IN THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

IN THE MATTER OF:

Safe Drinking Water Determination; Underground Injection Control Program, Determination of Indian Country Status for Purposes of Underground Injection Control Program Permitting

ON REMAND FROM:

UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT COURT

Case Nos: 97-9556, 97-9557

HRI, Inc.

Petitioner

v.

United States Environmental Protection Agency

Respondent

APPENDIX OF EXHIBITS TO WRITTEN COMMENTS OF HRI, INC. IN SUPPORT OF THE POSITION THAT THE SECTION 8 LAND IN QUESTION IS NOT INDIAN COUNTRY AS DEFINED IN 18 U.S.C. § 1151(B) AND *STATE OF ALASKA v. NATIVE VILLAGE OF VENETIE TRIBAL GOVERNMENT*, 522 U.S. 520 (1998)

HRI, Inc., by and through its counsel of record, hereby submit the following exhibits in support of the position that the Section 8 land in question is not Indian country as defined in 18 U.S.C. § 151(b) and ***State of Alaska v. Native Village of Venetie Tribal Government***, 522 U.S. 520 (1998):

APPENDICES VI, V, VI, VII and VIII

APPENDIX IV

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Form 1860-8
(January 1965)
(formerly 4-1060)

New Mexico 9161

The United States of America,

To all to whom these presents shall come, Greeting:

W H E R E A S

United Nuclear Corporation

is entitled to a Land Patent pursuant to the general mining laws, R. S. 2325; 30 U.S.C. 29, for the land embraced within the 16168 Nos. 5, 6, 7, 8, 9, 14, 15, 16, 17 and 18, Lode Mining Claims, designated and described as follows:

Mineral Survey Number 2220, embracing a portion of

T. 16 N., R. 16 W.,
Sec. 8, Part S½NE¼, Part E½SW¼,
Part SE¼NW¼, SE¼.

in New Mexico Principal Meridian, New Mexico

and within an unorganized mining district, McKinley County, New Mexico, the said lode mining claims being more particularly described in the official field notes and depicted on the official plat, which notes and plat are expressly made a part of this patent and copies of which are attached hereto and containing 174.546 acres;

NOW KNOW YE, that there is, therefore, granted by the UNITED STATES unto the above named claimant the land above described; TO HAVE AND TO HOLD the said land with all the rights, privileges, immunities, and appurtenances, of whatsoever nature, thereunto belonging, unto the said claimant, its successor in interest, forever; and

EXCEPTING AND RESERVING TO THE UNITED STATES:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States. Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945);

2. All leasable minerals in accordance with the provisions of the Act of August 13, 1954 (68 Stat. 708; 30 U.S.C., 521 et seq) P.L. 585 as to that portion of the 16168-14 that extends into the SW¼NE¼, SE¼NW¼, NE¼SW¼ and those portions of the 16168-15 and 16 that extends into the NE¼SW¼.

IN TESTIMONY WHEREOF, the undersigned authorized officer of the Bureau of Land Management, in accordance with the provisions of the Act of June 17, 1948 (62 Stat. 476), has, in the name of the United States, caused these letters to be made Patent, and the Seal of the Bureau to be hereunto affixed.

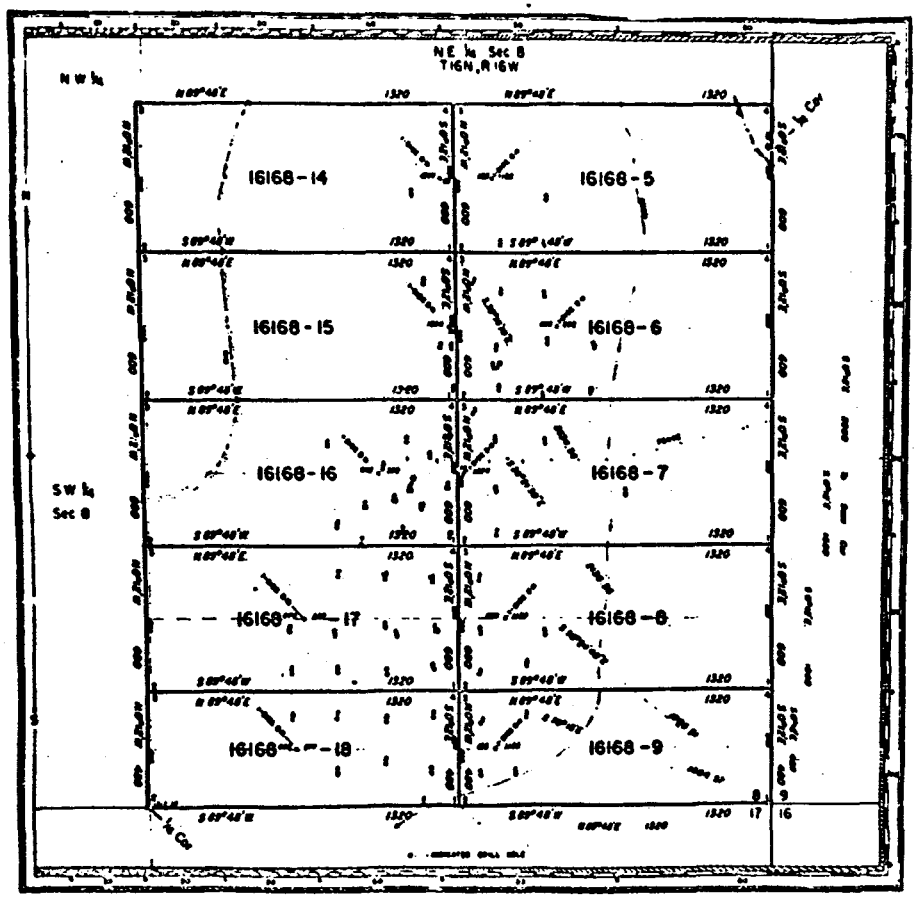
GIVEN under my hand, in Santa Fe, New Mexico, the FIFTH day of MAY in the year of our Lord one thousand nine hundred and SEVENTY and of the Independence of the United States the one hundred and NINETY-FOURTH.

[SEAL]

By Michael T. Solan
Manager, New Mexico Land Office.

Patent Number 30-70-0047

30-00041-1
690-746



MINERAL SURVEY
No. 2220
NEW MEXICO

CLAIM OF

PHILLIPS PETROLEUM COMPANY
AND QUINTA CORPORATION

NM 9161

SHOWN AS THE

16168-5,6,7,8,9
AND 16168-14,15,16,17,18 LODES

SITUATE IN

Sec 8, T16N, R16W, NMPM
McKINLEY COUNTY
Unorganized Mining District
New Mexico Land District

Lat 35°37'5"N, Long 108°32'7"W, at Cor No 1, 16168-9

0 100 200 300 400
Feet

Magnetic Declination 10°00'E

Surveyed March 2 to March 7, 1959
By Andrew R Shelton Mineral Surveyor

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

Santa Fe, New Mexico May 10, 1959

I hereby certify that this plat of Mineral Survey No 2220, New Mexico, is strictly conformable to the field notes of said survey which have been examined and approved

Clarence E. Bilhay

Office Cadastral Engineer

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BOOK 80 PAGE 126

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

NM 9161

MINERAL SURVEY NO. 2220

New Mexico Land District.

FIELD NOTES

Of The Survey Of The Mining Claim Of

Phillips Petroleum Company and Quinta Corporation

Known As The

16168-5, 16168-6, 16168-7, 16168-8, 16168-9, 16168-14, 16168-15
16168-16, 16168-17 and 16168-18 Lodes
Unorganized Mining District,

McKinley County, New Mexico

Section 8, Township 16 N., Range 16 W., N.M.P.M.

Surveyed under order dated March 2, 1959.

by Andrew R. Shelton
Mineral Surveyor.

Claim located February 8, 1957

Survey commenced March 2, 1959

Survey completed March 7, 1959

Address of claimant c/o Senior and Senior, Att'ys
10 Exchange Place
Salt Lake City, Utah

DATES OF AMENDED LOCATIONS

October 8, 1958

GPO 901004

EXHIBIT "A"

This survey was made with a Berger transit No. 6½ RX, with horizontal limb 6.25 ins. diameter, having two double opposite verniers and full vertical circle 5 ins. diameter, with two double opposite verniers and edge graduations; the verniers read to one minute of arc; the eyepiece is equipped with a colored shade set in the dust shutter for making direct observations upon the sun. The instrument was in good condition at the time of the survey and all adjustments were in good order.

All azimuths in this record were determined by the method of deflection angles referred to the meridian determined by the following observations.

March 6, 1959, at corner No. 1 of the 16168-9 lode in latitude 35°37.5' N. and longitude 103°32.7' W., I made a series of six altitude observations upon the sun for azimuth at approximately equal time intervals, three each with the telescope in direct and reversed positions, observing opposite limbs of the sun and reading the horizontal angle from a reference point (corner No. 2 of the 16168-9 lode) West to the sun.

Mean time of observation, 105th meridian standard time,	9:12:30 a.m.
Declination of sun at mean time of observation,	5°46.6' S.
Mean observed vertical angle to sun's center,	28°04.3'
Mean horizontal angle (right) from reference point to sun's center,	211°40'30"
True bearing to reference point,	S. 89°48'W.

The lines were measured with a Lufkin steel tape 500 ft. in length, graduated every foot for its entire length; an extra foot graduated to one-hundredths is provided at the end of the tape; the tape was compared with a Lufkin standard at the time of beginning the survey and found correct.

All lines and connections of this survey were run by direct methods.

The magnetic declination observed at each corner of this survey gave a uniform value of 14° East.

