

IN THE  
UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

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No. 99-70922

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Grand Canyon Trust, et al.,

Petitioners,

v.

United States Nuclear Regulatory Commission,

Respondents.

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UNOPPOSED MOTION FOR STAY OF PROCEEDINGS

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Attorneys for Grand Canyon Trust, et al.

January 18, 2001

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Petitioners, Grand Canyon Trust, et al., respectfully move for a three-month stay of the proceedings in this appeal. This case has been set for oral argument on February 9, 2001. However, it is possible that this case is, or could soon become, moot; therefore, Petitioners request that the case be removed from the February 9<sup>th</sup> calendar and that the case be stayed temporarily while the parties establish the facts necessary to determine whether the claims asserted are moot. The reasons for this request are set forth below.

1) This case involves a claim that the Nuclear Regulatory Commission must reinitiate consultation with the U.S. Fish and Wildlife Service under section 7 of the Endangered Species Act because of new information regarding lack of funding to clean up a uranium mill tailings pile near Moab, Utah that is causing impacts to endangered fish in the Colorado River.

2) On October 30, 2000, Congress passed legislation requiring that the Moab uranium mill tailings site (also known as the Atlas site) be transferred from the Nuclear Regulatory Commission to the Department of Energy for clean-up. The transfer must be completed within one year of the date of passage. The legislation did not appropriate any money to begin clean-up, and under the terms of the legislation, interim steps to address contamination were to be carried out by a Reclamation Trustee.

3) Within the last week, it has become clear that the Reclamation Trustee has exhausted all currently available funds for clean-up and has halted all interim clean-up measures at the site.

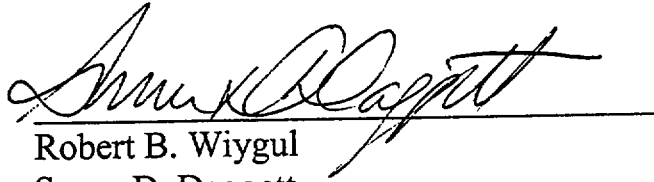
4) In light of the legislation and the information regarding the Trustee's lack of funding, there is a "stakeholders meeting" scheduled for February 8, 2001 to discuss the regulatory status of the pile and what interim measures might be taken, if any, to stabilize the site.

5) At this point in time, the future of this pile and its regulatory status are unclear. Although some of these questions might be answered in the February 8<sup>th</sup> stakeholders meeting, at this point there is substantial uncertainty about what interim measures could be taken and whether the Nuclear Regulatory Commission will continue to be the action agency for purposes of the Endangered Species Act. As a result, the Petitioners are unsure about whether its stated claims are, or will soon become, moot.

6) The Petitioners request a three-month stay of this case in order to allow them to work with the federal and state agencies involved with this site to resolve some of these uncertainties before determining whether the case should be dismissed or not.

7) Counsel for the Nuclear Regulatory Commission has reviewed this request and has indicated that the agency does not oppose it.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Susan D. Daggett", is written over a horizontal line.

Robert B. Wiygul

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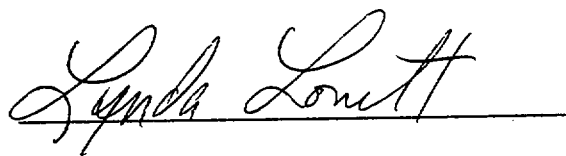
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CERTIFICATE OF SERVICE

I hereby certify that on the 18th day of January, 2001, I served a true and accurate copy of the UNOPPOSED MOTION FOR STAY OF PROCEEDINGS upon the following individual by U.S. mail, postage prepaid:

Marjorie Nordlinger, Senior Attorney  
John F. Cordes, Solicitor  
E. Leo Slaggie, Deputy Solicitor  
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