

UNITED STATES COURT OF APPEALS FOR THE 10th CIRCUIT

Eastern Navajo Diné Against Uranium Mining,)
Southwest Research and Information Center,)
Marilyn Morris and Grace Sam)

Petitioners,)

v.)

United States Nuclear Regulatory Commission and)
the United States,)

Respondents.)

Case File
No. 07-9505

**UNOPPOSED MOTION FOR EXTENSION OF TIME TO FILE
PETITIONERS' REPLY BRIEF, JOINT APPENDIX and OPENING
BRIEF WITH JOINT APPENDIX CITATIONS**

Petitioners Eastern Navajo Diné Against Uranium Mining
("ENDAUM"), Southwest Research and Information Center ("SRIC"),
Marilyn Morris, and Grace Sam hereby respectfully request an extension of
time of twenty-one (21) days from October 15, 2007 in which to file their
reply, the joint appendix, and their opening brief with joint appendix
citations, pursuant to Federal Rules of Appellate Procedure 27 and Local
Rule 27.4. The new deadline would be November 5, 2007.

Respondents, the Nuclear Regulatory Commission ("NRC"), United
States Department of Justice ("DOJ") and Intervenor Hydro Resources, Inc.

("HRI") do not oppose Petitioners' request for a 21 day extension in which to file their reply, the joint appendix, and their opening brief with joint appendix citations. Under Local Rule 27.3 (A)(1), the clerk is authorized to act for the Court on this motion as it is one to extend time to file a pleading.

PROCEDURAL HISTORY

Petitioners timely filed a petition for review of various NRC orders in the HRI licensing proceeding on February 12, 2007. A certified index of the record was filed by the NRC on March 26, 2006. Petitioners filed their opening brief on June 22, 2007. The Respondents and HRI filed their response briefs on September 20, 2007. Under the Scheduling Order issued by this court, Petitioners' reply, the joint appendix, and Petitioners' opening brief with joint appendix citations are due on October 15, 2007.

In addition to the requested extension, the Court granted two prior motions for extension of the time for filing Petitioners' opening brief. Respondents and Intervenor HRI also requested and were granted two extensions for their Responses.

DISCUSSION

It is not possible for Petitioners to file their reply, the joint appendix, and their opening brief with joint appendix citations by October 15, despite

Petitioners exercising due diligence and giving priority to preparing the brief for the following reasons:

- I. The case is so complex and the record so large that an adequate reply and the Joint Appendix cannot reasonably be prepared by the current due date.

As noted in previous motions, this case was litigated before the NRC from 1998 until 2006. Because this matter was litigated for over eight years before the NRC and documents were submitted for nearly 20 years, the administrative record in this appeal spans tens of thousands of pages. In preparing the joint appendix, Petitioners must go through this voluminous record, copy the relevant documents and assemble the joint appendix. At the same time, Petitioners must prepare a reply to Respondents' and HRI's Response Briefs. Because of the size and nature of the record, an extension is warranted.

- II. Given the size of the record and staffing issues, an extension is warranted.

The attorneys working on this case will suffer substantial hardship if they must comply with the current deadline. Petitioners have been represented by numerous different attorneys at the New Mexico Environmental Law Center ("NMELC") since the inception of this case. One of NMELC's attorneys, Sarah Pilch, has resigned and will be leaving the New Mexico Environmental Law Center on October 5, 2007.

Ms. Pilch was co-counsel on this case for the last two and a half years and has taken primary responsibility for assembling the Joint Appendix.

Eric Jantz will now be the only attorney at NMELC working on this matter which is significant, since Petitioners are responsible for assembling the Joint Appendix, preparing their reply brief and filing their opening brief with Joint Appendix citations.

Moreover, Mr. Jantz carries a large and active case load in addition to this appeal. Mr. Jantz has several upcoming deadlines prior to the current due date of Petitioners' reply, the Joint Appendix, and the opening brief with Joint Appendix citations. Mr. Jantz will be submitting extensive comments to the NRC on the proposal to use a generic environmental impact statement ("GEIS") for ISL mining, on behalf of NMELC clients, on October 8, 2007. *See* Federal Register Notice of Intent, attached as Exhibit A.

Mr. Jantz will also be submitting a notice of intent to present technical testimony and assembling a technical case to be presented before the New Mexico Oil Conservation Commission due October 15. *See* Application for Rulemaking and Public Notice, attached as Exhibit B.

Mr. Jantz is the only attorney representing NMELC clients in the cases described above and both cases involve substantial legal and technical issues.

III. Petitioners' attorneys' other cases present a scheduling conflict.

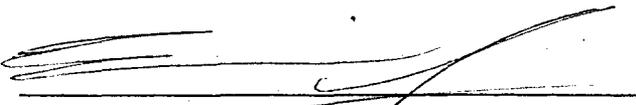
Petitioners do not argue that other litigation should receive priority here, but rather that no additional opportunities to request rescheduling are available for the comments to the NRC on the GEIS proposal or the Oil Conservation Division hearing.

Moreover, Zackeree Kelin, of DNA-People's Legal Services, Inc., counsel for Grace Sam and Marilyn Morris, has a full case load in addition to his work on this matter. Additionally, Mr. Kelin will be traveling and attending hearings during the scheduled reply period and will have only limited time to assist with assembling the Joint Appendix and drafting the reply.

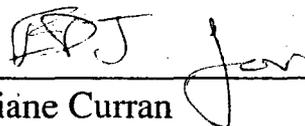
This motion for extension is unopposed. For the reasons outlined above, Petitioners respectfully request a 21 day extension of time in which to file their reply brief, the joint appendix and the opening brief with joint appendix citations, for a due date of November 5, 2007.

Dated: September 26, 2007

Respectfully submitted,

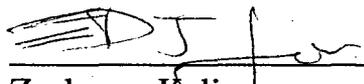


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