SURVEY NO. 2220

16168-5 LODE

At Cor. No. 1 of the 16168-5 lode, identical with Cor. No. 4 of the 16168-6 lode of this survey.

This corner falls on the line between Sections 8 and 9 in the identical location of a 3/4 in. diam. galvanized iron pipe, 30 ins. long, set 24 ins. in mound of earth and stone with a brass cap mkd. 1-16168-5, 4-16168-6. I add the mks. 2220; from which

Feet	
	The corner of sections 8, 9, 16 and 17, T. 16 N., R. 16 W., N. M. P. M., bears S. 0°12' E. 2280 ft. dist., a stone monument marked as described in the official record.
	A cedar tree, 8 ins. diam., bears N. 74°02' W., 15.64 ft. dist., mkd. 1-16168-5, 2220 B. T.
	Thence S. 89°48' W.
540	Draw drains South.
1320.0	Cor. No. 2, identical with Cor. No. 3 of the 16168-6 lode, Cor. No. 4 of the 16168-15 lode and Cor. No. 1 of the 16168-14 lode, all of this survey.
	This corner falls in the identical location of a 3/4 in. diam. galvanized iron pipe, 30 ins. long, set 24 ins. in mound of earth and stone with a brass cap mkd. 2-16168-5, 3-16168-6, 1-16168-14, 4-16168-15. I add the mks. 2220; from which
	A cedar tree, 8 ins. diam., bears N. 69°27' W., 46.38 ft. dist., mkd. 2-16168-5, 2220 B. T.
	Thence N. 0°12' W.
300.0	Lode line; discovery drill hole bears N. 89°48' E., 160 ft. dist.
600.0	Cor. No. 3, identical with Cor. No. 4 of the 16168-14 lode of this survey.
	This corner falls in the identical location of a 3/4 in. diam. galvanized iron pipe, 30 ins. long, set 24 ins. in mound of earth and stone with a brass cap mkd. 3-16168-5, 4-16168-14. I add the mks. 2220; from which
	A cedar tree, 6 ins. diam., bears S. 75° E., 4.70 ft. dist., mkd. 3-16168-5, 2220 B. T.
	Thence N. 89°48' E.
700	Draw drains South.
1180	Sandstone rim bears N. 30° W. and S. 30° E.
1320.0	Cor. No. 4.
	This Cor. falls on the line between sections 8 and 9 in the identical location of a 3/4 in. diam. galvanized iron pipe, 30 ins. long, set 24 ins. in mound of earth and stone with a brass cap mkd. 4-16168-5. I add the mks. 2220.
	No local bearing objects or bearing trees available.
	Thence S. 0°12' E.
181.10	A brass capped pipe mkd. for the quarter-section corner between sections 8 and 9. This corner was not officially set.
240	Sandstone rim bears N. 30° W. and S. 30° E.
300.0	Lode line; discovery drill hole bears S. 89°48' W. 1160 ft. dist.

Feet	
600.0	Cor. No. 1 and place of beginning.

16168-6 LODE

Beginning at Cor. No. 1 of the 16168-6 lode, identical with Cor. No. 4 of the 16168-7 lode of this survey.

This corner falls on the line between sections 8 and 9 in the identical location of a 3/4 in. diam. galvanized iron pipe, 30 ins. long, set 24 ins. in mound of earth and stone with a brass cap mkd. 1-16168-6, 4-16168-7. I add the mks. 2220; from which

The corner of sections 8, 9, 16 and 17 bears S. 0°12' E. 1680 ft. dist.; previously described.

A cedar tree, 30 ins. diam., bears S. 40°15' E., 20.72 ft. dist., mkd. 1-16168-6, 2220 D. T.

Thence S. 89°48' W.

670	Draw drains South.
1320.0	Cor. No. 2, identical with Cor. No. 3 of the 16168-7 lode, Cor. No. 4 of the 16168-16 lode and Cor. No. 1 of the 16168-15 lode, all of this survey.

This corner falls in the identical location of a 3/4 in. diam. galvanized iron pipe, 30 ins. long, set 24 ins. in mound of earth and stone with a brass cap mkd. 2-16168-6, 3-16168-7, 4-16168-16 and 1-16168-15. I add the mks. 2220.

No local bearing objects or bearing trees available.

Thence N. 0°12' W.

300.0	Lode line; discovery drill hole bears N. 89°48' E. 430.0 ft. dist.
600.0	Cor. No. 3, identical with Cor. No. 4 of the 16168-15 lode, Cor. No. 1 of the 16168-14 lode and Cor. No. 2 of the 16168-5 lode, all of this survey.

Thence N. 89°48' E.

780	Draw drains South.
1320.0	Cor. No. 4, identical with Cor. No. 1 of the 16168-5 lode of this survey.

Thence S. 0°12' E.

300.0	Lode line; discovery drill hole bears S. 89°48' W. 890 ft. dist.
600.0	Cor. No. 1 and place of beginning

16168-7 LODE

Beginning at Cor. No. 1 of the 16168-7 lode,

Feet	
	identical with Cor. No. 4 of the 16168-8 lode of this survey.
	This corner falls on the line between sections 8 and 9 in the identical location of a 3/4 in. diam. galvanized iron pipe, 30 ins. long, set 24 ins. in mound of earth and stone with a brass cap mkd. 1-16168-7, 4-16168-8. I add the mks. 2220; from which
	The corner of sections 8, 9, 16 and 17 bears S. 0°12' E., 1080.0 ft. dist.; previously described.
	No local bearing objects or bearing trees available.
	Thence S. 89°48' W.
690.	Draw drains South.
1320.0	Cor. No. 2, identical with Cor. No. 3 of the 16168-8 lode, Cor. No. 4 of the 16168-17 lode and Cor. No. 1 of the 16168-16 lode, all of this survey.
	This corner falls in the identical location of a 3/4 in. diam. galvanized iron pipe, 30 ins. long, set 24 ins. in mound of earth and stone with a brass cap mkd. 2-16168-7, 3-16168-8, 4-16168-17 and 1-16168-16. I add the mks. 2220.
	No local bearing objects or bearing trees available.
	Thence N. 0°12' W.
300.0	Lode line; discovery drill hole bears N. 89°48' E., 25.0 ft. dist.
346.5	Fence line bears East and West.
600.0	Cor. No. 3, identical with Cor. No. 4 of the 16168-16 lode, Cor. No. 1 of the 16168-15 lode and Cor. No. 2 of the 16168-6 lode, all of this survey.
	Thence N. 89°48' E.
650	Draw drains South.
1320.0	Cor. No. 4, identical with Cor. No. 1 of the 16168-6 lode of this survey.
	Thence S. 0°12' E.
93	Fence line bears S. 77° W. and N. 77° E.
300.0	Lode line; discovery drill hole bears S. 89°48' W., 1295.0 ft. dist.
600.0	Cor. No. 1 and place of beginning.

16168-8 LODE

Beginning at Cor. No. 1 of the 16168-8 lode, identical with Cor. No. 4 of the 16168-9 lode of this survey.

This corner falls on the line between sections 8 and 9 in the identical location of a 3/4 in. diam. galvanized iron pipe, 30 ins. long set 24 ins. in mound of earth

Feet	
	and stone with a brass cap mkd 1-16168-8, 4-16168-9. I add the mks. 2220; from which
	The corner of sections 8, 9, 16 and 17 bears S. 0°12' E., 480.0 ft. dist.; previously described.
	No local bearing objects or bearing trees available.
	Thence S. 89°48' W.
720	Draw drains South.
1320.0	Cor. No. 2, identical with Cor. No. 3 of the 16168-9 lode, Cor. No. 4 of the 16168-18 lode and Cor. No. 1 of the 16168-17 lode, all of this survey.
	This corner falls in the identical location of a 3/4 in. diam. galvanized iron pipe, 30 ins. long set 24 ins. in mound of earth and stone with a brass cap mkd. 2-16168-8, 3-16168-9, 4-16168-18 and 1-16168-17. I add the mks. 2220.
	No local bearing objects or bearing trees available.
	Thence N. 0°12' W.
300.0	Lode line; discovery drill hole bears N. 89°48' E. 200 ft. dist.
600.0	Cor. No. 3, identical with Cor. No. 4 of the 16168-17 lode, Cor. No. 1 of the 16168-16 lode and Cor. No. 2 of the 16168-7 lode, all of this survey.
	Thence N. 89°48' E.
630	Draw drains South.
1320.0	Cor. No. 4, identical with Cor. No. 1 of the 16168-7 lode of this survey.
	Thence S. 0°12' E.
300.0	Lode line; discovery drill hole bears S. 89°48' W. 1120 ft. dist.
600.0	Cor. No. 1 and place of beginning.
	16168-9 LODE
	Beginning at Cor. No. 1 of the 16168-9 lode, identical with the corner of sections 8, 9, 16 and 17; previously described. A 3/4 in. diam. galvanized iron pipe, 30 ins. long, set 24 ins. in mound of earth and stone with a brass cap mkd. 1-16168-9 had been set at this point alongside the stone section corner monument. I add the mks. 2220.
	No local bearing objects or bearing trees available.
	Thence S. 89°48' W.
1320.0	Cor. No. 2, identical with Cor. No. 1 of the 16168-18 lode of this survey.
	This Cor. falls on the line between sections 8 and 17

Feet	
	in the identical location of a 3/4 in. diam. galvanized iron pipe, 30 ins. long, set 24 ins. in mound of earth and stone with a brass cap mkd 2-16168-9, 1-16168-18. I add the mks. 2220.
	No local bearing objects or bearing trees available.
	Thence N. 0°12' W.
38	Draw drains southwesterly.
240.0	Lode line; discovery drill hole bears N. 89°48' E. 155.0 ft. dist.
480.0	Cor. No. 3, identical with Cor. No. 4 of the 16168-18 lode, Cor. No. 1 of the 16168-17 lode and Cor. No. 2 of the 16168-8 lode, all of this survey.
	Thence N. 89°48' E.
600	Draw drains South.
1320.0	Cor. No. 4, identical with Cor. No. 1 of the 16168-8 lode of this survey.
	Thence S. 0°12' E.
240.0	Lode line; discovery drill hole bears S. 89°48' W. 1165 ft. dist.
480.0	Cor. No. 1 and place of beginning.

