.

Calvin Murphy. While Mr. Murphy's statements do not purport to suggest any proximity to the Churchrock mine site, he clearly identifies his interests with regard to the proposed Unit 1 mine site near Crownpoint. Exhibit D, Paragraph 4. Mr. Murphy provides references to the location of his lands as noted in the DEIS. In addition to living near the proposed mine site, Mr. Murphy also grazes livestock in the area.

Herbert Enrico. HRI conveniently dismisses Mr. Enrico's well established standing in this issue. In his second affidavit attached hereto as Exhibit H, Mr. Enrico states clearly that he uses water from the Crownpoint water system and that his extended family, which lives in the Littlewater area six miles southeast of Crownpoint, also uses water from the Crownpoint system. Mr. Enrico also states that he will experience negative effects from the mining because he drives on the roads to be used for ore hauling and believes there is a substantial likelihood that he will lose livestock to future traffic accidents. Exhibit H, Paragraph 9. Mr. Enrico's second affidavit directly refutes Mark Pelizza's assertion that Mr. Enrico will experience "no effects whatsoever." HRI Response, Appendix A, Paragraph 23.

**IV. SERIOUS TECHNICAL AND LEGAL ISSUES REMAIN IN DISPUTE ABOUT
THE PROPOSED LICENSING ACTIONS AND ONLY AN EVIDENTIARY HEARING
WILL RESOLVE THOSE DISPUTES**

Comments made by agencies and organizations on the Draft Environmental Impact Statement suggest that several technical and legal issues appear to be in dispute regarding the proposed

licensing actions. The tenor of the comments belie HRI's assertion that "[t]hese [mining] projects will have absolutely no effect on the Crownpoint water system." HRI Response at 24. The major issues and the institutions which raised them include:¹

¹Written comments reviewed by ENDAUM, and their corresponding reference designation in boldface, were:

Antonio, Patrick. Memorandum to Boyd Nystedt, Navajo Nation Environmental Protection Administration, re: HRI's Draft Environmental Impact Statement, January 23, 1995 (NN/NEPA/PA).

Balleau, W. Peter. Comments on Draft Environmental Impact Statement on Hydro Resources Inc.'s Proposed Crownpoint Uranium Solution Mining Project. Balleau Groundwater Inc. for Navajo Nation Department of Justice, February 10, 1995 (NN/DOJ/WPB).

Curtiss, Julie. Memorandum to Boyd Nystedt: Comments on the draft EIS for HRI's Crownpoint Uranium Solution Mining Project. Navajo Nation, Environmental Protection Administration, Superfund Program, December 22, 1994 (NN/NEPA-SP/JC).

Dalton, Malcolm P. Letter to Chief, High-Level Waste and Uranium Recovery Projects Branch, U.S. Nuclear Regulatory Commission. Navajo Tribal Utility Authority, February 17, 1995 (NTUA/MPD).

Dixon, Matthew. Letter to Chief, High-Level Waste and Uranium Recovery Projects Branch, U.S. Nuclear Regulatory Commission. Proposed In-Situ Leach Uranium Mining Project, Church Rock and Crownpoint, New Mexico. January 29, 1995 (Dixon).

Hoffman, Stephen. Memorandum to Elaine Suriano: Comments on Draft Environmental Impact Statement to Construct and Operate the Crownpoint Uranium Solution Mining Project, Crownpoint, New Mexico. U.S. Environmental Protection Agency (Washington, DC), Office of Solid Waste, Mining Waste Section, undated (EPA/OSW/SH).

Johnson, Mike. Memorandum to Peg Rogers: Draft Environmental Impact Statement Concerning Hydro Resources Inc.'s Proposed Uranium Mining Venture. Navajo Nation, Department of Water Resources, December 29, 1994 (NN/DWR/MJ).

Kulpan, Bruce R. Memorandum to Yvonne Vallette: Comments on Draft Environmental Impact Statement to Construct and Operate the Crownpoint Uranium Solution Mining Project, Crownpoint, New Mexico (DEIS Reference No. 940467). U.S. Environmental Protection Agency, Region VI (Dallas), undated (EPA/VI/BPK).

Noyes, Peter T. Memorandum to Peg Rogers, re: DEIS, Crownpoint Uranium Solution Mining. Navajo Nation, Historic Preservation Department, December 21, 1994 (NN/HPD/PIN).

Reitz, Ann E., M.D. Letter to the Hon. Ivan Selin, U.S. Nuclear Regulatory Commission: In the matter of Hydro Resources Inc. Proposed Uranium In Situ Leach Mines, New Mexico. February 6, 1995 (Reitz).

Robinson, Paul; Shuey, Chris; and Morgan, Ray. Uranium Mining in Navajo Ground Water: The Risks Outweigh the Benefits. Comments on the Draft Environmental Impact Statement to Construct and Operate the Crownpoint Uranium Solution Mining Project, Crownpoint, New Mexico. Southwest Research and Information Center (Albuquerque, NM), February 28, 1995 (SRIC).

Roger, Peg. Letter to Chief, High-Level Waste and Uranium Recovery

(1) There are serious doubts that HRI can maintain the "pressure sink" needed to ensure that lixiviant does not migrate out of the mining zone laterally toward water-supply wells or vertically and horizontally into other fresh-water aquifers at the Unit 1 and Crownpoint sites. EPA/OSW/SH at 4; NN/DOJ/WB at 4-5; NN/DWR/MJ at 5; NN/NEPA/JW at 1; SRIC at 25. The chief of EPA's Mining Waste Section in Washington summarized his concerns about this issue with the following statement:

HRI's assumption that its contaminant flow will always be toward its recovery wells "would be true only if there is a complete control over the pressures at all wells, that there will be uniform cones of depression around each well and that aquifer drawdown can easily be predicted. It is unlikely that such conditions will exist in the field. It has been my experience that controlling down hole pressure at in-situ operations is often difficult and frequently very different from modelled results."

(2) The extreme vulnerability of Crownpoint's sole-source aquifer, and the wells which tap it, to contamination from excursions from the mining zone and the extensive area which would be affected negatively by the entrance of contaminants in the water system are not well recognized. Dixon at 1; NN/NEPA/PA at 7; SRIC at 15-16. ENDAUM member Calvin Murphy estimates, based on his past experience as an environmental engineering technicians with the

Projects Branch, U.S. Nuclear Regulatory Commission. Comments on DEIS to Construct and Operate the Crownpoint Uranium Solution Mining Project, Docket No. 40-8969, Hydro Resources Inc. Navajo Nation Department of Justice, February 21, 1995 (NN/DOJ/PR).

Walker, Jim. Memorandum to Peg Rogers: Comments on Draft EIS, Crownpoint Uranium ISL Mining Project. Navajo Nation, Environmental Protection Administration, December 22, 1994 (NN/NEPA/JW).

Zah, Peterson. Executive Order, Moratorium on Uranium Mining. Navajo Nation, Office of the President, December 1992 (NN/OOP).

