

Mr. David Albright, Ground Water Office Manager
United States Environmental Protection Agency
Region IX
75 Hawthorne Street, Mail Code : WTR-9
San Francisco, CA 94105

February 4, 2006 ✓

by Fax @

Dear Sir,

Public Comment/ Safe Water Act Determination
Sec8, Township 16N, Range 16W
Hydro-Resources, Inc Proposal

Please find this in supplement to the previously submitted comments and photographs related to the determination as to "Indian country" and jurisdiction in the above matter. Regrettably, the information provided did not reach my hands until this date. From the dates of transfers from BLM to the Congressman to my hands, it appears that the requested report was not generated until "closing date" for submissions. However, the information contained is directly related to the issue which is being addressed: The lands are under "federal supervision", "active" "and recognized" by HRI.

As the detail shows, all 26 unpatented mining claims are located in Section 8 Township 16N, Range 16W; the "claims are active since 1976-1980; there was an assessment by the Bureau of Land Management" (a Federal Agency) in 2006; and as summarized to the Congressman by the BLM State Director, payments for the annual maintenance fee were paid For the current assessment year.

Please note that while some corrections of modest means may be made upon my original statement regarding the "Venetie test", these documents (3 pages following) are conclusive upon the question of "federal supervision" and one that is "recognized by HRI". Please also confirm receipt of this statement and accompanying by letter at PO Box 45932, Rio Rancho NM 87174-5932 or by facsimile at (505) 820-2367 or by email at eliot.gould@att.net.

Thank you again the courtesies given in attention to this matter. Please inform me of the determination at such time as it is rendered.

Very truly yours,

Eliot Gould
Eliot Gould
(in private capacity)

cc: Churchrock Navajo
SWRI
NHE

TOM UDALL

36 District, New Mexico

**DEMOCRATIC STEERING AND
POLICY COMMITTEE****At-Large Whip**414 LONGWORTH HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-6190371 SAINT MICHAELS DRIVE
SUITE 104
SANTA FE, NM 87505
(505) 804-8950

www.tomudall.house.gov

**Congress of the United States
House of Representatives
Washington, DC 20515-3103**

February 3, 2006

COMMITTEES:**RESOURCES**SUBCOMMITTEE ON ENERGY AND
MINERAL RESOURCESSUBCOMMITTEE ON
FORESTS AND FOREST HEALTHSUBCOMMITTEE ON
NATIONAL PARKS, RECREATION AND
PUBLIC LANDS**SMALL BUSINESS**RANKING MEMBER
SUBCOMMITTEE ON WORKFORCE
EMPLOYMENT, AND GOVERNMENT PROGRAMS**VETERANS' AFFAIRS**SUBCOMMITTEE ON
OVERSIGHT AND INVESTIGATIONSEliot P. Gould
P.O. Box 45932
Rio Rancho, New Mexico 87174

Dear Eliot:

Thank you for sharing your need for assistance with Congressman Tom Udall's office. Enclosed is a copy of a letter we recently received from the Bureau of Land Management in response to our inquiry on your behalf.

Congressman Udall and I appreciate you allowing us the opportunity to assist you in this matter. Should the need arise; please feel free to contact the Congressman Udall's office in the future.

Sincerely,

Peter Wells
Field Representative

Enclosure(s): 2

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LAS VEGAS, NM 87701
P.O. Box 925
(505) 454-40833000 SOUTHERN BOULEVARD, 5th
ROOM 105-A
RIO RANCHO, NM 87174
(505) 921-5000



IN REPLY REFER TO:

06CC038
3800 (92200)

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
New Mexico State Office
1474 Rodeo Rd.
P.O. Box 27115
Santa Fe, New Mexico 87502-0115
www.nm.blm.gov

January 30, 2006

Honorable Tom Udall
Member, United States House
of Representatives
Attention: Mr. Peter Wells
3900 Southern Boulevard Southeast
Rio Rancho, NM 87124

Dear Congressman Udall:

Thank you for your January 17, 2006, letter on behalf of your constituent Mr. Eliot Gould. As always, we appreciate hearing from you.

Hydro Resources, Inc., is the locator of 26 unpatented mining claims on Bureau of Land Management (BLM)-administered land within Section 8, Township 16 North, Range 16 West, McKinley County, New Mexico. The annual maintenance fee of \$125 per claim has been paid for the current assessment year. Enclosed is a listing from the BLM mining claim database.