16168-14 LODE

Beginning at Cor. No. 1, identical with Cor. No. 2 of the 16168-5 lode, Cor. No. 3 of the 16168-6 lode and Cor. No 4 of the 16168-15 lode, all of this survey; from which

The corner of sections 8, 9, 16 and 17 bears S. 30° 16'10" E., 2634.54 ft. dist; previously described.

Thence S. 89°48' W.

970	Sandstone rim bears North and South.
1320.0	Cor. No. 2, identical with Cor. No. 3 of the 16168-15 lode of this survey.
	This corner falls in the identical location of a 3/4 in. diam. galvanized iron pipe, 30 ins. long, set 24 ins. in mound of earth and stone with brass cap mkd. 2-16168-14, 3-16168-15. I add the mks. 2220; from which
	A cedar tree, 15 ins. diam., bears N. 33°20' E. 20.65 ft. dist., mkd. 2-16168-14, 2220 B. T.
	Thence N. 0°12' W.
300.0	Lode line; discovery drill hole bears N. 89°48' E., 1260.0 ft. dist.
600.0	Cor. No. 3.
	This corner falls in the identical location of a 3/4 in. diam. galvanized iron pipe, 30 ins. long set 24 ins. in mound of earth and stone with brass cap mkd. 3-16168-14.

Feet	
	I add the mks. 2220; from which
	A cedar tree, 10 ins. diam., bears N. 63°12' W., 23.85 ft. dist., mkd. 3-16168-14, 2220, B. T.
	Thence N. 89°43' E.
475	Sandstone rim bears North and South.
1320.0	Cor. No. 4, identical with Cor. No. 3 of the 16168-5 lode of this survey.
	Thence S. 0°12' E.
300.0	Lode line; discovery drill hole bears S. 89°48' W., 60.0 ft. dist.
600.0	Cor. No. 1 and place of beginning.
	16168-15 LODE
	Beginning at Cor. No. 1 of the 16168-15 lode, identical with Cor. No. 2 of the 16168-6 lode, Cor. No. 3 of the 16168-7 lode and Cor. No. 4 of the 16168-16 lode, all of this survey; from which
	The corner of sections 8, 9, 16 and 17 bears S. 38° 21'30" E. 2136.56 ft. dist.; previously described.
	Thence S. 89°48' W.
920	Sandstone rim bears North and South.
1320.0	Cor. No. 2, identical with Cor. No. 3 of the 16168-16 lode of this survey.
	This corner falls in the identical location of a 3/4 in. diam. galvanized iron pipe, 30 ins. long, set 24 ins. in mound of earth and stone with a brass cap mkd. 2-16168-15, 3-16168-16. I add the mks. 2220; from which
	A pinion pine, 14 ins. diam., bears S. 80°40' E., 3.70 ft. dist., mkd. 2-16168-15, 2220, B. T.
	Thence N. 0°12' W.
300.0	Lode line; discovery drill hole bears N. 89°48' E., 1290.0 ft. dist.
600.0	Cor. No. 3, identical with Cor. No. 2 of the 16168-14 lode of this survey.
	Thence N. 89°48' E.
350	Sandstone rim bears North and South.
1320.0	Cor. No. 4, identical with Cor. No. 1 of the 16168-14 lode, Cor. No. 2 of the 16168-5 lode and Cor. No. 3 of the 16168-6 lode, all of this survey.
	Thence S. 0°12' E.
300.0	Lode line; discovery drill hole bears S. 89°48' W., 30.0 ft. dist.
600.0	Cor. No. 1 and place of beginning.

Feet	
	16168-16 LODE
	Beginning at corner No. 1 of the 16168-16 lode, identical with Cor. No. 2 of the 16168-7 lode, Cor. No. 3 of the 16168-8 lode and Cor. No. 4 of the 16168-17 lode, all of this survey; from which
	The corner of sections 8, 9, 16 and 17 bears S. 50° 54'40" E., 1705.51 ft. dist., previously described.
	Thence S. 89°48' W.
1320.0	Cor. No. 2, identical with Cor. No. 3 of the 16168-17 lode of this survey.
	This corner falls in the identical location of a 3/4 in. diam. galvanized iron pipe, 30 ins. long, set 24 ins. in mound of earth and stone with a brass cap mkd. 2-16168-16, 3-16168-17. I add the mks. 2220.
	No local bearing objects or bearing trees available.
	Thence N. 0°12' W.
194	Sandstone rim bears East and West.
300.0	Lode line; discovery drill hole bears N. 89°48' E., 990.0 ft. dist.
600.0	Cor. No. 3, identical with Cor. No. 2 of the 16168-15 lode of this survey.
	Thence N. 89°48' E.
400	Sandstone rim bears North and South.
1320.0	Cor. No. 4, identical with Cor. No. 1 of the 16168-15 lode, Cor. No. 2 of the 16168-6 lode and Cor. No. 3 of the 16168-7 lode, all of this survey.
	Thence S. 0°12' E.
253.5	Fence bears East and West.
300.0	Lode line; discovery drill hole bears S. 89°48' W., 330.0 ft. dist.
600.0	Cor. No. 1 and place of beginning.
	16168-17 LODE
	Beginning at Cor. No. 1 of the 16168-17 lode, identical with Cor. No. 2 of the 16168-8 lode, Cor. No. 3 of the 16168-9 lode and Cor. No. 4 of the 16168-18 lode, all of this survey; from which
	The corner of sections 8, 9, 16 and 17 bears S. 70°13' E., 1404.57 ft. dist.; previously described.
	Thence S. 89°48' W.
1320.0	Cor. No. 2, identical with Cor. No. 3 of the 16168-18 lode of this survey.

Feet	
	This corner falls in the identical location of a 3/4 in. diam. galvanized iron pipe, 30 ins. long, set 24 ins. in mound of earth and stone with a brass cap mkd. 2-16168-17, 3-16168-18. I add the mks. 2220; from which
	A cedar tree, 10 ins. diam., bears S. 71°20' E., 19.50 ft. dist., mkd. 2-16168-17, 2220, B. T.
	Thence N. 0°12' W.
300.0	Lode line; discovery drill hole bears N. 89°48' E., 670.0 ft. dist.
600.0	Cor. No. 3, identical with Cor. No. 2 of the 16168-16 lode of this survey.
	Thence N. 89°48' E.
1320.0	Cor. No. 4, identical with Cor. No. 1 of the 16168-16 lode, Cor. No. 2 of the 16168-7 lode and Cor. No. 3 of the 16168-8 lode, all of this survey.
	Thence S. 0°12' E.
300.0	Lode line; discovery drill hole bears S. 89°48' W., 650.0 ft. dist.
600.0	Cor. No. 1 and place of beginning.
	16168-18 LODE
	Beginning at Cor. No. 1, of the 16168-18 lode, identical with Cor. No. 2 of the 16168-9 lode of this survey; from which
	The corner of sections 8, 9, 16 and 17 bears N. 89°48' E., 1320.0 ft. dist.; previously described.
	Thence S. 89°48' W.
111	Draw drains southwesterly.
1313.10	Quarter-section corner between sections 8 and 17. The corner is a stone monument marked as described in the official record.
1320.0	Cor. No. 2.
	This corner falls in the identical location of a 3/4 in. diam. galvanized iron pipe, 30 ins. long, set 24 ins. in mound of earth and stone with a brass cap mkd. 2-16168-18. I add the mks. 2220.
	No local bearing objects or bearing trees available.
	Thence N. 0°12' W.
240.0	Lode line; discovery drill hole bears N. 89°48' E., 630.0 ft. dist.
480.0	Cor. No. 3, identical with Cor. No. 2 of the 16168-17 lode of this survey.
	Thence N. 89°48' E.
1320.0	Cor. No. 4, identical with Cor. No. 1 of the 16168-17 lode, Cor. No. 2 of the 16168-8 lode and Cor. No. 3 of

Feet	
	the 16168-9 lode, all of this survey.
	Thence S. 0°12' E.
240.0	Lode line; discovery drill hole bears S. 89°48' W., 690.0 ft. dist.
442	Draw drains southwesterly.
480.0	Cor. No. 1 and place of beginning.

SURVEY NO. 2220

AREAS

	Acres
Total area, 16168-5 lode	18.182
Total area, 16168-6 lode	18.182
Total area, 16168-7 lode	18.182
Total area, 16168-8 lode	18.182
Total area, 16168-9 lode	14.545
Total area, 16168-14 lode	18.182
Total area, 16168-15 lode	18.182
Total area, 16168-16 lode	18.182
Total area, 16168-17 lode	18.182
Total area, 16168-18 lode	14.545

LOCATION

This survey is located in section 8, T. 16 N., R. 16 W., N. M. P. M.

This survey is identical with the respective locations or amended locations as marked on the ground.