Indian Health Service, that at least 5,000 people drink water from the combined NTUA and BIA water system in the communities of Crownpoint, Becenti, Nahodishgish (Dalton Pass) and Littlewater. Exhibit D at Paragraph 8. Another estimate places the number of people who use water from the system at 15,000. Dixon at 1. Any mining so close to NTUA Well No. 1 places future uses of the regional aquifer at risk:

"Any solution mining in the area of NTUA-1 well would only jeopardize future use of the aquifer as a water supply source. There is no guarantee that water quality could ever be remediated to baseline water quality."

NN/NEPA/PA at 7.

(3) The close proximity of facilities associated with the mines (injection and production wells, well field piping, waste-disposal ponds and land-application areas, and yellowcake processing plants) to places where people live, work and play in the town of Crownpoint provide little margin for error in the operation of the mining projects. Of particular concern are exposures of people in unrestricted areas to radon and its decay products, yellowcake dusts and leaks of lixiviant and other process fluids. EPA/OSW/SH at 1-2,3,4; SRIC at 3-5, 15-16, 21.

(4) Restoration of contaminated ground water to "baseline" water quality was not demonstrated at the only pilot ISL project that is relevant to the proposed mines (i.e., the Mobil Section 9 Project). There is no indication in the DEIS by or information presented by HRI that its ground-water sweep restoration method will achieve baseline water quality. There is evidence, however, that restoration to baseline for such constituents as arsenic,

radium and uranium will be difficult if not impossible. EPA/OSW/SH at 4; NN/DOJ/WPB at 1-2, 7; NN/DWR/MJ at 7; NN/NEPA-SP/JC at 2, 4; NN/NEPA/JW at 3; NN/NEPA/PA at 3, 8-9; SRIC at 12-15.

(5) There is no formal mitigation proposed to protect the Crownpoint water well system. Claims in the DEIS that HRI has agreed to replace one of the NTUA wells closest to the easternmost edge of the mining zone apparently are not true. NTUA, which owns and operates part of the Crownpoint water system --

"...has not reached any such agreement, and does not contemplate doing so. The consequences of such a capitulation would be a deterioration in the quality of the water supplied to the public in the Crownpoint area. . . . Further, the relocation of the well. . . would necessarily increase the Authority's cost of operation to deliver potable water. . . ."

NTUA/MPD at 2. Neither has relocation of the Applicant's well fields been considered as part of a local wellhead protection program. SRIC at 15-16.

(6) Recent reevaluation of the depositional history of the Westwater Canyon sandstone at the Church Rock site indicates that the formation is more heterogenous than is described in the DEIS or in HRI's environmental report. NN/DWR/MJ at 2. This heterogeneity and the anisotropic nature of the aquifer are likely to have resulted in preferential flow patterns which could contribute to a lack of fluid control in the Church Rock ore zone. NN/DWR/MJ at 2-3; NN/NEPA/PA at 6. Fluid control may also be affected negatively by the previous underground mining at the site. NN/NEPA/JW at 2; SRIC at 3, 23. And the effects of previous drilling into and through the Westwater Canyon Member and overlying Brushy Basin

Member, blasting within the ore zone, and the possible discontinuity of the underlying Recapture Formation cast further doubt on the ability of the Applicant to ensure lixiviant containment at the Church Rock site. NN/DWR/MJ at 4; NN/NEPA-SP/JC at 2; NN/NEPA/JW at 2; SRIC at 20-21, 23-24.

7. The potential for and possible effects of accidents involving the transportation of mining-related materials and equipment were not described adequately in the DEIS because its analysis was based on generic accident scenarios and not on actual road conditions in the affected communities. Nor did the DEIS describe the actual populations which would be negatively affected in the event of an accident. The lack of local emergency response and preparedness programs was virtually ignored. Reitz at 3; SRIC at 16-17.

8. The applicability of Navajo Water Code and other requirements of the Navajo Nation, including those related to cultural resource protection and underground injection control, were asserted by the Navajo Nation Department of Justice. NN/DOJ/PG at 1-2. These issues, coupled with the extent to which the proposed mines are consistent with federal Indian trust responsibilities, were virtually ignored in the DEIS, but have major importance to the Navajo people. NN/DOJ/PG at 3-4; NTUA/MPD at 2; SRIC at 10-11.

9. The applicability of two presidential executive orders to the proposed mines was asserted in several of the comments. The two were President Clinton's Executive on Environmental Justice

(E.O. 12989, February 11, 1994, and former Navajo President Peterson Zah's executive order declaring a moratorium on uranium mining on the Navajo Nation. NN/DOJ/PG at 5-6 and Appendix B; SRIC at 22.

Other issues which ENDAUM believes are in dispute and can only be resolved in an evidentiary hearing include: (10) the "no action" alternative is viable; (11) pilot testing of the proposed mines was not proposed as a way of demonstrating the effectiveness of restoration without authorizing full-scale commercial production; (12) water usage predicted by HRI is underestimated; (13) the length of time required for restoration may be unreasonably long, in some cases in excess of 100 years, and this may allow HRI to petition for and receive restoration exemptions at some time in the future; (14) land uses in and around the two major mining sites were inaccurately and incompletely described in the DEIS; (15) HRI has not demonstrated that it is technically or financially capable of operating the proposed mines for 20 years and has not established requisite financial surety for the mines; and (16) HRI's record of performance at its Texas in situ leach operations was totally ignored in the DEIS, but available documentation suggests that the firm's parent company has had difficulties complying with license conditions and restoring ground water to baseline water quality.

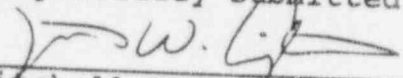
These disputed matters touch on all of the nine areas of concern listed in ENDAUM's February 15 petition. They are the issues which must be addressed in an evidentiary hearing. Since

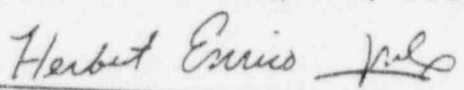
they are of a highly technical and legal nature, the informal public participation opportunities which have been accorded by NRC to date (i.e., opportunities to submit written comments on the DEIS and to make oral statements at two informal public meetings) are not sufficient to resolve the disputes, especially since NRC has proposed to issue the proposed licenses in the face of compelling evidence that the proposed mines will cause irreparable harm to the regional water resources of the Navajo people.

CONCLUSION

ENDAUM, its officers and members urge the Presiding Officer to grant it standing for the purposes of intervening in an evidentiary hearing before the Atomic Safety and Licensing Board on the application of Hydro Resources Inc. for source- and byproduct-materials licenses for the proposed Crownpoint and Church Rock uranium ISL mines. We believe we have met the NRC's requirements for filing a petition in a timely manner, demonstrated our individual and collective standing, and have stated areas of concern which can only be resolved in an evidentiary hearing. ENDAUM also urges the Presiding Officer to grant the petitions for hearing filed by Dine CARE, Mr. Mervyn Tilden and Zuni Mountain Coalition.