If you have any questions regarding this letter, please contact Ida Viarreal, Land Law Examiner, at 505-438-7603

Sincerely,

Linda S.C. Rundell
State Director

1 Enclosure

Run Time: 10:00 AM

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
LIST OF MINING CLAIMS BY SECTION

Page 1 of 1

MTRS: 23 0160N 0160W 008

<u>Serial Number</u>	<u>Quad</u>	<u>Claim Name</u>	<u>Claimant</u>	<u>Lead File</u>	<u>Case Type</u>	<u>Status</u>	<u>Loc Date</u>	<u>Last Assesamer</u>
NMMC58799	NE	UNC #7	HYDRO RES INC	NMMC58793	384101	ACTIVE	02/18/1976	2006
NMMC58800	NE	UNC #8	HYDRO RES INC	NMMC58793	384101	ACTIVE	02/18/1976	2006
NMMC58814	SW	UNC #22	HYDRO RES INC	NMMC58793	384101	ACTIVE	02/18/1976	2006
NMMC58815	NW	UNC #23	HYDRO RES INC	NMMC58793	384101	ACTIVE	02/18/1976	2006
NMMC58818	NW	UNC #26	HYDRO RES INC	NMMC58793	384101	ACTIVE	02/18/1976	2006
NMMC99433	NE	UNC #1A	HYDRO RES INC	NMMC99433	384101	ACTIVE	08/18/1980	2006
NMMC99434	NE	UNC #2A	HYDRO RES INC	NMMC99433	384101	ACTIVE	08/18/1980	2006
NMMC99435	NE	UNC #3A	HYDRO RES INC	NMMC99433	384101	ACTIVE	08/18/1980	2006
NMMC99436	NE	UNC #4A	HYDRO RES INC	NMMC99433	384101	ACTIVE	08/18/1980	2006
NMMC99437	NE	UNC #5A	HYDRO RES INC	NMMC99433	384101	ACTIVE	08/18/1980	2006
NMMC99438	NE	UNC #6A	HYDRO RES INC	NMMC99433	384101	ACTIVE	08/18/1980	2006
NMMC99439	SW	UNC #9A	HYDRO RES INC	NMMC99433	384101	ACTIVE	08/18/1980	2006
NMMC99440	SW	UNC #10A	HYDRO RES INC	NMMC99433	384101	ACTIVE	08/18/1980	2006
NMMC99441	SW	UNC #11A	HYDRO RES INC	NMMC99433	384101	ACTIVE	08/18/1980	2006
NMMC99442	SW	UNC #12A	HYDRO RES INC	NMMC99433	384101	ACTIVE	08/18/1980	2006
NMMC99443	NW SW	UNC #13A	HYDRO RES INC	NMMC99433	384101	ACTIVE	08/18/1980	2006
NMMC99444	NW	UNC #14A	HYDRO RES INC	NMMC99433	384101	ACTIVE	08/18/1980	2006
NMMC99445	NW	UNC #15A	HYDRO RES INC	NMMC99433	384101	ACTIVE	08/18/1980	2006
NMMC99446	NW	UNC #16A	HYDRO RES INC	NMMC99433	384101	ACTIVE	08/18/1980	2006
NMMC99447	NW	UNC #17A	HYDRO RES INC	NMMC99433	384101	ACTIVE	08/18/1980	2006
NMMC99448	SW	UNC #18A	HYDRO RES INC	NMMC99433	384101	ACTIVE	08/18/1980	2006
NMMC99449	SW	UNC #19A	HYDRO RES INC	NMMC99433	384101	ACTIVE	08/18/1980	2006
NMMC99450	SW	UNC #20A	HYDRO RES INC	NMMC99433	384101	ACTIVE	08/18/1980	2006
NMMC99451	SW	UNC #21A	HYDRO RES INC	NMMC99433	384101	ACTIVE	08/18/1980	2006
NMMC99452	NW	UNC #24A	HYDRO RES INC	NMMC99433	384101	ACTIVE	08/18/1980	2006
NMMC99453	NW	UNC #25A	HYDRO RES INC	NMMC99433	384101	ACTIVE	08/18/1980	2006

NO WARRANTY IS MADE BY BLM FOR USE OF THE DATA FOR PURPOSES NOT INTENDED BY BLM

1-1

Mr. David Albright, Ground Water Office Manager
United States Environmental Protection Agency
Region IX
75 Hawthorne Street, Mail Code : WTR-9
San Francisco, CA 94105

Dear Sir,

Public Comment/ Safe Water Act Determination
Sec8, Township 16N, Range 16W
Hydro-Resources, Inc Proposal

Please find this in response to a Notice in the Federal Register dated November 2, 2005 welcoming written comments and information "on whether or not Section 8 land constitutes a dependant Indian community in whole or part."

First of all, let me state that this commentary is made in public concern. It is not representing any agency or division of the Federal or State or tribal government. It is not made with remuneration by any private concern or party. It is strictly the work-product of individual concern upon the effects or potential effects of a determination offered in the question and dispute as to whether the land is "Indian country".

As addressed in the FR, Hydro-Resources, Inc. intends to use the land for the mining of Uranium (U) in an "in situ leach mining process". This method (also called "solution mining") is different than conventional mining which involves the removal of rock from the ground, then breaking it up and treating it to remove the minerals. In Situ Leach mining involves groundwater fortified with oxygen other solubilizing agents being pumped into a permeable ore body, and causing the "pregnant solution" to be pumped to the surface. There it is brought to a treatment plant, uranium is recovered and treated chemically. The uranium slurry is then dried, resulting in an uranium concentrate (U_3O_8). This concentrate is typically known as "yellowcake" and usually contain 60-80 per cent uranium by weight. Solution mining has been increasingly used in the past 20 years and including operations by Hydro-Resources, Inc.