EXPENDITURES

The improvements and the value of the labor and improvements made upon or for the benefit of each of the lode locations embraced in said mining claim by the claimants or their grantors are as follows:

No. 1 The discovery drill hole of the 16168-5 lode, the bottom of which being the discovery point, is on the center line 160.0 ft. from the center of line 2-3. This hole is known as No. 26.2/40.9 in the claimants' records and is 1050 ft. deep.

Value, $783.40

No. 2 A drill hole, claimants' record No. 2440, which bears N. 88°40' W., 1130 ft. from Cor. No. 1 of the 16168-5 lode; 1060 ft. deep.
Value, $1,325.00

No. 3 A drill hole, claimants' record No. 2442, which bears N. 88°30' W., 940 ft. from Cor. No. 1 of the 16168-5 lode; 1080 ft. deep.
Value, $880.00

No. 4 A drill hole, claimants' record No. 2642, which bears N. 76°10' W., 960 ft. from Cor. No. 1 of the 16168-5 lode; 1100 ft. deep.
Value, $905.00

No. 1 The discovery drill hole of the 16168-6 lode, the bottom of which being the discovery point, is on the center line 430.0 ft. from the center of line 2-3. This hole is known as No. 20.2/43.6 in the claimants' records and is 950 ft. deep.
Value, $1,035.00

No. 2 A drill hole, claimants' record No. 2240, which bears N. 69°30' W., 1335 ft. from Cor. No. 1 of the 16168-6 lode; 1100 ft. deep.
Value, $905.00

No. 3 A drill hole, claimants' record No. 2240-A, which bears N. 69°10' W., 1210 ft. from Cor. No. 1 of the 16168-6 lode; 1080 ft. deep.
Value, $880.00

No. 4 A drill hole, claimants' record No. 2242, which bears N. 66°00' W., 1030 ft. from Cor. No. 1 of the 16168-6 lode; 1060 ft. deep.
Value, $855.00

No. 5 A drill hole, claimants' record No. 2040, which bears N. 79°00' W., 1175 ft. from Cor. No. 1 of the 16168-6 lode; 1070 ft. deep.
Value, $867.50

No. 6 A drill hole, claimants' record No. 6, which bears N. 75°10' W., 968 ft. from Cor. No. 1 of the 16168-6 lode; 960 ft. deep.
Value, $580.00

No. 7 A drill hole, claimants' record No. 2044, which bears N. 72°40' W., 778 ft. from Cor. No. 1 of the 16168-6 lode; 990 ft. deep.
Value, $769.00

No. 8 A drill hole, claimants' record No. 1840, which bears N. 88°10' W., 1145 ft. from Cor. No. 1 of the 16168-6 lode; 1000 ft. deep.
Value, $780.00

No. 9 A drill hole, claimants' record No. 1940-A, which bears N. 83°45' W., 1170 ft. from Cor. No. 1 of the 16168-6 lode; 951 ft. deep.
Value, $1,083.80

No.10 A drill hole, claimants' record No. 1940, which bears N. 83°35' W., 1155 ft. from Cor. No. 1 of the 16168-6 lode; 960 ft. deep.
Value, $1,423.25

No.11 A drill hole, claimants' record No. 1842, which bears N. 88°25' W., 955 ft. from Cor. No. 1 of the 16168-6 lode; 990 ft. deep.
Value, . . $769.00

No.12 A drill hole, claimants' record No. 1844, which bears N. 88°10' W., 755 ft. from Cor. No. 1 of the 16168-6 lode; 960 ft. deep.
Value, . . $736.00

No. 1 The discovery drill hole of the 16168-7 lode, the bottom of which being the discovery point, is on the center line 25.0 ft. from the center of line 2-3. This hole is known as No. 14.2/39.6 in the claimants' records and is 920 ft. deep.
Value, $909.50

No. 2 A drill hole, claimants; record No. 1739, which bears N. 66°45' W., 1365 ft. from Cor. No. 1 of the 16168-7 lode; 935 ft. deep.
Value, $708.50

No. 3 A drill hole, claimants' record No. 1640, which bears N. 69°50' W., 1235 ft. from Cor. No. 1 of the 16168-7 lode; 1000 ft. deep.
Value, $780.00

No. 4 A drill hole, claimants' record No. 1642, which bears N. 66°00' W., 1038 ft. from Cor. No. 1 of the 16168-7 lode; 960 ft. deep.
Value, $736.00

No. 5 A drill hole, claimants' record No. 1440, which bears N. 78°15' W., 1185 ft. from Cor. No. 1 of the 16168-7 lode; 1000 ft. deep.
Value, $780.00

No. 6 A drill hole, claimants' record No. 7, which bears N. 69°10' W., 665 ft. from Cor. No. 1 of the 16168-7 lode; 940 ft. deep.
Value, $560.00

No. 7 A drill hole, claimants' record No. 1240, which bears N. 88°00' W., 1160 ft. from Cor.No. 1 of the 16168-7 lode; 960 ft. deep.
Value, $736.00

No. 1 The discovery drill hole of the 16168-8 lode, the bottom of which being the discovery point, is on the center line 200.0 ft. from the center of line 2-3. This hole is known as No. 08.2/41.3 in the claimants' records and is 860 ft. deep.
Value, $2,181.50

No. 2 A drill hole, claimants' record No. 1040, which bears N. 69°50' W., 1315 ft. from Cor. No. 1 of the 16168-8 lode; 910 ft. deep.
Value, $671.00

No. 3 A drill hole, claimants' record No. 0840, which bears N. 78°10' W., 1258 ft. from Cor. No. 1 of the 16168-8 lode; 910 ft. deep.
Value, $671.00

No. 4 A drill hole, claimants' record No. 0640, which bears N. 87°00' W., 1235 ft. from Cor. No. 1 of the 16168-8 lode; 890 ft. deep.
Value, $1,112.50

No. 5 A drill hole, claimants' record No. 8, which bears N. 75°15' W., 985 ft. from Cor. No. 1 of the 16168-8 lode 920 ft. deep.
Value, $692.00

No. 6 A drill hole, claimants' record No. 0642, which bears N. 84°30' W., 1032 ft. from Cor. No. 1 of the 16168-8 lode; 870 ft. deep.
Value, $637.00

No. 1 The discovery drill hole of the 16168-9 lode, the bottom of which being the discovery point, is on the center line 155.0 ft. from the center of line 2-3. This hole is known as No. 02.8/41.3 in the claimants' records and is 810 ft. deep.
Value, $1,441.38

No. 2 A drill hole, claimants' record No. 0440, which bears N. 74°30' W., 1278 ft. from Cor. No. 1 of the 16168-9 lode; 850 ft. deep.
Value, $615.00

No. 3 A drill hole, claimants' record No. 0442, which bears N. 70°30' W., 1098 ft. from Cor. No. 1 of the 16168-9 lode; 850 ft. deep.
Value, $615.00

No. 4 A drill hole, claimants' record No. 0240, which bears N. 83°20' W., 1238 ft. from Cor. No. 1 of the 16168-9 lode; 840 ft. deep.
Value, $604.00

No. 5 A drill hole, claimants' record No. 0242, which bears N. 82°00' W., 1092 ft. from Cor. No. 1 of the 16168-9 lode; 850 ft. deep.
Value, $615.00

No. 1 The discovery drill hole of the 16168-14 lode, the bottom of which being the discovery point, is on the center line 60.0 ft. from the center of line 4-1. This hole is known as No. 26.2/38.7 in the claimants' records and is 1125 ft. deep.
Value, $1,289.60

No. 2 A drill hole, claimants' record No. 14-2, which bears N. 35°20' W., 310 ft. from Cor. No. 1 of the 16168-14 lode; 1120 ft. deep.
Value, $930.00

No. 1 The discovery drill hole of the 16168-15 lode, the bottom of which being the discovery point, is on the center line 30.0 ft. from the center of line 4-1. This hole is known as No. 20.2/39.0 in the claimants' records and is 980 ft. deep.
Value, $1,042.00

No. 2 A drill hole, claimants' record No. 2238, which bears N. 15°40' W., 490 ft. from Cor. No. 1 of the 16168-15 lode; 1030 ft. deep.
Value, $817.50

No. 3 A drill hole, claimants' record No. 1836, which bears N. 79°15' W., 225 ft. from Cor. No. 1 of the 16168-15

	lode; 1040 ft. deep. Value, $830.00
No. 4	A drill hole, claimants' record No. 14, which bears N. 16°20' W., 238 ft. from Cor. No. 1 of the 16168-15 lode; 980 ft. deep. Value, $600.00
No. 5	A drill hole, claimants' record No. 2038, which bears N. 5°40' W., 230 ft. from Cor. No. 1 of the 16168-15 lode; 1020 ft. deep. Value, $805.00
No. 6	A drill hole, claimants' record No. 1838, which bears N. 25°10' W., 40 ft. from Cor. No. 1 of the 16168-15 lode; 1040 ft. deep. Value, $830.00
No. 1	The discovery drill hole of the 16168-16 lode, the bottom of which being the discovery point, is on the center line 330.0 ft. from the center of line 4-1. This hole is known as No. 14.2/36.0 in the claimants' records and is 975 ft. deep. Value, $787.50
No. 2	A drill hole, claimants' record No. 1534, which bears N. 53°00' W., 680 ft. from Cor. No. 1 of the 16168-16 lode; 1135 ft. deep. Value, $948.75
No. 3	A drill hole, claimants' record No. 1436, which bears N. 45°10' W., 445 ft. from Cor. No. 1 of the 16168-16 lode; 1030 ft. deep. Value, $817.50
No. 4	A drill hole, claimants' record No. 1536, which bears N. 26°50' W., 475 ft. from Cor. No. 1 of the 16168-16 lode; 1040 ft. deep. Value, $830.00
No. 5	A drill hole, claimants' record No. 1537, which bears N. 17°45' W., 380 ft. from Cor. No. 1 of the 16168-16 lode; 1025 ft. deep. Value, $1,084.25
No. 6	A drill hole, claimants' record No. 1638, which bears N. 4°30' W., 440 ft. from Cor. No. 1 of the 16168-16 lode; 1010 ft. deep. Value, $792.50
No. 7	A drill hole, claimants' record No. 37, which bears N. 89°15' W., 410 ft. from Cor. No. 1 of the 16168-16 lode; 1020 ft. deep. Value, $805.00
No. 8	A drill hole, claimants' record No. 1234, which bears N. 81°40' W., 515 ft. from Cor. No. 1 of the 16168-16 lode; 1020 ft. deep. Value, $1,275.00
No. 9	A drill hole, claimants' record No. 1236, which bears N. 78°25' W., 245 ft. from Cor. No. 1 of the 16168-16 lode; 1000 ft. deep. Value, $780.00
No.10	A drill hole, claimants' record No. 1238, which bears N. 49°45' W., 50 ft. from Cor. No. 1 of the 16168-16 lode; 960 ft. deep. Value, $736.00

