



Savannah River Site Watch

Savannah River Site Watch
Media Advisory
June 21, 2016

Federal Judge Denies Stay Motion by U.S. Department of Energy's National Nuclear Security Administration and Allows Case By State of South Carolina on Removal of Plutonium from SRS to be Heard on June 30 in Federal Court in Columbia, SC

Columbia, SC -- A case brought by the State of South Carolina to require the U.S. Department of Energy to begin removing plutonium from the state will proceed on June 30, according to an order issued by the presiding judge.

The "order" by Judge Michelle Childs was posted in the proceedings for the case on June 21, thus allowing the hearing to proceed on June 30, 10:00 a.m. in the Matthew J. Perry courthouse in downtown Columbia, South Carolina

Motion as published in the docket on the case:

Full docket text for document 43:

TEXT ORDER denying [20] Motion to Stay: This matter is before the court on Defendants Motion to Stay Proceedings on Plaintiffs Motion for Summary Judgment (ECF No. [20]) seeking to stay all proceedings on Plaintiffs pending Motion for Summary Judgment (ECF No. [10]) until the court adjudicates Defendants pending Motion to Dismiss (ECF No. [17]). In support of their Motion to Stay, Defendants assert that all Plaintiffs claims are subject to dismissal on jurisdictional or other legal grounds and, therefore, concerns for judicial economy and litigation efficiency make it appropriate for the [c]ourt to resolve [D]efendants Motion to Dismiss before proceeding to summary judgment. (ECF No. [20] at 4.) Plaintiff opposes the Motion to Stay arguing that Defendants have not met their burden to demonstrate a need for a stay, and both judicial economy and the prejudice to South Carolina if such stay is granted weigh heavily in favor of denying the stay request. (ECF No. [35] at 1.) When considering a motion to stay, the district court should consider three factors: (1) the interests of judicial economy; (2) hardship and equity to the moving party if the action is not stayed; and (3) potential prejudice to the non-moving party. Johnson v. DePuy Orthopaedics, Inc., No. 3:12-cv-2274, 2012 WL 4538642, at *2 (D.S.C. Oct. 1, 2012) (granting stay pending a transfer of the case to MDL) (citation omitted). In view of these factors, the court finds that a stay would not serve the interests of judicial economy and could cause prejudice to Plaintiff. In this regard, the court understands that it will first have to address the merits of Defendants Motion to Dismiss asserting a lack of subject matter jurisdiction. In re Bulldog Trucking, Inc., 147 F.3d 347, 352 (4th Cir. 1998) (A federal court is required, sua sponte, to determine if a valid basis for its jurisdiction exists, and to dismiss the action if no such ground appears.) (citation omitted). However, the court is also persuaded that judicial economy will be best served by allowing the parties to proceed with their arguments relevant to Plaintiffs Motion for Summary Judgment at the June 30, 2016 hearing (ECF No. [34]), even if the court has to allow for discovery and additional briefing subsequent to the hearing. Accordingly, the court DENIES Defendants Motion to Stay Proceedings on Plaintiffs Motion for Summary Judgment (ECF No. [20]). Signed by Honorable J Michelle Childs on 6/21/16.(alew,)

PACER Service Center
Transaction Receipt
06/21/2016 13:21:05

SRS Watch agrees with the decision to hold a hearing on the case brought by the state as the failure of the MOX project means that 13 metric tons of plutonium are now stranded at SRS with no firm plan for its removal," said Tom Clements, director of SRS Watch. "It is important that the case proceed in order for the public to clearly see how plutonium was brought into the state with no viable plan for its removal. Now that the mismanaged MOX project has failed and will likely be terminated, DOE must reveal details of its plans to remove the plutonium now stored at SRS from the state," added Clements.

###

Notes:

1. [Feb. 9, 2016 filing by State of South Carolina linked here](#)

2. [see SRS Watch news - October 27, 2015 - linked here](#)

"Failure of MOX Project at the Savannah River Site Legally Mandates DOE to Begin Removal of 1 Metric Ton of Weapons Plutonium from South Carolina by January 1, 2016 or Face \$1 Million/Day in Fines

In Reality, the Plutonium-Removal Law is a Farce Used by Senator Lindsey Graham to Hold South Carolina Hostage to Endless Spending on the Failed, Mismanaged MOX Project of CB&I AREVA MOX Services

Contact:

Tom Clements
SRS Watch
tel. 803-834-3084
cell 803-240-7268