While this process has little disturbance in removal of the minerals and no waste rock generated, the ore bodies must be permeable to the liquids used. Further, the operation must be so located as to not contaminate groundwater away from the ore body. Waste resulting from the process is usually handled in one of three methods. Most of the excess is re-injected into the orebodies. Some of the solution is used to maintain pressure in the pumping system. Other waste is treated through re-injection into approved disposal wells (usually in depleted areas of the ore bodies.)

The whole mining process usually produces in a period of 1 to 3 years--with most of the uranium being recovered in the first 6 months of operation. This has clear advantage over conventional mining as the "costs of operations" are less and the "recovery period" is quick. And while it can be a very safe method of production, strict environmental controls must be employed throughout the production cycle. This includes the usual radiation safeguards.

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EPA Comment

The whole process involves the Safe Water Drinking Act (USC 42 §300).SDWA is an environmental statute establishing overall minimum drinking water protection standards for the nation, and providing, in many instances, for delegation of specific regulation and enforcement to states and Indian tribes. The statute directs EPA to establish minimum requirements for control of underground injection processes in order to protect sources of drinking water. See 42 U.S.C. § 300h. 42 U.S.C. § 300h-1 provides for state primary enforcement of UIC programs ("primacy") upon a showing by that state that its program meets the requirements of the SDWA. For states without programs, or whose programs have been disapproved, EPA is required to prescribe federal UIC requirements. See 42 U.S.C. § 300h-1(c). In 1986, Congress added 42 U.S.C. § 300h-1(e), providing for primary UIC program enforcement responsibility by an Indian Tribe under certain circumstances. 42 U.S.C. § 300h-1(e) additionally provides that until a Tribe assumes primary responsibility, the "currently applicable underground injection control program shall continue to apply," and if such program does not exist, EPA shall prescribe one.

After Congress in 1986 authorized EPA to treat Indian tribes as states for SDWA purposes, see 42 U.S.C. § 300h-1(e), the agency approved the Navajo Nation, in 1994, for Treatment as a State ("TAS") with respect to "all lands located within the exterior boundaries of the Navajo Reservation . . . all satellite reservations . . . and the following lands located outside the boundaries of the formal Navajo Reservation within the Eastern Navajo Agency: all Navajo tribal trust lands, all Navajo allotments, and all tribal fee lands and federal lands previously determined to be part of 'Indian country.' EPA did not approve the Navajo Nation's TAS application with respect to private fee lands and state trust lands within the Eastern Navajo Agency, stating that the Navajo Nation had "not demonstrated the requisite jurisdiction." Id. The Navajo Nation has not yet assumed primacy in SDWA enforcement for those lands for which its TAS application was approved.

To avoid undue delay in implementation of the UIC program, EPA set forth the following strategy for implementing the UIC program on disputed lands:
As described above, EPA will assume that lands described by the definition in 40 CFR 144.3 are Indian lands and will begin implementation of the UIC program on them. If disputed territory is later adjudged to be non-Indian lands, it will be deleted from the EPA Direct Implementation Indian land program and added either to the EPA (non-Indian land) DI program for that state or to the State program, as appropriate. In a letter dated July, 1997, the EPA announced its decision to treat the Section 8 lands as "disputed Indian country" and implement the direct federal UIC program.

The action has a direct and immediate impact on HRI. HRI must obtain a permit from EPA prior to commencing underground injection on Section 8. HRI resurrection of a request from the New Mexico Environmental Department appears to be again a "tails wags dog argument" to the determination of the appropriate agency for the issuance of a UIC permit.

While the request at hand involves 160 acres and follows HRI's "corporate strategy" to proceed incrementally ("subject to timely permitting", "availability of water rights", "availability of sales contracts", and "availability of capital") the holdings encompass 2,225 acres consisting of three parcels: Section 8, Section 17, and the Mancos properties. HRI maintains "none of these parcels

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lies "within the area constituting the Navajo Reservation". HRI's section 17 claim is mineral rights and the surface rights are owned by the United States Government held in trust for the Navajo Nation. Those lands are adjacent the Section 8 lands, in which there are patented and unpatented claims. The unpatented claims require an annual payment of \$100 per claim payable to the Bureau of Land Management ("BLM").

Section 17 met the test of Federal supervisory authority... For purposes of defining Indian country, the term simply refers to those lands which Congress intended to reserve for a tribe and over which Congress intended primary jurisdiction to rest in the federal and tribal governments. . . . A formal designation of Indian lands as a 'reservation' is not required for them to have Indian country status." Indian Country U.S.A., 829 F.2d at 973 (citing McGowan, 302 U.S. at 538-39).

