

August 24, 2009

Elisabeth A. Shumaker
Clerk of Court

PUBLISH

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

HYDRO RESOURCES, INC.,

Petitioner,

v.

No. 07-9506

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY,

Respondent,

and

NAVAJO NATION,

Intervenor.

STATE OF NEW MEXICO; NATIONAL
MINING ASSOCIATION,

Amici Curiae.

ORDER

Before **HENRY**, Chief Judge, **TACHA**, **KELLY**, **BRISCOE**, **LUCERO**, **MURPHY**,
O'BRIEN, **McCONNELL**, **TYMKOVICH**, **GORSUCH**, and **HOLMES**, Circuit
Judges.

This matter is before the court on the *Petition For Rehearing En Banc* filed by

petitioner Hydro Resources, Inc. We also have responses from the EPA and Navajo Nation. In addition, we have amicus briefs from the state of New Mexico and United Nuclear Corporation. All of the materials were submitted to the active judges of the court with the exception of Judge Hartz, who is recused in this matter. A poll was called, and a majority voted to allow en banc rehearing. Consequently, the *Petition* is **GRANTED**.

On or before October 8, 2009, HRI, Inc. shall file a supplemental brief not to exceed 30 pages in a 13 point font addressing, for en banc review, the issues raised in the petition for rehearing. On or before November 19, 2009, the Intervenor and Respondent may file separate responses of the same length. HRI may file a single optional reply on or before December 11, 2009. That brief shall be limited to 15 pages in length in a 13 point font.

All parties shall file 15 hard copies of their supplemental briefs in addition to submitting them via Electronic Case Filing. In addition, at the time those briefs are submitted counsel shall also forward to the court an additional 10 copies of their original panel briefs.

The court anticipates setting this matter on the January 2010 oral argument calendar. That calendar is currently set for the week of January 11, 2010. The parties will be advised of the exact date and time for argument when that calendar is finalized.

Entered for the Court,



ELISABETH A. SHUMAKER
Clerk of Court