No.11 A drill hole, claimants' record No. 1334, which bears N. 65°10' W., 430 ft. from Cor. No. 1 of the 16168-16 lode; 900 ft. deep.
Value, $1,125.00

No. 12 A drill hole, claimants' record No. 1337, which bears N. 45°40' W., 215 ft. from Cor. No. 1 of the 16168-16 lode; 965 ft. deep.
Value, $1,276.30

No.13 A drill hole, claimants' record No. 1335, which bears N. 52°25' W., 335 ft. from Cor. No. 1 of the 16168-16 lode; 1030 ft. deep.
Value, $817.50

No.14 A drill hole, claimants' record No. 16-A, which bears N. 40°00' W., 315 ft. from Cor. No. 1 of the 16168-16 lode; 950 ft. deep.
Value, $1,029.50

No.15 A drill hole, claimants' record No. 16, which bears N. 37°30' W., 320 ft. from Cor. No. 1 of the 16168-16 lode; 1000 ft. deep.
Value, $620.00

No.16 A drill hole, claimants' record No. 1438, which bears N. 9°10' W., 260 ft. from Cor. No. 1 of the 16168-16 lode; 980 ft. deep.
Value, $758.00

No. 1 The discovery drill hole of the 16168-17 lode, the bottom of which being the discovery point, is on the center line 650.0 ft. from the center of line 4-1. This hole is known as 08.2/32.9 in the claimants' records and is 980 ft. deep.
Value, $1,325.73

No. 2 A drill hole, claimants' record No. 0632, which bears N. 83°50' W., 715 ft. from Cor. No. 1 of the 16168-17 lode; 900 ft. deep.
Value, $670.00

No. 3 A drill hole, claimants' record No. 0634, which bears N. 81°10' W., 520 ft. from Cor. No. 1 of the 16168-17 lode; 940 ft. deep.
Value, $714.00

No. 4 A drill hole, claimants' record No. 0636, which bears N. 77°20' W., 315 ft. from Cor. No. 1 of the 16168-17 lode; 900 ft. deep.
Value, $670.00

No. 5 A drill hole, claimants' record No. 0638, which bears N. 49°00' W., 140 ft. from Cor. No. 1 of the 16168-17 lode; 860 ft. deep.
Value, $636.00

No. 6 A drill hole, claimants' record No. 0832, which bears N. 69°15' W., 765 ft. from Cor. No. 1 of the 16168-17 lode; 990 ft. deep.
Value, $1,237.50

No. 7 A drill hole, claimants' record No. 0834, which bears N. 64°10' W., 580 ft. from Cor. No. 1 of the 16168-17 lode; 1050 ft. deep.
Value, $1,312.50

No. 8	A drill hole, claimants' record No. 0836, which bears N. 47°40' W., 422 ft. from Cor. No. 1 of the 16168-17 lode; 940 ft. deep. Value, $714.00
No. 9	A drill hole, claimants' record No. 17, which bears N. 47°00' W., 365 ft. from Cor. No. 1 of the 16168-17 lode; 920 ft. deep. Value, $540.00
No.10	A drill hole, claimants' record No. 0838, which bears N. 20°00' W., 290 ft. from Cor. No. 1 of the 16168-17 lode; 890 ft. deep. Value, $659.00
No.11	A drill hole, claimants' record No. 1034, which bears N. 46°45' W., 695 ft. from Cor. No. 1 of the 16168-17 lode; 1020 ft. deep. Value, $805.00
No.12	A drill hole, claimants' record No. 1036, which bears N. 34°00' W., 560 ft. from Cor. No. 1 of the 16168-17 lode; 940 ft. deep. Value, $714.00
No.13	A drill hole, claimants' record No. 1038, which bears N. 13°40' W., 465 ft. from Cor. No. 1 of the 16168-17 lode; 930 ft. deep. Value, $703.00
No. 1	The discovery drill hole of the 16168-18 lode, the bottom of which being the discovery point, is on the center line 690.0 ft. from the center of line 4-1. This hole is known as No. 02.8/32.5 in the claimants' records and is 860 ft. deep. Value, $1,662.75
No. 2	A drill hole, claimants' record No. 0033, which bears N. 88°45' W., 150 ft. from Cor. No. 1 of the 16168-18 lode; 840 ft. deep. Value, $604.00
No. 3	A drill hole, claimants' record No. 0234, which bears N. 72°45' W., 540 ft. from Cor. No. 1 of the 16168-18 lode; 880 ft. deep. Value, $648.00
No. 4	A drill hole, claimants' record No. 18, which bears N. 57°30' W., 370 ft. from Cor. No. 1 of the 16168-18 lode; 820 ft. deep. Value, $440.00
No. 5	A drill hole, claimants' record No. 0233, which bears N. 36°15' W., 202 ft. from Cor. No. 1 of the 16168-18 lode; 840 ft. deep. Value, $604.00
No. 6	A drill hole, claimants' record No. 0432, which bears N. 63°00' W., 798 ft. from Cor. No. 1 of the 16168-18 lode; 900 ft. deep. Value, $670.00
No. 7	A drill hole, claimants' record No. 0434, which bears N. 54°40' W., 630 ft. from Cor. No. 1 of the 16168-18 lode; 880 ft. deep. Value, $648.00
No. 8	A drill hole, claimants' record No. 0436, which bears N. 41°30' W., 470 ft. from Cor. No. 1 of the 16168-18 lode; 870 ft. deep. Value, $637.00

No. 9 A drill hole, claimants' record No. 0438, which bears N. 16°30' W., 385 ft. from Cor. No. 1 of the 16168-18 lode; 860 ft. deep.

Value, $623.00

OTHER CORNER DESCRIPTIONS AND SUPPLEMENTAL DATA

The monuments for the southeast corner, the south quarter-section corner, the southwest corner and the northwest corner of section 8 were found to be stones well set and marked as described in the official record. The monuments or the original location of the monuments for the balance of the corners of this section could not be determined beyond reasonable doubt and therefore were considered lost. The location of the northeast corner of section 8 was determined by the method of double proportionate measurement. The longitude was found by proportionate measurement of the distance between the northwest corner of section 8 and the quarter-section corner of sections 3 and 10. The latitude, from the quarter-section corner o f sections 4 and 5 and the southeast corner of section 8. The north and east quarter-section corners of section 8 were then found by single-proportionate measurement.

FIELD ASSISTANTS

Name	Capacity
Gary Johnson	Chainman

Form 4-094
(March 1960)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

BOOK 80 PAGE 144

CERTIFICATE OF SURVEYOR

May 2, 1959

I, Andrew R. Shelton,

Mineral Surveyor, hereby certify upon honor that in pursuance of an order received from the Office Cadastral Engineer, at Santa Fe, New Mexico

dated March 2, 1959, I have faithfully and correctly executed the survey of the mining claim of Phillips Petroleum Company and Quinta Corporation,

known as the 16158-5, 16168-6, 16168-7, 16168-8, 16168-9, 16168-14, 16168-15 ~~16168-16, 16168-17 and 16168-18 Lode~~ (Lode, placer, or mill site),

situate in Mc Kinley County in Section 8,

T. 16 N., R. 16 W., N. M. P. Meridian, New Mexico (State), and

designated as Survey No. 2220, which is represented in the foregoing field notes as having been executed by me and under my direction, and that said survey has been made in strict conformity with said order, the Manual of Instructions for the Survey of the Public Lands of the United States, and in the specific manner described in the foregoing field notes, and I do further certify that the labor expended and improvements made upon or for the benefit of the Lode (Lode or placer) location(s) embraced in the said mining claim by claimant(s) or their grantors are fully stated in my report therein, and that the character, extent, location, and itemized value thereof are specified therein with particularity and full detail, and that no portion of, or interest in, said labor and improvements so credited to this claim has been included in the estimate of expenditures upon any other claim.

American Fork, Utah (Place)

Clarence R. Shelton (Mineral Surveyor)

OFFICE OF THE COUNTY CLERK
MAY 8 11 08 AM '70
McKINLEY COUNTY

CERTIFICATE OF APPROVAL

Bureau of Land Management (Office)

Santa Fe, New Mexico (Place) May 18 (Date), 1959

The foregoing field notes of mineral survey No. 2220, in Section 8,

T. 16 North, R. 16 West, N. M. Principal Meridian,

New Mexico (State), executed by Andrew R. Shelton, Mineral Surveyor,

under order dated March 2, 1959, having been critically examined and the necessary corrections made prior to their certification by the surveyor, the field notes and the survey therein described are hereby approved.