The split nature of the surface and mineral estates does not alter the jurisdictional status of these lands for SDWA purposes. In promulgating its regulations for the Indian lands UIC program, EPA specified that "[i]f ownership of mineral rights and the surface estate is split, and either is considered Indian lands, the Federal EPA will regulate the well under the Indian land program." 53 Fed. Reg. at 43,098. This is not an unreasonable interpretation of the SDWA, considering the federal government's role in protecting Indian interests and the relationship of mining and underground injection to Indian communities and their public water supplies.

Before continuing and applying the tests upon the specific as to whether Section 8 is "Indian country", some additional considerations should be brought forward. First of all, HRI's objective is not just "In Situ Mining" which can be employed in the mining of other elements, such as gold and silver. HRI is a wholly owned subsidiary of Uranium Resources, Inc. (URI). URI was incorporated in 1977 with the "primary objective to acquire, develop and place into production Uranium deposits in the Southwestern United States. HRI's role is the operating company for the acquisition, licensing and development of the New Mexico properties. Collectively, of which Sections 17, 8 and Mancos property are part, they operate under a license granted by the Nuclear Regulatory Commission (NRC). The NRC is an independent regulatory agency of the United States Government. It was formed under the "Energy Reorganization Act of 1974" with the responsibilities of oversight of civilian use of nuclear materials.(42 U.S.C 5801 et seq.) The requirements of the NRC are binding "on all persons and organizations who receive a license to use nuclear materials or operate nuclear facilities. While New Mexico Environmental Protection is by compact between the NRC and the State of New Mexico to monitor or supervise licensees such as URI or HRI, the general supervisory authority remains constant with the NRC. (see agreement NRC/ State of New Mexico (April 4, 1974)) In a sense, independent of the specific status of Section 8, a general binding effect of "federal supervision" remains as conditional upon the objective and acts that "develop and place into production uranium deposits."

Consideration should also be placed upon the promotion of effective administration of regulatory functions. Modern governance and effective administration often rely upon a concept of lead agency. The objectives and obligations such as "safe water" and "public health concerns" are often shared objectives and obligations of governmental agencies and organizations, be they federal, state local or tribal. Structure is not necessarily top down, but concurrent in time.

Stakeholders may be the result of jurisdictional roots, or statutory roots, or by agreement and mutual accord. Practical applications, such as the resources of an agency, proximity to the actual circumstances, or specialized knowledges must be considered along with "charge and authority". Of course there are controversies and disputes (that's what our Courts are for);but few of those will provide to fulfill the obligations of effective administration. Fulfilling the responsibilities of adequate protection of the public and the environment is for the actors of Government-- and the table is round.

Thirdly, it may be well to view the holdings of HRI (of which Section 8 is one parcel) in an entirety rather than as a patchwork the resultant of a checkerboard of jurisdictions. In much the same way, the checkerboard is not seen as "red or black squares" but in a unity and wholeness.

While some of the lands and holdings of HRI are both surface and mineral rights, all of the lands and holdings are with the corporate intent of development of the mineral rights. The actions require multiple permits and multiple agencies often in simultaneous statutory interest which regulate mineral recovery activities. But all times it is the same principle and the same corporate intent.

Throughout the process there have been consistent opposition by the Navajo Nation and the local Navajo officials. Navajo objections were filed before the State Engineer regarding water rights transfer to HRI of United Nuclear Corporation's prior water rights. HRI proposed a "corpus water system "(Closed tank, pool and loop system) "re-circulating a single calculable pore volume" in acquiring water rights approval. The Navajo Nation litigated that through the State Courts. The Navajo Nation through Executive order issued in 1992 a "moratorium" on all uranium -mining activities. " The Navajo Nation shall not approve any exploration, development, mining, milling or transportation or uranium unless and until the responsible party is able to certify and prove that the proposed activities will not contribute directly or indirectly to any further radioactive or heavy metal contamination of Navajo air, water, soil, vegetation, wildlife or livestock". The Crown Point chapter (a certified local government of the Navajo Nation) specifically proposed and passed resolution opposing "the Crownpoint uranium solution mining proposed for sites Crownpoint and Churchrock, New Mexico" . (CPC 00-03-746) That resolution cites "widespread local and regional opposition to Hydro Resources Inc (HRI's) Crown point Uranium project, including:

- a) resolutions opposing the mining adopted by the eastern Navajo Health Board (January, 1995), the Crownpoint Healthcare Facility safety Committee (May, 1997), the Eastern Navajo Area Agency on Aging Advisory Council (October,1997), and the Navajo Utility Authority Board (December, 1997)
- b) resolutions opposing the mining adopted by Little water (1995), Pinedale (1999), Smith Lake (1999) and Standing Rock (1999) Chapters
- c) a resolution opposing the mining adopted by the Eastern Navajo Agency Council (ENAV-99-04-200), by a vote of 65 in favor, 0 opposed, and 3 abstained on April 3, 1999.