Respectfully Submitted,


Mitchell W. Capitan, Pres.


Herbert Enrico, Vice Pres.

Lupita Chicag *ml*
Lupita Chicag, Acting Sec.

EXHIBIT A

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD PANEL

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

Administrative Judge
Thomas D. Murphy, Special Assistant

In the Matter of)	Docket No. 40-8968-ML
HYDRO RESOURCES INC.)	ASLBP No. 95-706-01-ML
12750 Merit Drive)	AFFIDAVIT IN SUPPORT OF
Suite 1210 LB12)	ENDAUM'S RESPONSE TO HRI
Dallas, TX 75251)	MOTION TO DENY REQUESTS

AFFIDAVIT OF MITCHELL W. CAPITAN

Mitchell W. Capitan, appearing in person before me and having been duly sworn on his oath by me, states the following:

1. My name is Mitchell W. Capitan. I am a resident of Crownpoint, New Mexico. I live in the west mesa housing area, unit number 27. This is in Township 17 North, Range 12 West, Section 19, northwest one-quarter, McKinley County, New Mexico. My mailing address is P.O. Box 471, Crownpoint, N.M. 87313.

2. I am the same Mitchell W. Capitan who gave a sworn affidavit in support of the petition for an evidentiary hearing to the Atomic Safety and Licensing Board Panel filed by Eastern Navajo Dineh Against Uranium Mining on February 15, 1995. My original affidavit was appended to the ENDAUM petition as Exhibit

950333 5024/4 1200

A.

3. I am giving this affidavit in support of ENDAUM's response to the motion of Hydro Resources Inc., dated February 25, 1995, asking the Atomic Safety and Licensing Board panel to deny the petitions of ENDAUM, Mr. Mervyn Tilden, Dine CARE and Zuni Mountain Coalition.

4. I have lived in the town of Crownpoint for the past 25 years. I attended school in Crownpoint from the first grade through high school. I graduated from Crownpoint High School. I was away from Crownpoint for the two years that I attended college in California and in New Mexico. I have lived here since then.

5. I have an associates degree in agricultural machinery from New Mexico State University in Las Cruces, New Mexico.

6. I am employed as a meter reader for the Navajo Tribal Utility Authority in Crownpoint. I have worked for NTUA for the past nine years. In addition to my meter reading duties, I frequently represent NTUA at community meetings during discussions of system expansion, rate increases, bill problems and other utility-related matters. I am asked to perform these duties because I speak the Navajo language fluently and read, write and speak English fluently.

7. Prior to my employment with NTUA, between 1980 and 1986, I was employed by Mobil Oil Corporation as a laboratory technician at Mobil's Section 9 uranium in situ pilot project, 4 miles west of Crownpoint. My job entailed collecting samples of mine solution fluids from production wells and water from monitoring wells, and analyzing those samples for various chemical constituents at the Mobil on-site laboratory.

8. I am the president of ENDAUM, a position I have held since February 2, 1995, when members of ENDAUM, at a meeting held at the Crownpoint Chapter House, elected me as the president of the organization.

9. On February 13, 1995, I completed a written questionnaire which ENDAUM prepared to facilitate the collection of information from its members and for the purposes of drafting affidavits for possible use in support of ENDAUM's petition for an evidentiary hearing before the Atomic Safety and Licensing Board Panel on HRI's application for licenses to construct and operate uranium in situ leach mines in the Church Rock and Crownpoint areas. I asked ENDAUM's assisting organization, Southwest Research and Information Center, to prepare a draft affidavit based on my written answers.

10. On February 15, 1995, I read and signed an affidavit prepared by SRIC based on the information I provided in writing.

My signed affidavit was witnessed by a notary public, who placed her seal on the affidavit. The original of my affidavit was appended to the copy of ENDAUM's petition which was filed with Administrative Judge B. Paul Cotter, presiding officer of the Atomic Safety and Licensing Board Panel. I understood every word and statement in the affidavit. It accurately restated the answers I gave in writing. I would not have signed the affidavit if I had not understood what it said or disagreed with what it said. I hereby reaffirm my statements as given in Exhibit A of ENDAUM's February 15, 1995, petition.

11. ENDAUM's petition of February 15, 1995, consisted of a two-page cover letter, which I signed, 15 pages of text, and 10 exhibits, labeled A through J. As president of ENDAUM, I directed SRIC staff to prepare the text of the petition so that it accurately reflected the concerns of the members of ENDAUM as they were stated in the group's February 2, 1995, resolution (Exhibit F of the petition) and stated verbally by numerous individuals at meetings held by our group on December 12, 1994, January 18, 1995, and February 2, 1995. I read and reviewed the text and approved it. My signature on the cover letter was intended to indicate that I approved the filing of the petition on behalf of ENDAUM and that I was authorized by the members of ENDAUM to do so. I did not sign the text of the petition because the Nuclear Regulatory Commission's regulations for filing of petitions for hearings do not state that a signature is required.

Whether one is required or not, I will sign all future documents filed by ENDAUM in this matter.

12. I have read the document titled, "Response of Hydro Resources Inc. to Requests for Hearing," which was filed with the Atomic Safety and Licensing Board Panel on February 25, 1995. On page 21 of this document, in footnote 5, the following statement appears: ". . .[I]t seems improper to assume that Capitan even knew or understood what was in the ENDAUM petition." I am stating as strongly as the written word will allow that I "knew and understood" the content of our petition. Furthermore, I resent the inference made by HRI's attorney that I blindly authorized and signed a document I knew nothing about. This is as far from the truth as one can be, and I await a written apology from HRI.

13. On page 26 of its response, HRI questions my competency to testify in this matter because my "statement" in Exhibit A of the ENDAUM petition does not include language that I am "sound of mind" or "never convicted of a felony." Again, I state as strongly and loudly as possible that I am quite capable by way of education, experience and insight to understand the legal and technical issues involved in the approval of the proposed mines and am quite "competent" to testify to my own knowledge, experience and expertise in an evidentiary hearing. I question why I would need to disclose any conviction, whether a felony or

not, in order to testify in this matter. But for the record, I have never been convicted of a felony, and again, demand a written apology from HRI's attorney for insinuating that I have been.

14. HRI notes on page 24 of its response that there is a discrepancy in the location of my home between the text of the ENDAUM petition and my affidavit in Exhibit A. I reaffirm that the correct location is Township 17 North, Range 12 West, Section 19. The reference on page 3 of the text of our petition to Range 12 East was merely a typographical error, and any discernible reader would have easily understood that I do not live in the mountains east of Santa Fe, New Mexico, some 140 miles due east of Crownpoint.

15. In preparing this affidavit, I reviewed again ENDAUM's February 15 petition and discovered it contained another typographical error. The petition on page 12 refers to several meetings of our group, including one held at the Crownpoint Chapter House "on December 16, 1994." This date should have been December 12, 1994. ENDAUM's written response to HRI's February 25 response includes as an exhibit a copy of the notes from that meeting, documenting that it occurred on December 12, 1994.