STATE OF NEW MEXICO
COUNTY OF McKINLEY } ss #123,523
Filed for record in the County Clerk's office
the 8th day of May
A. D. 1970 at 11:45 o'clock A.M.
and recorded in Book 80
of MCR Office Page 144
Fay Radosevich
County Clerk
Lucile Wood, Dep

Clarence E. Bilbray
Office Cadastral Engineer (Title)

CERTIFICATE OF TRANSCRIPT

I CERTIFY that the foregoing transcript of field notes of the above described mineral survey No. 2220 is a true copy of the original field notes.

Clarence E. Bilbray
Office Cadastral Engineer (Title)

76623

APPENDIX V

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION VI
1445 ROSS AVENUE, SUITE 1200
DALLAS, TEXAS 75202

RECEIVED
1989
EID DIRECTOR'S OFFICE

June 21, 1989

REPLY TO: 6W-SU

Mr. Richard Mitzlefelt
Director
Environmental Improvement Division
New Mexico Health & Environment Dept.
P.O. Box 968
Santa Fe, New Mexico 87504-0968

Re: Aquifer Exemption Request, Hydro Resources, Inc. (HRI)
Churchrock Project, McKinley County, New Mexico, DP-558

Dear Mr. Mitzlefelt:

I am pleased to inform you of the Environmental Protection Agency approval of your request to exempt a portion of the Westwater Canyon Member of the Jurassic Morrison Formation from the Underground Injection Control program requirements that no fluid may be injected into an Underground Source of Drinking Water. This approval is based upon the criteria stipulated in 40 CFR 144.7(b), 145.32, and 146.4 containing regulations allowing an aquifer to be exempted if: (a) it is not currently used as a drinking water supply, and (b) it cannot be used as a drinking water source in the future because it is mineral producing or can be shown by a permit applicant to contain minerals that are expected to be commercially producible. This exemption approval will allow injection for in-situ uranium mining only. If injection for other purposes (e.g. hazardous waste disposal) is planned into this aquifer, additional approval will be needed.

The approved exempted portion of the aquifer underlies the Hydro Resources, Inc. Churchrock Project in McKinley County and is limited to the Westwater Canyon Member of the Jurassic Morrison Formation. A detailed description of the exempted portion of the aquifer remains in the exemption request and subsequent comment letters.

If you have any questions concerning this approval, please contact me or have your staff contact Camille Hueni at (214) 655-7160. Thank you for your continued cooperation.

Sincerely yours,

Myron O. Knudson

Myron O. Knudson, P.E.
Director
Water Management Division (6W)

APPENDIX VI

STATE OF NEW MEXICO
ELEVENTH JUDICIAL DISTRICT COURT
MC KINLEY COUNTY

FILED
DISTRICT COURT
MCKINLEY COUNTY
NM

JUN 23 11 56 AM '95

UNITED NUCLEAR CORPORATION,
appellant,

-vs.-

ELUID L. MARTINEZ, NEW MEXICO STATE ENGINEER,
appellee,

and

THE NAVAJO NATION,
appellee.

No. CV-92-72

ORDER

THESE MATTERS came before the District Court on the State Engineer's Motion for Summary Judgment filed April 4, 1994 and Navajo Nation's Motion to Dismiss filed August 22, 1994. The Court, being fully advised of the premises, FINDS:

1. Sections 8 and 17, Township 16 North, Range 16 West, N.M.P.M., in question here as to jurisdiction, are not within the boundaries of the Navajo Nation nor are they Indian Country.

2. This appeal is the result of a State Engineer Office denial of UNC's application for transfer of declared water rights.

3. The application was denied because the State Engineer found, as a threshold matter, that UNC had insufficient rights to support the transfer application.

4. United Nuclear Corporation and State Engineer agree that this case is not aimed at adjudicating water rights and that the State Engineer is not empowered to make such a determination.

5. Applications under N.M. Stat. Ann. §72-12-7 (1985 Repl.

Pamp.) require that the applicant already be the "owner of a water right."

6. By its "Declaration of Ownership of Underground Water Right No. G-190" UNC has made a prima facie showing that it has a right to 650 g.p.m. (1048 acre feet per year).

7. Absent an adjudication to the contrary, and solely for the purpose of reviewing a transfer request, the amount of UNC's water right is presumed to be 650 g.p.m. (1048 acre feet per year).

8. The transfer application proposes to put 6,500 acre feet per year to beneficial use.

9. Comparison of UNC's declared right with the amount described in the transfer application shows, by simple subtraction, that UNC's presumed water right is insufficient to support its requested water right transfer.

Based on the above findings, the Court makes the following CONCLUSIONS OF LAW:

1. Because the sections of land at issue as to subject matter jurisdiction are not within the boundaries of the Navajo Nation, nor in Indian Country, water rights within them are subject to state law and this Court's jurisdiction.

2. N.M. Stat. Ann. §72-12-7(1985 Repl. Pamp.) does not describe what demonstration of ownership an applicant must make in order to proceed; but in the case of an unadjudicated, "pre-basin" claim [as in the case in the instant matter], a verified declaration under N.M. Stat. Ann. §72-12-5 (1985 Repl. Pamp.) is prima facie evidence of the truth of its contents.

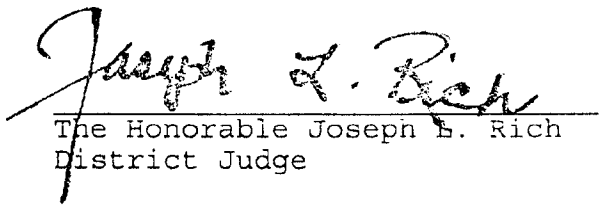
3. While the State Engineer cannot adjudicate the amount of an owner's water right, he not only may, but he must determine whether the proposed change would result in a further appropriation. See N.M. Stat. Ann. §72-12-3 (1985 Repl. Pamp.).

4. UNC cannot, in the guise of applying for a change in use and diversion point, enlarge its water right.

5. The State Engineer, in all applications under N.M. Stat. Ann. §72-12-7(1985 Repl. Pamp.), before proceeding further, must determine as a threshold issue that the amount to be put to beneficial use is no greater than the actual water right. Otherwise the application must be denied.

6. Based on the undisputed facts, the application cannot be approved.

THEREFORE, the Navajo Nation's Motion to Dismiss for Lack of Subject Matter Jurisdiction is denied and the State Engineer's Motion for Summary Judgment is granted, dismissing UNC's de novo appeal.



The Honorable Joseph L. Rich
District Judge

APPENDIX VII

'99 OCT 22 AM 7 34
STATE ENGINEER OFFICE
SANTA FE NEW MEXICO

STATE OF NEW MEXICO
OFFICE OF THE STATE ENGINEER
SANTA FE

THOMAS C. TURNEY
State Engineer

BATAAN MEMORIAL BUILDING, ROOM 101
POST OFFICE BOX 25102
SANTA FE, NEW MEXICO 87504-5102
(505) 827-6175
FAX: (505) 827-6188

BEFORE THE NEW MEXICO
STATE ENGINEER

IN THE MATTER OF THE APPLICATION OF HRI, INC. TO CHANGE PLACE OR PURPOSE OF USE AND POINTS OF DIVERSION OF UNDERGROUND WATERS	)	G-11-A

FINDINGS AND ORDER

This matter came before the State Engineer upon the Application of HRI, Inc. The hearing was held on the application in Gallup, New Mexico commencing 9:00 a.m. March 24, 1998. Having considered the evidence, the Hearing Examiner FINDS:

1. The State Engineer has personal and subject matter jurisdiction.

2. The Applicant requested a Permit to Change Place and Purpose of Use and Points of Diversion of 650 acre feet per annum of underground water in the Gallup Basin from a well located in the NE¼, NW¼, SE¼ of Section 35, T17N, R16W, M. to 750 wells to be drilled in the SE¼, NW¼ and NE¼ of Section 17, and the SE¼ of Section 8, all of T16N, R16W, N.M.P.M. for in situ uranium mining and related purposes.

3. The proposed mining operation would not exceed 30 years.

4. A maximum of 4000 gallons per minute would be recirculated at the move to location for the purposes stated on the application.

5. Four thousand gallons per minute translates approximately to 6,450 acre feet per annum.

6. Application G-11-A does not indicate a maximum of 4000 gallons per minute, 6,450 acre feet per annum, will be recirculated.

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7. The applicant purchased the water right set forth in G-11 from United Nuclear Corporation on December 11, 1992.

8. Six hundred fifty acre feet per annum of water right is assigned from G-11 as G-11-A.

9. United Nuclear Corporation put to beneficial use a sufficient amount of consumptive use water right for the applicant to transfer 650 acre feet per annum to the move to location.

10. In situ mining of uranium at the move to location is feasible.

11. The diversion and consumptive use of 650 acre feet per annum at the move to location for the purposes stated on the application would not impair valid existing water rights and would not be contrary to the conservation of water or detrimental to the public welfare of the state.

THEREFORE it is hereby ORDERED that application G-11-A is approved subject to the following conditions:

1. Diversion and consumptive use shall not exceed 650 acre feet per annum from the well locations described under this permit.

2. The permittee shall comply with State Engineer artesian well construction regulations.

3. The State Engineer shall be notified prior to the construction of each well.

4. The permittee shall install metering devices at locations and in a manner acceptable to the State Engineer.

5. The permittee shall report metered diversions to the State Engineer monthly.

6. Permit shall expire October 31, 2029.

R. Q. Rogers
Hearing Examiner

Witness my hand and official seal this 19th day of October, 1999.