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EPA Comment

From a standpoint of "baseline water quality standard" the Navajo's may have cause for concern. Water Quality tests conducted in conjunction to early applications of HRI 3 of 4 test wells met the water quality standard present at the time for uranium contaminants of 5.00 mg/l. Under a revised standard (20.6.2 NMAC effective 09/26/04), 3 of 4 Crownpoint test wells would fail the baseline standards for uranium contaminants.(see Appendix)

As to Venetie and the determinants as to whether Section 8 qualifies, while Venetie provides a fundamental two-prong approach to making a determination, few of the facts of Venetie apply in the matter of Section 8.

The determinant that the property was "set aside" is well documented. Following Executive orders 709 and 744, Congress appropriated funds which included Section 8 as well as the previously adjudicated Section 17. The 1928 Act, which specifies only a lump sum of money and not particular lands to be purchased, is nevertheless sufficient to establish congressional intent to set aside lands purchased thereunder, (see 10th Circuit record.) Excepting for "the disputed lands of HRI(which comprises of part of Section 8), the United States remains the owner of Section 8.

HRI's claim comes about through the railroad "right of way" granted the Santa Fe Pacific Railroad through the Indian country. That "right of way" reserved certain mineral rights. In 1957, Phillips Oil began drilling in the Churchrock area and they encountered "uranium mineralization." In 1961, United Nuclear Corporation acquired 50% interest in the operations, including the discovery of Northeast Churchrock mine and the Old Churchrock mine. Operations continued until United Nuclear's mine were shut down in 1982. HRI purchased the rights in the mid 1980's. Despite several efforts, no operations have been restarted.

Additionally, HRI's maintenance of claim of "unpatented mineral claim in Section 8 include a required annual fee of \$100 per claim to the Bureau of Land Management.

As to the second prong of the Venetie, records can make a clear showing that the United States maintains more than minimal federal supervisory authority. The United States continues to retain title to most of Section 8. As with the adjudication of Section 17, BIA continues to oversee the property. And it continues to hold the property in Trust. It preserves roads and access to the Land. BIA has been active in the coordination with the Navajo nation with self determination and education assistance. BIA has conducted planning and coordination with the local chapters including the Navajo chapter most proximate the "disputed land of Section 8-- the Crownpoint Chapter. BIA has continuously promulgated rules that adhere to the special trust obligation to protect the interests of Indian tribes, including protecting tribal property and jurisdiction.

The federal supervision of the lands are not mere statutory recitations until the lands are disposed of, but intentional upon control and that they be preserved. This is much the same as discussed in Roberts (185 Fed 3 at 1135).

Further, the actions of oversights (as discussed above) are not limited to a single agency; but have been conducted by multiple agencies active As Felix Cohen points out in Handbook : Since the trust obligations are binding on the United States, these standards of conduct would seem to govern all executive departments that may deal with Indians, not just those such as the Bureau of Indian Affairs which have special statutory responsibilities for Indian affairs.

Moreover, in some contexts the fiduciary obligations of the United States mandate that special regard be given to the procedural rights of Indians by federal administrative agencies. Felix S. Cohen, *Handbook of Federal Indian Law* at 225 (footnotes omitted) (1982 ed.); see also Montana v. Blackfeet Tribe, 471 U.S. 759, 766 (1985) (discussing canon of statutory construction, derived from the trust relationship, requiring construction of statutes liberally in favor of Indians and resolution of ambiguities in their favor).

The activities of the Environmental Protective Agency (EPA) in the specifics of this controversy itself demonstrates this direct supervisory effect. While not directing itself to the "period of neglect" prior to the National Environmental Protection Act (NEPA, 1969), it has provided the "fullest extent" in policies, regulations and public law. The Tenth Circuit decision points out:

Congress's intent to protect tribal lands and governance extends no less to EPA than to other departments of the federal government, and therefore, in accordance with Indian Country, U.S.A., the agency's interpretation of its rule to permit recognition of a dispute under the circumstances of this case is clearly permissible...EPA's decision, while made within the framework of administering the SDWA, implicates the core federal trust responsibilities of administering--and safeguarding--Indian lands.

With regard to the elements of cohesiveness between HRI and the community of reference, it is clear that that the prospect of uranium mining is divisive. HRI owes its allegiances to its parent corporation, URI of Dallas, Texas. HRI is not a native business nor does it conduct itself in the common to the Navajo population-- using the land for farming and grazing, developing tourism and related activities, etc. As mentioned above, the Navajo Nation has declared a moratorium on uranium mining and related activities.

With regard to the uses of the aquifer, if the well test summaries are true (and those tests are "old" and unverified (1989), it is not suitable for drinking water or consumption purposes. The magnitude of well samples generally exceed the limits prescribed by what is now federal and New Mexico standard (.03 mg/l of uranium) . (HRI Report of Water Quality, filed May 1, 1989, NM Groundwater Bureau) With results such as the high contamination level of 6.627 in Test well 8 and an average of 1.795 for uranium, restoring to acceptable levels would be required--even for agricultural or industrial use. A proposed "In situ mining" projects runs a higher risk factor than non disturbance and it is legally unacceptable to allow HRI's proposal to restore the well field to a condition consistent of pre-leaching use and removing of surface disturbance."