16. I wish to reaffirm my belief that approval of the proposed Unit 1 and Crownpoint uranium mines will endanger my

health and that of my family. I believe that HRI has not demonstrated that mining solutions will not contaminate NTUA Well No. 1, which is located within one-half mile of the proposed mining zone at the proposed Crownpoint mine. I also do not believe that HRI has demonstrated that its mining solutions will not contaminate the other four municipal wells which provide water to the Crownpoint public water supply system.

17. My beliefs on these matters are based on my knowledge of the Crownpoint water system as an employee of NTUA, my review of the Draft Environmental Impact Statement for the proposed mines, and my previous employment with the Mobil Oil Company during the time Mobil operated the Section 9 in situ pilot project. I know that HRI plans to conduct solution mining in the same aquifer which supplies water to the Crownpoint water system. I drink water from this system, as does my family. If contamination of the water system goes undetected, my health and that of my family are likely to be harmed by our consumption of contaminated water. If contamination of the water system is detected, we will have no alternative source of water to drink, cook with or bathe in.

18. Based on my current and previous employment and my review of the DEIS, I further believe that restoration of the ground water to its pre-mining quality will not be possible. During my employment with Mobil, I prepared many of the

laboratory analyses of water collected from the aquifer during the restoration phase of the project. I understood, and it was common knowledge among other company employees and officials, that Mobil was having difficulty restoring water quality to pre-mining levels for such trace metals as molybdenum and arsenic and for the radioactive material, radium. My understanding of the difficulties Mobil had in restoring the ground water is confirmed by the data shown in Table 4.5 of the DEIS, which I have reviewed in detail.

19. I also believe that my health, the health of my family, and the health of the people of Crownpoint, especially the children, will be harmed by exposures to contaminants that will be released from the central processing plant in Section 24 of Township 17 North, Range 12 West, and from dust blown from the effluent ponds to be located at the central processing plant and at the Unit 1 satellite plant in Section 21 of Township 17 North, Range 13 West. These locations are depicted in Figure 1.3 of the DEIS. Having lived virtually all of my life in Crownpoint, I can attest to the strong winds we have here in the spring and during late-summer thunderstorms. During my employment with Mobil, I saw dust lifted from the effluent ponds at the Section 9 site and visibly blown in the direction of the town. I know these dusts are contaminated by radioactive materials and heavy metals because they came from the sludges that were produced by operation of the reverse osmosis unit at the Mobil processing

plant. I know of no reason why the sludges generated by HRI's ion-exchange units will be any less dangerous. I also am familiar with the health risks associated with exposure to radon gas and its daughter products and to dusts from the yellowcake drying circuit at the main processing plant. I expect that these substances will be routinely released from the plant, which will be located less than one-half mile and directly upwind from two major housing areas on the west side of Crownpoint: the Sunnyside Subdivision in the southwestern quarter of Section 19 of Township 17 North, Range 12 West, and the Navajo Housing Project Tract in the northwestern quarter of Section 19 of Township 17 North, Range 12 West -- the neighborhood in which my family and I live. These emissions of radioactive materials from the main processing plant also will occur between one-half and three-quarters of the Crownpoint High School, which is directly downwind of the proposed site of the main processing plant.

20. Based on my previous experience at the Mobil pilot project, I have no confidence that HRI will operate its well fields to prevent contamination of the surrounding lands. While at Mobil, I observed numerous leaks and spills of pregnant eluent from piping in the well fields and at the processing plant. These leaks were especially troublesome during the winter months because of the severe freezing conditions which occur here in Crownpoint. From my review of the DEIS, I do not believe that HRI or the Nuclear Regulatory Commission has seriously considered

impacts associated with spills and leaks from piping affected by winter freezes.

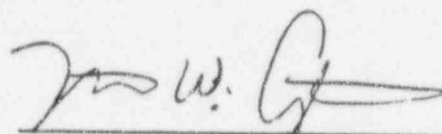
21. Since filing the ENDAUM petition on February 15, 1995, I have had a chance to review the written comments submitted by the Navajo Nation, the U.S. Environmental Protection Agency and SRIC. It is apparent from these comments that ENDAUM and myself are not the only groups or individuals who believe that HRI has not demonstrated that its operations will not contaminate the Crownpoint water supply. For instance, the Navajo Nation's consulting hydrogeologist, W. Peter Balleau, stated in his written comments, "[T]he final water quality attainable from the aquifer-restoration effort is very uncertain. It is important that the potential failure of the aquifer quality restoration program be recognized in the DEIS." Mr. Stephen Hoffman, chief of the mining waste section of EPA's Washington office, stated, "[S]ince the proposed mining operation is located so close to existing residences and. . .there is a reasonable chance for significant contamination of groundwater, additional study of risks is needed before this mine is allowed to begin operations." Mr. Balleau's and Mr. Hoffman's comments were attached to the Navajo Nation's comments dated February 21, 1995, and, based on my reading of the various comments, were typical of technical concerns raised by the many agencies, groups and individuals which have commented.

22. I helped organize and attended all meetings held by ENDAUM prior to adoption of its name and since then. During the initial meetings in December and January, it was always my intention and, based on the statements of individuals present at these meetings, the intention of many residents of the affected communities to form an organization for the purpose of voicing our collective opposition to these mines because of the threats they pose to our local water supply and to the regional water resources of the Navajo people, and to the health and well-being of families who live along the roads where uranium materials and wastes will be hauled. The notes and minutes of these meetings clearly reflect these intentions. In fact, the notes of our group's first meeting on December 12, 1994, show clearly that the group authorized Bernadine Martin to write a letter on behalf of the group, requesting a hearing on the proposed uranium mines. Ms. Martin's letter of December 13, 1994, reflected the fact that she was writing on behalf of "a group of concerned citizens who reside in and around Crownpoint, New Mexico. . . ." I believe that ENDAUM's February 15 petition was timely in the sense that it was the response of petitioner Bernadine Martin and many other concerned residents, given simply under a different name. I further believe ENDAUM's petition was a good faith effort to communicate the intention of myself and other concerned residents of Crownpoint and Church Rock of request an evidentiary hearing on the proposed mines before the Atomic Safety and Licensing Board of the Nuclear Regulatory Commission.

23. ENDAUM has now held five public meetings of its members and other concerned citizens. Nearly 90 different people have attended these meetings and the vast majority have expressed concern about and opposition to the proposed mines. Each meeting, new faces appear. I feel confident that the opposition will continue to grow as more and more information is disseminated in the local communities affected by the mining.