Thomas C. Turney
State Engineer

THOMAS C. TURNEY NEW MEXICO 6332 STATE ENGINEER REGISTERED PROFESSIONAL ENGINEER

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APPENDIX VIII

Natural Water Quality Data at U.S. ISL Uranium Recovery Operations
Measured Concentrations* of Uranium and Uranium Related Minerals

Name	Unit #	Uranium (ug/l)		Radium (pCi/l)		Radon (pCi/l)		G. Alpha Radiation (pCi/l)		G. Beta Radiation (pCi/l)	
		Drinking Standard 30 ug/l		Drinking Standard 5 pCi/l		Drinking Standard 300 pCi/l		Drinking Standard 15 pCi/l		Drinking Standard 50 pCi/l	
		High	Average	High	Average	High	Average	High	Average	High	Average
Crow Butte	Mine Unit 1	241	92	566	230						
Crow Butte	Mine Unit 2	132	46	1,477	235						
Crow Butte	Mine Unit 3	425	115	687	165						
Crow Butte	Mine Unit 4	500	122	687	154						
Crow Butte	Mine Unit 5	171	72	693	166						
Crow Butte	Mine Unit 6	1,131	133	519	81						
Crow Butte	Mine Unit 7	660	110	575	142						
Crow Butte	Mine Unit 8		188		124						
Crow Butte	Mine Unit 9	1,800	100	807	164						
Churchrock Section 8	Area Wells	6,627	1,795	15	10						
Crownpoint	Area Wells	21	6	391	61						
Mobil Pilot	R & D	82	13	89	22						
Teton	R & D	120	no data	22	no data						
Mobil Southtrend	Area 1	100	12	200	18	1,100,000	140,677	610	74	510	69
Alta Mesa	Production Area 1	975	34	614	83						
Benavides	Production Area 1	314	83	546	83						
Benavides	Production Area 2	360	50	132	45						
Benavides	Production Area 3	300	120	433	173						
Benavides	Production Area 4	314	83	546	83						
Boots	Production Area 1	400	218	50	9						
Bruni	Production Area 1/Grid I	no data	331	no data	39						
Bruni	Production Area 2/Grid V	no data	210	no data	129						
Bruni	Production Area 3	682	324	437	148						
Bruni	Production Area 4	6,300	2,310	505	167						
Bruni	Production Area 5	3,660	461	470	91						
Bruni	Production Area 6/Grid III	<500	<500	68	13						
Burnes	Production Area 1	400	300	938	247						
Burns	Production Area 2	220	50	950	169						
Burns	Production Area 3	246	82	1,510	758						
Burns	Production Area 4	27	21	947	568						
Clay West	Production Area 1	<400	<400	1,040	235						
Clay West	Production Area 2	132	477	727	420						
El Mesquite	Production Area 1	90	39	7	3						
El Mesquite	Production Area 2	288	85	79	15						
El Mesquite	Production Area 3	3,310	840	545	117						
El Mesquite	Production Area 4	326	62	27	6						
El Mesquite	Production Area 5	238	97	16	10						
Gruy 7B	Production Area 1	1,850	1,120	382	272						
Gruy 7B	Production Area 2	64	45	43	24						
Gruy 7B	Production Area 3	1,000	730	197	159						
Hobson	Production Area 1	50	25	99	45						
Hobson Tex-1	Production Area 1-A	70	50	705	246						
Holiday	H-1	500	230	25	9						
Holiday	H-1 Extension	1,530	400	38	13						
Holiday	Production Area 2	435	111	24	5						
Holiday	Production Area 3	3,600	1,600	886	430						
Holiday	Production Area 4	58	36	10	7						
Holiday	Production Area 5	254	63	37	15						
Holiday	Production Area 6	1,690	368	38	20						
Holiday	Production Area 7	188	100	16	9						
Kingsville Dome	Production Area 1	927	164	48	22						
Kingsville Dome	Production Area 2	102,000	3,189	604	95	314,000	98,231				
Kingsville Dome	Production Area 3	1,540	289	239	34						
Lamprecht	Production Area 1 South	270	160	376	151						
Lamprecht	Production Area 2 North	490	400	500	243						
Lamprecht	Production Area 3	<900	<900	267	128						
Lamprecht	Production Area 4 Lower	<900	<900	500	290						
Las Palmas	Production Area 1	7,000	2,913	335	134						
Las Palmas	Production Area 2	2,120	566	352	92						
Las Palmas	Production Area 3	9,710	2,400	200	155						
Longoria	Production Area II	26	11	252	97						
Longoria	Production Area III	65	30	85	37						
McBride	Production Area 1	831	272	1,430	365						
Mt Lucas	Production Area 1	551	293	868	536						
Mt Lucas	EA-Pod	161	76	540	391						
Mt Lucas	H sand	187	77	611	315						
Mt Lucas	Production Area 4	373	97	216	151						

Natural Water Quality Data at U.S. ISL Uranium Recovery Operations
Measured Concentrations* of Uranium and Uranium Related Minerals

Name	Unit #	Uranium (ug/l)		Radium (pCi/l)		Radon (pCi/l)		G. Alpha Radiation (pCi/l)		G. Beta Radiation (pCi/l)	
		Drinking Standard 30 ug/l		Drinking Standard 5 pCi/l		Drinking Standard 300 pCi/l		Drinking Standard 15 pCi/l		Drinking Standard 50 pCi/l	
		High	Average	High	Average	High	Average	High	Average	High	Average
Mt Lucas	Production Area 5	628	258	498	323						
Mt Lucas	M-Sand PAA-6	178	125	336	225						
Mt Lucas	J Sand	80	47	87	56						
Mt Lucas	South J (PAA-8)	738	334	221	171						
Nell	Production Area 1	57	23	111	57						
OHearn	Production Area 1/Grid 1	628	212	82	39						
OHearn	Production Area 2/Grid II	no data	260	no data	46						
OHearn	Production Area 3/Grid III	1,000	400	no data	no data						
OHearn	Production Area 4/Grid IV	1,600	307	129	29						
Palangana Dome	Production Area 1	192	29	525	164						
Pawlik	Production Zone A	7	2	340	93						
Pawlik	Production Zone B	no data	2	119	23						
Pawnee	WF1	530	181	430	274						
Rosita	Production Area 1	1,200	350	431	183						
Rosita	Production Area 2	2,890	547	548	130						
Rosita	Production Area 3	3,050	1,093	642	94						
Trevino	Production Area 1	20	15	61	14						
Trevino	Production Area 2	61	36	40	19						
Vasquez	Production Area 1	270	45	261	79						
West Cole	Production Area 1	848	178	34	9						
West Cole	Production Area 2	2,460	662	54	20						
West Cole	Production Area 3	6,780	1,660	137	46						
Zamzow	Production Area 1	10	10	459	108						
Zamzow	Production Area 2	63	17	863	528						
Zamzow	Production Area 3	2	1	50	45						
Zamzow	Production Area 4	432	217	744	392						
Christianson Ranch	Mine Unit 2 - South	111	27	52	15						
Christensen Ranch	Mine Unit 2 - North	164	41	55	23						
Christensen Ranch	Mine Unit 3	470	75	248	81						
Christensen Ranch	Mine Unit 4	222	35	59	18						
Christensen Ranch	Mine Unit 5	75	23	244	68						
Christensen Ranch	Mine Unit 6	51	13	440	106						
Christensen Ranch	Mine Unit 7	957	33	245	69	1,002,000	no data				
Highland	R & D	no data	216	no data	127						
Highland	A	90	40	1,206	675						
Highland	WF B	620	60	1,035	316						
Highland	WF C	28,100	2,110	2,032	682						
Highland	WF D	5,540	1,070	1,734	651						
Highland	WF E	330	60	1,405	630						
Highland	WF F	150	30	650	592	1,079,965	533,053				
Highland	WF G	400	50	1,260	200	1,010,000	106,000				
Irigary	R & D	no data	98	no data	27						
Irigary	Units 1-9	18,600	480	248	39						
Irigary	E Field	81	40	43	28			no data	175.3	no data	199
Luenberger	M Zone	150	100	562	187						
North Butte	Mine Units 1 & 2	262	126	1,016	540						
North Platte	R & D	28	10	593	136			799	243.2	634	264
Reno Creek	R & D	287	150	768	437						
Ruth	R & D	250	10	175	16						
Smith Ranch	R & D	no data	280	no data	340						
Smith Ranch	Wellfield 1	168	65	1,963	734	no data	268,597				
Smith Ranch	Wellfield 3	670	80	1,090	268	525,000	176,732				
Smith Ranch	Wellfield 4	124	39	1,386	491	1,100,000	471,169				
Smith Ranch	4a	99	37	1,700	605						
Smith Ranch	Mine Unit 15	1,450	454	972	151						
Smith Ranch	Mine Unit 1	35	25	303	119						
Smith Ranch	Mine Unit 2	1,590	84	2,042	560						
Willow Creek	R & D	81	35	295	73						

*Yellow shade indicated that the measured concentration exceeds drinking water standards.