Additionally, it was pointed out that the lands carry "trace of traditional culture ceremonies that the Navajo people perform." For many Navajos, the ground water cannot be valued because it is one of the four sacred and essential elements of Mother Earth. "*Tó eii be'ina' át'é*" - water is life.

In conclusion, a recommendation to the Administrator that the whole of Section 8 remain under Federal supervisory is supported in several aspects. The tests presented by Venetie are in the history and character of the lands with respect to "set aside" and "federal supervision". In light of Navajo community objections, safety relevant concerns, and the harmonization of regulations and administration (including the adherence to trust obligations and the mandate

Page 7 of 7
EPA Comment

that special regard be given to Indians by Federal administrators), the determination is judicious.

Should there be question, please do not hesitate to contact me directly at (505) 699-9811. Please also note that in the event of a determination or a schedule of hearings, please forward to my attention at:

Attn: Eliot Gould
Northern Pueblos Literacy Project
354 1/2 Calle Loma Norte
Santa Fe, NM 87501-1279

Respectfully submitted,

Eliot Gould

Eliot Gould

Cc: file

Open

References:

Recent developments in Uranium Resources: Licensing of in situ leach recovery operations for the Crownpoint and Church Rock uranium deposits, New Mexico: A case study . Pelizza & McCann, IAEA, June 2004.

Crownpoint Chapter resolutions (2001) and letter from Chapter President Jamison DeVore, December 2005.

HRI Groundwater section report of water Quality for Churchrock, (5/1989) , New Mexico Environmental Department, Santa Fe, New Mexico.

HRI v EPA , Tenth Circuit Opinion, No. 97- 9557a, January 6, 2000. Before Ebel, Briscoe, & Lucero

Alaska v. Venetie Tribal Government, Opinion of the Court, No. 96-1577, published Opinion, Justice Thomas for the Court.

Uranium Mining Plan Splits Navajo Communities in New Mexico. Chris Shuey Southwest Research and Information Center Albuquerque, New Mexico June 1996

Building Partnerships in Tribal Communities. FEMA/EMI IS-650 , January ,2004.

Additionally several accesses were undertaken to CFR's, Administrative Codes of New Mexico and informative background websites.

Crownpoint Chapter Resolution

Page 2 of 4
Appendix B

JOHN PERRY JR.
Elected Delegate
MITCHELL W. CASITAN
President
JAMISON DEVORE
Vice-President
LAURETTA ARVISO
Secretary / Treasurer
LINCOLN PERRY SR.
Land Board Member
ARLENE ARVISO, B.S.W.
Community Services Coordinator
DELOA A. HARRISON
Club Typist I

CROWNPOINT CHAPTER

P.O. Box 338 • Crownpoint, New Mexico 87513
Phone (505) 786-9150
Fax (505) 786-9166



3/23/2000
Crownpoint Land Use
Planning Committee

STEVEN BEGAR
President
WILLIAM JILUPHY
Vice-President
CECILIA J. NEZ
Secretary
MAR BILLIE
Member
LEO MARTIN
Member

RESOLUTION OF CROWNPOINT CHAPTER
CPC-00-03-746

SUBJECT PROPOSED RESOLUTION RESCINDING CROWNPOINT CHAPTER RESOLUTION
CP-91-07-141 AND APPROVING A NEW RESOLUTION OPPOSING THE
CROWNPOINT URANIUM SOLUTION MINING PROJECT PROPOSED FOR SITES IN
CROWNPOINT AND CHURCH ROCK, NEW MEXICO

WHEREAS:

1. Crownpoint Chapter is a certified local governmental unit of the Navajo Nation; and
2. Pursuant to the Navajo Nation Local Governance Act, 16 N.N.C., Chapter 1, Subchapter 1, Section 100(1), Crownpoint Chapter has the governmental authority to make decisions over local matters, consistent with Navajo law, including customs and tradition; and
3. Crownpoint Chapter is authorized by 1 N.N.C. 403.1.A "to review matters including land use planning affecting the community and make appropriate recommendations to the Navajo Nation or such federal, state, and local agencies as may have the responsibility for considering and approving such action"; and
4. There is widespread local and regional opposition to Hydro Resources, Inc.'s (HRI's) Crownpoint Uranium Project including
 - (a) resolutions opposing the mining adopted by the Eastern Navajo Health Board (January 1993), the Crownpoint Healthcare Facility Safety Committee (May 1997), the Eastern Navajo Area Agency on Aging Advisory Council (October 1997), and the Navajo Tribal Utility Authority Board (December 1997);
 - (b) resolutions opposing the mining adopted by Little Water (1993), Pinedale (1999), Smith Lake (1999) and Standing Rock (1999) Chapters; and
 - (c) a resolution opposing the mining adopted by the Eastern Navajo Agency Council (ENAC 99-01-300), by a vote of 53 in favor, 9 opposed, and 1 abstained on April 2, 1999; and
5. HRI proposes to extract uranium using the solution mining method, which creates high levels of such toxic substances as uranium, radium, arsenic, and selenium and chloride in the groundwater at and around the three mining sites; and