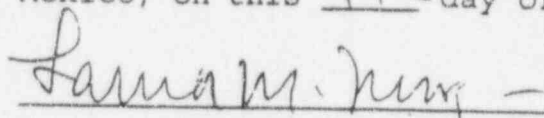
24. I reaffirm that I authorize ENDAUM to represent me in any proceeding related to NRC's consideration of issuing licenses for the construction and operation of the proposed HRI uranium mines near Crownpoint and Church Rock, New Mexico, including ENDAUM's request for an evidentiary hearing before the Atomic Safety and Licensing Board Panel.

Further the affiant saith not.



Mitchell W. Capitan

Sworn and subscribed before me, the undersigned, a Notary Public in and for the State of New Mexico, on this 19th day of March 1995.



Notary Public

my commission expires:
April 8, 1996

EXHIBIT B

Bernadine Martin
P.O. Box #370
Crownpoint, NM 87313

UNITED STATES OF AMERICA NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD PANEL

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

Administrative Judge
Thomas D. Murphy, Special Assistant

IN THE MATTER OF:

HYDRO RESOURCES, INC.
12750 Merit Drive
Suite 1210 LB12
Dallas, TX 75251

) Docket No. 40-8968-ML

) ASLBP No. 95-706-01-ML

) AFFIDAVIT IN SUPPORT OF
) ENDAUM'S RESPONSE TO
) MOTION TO DENY REQUESTS

AFFIDAVIT OF BERNADINE MARTIN

Bernadine Martin, appearing in person before me and having been duly sworn
on her oath by me, states the following:

1. My name is Bernadine Martin. I am a member of the Navajo Tribe (Census #115,757) and my mailing address is P.O. Box #370, Crownpoint, New Mexico 87313. I was raised in Crownpoint, New Mexico but live in Gallup, New Mexico and often work and regularly visit my family in Crownpoint, New Mexico.

2. I am employed by the Navajo Nation as the Director of the Abandoned Mine Lands Reclamation Program. I am giving this affidavit as a private citizen, whose personal and family interests will be harmed by the uranium in situ leach mine proposed to be constructed and operated in the Crownpoint area, and not in any official capacity associated with my employment or as a representative of the Navajo Nation.

95-03300-246 500

1 3. By letter of December 13, 1994, I wrote the Acting Secretary of the U.S.
2 Nuclear Regulatory Commission ("NRC") requesting a "public hearing" on the application of
3 Hydro Resources, Inc. to construct and operate uranium in situ leach mines near Church
4 Rock and Crownpoint, New Mexico. My letter was filed pursuant to the instruments given
5 by the NRC in a notice in the November 14, 1994 edition of the Federal Register.

6
7 4. My December 13, 1994 letter stated that:

8 "I represent a group of concerned citizens who
9 reside in and around Crownpoint, New Mexico . . .
10 . . . Those attending the meeting request a public
11 hearing . . . to allow the NRC, the BIA [(Bureau
 of Indian Affairs)], and HRI to discuss the . . .
 issues of concern to the community."

12 My letter went on to outline four of those issues: (1) impacts of the proposed solution mines
13 to the local and regional groundwater resources; (2) the authority of HRI to transport wastes
14 from the proposed mill sites; (3) the location of the final disposal sites for such wastes; and
15 (4) the environmental impacts of the operations "on people living and working adjacent to the
16 proposed mill site in Crownpoint, NM." My letter further stated that "[t]he community does
17 not understand the concept of in situ mining of uranium and its accompanying effects, i.e.,
18 contamination to air, water and land."

19
20 5. My letter subsequently was treated as a "petition" for leave to intervene and/or
21 a request for hearing by the Chief Administrative Judge of the NRC's Atomic Safety and
22 Licensing Board in an order titled "Designation of Presiding Officer" and dated December
23 21, 1994.

24
25 6. By Order of the Presiding Officer dated January 9, 1995, seven groups or
26 individuals, including myself, were declared "petitioners" for the purpose of abiding by and
27 responding to a schedule of filings "of amended petitions for hearing and initial answers from
28

1 the Applicant and staff." Memorandum and Order, ASLBP 95-706-01-ML, January 9, 1995,
2 at 4.

3
4 7. By Order of the Presiding Officer dated January 20, 1995, the Petitioners,
5 including myself, were instructed to file amended hearing requests by the close of business
6 on February 15, 1995.

7
8 8. On February 15, 1995, Eastern Navajo Dine Against Uranium Mining filed an
9 "amended" petition for hearing, pursuant to the Presiding Officer's Order of January 20.
10 ENDAUM asserted that its petition "constitutes a timely request for hearing" because two of
11 its members, Mr. Mervyn Tilden and myself, were members of ENDAUM and were also
12 two of the original seven petitioners authorized by the Presiding Officer to file amended
13 petitions. ENDAUM stated that "Eastern Navajo Dine Against Uranium Mining" was the
14 name eventually taken by the "group of concerned citizens" referred to in my December 13,
15 1994 letter. ENDAUM further substantiated my membership in the group, and that of my
16 family, by offering as an appendix to the petition, an Exhibit E, which included my name
17 and that of Leo Martin, who is a relative.

18
19 9. I am giving this affidavit to make clear that in filing my letter of December
20 13, 1994, with the Secretary of the NRC, I was acting on behalf of myself and a group of
21 individuals who were, and remain, concerned about the impacts of the proposed mines. My
22 basis for this assertion can be found in the notes of the group's meeting of December 12,
23 1994 which I understand are being offered as an exhibit in support of ENDAUM's response
24 to HRI's motion to deny Petitioners' requests for an evidentiary hearing in this proceeding.

1 10. That the group of "concerned citizens" met and agreed to write a letter to the
2 NRC requesting a public hearing is documented in the notes of the group's meeting of
3 December 12, 1994. I have read and reviewed those notes and attest that they are a fair and
4 accurate summary of the events which took place at that meeting. The notes accurately
5 paraphrase relevant statements that I made, including the following:

6 "We need to respond to NRC by tomorrow. She volunteered
7 to write and [sic] letter and told Mitchell she will fax a copy to
8 him. She also said, 'we don't have too much time now but, lets
[sic] beat this deadline.'"

9 The notes of the meeting also show that one of the group's leaders, Mr. Mitchell Capitan,
10 who is now the President of ENDAUM, suggested that "we go ahead with a petition and get
11 Bernadine Martin to write this letter to Washington, DC (NRC)."

12
13 11. I also attended the group's third meeting, which was held on February 2, 1995
14 at the Crownpoint Chapter House. At that meeting, officers were elected and the official
15 name of the group, Eastern Navajo Dine Against Uranium Mining, was decided. Many of
16 the individuals who were present at the group's first meeting on December 12, 1994, were
17 also present at this third meeting. The differences between an evidentiary hearing and a
18 public meeting, which NRC eventually held later in February, were discussed. My impres-
19 sion of the consensus of those present was that the group should pursue both opportunities
20 for involvement in the licensing of the proposed mines.

21
22 12. I did not file an amended request for hearing in my own name because I
23 assumed, in good faith, that my interests and those of my family would be subsumed with
24 the interests of other "concerned citizens of Crownpoint" in ENDAUM's amended petition.