Natural Water Quality Data at U.S. ISL Uranium Recovery Operations
Uranium and Uranium Related Minerals Shown as % of Drinking Water Standards

Blue shade indicates water that is unfit for human consumption

Name	Unit #	Uranium (ug/l)		Radium (pCi/l)		Radon (pCi/l)		G. Alpha Radiation (pCi/l)		G. Beta Radiation (pCi/l)	
		Drinking Standard 30 ug/l		Drinking Standard 5 pCi/l		Drinking Standard 300 pCi/l		Drinking Standard 15 pCi/l		Drinking Standard 50 pCi/l	
		High	Average	High	Average	High	Average	High	Average	High	Average
Crow Butte	Mine Unit 1	803%	307%	11320%	4594%						
Crow Butte	Mine Unit 2	440%	153%	29540%	4690%						
Crow Butte	Mine Unit 3	1417%	383%	13740%	3300%						
Crow Butte	Mine Unit 4	1667%	407%	13740%	3086%						
Crow Butte	Mine Unit 5	570%	240%	13860%	3320%						
Crow Butte	Mine Unit 6	3770%	443%	10380%	1612%						
Crow Butte	Mine Unit 7	2200%	367%	11500%	2840%						
Churchrock Section 8	Area Wells	22090%	5983%	304%	204%						
Crownpoint	Area Wells	70%	21%	7826%	1220%						
Mobil Pilot	R & D	273%	43%	1788%	432%						
Teton	R & D	400%	no data	432%	no data						
Mobil Southtrend	Area 1	333%	40%	4000%	362%	366667%	46892%	4067%	493%	1020%	138%
Alta Mesa	Production Area 1	3250%	113%	12280%	1660%						
Benavides	Production Area 1	1047%	277%	10920%	1660%						
Benavides	Production Area 2	1200%	167%	2640%	904%						
Benavides	Production Area 3	1000%	400%	8660%	3462%						
Benavides	Production Area 4	1047%	277%	10920%	1660%						
Boots	Production Area 1	1333%	727%	1000%	189%						
Bruni	Production Area 1/Grid I	no data	1103%	no data	780%						
Bruni	Production Area 2/Grid V	no data	700%	no data	2580%						
Bruni	Production Area 3	2273%	1080%	8740%	2960%						
Bruni	Production Area 4	21000%	7700%	10100%	3334%						
Bruni	Production Area 5	12200%	1537%	9400%	1810%						
Bruni	Production Area 6/Grid III			1360%	260%						
Burnes	Production Area 1	1333%	1000%	18760%	4932%						
Burns	Production Area 2	733%	167%	19000%	3370%						
Burns	Production Area 3	820%	273%	30200%	15160%						
Burns	Production Area 4	90%	70%	18940%	11360%						
Clay West	Production Area 1			20800%	4700%						
Clay West	Production Area 2	440%	1590%	14540%	8400%						
El Mesquite	Production Area 1	300%	130%	132%	64%						
El Mesquite	Production Area 2	960%	283%	1582%	294%						
El Mesquite	Production Area 3	11033%	2800%	10900%	2334%						
El Mesquite	Production Area 4	1087%	207%	540%	124%						
El Mesquite	Production Area 5	793%	323%	320%	206%						
Gruy 7B	Production Area 1	6167%	3733%	7640%	5440%						
Gruy 7B	Production Area 2	213%	150%	860%	480%						
Gruy 7B	Production Area 3	3333%	2433%	3940%	3180%						
Hobson	Production Area 1	167%	83%	1980%	902%						
Hobson Tex-1	Production Area 1-A	233%	167%	14100%	4920%						
Holiday	H-1	1667%	767%	500%	182%						
Holiday	H-1 Extension	5100%	1333%	760%	250%						
Holiday	Production Area 2	1450%	370%	476%	109%						
Holiday	Production Area 3	12000%	5333%	17720%	8596%						
Holiday	Production Area 4	193%	120%	190%	136%						
Holiday	Production Area 5	847%	210%	740%	298%						
Holiday	Production Area 6	5633%	1227%	760%	392%						
Holiday	Production Area 7	627%	333%	320%	174%						
Kingsville Dome	Production Area 1	3090%	547%	956%	432%						
Kingsville Dome	Production Area 2	340000%	10630%	12080%	1890%	104667%	32744%				
Kingsville Dome	Production Area 3	5133%	963%	4780%	678%						
Lamprecht	Production Area 1 South	900%	533%	7514%	3014%						
Lamprecht	Production Area 2 North	1633%	1333%	10000%	4852%						
Lamprecht	Production Area 3			5340%	2552%						
Lamprecht	Production Area 4 Lower			10000%	5800%						
Las Palmas	Production Area 1	23333%	9710%	6700%	2672%						
Las Palmas	Production Area 2	7067%	1887%	7040%	1846%						
Las Palmas	Production Area 3	32367%	8000%	4000%	3100%						
Longoria	Production Area II	87%	37%	5040%	1940%						
Longoria	Production Area III	217%	100%	1700%	734%						
McBride	Production Area 1	2770%	907%	28600%	7300%						
Mt Lucas	Production Area 1	1837%	977%	17360%	10716%						
Mt Lucas	EA-Pod	537%	253%	10800%	7820%						
Mt Lucas	H sand	623%	257%	12220%	6292%						
Mt Lucas	Production Area 4	1243%	323%	4320%	3016%						
Mt Lucas	Production Area 5	2093%	860%	9960%	6460%						
Mt Lucas	M-Sand PAA-6	593%	417%	6720%	4508%						

Natural Water Quality Data at U.S. ISL Uranium Recovery Operations
Uranium and Uranium Related Minerals Shown as % of Drinking Water Standards

Blue shade indicates water that is unfit for human consumption

Name	Unit #	Uranium (ug/l)		Radium (pCi/l)		Radon (pCi/l)		G. Alpha Radiation (pCi/l)		G. Beta Radiation (pCi/l)	
		Drinking Standard 30 ug/l		Drinking Standard 5 pCi/l		Drinking Standard 300 pCi/l		Drinking Standard 15 pCi/l		Drinking Standard 50 pCi/l	
		High	Average	High	Average	High	Average	High	Average	High	Average
Mt Lucas	J Sand	267%	157%	1740%	1124%						
Mt Lucas	South J (PAA-8)	2460%	1113%	4420%	3420%						
Nell	Production Area 1	190%	77%	2220%	1144%						
OHearn	Production Area 1/Grid 1	2093%	707%	1640%	780%						
OHearn	Production Area 2/Grid II	no data	867%	no data	924%						
OHearn	Production Area 3/Grid III	3333%	1333%	no data	no data						
OHearn	Production Area 4/Grid IV	5333%	1023%	2580%	590%						
Palangana Dome	Production Area 1	640%	97%	10500%	3280%						
Pawlik	Production Zone A	23%	7%	6800%	1850%						
Pawlik	Production Zone B	no data	7%	2380%	454%						
Pawnee	WF1	1767%	603%	8600%	5480%						
Rosita	Production Area 1	4000%	1167%	8620%	3660%						
Rosita	Production Area 2	9633%	1823%	10960%	2606%						
Rosita	Production Area 3	10167%	3643%	12840%	1886%						
Trevino	Production Area 1	67%	50%	1218%	276%						
Trevino	Production Area 2	203%	120%	800%	380%						
Vasquez	Production Area 1	900%	150%	5220%	1579%						
West Cole	Production Area 1	2827%	593%	680%	181%						
West Cole	Production Area 2	8200%	2207%	1080%	392%						
West Cole	Production Area 3	22600%	5533%	2740%	920%						
Zamzow	Production Area 1	33%	33%	9180%	2158%						
Zamzow	Production Area 2	210%	57%	17260%	10560%						
Zamzow	Production Area 3	7%	3%	1000%	905%						
Zamzow	Production Area 4	1440%	723%	14880%	7840%						
Christianson Ranch	Mine Unit 2 - South	370%	90%	1046%	300%						
Christensen Ranch	Mine Unit 2 - North	547%	137%	1090%	454%						
Christensen Ranch	Mine Unit 3	1567%	251%	4960%	1626%						
Christensen Ranch	Mine Unit 4	740%	116%	1178%	356%						
Christensen Ranch	Mine Unit 5	250%	77%	4880%	1352%						
Christensen Ranch	Mine Unit 6	170%	42%	8800%	2120%						
Christensen Ranch	Mine Unit 7	3190%	111%	4900%	1388%	334000%	no data				
Highland	R & D	no data	720%	no data	2540%						
Highland	A	300%	133%	24120%	13500%						
Highland	WF B	2067%	200%	20700%	6320%						
Highland	WF C	93667%	7033%	40640%	13640%						
Highland	WF D	18467%	3567%	34680%	13020%						
Highland	WF E	1100%	200%	28100%	12600%						
Highland	WF F	500%	100%	13000%	11840%	359988%	177684%				
Highland	WF G	1333%	167%	25200%	4000%	336667%	35333%				
Irigary	R & D	no data	327%	no data	536%						
Irigary	Units 1-9	62000%	1600%	4954%	778%						
Irigary	E Field	270%	133%	852%	556%			no data	1169%	no data	398%
Luenberger	M Zone	500%	333%	11240%	3730%						
North Butte	Mine Units 1 & 2	873%	420%	20320%	10800%						
North Platte	R & D	93%	33%	11860%	2716%			5327%	1621%	1268%	528%
Reno Creek	R & D	957%	500%	15360%	8740%						
Ruth	R & D	833%	35%	3500%	328%						
Smith Ranch	R & D	no data	933%	no data	6800%						
Smith Ranch	Wellfield 1	560%	217%	39260%	14680%	no data	89532%				
Smith Ranch	Wellfield 3	2233%	267%	21800%	5356%	175000%	58911%				
Smith Ranch	Wellfield 4	413%	130%	27728%	9822%	366667%	157056%				
Smith Ranch	4a	330%	123%	34000%	12108%						
Willow Creek	R & D	270%	118%	5900%	1464%						