EXHIBIT B

CHURCHROCK PROJECT
RECAPTURE SHALE
WATER QUALITY AVERAGE

PARAMETER	CR4	CR7	AVG
CALCIUM	2.3	1.2	1.8
MAGNESIUM	0.11	0.02	0.07
SODIUM	122	126	124
POTASSIUM	3.6	7.5	5.5
CARBONATE	46	103	74
BICARBONATE	177	111	144
SULFATE	49	17	33
CHLORIDE	6.7	9.8	8.2
NITRATE	0.03	0.01	0.02
FLUORIDE	0.34	0.4	0.37
SILICA	38	14	26
TDS (180)	383	355	369
ECS25C)	542	591	567
ALK	221	263	242
PH	9.24	9.97	9.60
ARSENIC	0.001	0.001	0.001
BARIUM	0.07	0.08	0.07
CADMIUM	0.0001	0.0001	0.0001
CHROM.	0.01	0.01	0.01
COPPER	0.01	0.01	0.01
IRON	0.05	0.04	0.04
LEAD	0.001	0.001	0.001
MANGANESE	0.01	0.01	0.01
MERCURY	0.0001	0.0001	0.0001
MOLY.	0.01	0.01	0.01
NICKLE	0.01	0.01	0.01
SELENIUM	0.001	0.001	0.001
SILVER	0.01	0.01	0.01
URANIUM	0.035	0.001	0.018
VANADIUM	0.01	0.01	0.01
ZINC	0.02	0.01	0.02
BORON	0.19	0.11	0.15
AMMONIA	0.09	0.01	0.05
RA226	3.9	0.2	2.0

Appendix C

HRI, INC.

(A Subsidiary of Uranium Resources, Inc.)

12377 Merit Drive
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1638 South Second
Galup, New Mexico 87301
Telephone: (505) 863-4990

R - - - - **U**
MAY 1 1989
GROUND WATER BUREAU

Post Office Box 777
Crown Point, New Mexico 87313
Telephone (505) 766-5845


April 26, 1989

Mr. John Parker
Water Resource Specialist
Ground Water Section
Environmental Improvement Division
New Mexico

CHURCHROCK PROJECT
WESTWATER FORMATION
WATER QUALITY SUMMARY

PARAMETER	CR3	CR5	CR6	CR8	AVG.
CALCIUM	2.6	1.7	4.5	2.3	2.8
MAGNESIUM	0.13	0.11	0.59	0.11	0.23
SODIUM	127	123	130	139	130
POTASSIUM	1.19	1.45	2.5	4.7	2.46
CARBONATE	27	20	12	56	29
BICARBONATE	244	236	287	218	246
SULFATE	35	35	39	39	37
CHLORIDE	6.3	4.9	7.4	6.0	6.2
NITRATE	0.01	0.02	0.04	0.01	0.02
FLUORIDE	0.29	0.31	2.02	3.89	1.63
SILICA	15	16	18	17	17
TDS(180)	359	339	384	397	370
EC(25C)	545	508	567	605	556
ALK	247	249	256	272	256
PH	8.9	8.81	8.58	9.4	8.93
ARSENIC	0.001	0.001	0.001	0.007	0.003
BARIUM	0.07	0.03	0.07	0.10	0.07
CADMIUM	0.0005	0.0001	0.0002	0.0003	0.0003
CHROM.	0.01	0.01	0.02	0.01	0.01
COPPER	0.01	0.01	0.02	0.01	0.01
IRON	0.02	0.03	0.07	0.03	0.04
LEAD	0.001	0.001	0.001	0.001	0.001
MANGANESE	0.01	0.01	0.01	0.01	0.01
MERCURY	0.0001	0.0001	0.0001	0.0001	0.0001
MOLY.	0.01	0.01	0.01	0.01	0.01
NICKLE	0.01	0.01	0.01	0.01	0.01
SELENIUM	0.001	0.001	0.002	0.001	0.001
SILVER	0.01	0.01	0.01	0.01	0.01
URANIUM	0.064	0.017	0.474	6.627	1.795
VANADIUM	0.01	0.01	0.05	0.28	0.09
ZINC	0.01	0.01	0.01	0.01	0.01
BORON	0.12	0.11	0.10	0.07	0.10
AMMONIA	0.08	0.08	0.07	0.08	0.08
RA226	15.2	6.8	5.8	13.1	10.2

Appendix
D


 Fluoride to Uranium Standard
 Some times above
 range
 0.017
 to
 6.627
 in Westwater Fm.