25
26 13. Based on the foregoing, my strong belief is that the group named "Eastern
27 Navajo Dine Against Uranium Mining" is the same as the "group of concerned citizens" to
28

1 which I have referred in my letter to the NRC of December 13, 1994. Having read the
2 NRC's regulations for requesting hearings (10 CFR Part 2.2105), I find nothing that bars a
3 "person" from filing an amended petition for a hearing, pursuant to the Presiding Officer's
4 previous instructions and scheduling, simply because that same "person" filed an amended
5 petition under a different name. I believe, therefore, that ENDAUM's February 15, 1995
6 amended petition was timely in the same way an amended petition would have been timely
7 had I filed it under my own name representing "a group of concerned citizens".
8

9 14. I hereby affirm that I have authorized in the past, now and in the future, the
10 organization Eastern Navajo Dine Against Uranium Mining to represent me in an evidentiary
11 hearing before the Atomic Safety and Licensing Board Panel and in any other capacity or
12 forum for which such representation may be required.
13

14 Further the affiant saith not.
15
16

17 Bernadine Martin
18 Bernadine Martin
19 P.O. Box #370
20 Crownpoint, NM 87313

21 SUBSCRIBED AND SWORN TO before me, the undersigned this 17th day
22 of March, 1995.
23

24 Flora N. Peterson
25 Notary Public

26 My Commission Expires:

27 August 30, 1998
28

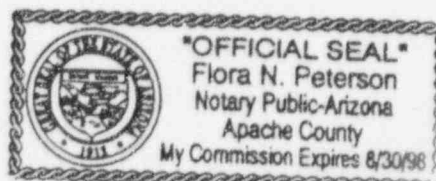


EXHIBIT C

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD PANEL

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

Administrative Judge
Thomas D. Murphy, Special Assistant

In the Matter of)

HYDRO RESOURCES INC.)
12750 Merit Drive)
Suite 1210 LB12)
Dallas, TX 75251)

) Docket No. 40-8968-ML

) ASLBP No. 95-706-01-ML

) AFFIDAVIT IN SUPPORT OF
) ENDAUM'S RESPONSE TO
) MOTION TO DENY REQUESTS

AFFIDAVIT OF GRACE A. TSOSIE

Grace A. Tsosie, appearing in person before me and having been duly sworn on her oath by me, states the following:

1. My name is Grace A. Tsosie. I live in the northeastern one-quarter of Section 23, Township 17 North, Range 13 West, McKinley County, New Mexico. My home is located in the far northwestern corner of this section, adjacent to one of the areas proposed be used for uranium solution mining. My mailing address is P.O. Box 194, Crownpoint, New Mexico, 87313.

2. I am the same Grace A. Tsosie who gave an affidavit in support of the petition for an evidentiary hearing filed by Eastern Navajo Diné Against Uranium Mining. This affidavit was labeled

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Exhibit C of ENDAUM's petition of February 15, 1995.

3. I reaffirm the statements I made in my first affidavit, and I affirm that I fully understand, and support, ENDAUM's request for an evidentiary hearing before the Atomic Safety and Licensing Board on the application of Hydro Resources Inc. to build three uranium solution mines. Two of these mines would sandwich my allotted lands, which are located two miles west of Crownpoint. I am giving this second affidavit to state clearly how the proposed uranium solution mines will harm me, my family and my land. I also want to refute, in writing, the allegation of HRI that I am not competent to give testimony in this matter. I expect an apology from HRI for making this false statement about me.

4. Since last December, I have attended several meetings about the proposed mines and I have written a letter to the Nuclear Regulatory Commission, stating my opposition to them. I was present at the first meeting of citizens concerned about the mines at the Crownpoint Chapter House on December 12, 1994. At that meeting, I stated that I became opposed to the mining after I learned several years ago that my home and land are located in the middle of the proposed mining. I heard other individuals at that meeting say they, too, were concerned that the mines would harm the water supply and air of our community. Most of those who attended that meeting, including myself, agreed to write to Washington to request a public hearing. We agreed with Mitchell Capitan's

suggestion that Bernadine Martin to write the letter, and she said she would. I later learned that she had made a request, in writing, for a public hearing on our behalf. I agreed at that time and still do that HRI should be made to prove, before a judge, that its mines will not contaminate our water or damage my health, land, livestock and crops.

5. At one of the meetings of people who are against the mines, a name was given to the group. It is Eastern Navajo Diné Against Uranium Mining. This name was selected because so many of the Navajo communities in the Eastern Agency will be affected by the mines. I consider myself a member of this group. It is the same group of people that asked Bernadine Martin to write the letter back in December.

6. I have lived on my land all of my life, or 65 years. It was given to me when my parents died. My family and I graze livestock on this land. I have looked at some of the maps contained in the DEIS. The map on page 2-5 does not show my home and land in Section 23. If you look, you will see that my land is between two of the mining areas, one to the west in the northwestern quarter of Section 23 and one to the east in Section 24. By reading parts of the DEIS, talking to my family members, and attending meetings about the mines, I learned that HRI will put its waste water onto the land less than one-half mile west of my home and land. I believe that this waste water, which is

contaminated, will run onto my land, damaging the plants which my livestock eat or running over my crop lands where my family grows corn, melons and other vegetables. If any of the wells or pipes used in the mines breaks or leaks, contaminated water will be blown by the winds toward my house, or will run down hill to our grazing and crop lands. This water contains metals and radioactive substances which can harm people and animals who drink it or who breathe in dirt contaminated by this water. I know about the dangers of uranium and its wastes because there were so many Navajos who died from cancer and other diseases after working in the uranium mines.

7. My house is about a quarter of a mile from Route 9. HRI's trucks will haul uranium on this road. I have reason to believe that I will lose livestock to accidents with these trucks. Back in 1972, one of my cows, which was pregnant, was killed by a uranium truck that was using the same road. I was never reimbursed for the loss of this animal and its calf, which would have been very valuable had it lived. I also lost several sheep who died because they got stuck in mud pits left by the uranium drillers and couldn't get out.

8. I do not believe that HRI will operate these mines safely because I do not think they were honest with me back in 1989. I was the chapter manager at the Crownpoint Chapter at that time and was told by our councilman, Mr. John Perry Jr., to go with a group

of people to Texas to look at HRI's mines there. At the time, I did not know why I was told to go. After the trip in February, someone from HRI showed me a map of the area where they wanted to mine uranium. I saw that my land was included in the mining area. I had it out with them because no one had ever told me that the company wanted to mine uranium under my land. Mr. Billy Johnson, who works for HRI, came to our chapter house many times, but he never told me that my land would be included in the mining plans.

9. I still do not know if HRI plans to mine on my land or not. I recently saw two maps hanging on the wall of the BIA's realty office in Crownpoint. Both of those maps showed my allotment included in the mining areas. One map had my land colored green, just like the lands included in the mining areas. Another showed my allotment, including its number, included in the mining area. If HRI plans to mine on or under my land, it has never asked for permission and I would not give it, anyway.

