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FAX TRANSMITTAL SHEET

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DATE: November 16, 2005

TIME: 9:10 AM

TOTAL PAGES: 8

From: Gary W. Gantz, Assistant Attorney General
Transportation Section, Anchorage

PLEASE DELIVER THE FOLLOWING PAGES TO:

NAME: JARED HECK

LOCATION: NRC

FAX NO.: 301-415-3200

CASE: *Robert Farmer v. SOA/DOT&PF*
Case No. 2003-ERA-00011

A handwritten signature in black ink, appearing to be "JG", is written to the right of the recipient information.

COMMENTS: Attached for your information is a copy of the following:

- Robert Farmer's Motion to Withdraw Without Prejudice filed on Sept. 12, 2003
- State's of Alaska's Opposition to Dismissal Without Prejudice filed on Sept. 17, 2003
- Copy of 9/15/03 email to Mr. Farmer from Gantz

IF YOU DO NOT RECEIVE ALL THE PAGES, OR HAVE ANY PROBLEMS WITH THE TRANSMITTAL, PLEASE CALL BETH GOODWIN AT (907) 269-5162.

September 12, 2003

Honorable Judge Jennifer Gee
Administrative Law Judge

U.S. Department of Labor
Office of Administrative Law Judges
50 Fremont Street—Suite 200
San Francisco, California 94105

Facsimile (415) 744-6569

Re: Case No.: 2003-ERA-00011

In the Matter of:

ROBERT L. FARMER, P.L.S.,
Complainant

Vs. - - -

STATE OF ALASKA, DEPARTMENT OF TRANSPORTATION AND
PUBLIC FACILITIES,
Respondent.

MOTION TO WITHDRAW WITHOUT PREJUDICE

I request to withdraw from this case without prejudice.

My decision to withdraw was made prior to lunch this date in a conversation with Mr. Michael San Angelo, P.E., State Materials Engineer, at 11:30 AM this date. I then notified Mr. Gary W. Gantz, Assistant Attorney General, and subsequently Mr. Gantz called you and notified you of my intention.



Robert L. Farmer, P.L.S.,
Radiation Safety Officer

2707 Klamath Drive
Anchorage, AK 99517

RECEIVED

SFP 16 2003

DEPARTMENT OF LAW
OFFICE OF ATTORNEY GENERAL
3RD JUDICIAL DISTRICT
ANCHORAGE, ALASKA



STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

STATEWIDE MATERIALS/MATERIALS LAB
5750 EAST TUDOR ROAD
ANCHORAGE, ALASKA 99507

DATE: 9/12/03 PHONE: (907) 269-6200

TIME: _____ FAX #: (907) 269-6201

SENT FROM: ROBERT FAIRMOR

NUMBER OF PAGES (INCLUDING COVER SHEET): 2

SEND TO: HONORABLE JUDGE JENNIFER GBE

COMPANY/DIVISION: _____

FAX#: (415) 744-6569 PHONE #: _____

COMMENTS:

*For C
2:15 pm 12/1
ME*

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U.S. DEPARTMENT OF LABOR

CASE NO. 2003-ERA-00011

In the Matter of:

ROBERT FARMER,

Complainant,

vs.

ALASKA DEPARTMENT OF TRANSPORTATION
And PUBLIC FACILITIES

Respondent.

STATE OF ALASKA'S OPPOSITION TO DISMISSAL WITHOUT PREJUDICE

COMES NOW, Appellee, State of Alaska, Department of Transportation & Public Facilities, hereinafter referred to as ADOT&PF, by and through its counsel of record, Gregg D. Renkes, Attorney General, and Gary W. Gantz, Assistant Attorney General, and opposes Mr. Farmer's request for a dismissal without prejudice.

The letter presented to the court, and not properly served on undersigned counsel,¹ is another example of how Mr. Farmer slants the truth and cuts the corners to serve his own ends.

