

RadHaz Committee Report

I. Recent Developments

A. ENDAUM v. NRC

1. 10th Circuit refused to review NRC decision granting HRI license
 - a. Agency deference doctrine; refused to address merits
 - b. Majority agreed with NRC legal interpretations; strong dissent
2. HRI still needs state permits to begin at Section 8

B. HRI v. EPA

1. Court determined surface at Church Rock Sec. 8 was not Indian Country based on 18 U.S.C. § 1151.
 - a. Court left door open for federal regulation of groundwater quality by means other than 18 U.S.C. § 1151
 - b. Next step is up to NN and EPA
2. Assuming state jurisdiction, HRI must secure permits from NMED
 - a. Discharge
 - b. Temporary Aquifer Designation
3. Other companies similarly situated will have to do the same

C. State permitting

1. HRI Discharge
 - a. Current permit needs to be renewed
 - b. Initial application in 1988 – given length of intervening time, new application may be necessary

2. Temporary Aquifer Designation

- a. HRI currently doesn't have one; may have aquifer exemption from

US EPA Region VI, which would be invalid under HRI v. EPA.

- b. Will likely require a public hearing

- c. No ISL operation has ever restored groundwater to pre-mining

conditions

- i. USGS report

- ii. Water Quality Averaging

3. Roca Honda Mine

- a. Mining Act permit

- b. Discharge permit

- c. Forest Service NEPA process

4. Mt. Taylor Mine stand-by permit renewal