10. I have read parts of HRI's document which says that the judge should not give us a public hearing on these mines. I read on page 27 of this document that HRI says I am not competent to testify. I must disagree. There is no one on the Mother Earth more knowledgeable about my land than I; certainly, no one from HRI knows anything about my land, unless they've been there without my permission. I am the only person who can tell the judge the hardships we faced after my livestock were killed in 1972. If

HRI's mines are operated, the same problems will happen again to me and my family because we will be living right next to the well fields, the waste water dumping site and the uranium haul roads. I feel quite competent to testify about the harm that will come from these mines.

11. I drink water from the Crownpoint water supply system and haul water from it for my livestock. This water comes from the same rocks that HRI will use for mining. HRI has not guaranteed that it will not contaminate our water supply. Once contaminated, the water may cause injuries and death to people and animals who drink it. I not only fear for my own health, but for the health of the children and generations to come because the sicknesses and diseases caused by drinking contaminated water might not show up until HRI has left town.

12. I ask Eastern Navajo Diné Against Uranium Mining to represent me in the public hearing before the Atomic Safety and Licensing Board.

Further the affiant saith not.

Grace A. Tsosie
Grace A. Tsosie

Sworn and subscribed before me, the undersigned, a Notary Public in and for the State of New Mexico, on this 19th day of March 1995.

Laura M. Murray
Notary Public

my Commission expires
April 8, 1996

EXHIBIT D

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD PANEL

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

Administrative Judge
Thomas D. Murphy, Special Assistant

In the Matter of)

HYDRO RESOURCES INC.)

12750 Merit Drive)

Suite 1210 LB12)

Dallas, TX 75251)

Docket No. 40-8968-ML

ASLBP No. 95-706-01-ML

AFFIDAVIT IN SUPPORT OF
ENDAUM'S RESPONSE TO HRI
MOTION TO DENY REQUESTS

AFFIDAVIT OF CALVIN MURPHY

Calvin Murphy, appearing in person before me and having been duly sworn on his oath by me, states the following:

1. My name is Calvin Murphy. I live in the southwestern quarter of Section 14 of Township 17 North, Range 13 West, McKinley County, New Mexico. My mailing address is P.O. Box 207, Crownpoint, New Mexico, 87313.

2. I am the same Calvin Murphy who made an affidavit in support of the petition for an evidentiary hearing filed by Eastern Navajo Diné Against Uranium Mining with the Atomic Safety and Licensing Board on February 15, 1995. That affidavit was appended to ENDAUM's petition as Exhibit D.

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3. I am giving this second affidavit to reaffirm the statements I made in the first affidavit, to give additional reasons why I believe I will be harmed by construction and operation of the proposed uranium solution mines, and to state further why a public hearing before a Nuclear Regulatory Commission judge should be held on the proposed mines.

4. I have read the Draft Environmental Impact Statement on the three mines proposed by Hydro Resources Inc. None of the maps contained in the DEIS show the location of my home in the southwestern quarter of Section 14 of Township 17 North, Range 13 West. My permitted land is Navajo Tribal Trust land and my family and I graze and raise livestock on this land. It is located contiguous to, and about one-quarter mile from, the lease boundary of HRI's proposed western portion of Unit 1 uranium mine, both of which are about two miles west of the town of Crownpoint. The proximity of my land to the mining areas can be seen on Figures 1.3, 2.2, 3.2, 3.7 and 4.4 of the DEIS.

5. I will be directly affected by the proposed Unit 1 mine in several ways. First, contaminated water from the waste-water irrigation area in Section 23 of Township 17 North, Range 13 West, may run onto my permitted land immediately to the north, because the natural drainage runs north ward through my permitted land. Contaminated runoff will damage my grazing lands. The runoff is channeled by the natural drainage of the area north toward the

Chaco River. Furthermore, my family and I visit my mother on a regular basis. She is located in the northeast quarter of section 23, Township 17 North, Range 13 West. We grow corn and other vegetables every year and our field is located down stream from HRI's proposed waste-water irrigation area in section 24, Township 17 North, Range 12 West. Contaminated runoff will contaminate our crops. Having lived on my land for much of my life, I have seen numerous flash floods in the arroyos and drainages that come from the south across our land. These flash floods are likely to happen after summer thunderstorms. From my examination of the DEIS, I do not believe that HRI has considered the effects of flooding on its waste-water irrigation area.

6. Second, as shown in Figure 2.2 of the DEIS, roads to be used to haul uranium slurry and wastes from the Unit 1 processing plant to the main processing plant in Crownpoint pass through the southwestern quarter of Section 14 where I live. What is not shown is that these roads lie within 1,000 feet of my home. I believe that I will lose livestock to accidents involving uranium trucks and that my family members and I will be harmed by exposure to radioactive materials should any be released in an accident.

7. Third, all of the water we use for domestic and agricultural purposes comes from the Crownpoint water system. We use the water from Crownpoint Water System for our livestock. HRI plans to inject substances into the aquifer which provides water to

Crownpoint's wells. In doing so, the aquifer will become contaminated in the mining areas. I do not believe that HRI has proven that it will not contaminate water in the Crownpoint wells with its mining solutions. I reading some of the Navajo Nation's comments on the DEIS, I observed that an official of the U.S. Environmental Protection Agency in Washington, D.C., cautioned that there is no margin of error possible in the operation of these solution mines. That means that the possibility of contamination of the water system is quite high. My family's health and my health will be harmed by drinking water contaminated by uranium, radium, arsenic and other radioactive and toxic substances.

8. Fourth, during my previous employment as a civil engineering technician with the Indian Health Service, Office of Environmental Health and Engineering located in Crownpoint, New Mexico, I became familiar with the water systems in the Crownpoint, Littlewater, Becenti and the Nahodishgish area. I transferred the as-built drawings of the system onto aerial maps. These systems all tie into the NTUA's Crownpoint water system, which draws water from two wells, NTUA Well No. 1 and NTUA Well No. 2. In addition, I have taken part in designing and testing water wells on these systems. I can attest that there is millions of dollars of investment in the system and any contamination of the water will necessarily have costly affects on the system as a whole. Also, there was a continuing high demand for water service within the communities in the area. Prior to my departure in 1993,

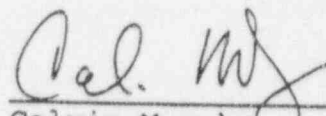
I was working on a further extension of that portion of the system that serves Nahodishgish, an extension that would add another 30 hookups. Based on data I obtained from NTUA, there are currently more than 730 connections in the Crownpoint, Becenti, Littlewater and Nahodishgish communities. Several of these connections, such as the Crownpoint High School, are counted as one connection but in actuality serve potentially hundreds of people and dozens of dwelling units. I estimate that when combined, the NTUA and BIA water systems in the Crownpoint area provide drinking water to at least 5,000 people. The demand for this pristine water is huge and risking any possible contamination to our only source of water is foolish.