The facts presented by Mr. Farmer in this letter are not accurate. At the time the call was made to the court at approximately 11:30 a.m. AST on Friday, September 12, 2003, Mr. Farmer was refusing to go forward with his deposition. Mr. Farmer had said

¹ Mr. Farmer did not provide a copy of his request for a dismissal to undersigned counsel until prompted to do so by an e-mail message that is attached as Exhibit A.

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1
2. that he was thinking about dismissing his case and wanted to postpone the deposition to
3 get advice of counsel. He was definitely not agreeing to dismiss his case. This was the
4 second time Mr. Farmer had asked for a delay of his deposition. He had already gotten
5 the first postponement allegedly so his counsel could enter an appearance and prepare
6 for the deposition, but instead, Mr. Farmer appeared without counsel.
7

8 There was a real concern that Mr. Farmer was merely continuing on his quest of
9 trying to make this case as costly and difficult as possible for ADOT&PF. Delay and
10 obfuscation were evident at the deposition.² And because Mr. Farmer had a request for
11 a continuance pending, it seemed like one more delay tactic was being employed.
12

13 It was only when Mr. Farmer heard that the court was going to dismiss the case
14 on sovereign immunity grounds that he then asked to have the matter dismissed
15 voluntarily. There was no mention during the phone conference with the court that he
16 would be requesting the matter be dismissed without prejudice. This appears to be an
17 afterthought, perhaps made at the advice of counsel who may be guiding him from the
18 sidelines.

19 The pending request for a dismissal without prejudice is nothing more than a
20 tactical ploy that would provide Mr. Farmer an opportunity to attempt to resume his
21 lawsuit at a more advantageous time. The court should proceed to dismiss this case on
22

23
24
25 ² Most of Mr. Farmer's answers to questions posed to him went on at length. He
26 sometimes had to have the questions read back to him because he could not even
remember the question. Many examples of non-responsive answers exist.

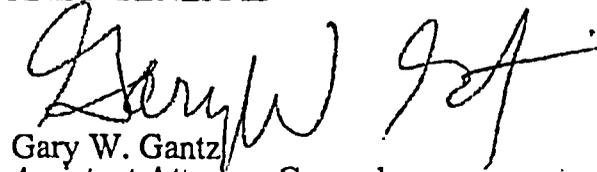
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sovereign immunity grounds unless Mr. Farmer's request is for a dismissal with prejudice. This will prevent Mr. Farmer from being able to resurrect this case in the future and use this administrative system to advance his own, improper, ends.

Dated this 17th day of September, 2003.

GREGG D. RENKES
ATTORNEY GENERAL

By:



Gary W. Gantz
Assistant Attorney General
Alaska Bar No. 6811030

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This is to certify that on September 17, 2003, a copy of the foregoing by U.S. mail, and also by certified, return receipt requested, postage prepaid to:

Robert L. Farmer
2707 Klamath Drive
Anchorage, AK 99517

By U.S. Mail postage prepaid to:

Assistant General Counsel
For Materials
U.S. Nuclear Regulatory Commission
Litigation and Enforcement
Office of the General Counsel
Washington, DC 20555-0001

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Occupational Safety & Health
Administration
U.S. Department of Labor
1111 Third Avenue, Suite 715
Seattle, WA 98101-3212

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U.S. Department of Labor
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Sabrina R. Alvarez

STATE OF ALASKA'S OPPOSITION TO
DISMISSAL WITHOUT PREJUDICE
Case No. 2003-ERA-00011
U.S. Department of Labor

DEPARTMENT OF LAW
OFFICE OF THE ATTORNEY GENERAL
ANCHORAGE BRANCH
1031 W. FOURTH AVENUE, SUITE 200
ANCHORAGE, ALASKA 99501
PHONE: (907) 269-5100

From: Gary Gantz
To: Robert Farmer
Date: 9/15/03 1:18PM
Subject: Farmer v SOA - OSHA CLAIM

Dear Mr. Farmer,

I have not yet received your written dismissal request which you promised to fax me on Friday afternoon. My fax number is 279-5832. If you have changed your mind, we should inform Judge Gee so she can proceed to issue her decision.

Gary

CC: Mike San Angelo