THE UNIVERSITY OF CHICAGO

[illegible]

References

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Appendix E

CALCIUM	1.2	2.7	2.9	2.1	2.4	1.6	2.3	0.42	1.6	2.3
MAGNESIUM	0.14	0.13	0.09	0.06	0.17	0.1	0.11	0.023	0.08	0.14
SODIUM	132	134	147	138	146	134	139	6.4	132	148
POTASSIUM	3.3	5.3	6.6	5.1	4.9	3	4.7	1.73	3	6.6
CARBONATE	35	54	80	55	50	61	56	13.4	35	80
SILICATE	234	221	150	216	246	200	218	19.0	190	246
SULFATE	34	33	45	39	44	36	39	4.6	33	48
CHLORIDE	5.7	5.4	5	5.5	8.5	5	6.0	1.15	5	8.5
NITRATE	0.07	0.01	0.01	0.01	0.02	0.01	0.01	0.005	0.02	0.02
FLUORIDE	0.32	0.29	0.22	0.26	72	0.25	3.89	8.998	0.22	222
SILICA	19	15	17	16	19	15	17	1.3	16	19
TDS(LBS)	371	386	424	390	430	383	397	21.8	371	430
EC(25C)	555	591	640	649	651	584	605	34.3	555	651
ALK	250	271	290	269	286	266	272	13.2	250	286
PH	9.33	9.6	9.46	9.47	9.3	9.34	9.4	0.10	9.3	9.6
ARSENIC	0.007	0.005	0.012	0.007	0.01	0.003	0.007	0.0030	0.003	0.012
BARIUM	0.11	0.12	0.1	0.1	0.08	0.09	0.10	0.013	0.08	0.12
CADMIUM	0.0001	0.0001	0.0001	0.0002	0.0001	0.0001	0.0003	0.00041	0.0001	0.0012
CHROMIUM	0.01	0.01	0.01	0.01	0.01	0.01	0.01	0.01	0.01	0.01
COPPER	0.01	0.01	0.01	0.01	0.01	0.01	0.01	0.01	0.01	0.01
IRON	0.08	0.63	0.62	0.62	0.61	0.61	0.63	0.024	0.01	0.08
LEAD	0.002	0.001	0.001	0.002	0.001	0.001	0.001	0.0005	0.001	0.002
NICKEL	0.01	0.01	0.01	0.01	0.01	0.01	0.01	0.01	0.01	0.01
MERCURY	0.0001	0.0001	0.0001	0.0001	0.0001	0.0001	0.0001	0.0001	0.0001	0.0001
MOLYBDENUM	0.01	0.01	0.01	0.01	0.01	0.01	0.01	0.01	0.01	0.01
SILICA	0.01	0.01	0.01	0.01	0.01	0.01	0.01	0.01	0.01	0.01
SILICA	0.001	0.001	0.002	0.001	0.001	0.001	0.001	0.0004	0.001	0.002
SILVER	0.01	0.01	0.01	0.01	0.01	0.01	0.01	0.01	0.01	0.01
THALLIUM	6.28	10.4	10	6.46	5.08	1.34	6.63	5.057	1.34	10.4
ZINC	0.16	0.34	0.57	0.28	0.25	0.09	0.28	0.157	0.09	0.57
ZINC	0.01	0.01	0.01	0.01	0.01	0.01	0.01	0.01	0.01	0.01
ZINC	0.1	0.07	0.07	0.05	0.05	0.07	0.07	0.017	0.05	0.1
ZINC	0.06	0.07	0.09	0.14	0.03	0.08	0.08	0.033	0.03	0.14
ZINC	7.5	13	26	9	13	11	13.1	6.17	7.5	26

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CR3	CR5	CR6	CR8	GRAND AVERAGE	AVERAGE
100	100	100	100	100	100

WESTWATER FORMATION AVERAGES

1638 South Second
Gallup, New Mexico 87301
Telephone (505) 853-4990

Nov-23-93 03:56P

P.02

Mr. Elliot Gould:

RE: 160 acres/Section 8, Township 16N, Range 16W.

Mostly all lands within this jurisdiction are Indian Allotments, assignment of 160 acres to Navajo family for farming or grazing purposes (self-determination) by the US Government. These lands are administered under the jurisdiction of the Bureau of Indian Affairs, United States Government as part of the treaty between the Navajos and the United States Government.

The Secretary of the Interior has given the Bureau of Indian Affairs the authority to be trust holder for the Navajo Nation on all Indian Allotments and Tribal Trust Lands. Be aware there were land exchanges performed by BIA without proper consultations to the Navajo Nation and families sometimes ago.

I believe a proper consultation and public hearing on this matter is appropriate especially within a sacred land. This site bares trace of traditional culture ceremonies that the Navajo people performed.

Thank you for your honorable consideration in contacting the Crownpoint Chapter.

Jamison DeVore, President
Crownpoint Chapter

Appendix