9. I was one of ENDAUM's original founders, having attended an initial meeting at the Crownpoint Chapter House on December 12, 1994. At that meeting, several people spoke against the mines. Two people spoke in favor of the mines; one was an allottee who will be paid royalty monies and the other was an employee of HRI. The people who opposed the mining agreed to seek a public hearing so that all disputed issues could be heard by a judge. We supported Mitchell Capitan's suggestion that Bernadine Martin write a letter to the Nuclear Regulation Commission requesting a hearing on our behalf. I have read Ms. Martin's letter and it accurately reflects the concerns all of us had, and still have, about the proposed mines. Since then, I have attended several meetings of the group opposed to the mining. At each meeting, new individuals

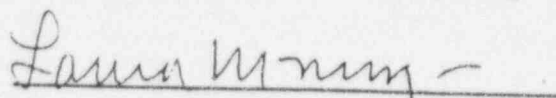
show up, also registering their concerns and opposition. At our meeting on February 2, we selected a name for the group, Eastern Navajo Diné Against Uranium Mining, and elected officers. The group has continued to meet since then. I can attest that the "group of concerned citizens" referred to in Ms. Martin's letter of December 13, 1994, are the same people who now make up ENDAUM. I too consider myself a member of ENDAUM.

10. I authorize Eastern Navajo Diné Against Uranium Mining to represent me at an evidentiary hearing on proposed licenses for HRI's uranium mines before the Atomic Safety and Licensing Board of the Nuclear Regulatory Commission.

Further the affiant saith not.


 Calvin Murphy

Sworn and subscribed before me, the undersigned, a Notary Public in and for the State of New Mexico, on this 19th day of March 1995.


 Notary Public

My Commission
 expires April 18, 1996

EXHIBIT E

December 12, 1994

Meeting was held at the Cronpoint Chapter House. It began at 7:15 PM. Mr. Mitchell W. Capitan was the spokesperson for this meeting. He stood before approximately 16 people who came to the meeting. Mitchell first thanked all the individuals who attended this meeting and explained the purpose of it.

He explains; I read an article in the Gallup Independent on November 15, 1994 where it said, "Crownpoint mine gets first Approval". He held up the newspaper clipping. It really bothers me. What kind of a dangerous situation are we as a community ignoring. There is a deadline to in 2 days, December 14, 1994 to for any individual(s) to request for a public hearing. I became so concerned that I asked to use this chapter house for this meeting. My wife and I wanted to see if we can get some individuals together and see if we can do something. From here we can inform the community and get more involvement. Are we just going to sit back and let this leach mining become a reality? I personally am very concerned that they might ruin our water and air. What ever HRI told the allottees, they must have buttered them up pretty good because I can't believe that the allottees signed their names to approve this operation. I am not familiar with the way this all came about. To me and some individuals that I have talked to, the community was not informed about anything. I don't think anyone knows about this except the allottees.

Janice Perry, who is an allottee and vice-president for the Allottees Association said, "yes, the allottees are in favor of this mining. We have been given many presentations, videos and have learned all about the way the mine will operate. We have been informed that this is safe. Some allottees have gone to Texas to observe a similar operation. After we were given all this information, we approved to let them operate the mining. Mr. Albert Hale is our attorney. The allottees will be getting royalties. We are looking forward to this because alot of us are in need of money. We can get something from these lands that was given to us by our ancestors.

Sam Jeff who is an allottees husband disagreed. He said, "he does not want this mine to operate". "I am concerned about my children, my grandchildren and their children". We as older people need to protect our children. We can't let them do this to us. Even the missile testing that they are planning. That is dangerous. We should not let them do this to us. We need to get a petition out opposing this mining.

Grace Tsosie also spoke. She was also very much against the mining since she lived right between the area where the operation is to take place. She was one of those who went to Texas. She said, "the mining that they had was located far away from the big communitys. There are only a few people who actually live nearby but, they were mostly elderly people. I did not see young people. It didn't seem to bother the elderlys. 3 years ago the B.I.A. started pressuring me to move off the land that I now live on. I had to go through alot to get my lawyer to work on this situation. Now, I can understand why they were so desperate to get me off. They probably wanted to build the plant

on that land. So, now my home is located right in the middle of the proposed mining.

Bernadine Martin also spoke. She was very much opposed to the mining. "yes, we do need to put a stop to this mining". "I am glad that someone is trying to speak up to say "no". She thanked Mitchell that he got this meeting together. "We are all worried about what damage that HRI will do to our water". She suggested that we beat this deadline and request for a public hearing. She agreed that the community was not informed well enough. Bernadine said she worked for the Abandon Mines and we are now going through alot right now. There are so many mines on our navajo reservation where the mines have just been abandoned and left with alot of hazardous waste that was left behind. We are now in the process of getting these companys to clean this up. So, why are we allowing another company to come in, when all the other sites have not been cleaned up? We need to respond to NRC by tomorrow. She volunteered to write and letter and told Mitchell she will fax a copy a copy to him. She also said, "we don't have too much time now but, lets beat this deadline".

Clara Daye spoke and said "we need to ask more questions and do this (meetings) without getting people upset on how we address this issue.

An male individual spoke (didn't get his name) and said he was also concerned. He didn't know anything about the proposed mining. If this is dangerous, then we should oppose it.

Billy Johnson spoke, and said " he worked with the allottees and that they informed them over and over about the way the operation is going to take place. They were given all the information on how the operation will be done. On one occation, a public hearing was set and no one showed up.

Other who spoke against it were: Rita Capitan, Valerie Murphy and Calvin Murphy.

Mitchell spoke once again and said, "we have the best drinking water". People from as far as Torreon, Whitehorse Lake, Lake Valley, Little water, Borrego Pass, Thoreau, Smithlake, Mariano Lake and Standing Rock who come and haul water for drinking. If these guys (HRI) come in, they will contaminate the water, which is precious to us. They (HRI) plan to use alot of water to pump out uranium. As, it is we have droughts here, so why are we going to let them take water when it is depleting underground? I feel like HRI may have informed our people that this is safe and that there would be no problems at all when, they know that there may be problems. What if they do alot of damage to our water table? He suggested we go ahead with a petition and get Bernadine Martin to write this letter to Washington DC (NRC). We will set another meeting date and get it on the Gallup Independent. We will also post some posters regarding the next meeting. Most agreed that we need to continue to meet and get more people informed about this proposed mining.

Meeting ajourned at 10:05 PM.

In attendance:
Mitchell Capitan
Rita Capitan
Valerie Murphy
Billy Johnson
Sam Jeff

Janice Perry
Grace Tsosie
Jackson Craig
Clara Daye

Calvin Murphy
Bernadine Martin
4 individuals whose names
are not known

*Minutes Taken by
Rita Capitan*