

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION



IN THE MATTER OF)
)
PROPOSED RULEMAKING ON THE STORAGE)
AND DISPOSAL OF NUCLEAR WASTE)
)
)
(Waste Confidence Rulemaking))
)

PR-50, 51 (44 F.R. 61372)

STATE OF MINNESOTA'S MOTION FOR A SIXTY DAY
EXTENSION OF ALL DATES IN THE SCHEDULE OF THE
FIRST PHASE OF THIS PROCEEDING, OR, IN THE
ALTERNATIVE, FOR AN EXTENSION OF TIME TO FILE
MINNESOTA'S STATEMENT OF POSITION

The State of Minnesota, by its Minnesota Pollution Control Agency (hereinafter "Minnesota"), a full participant in this proceeding, hereby requests that the schedule for the first phase of this proceeding set forth at page 11 of the First Prehearing Conference Order February 1, 1980, be modified so that each date specified therein shall be extended by 60 days. In the alternative, Minnesota moves that it be granted additional time to file its statement of position. Minnesota requests that it be granted an extension to file its statement until at least July 31, 1980.

GROUNDS FOR THE MOTION

The grounds for this motion are that, due to circumstances beyond the control of the participants, the time allowed by the Chairman to prepare and file statements of position on the issues in this proceeding has been effectively shortened to the extent

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that the participants cannot make meaningful contributions to this proceeding. The circumstances, discussed below, are four:

1. The Nuclear Regulatory Commission (hereinafter "NRC" or "Commission") Staff's tardy filing of the "core documents" bibliography;
2. Delay in the receipt of the statement of position of the Department of Energy (hereinafter "DOE") as a result of slow delivery by the U.S. Postal Service;
3. The 700-page length of the statement of position of the DOE;
4. Failure of the Commission to rule on the motion for certification of the question of the Commission's solicitation of opinions from outside experts, which issue was raised in a motion by the Natural Resources Defense Council.

The First Prehearing Conference Order, dated February 1, 1980, set June 9, 1980, as the date for all parties to file their statements of position. This allowed slightly over four months' time for participants to prepare their statements. It was stated at the prehearing conference that the Nuclear Regulatory Commission Staff (hereinafter "NRC Staff") would provide as soon as possible a bibliography of approximately 130 core documents. As recognized by the Chairman at page 6 of the First Prehearing Conference Order, these documents are "reasonably necessary to enable participants to make meaningful contributions to this proceeding." However, this bibliography was not mailed to the participants

until March 28, 1980. Minnesota did not receive its copy until April 4, 1980. This late filing by the NRC Staff effectively shortened the preparation time of participants by two months.

It was also recognized at the Prehearing Conference that the DOE's statement of position was going to be very important to the other participants' contributions to this proceeding. That statement was due on April 15 and was apparently timely filed with the NRC. However, participants in other states did not receive their copies that soon due to the limitations of the U.S. Postal Service. Minnesota received its copy on April 23, 1980. This further shortened Minnesota's time to respond to the DOE document by over a week. It was not known by the participants at the time of the prehearing conference how lengthy the DOE's statement would be. In final form, it is over 700 pages long. The participants need more than 45 days to review and digest such a lengthy statement in order to make meaningful comment thereon.

On February 14, 1980, the Natural Resources Defense Council ("NRDC") moved the Chairman to direct certification to the Commission of its motion concerning the development of the record in this case. In the original motion, NRDC requested that the NRC Staff solicit the opinions of outside experts from several fields, many of which experts were identified in the motion. The Chairman denied the original motion. If the Chairman's ruling on that motion was overturned by the Commission, the Commission would be

seeking to employ the experts in the nuclear waste field. However, if the Commission upholds the Chairman's decision, then it is up to the participants to engage these experts in order to insure that their comments are submitted to the Commission. Since the Commission has failed to rule on the motion, Minnesota assumes that the NRC Staff will not be hiring these experts. Minnesota has decided to employ Dr. Dean Abrahamson of the University of Minnesota. Now, however, Minnesota finds itself in a time bind, since state consulting hiring procedures are time consuming. With the filing date only one month away, and Minnesota's consultant not yet under contract, Minnesota needs additional time to prepare its statement of position.

Since many of the other participants have been similarly affected by the circumstances outlined herein, Minnesota moves for a 60 day extension of all the dates specified in the First Prehearing Order. Accordingly, if this motion is granted, the date for filing statements of position would be August 8. All subsequent dates would be moved back two months. In the alternative, Minnesota requests that it be given until July 31, 1980, to file its statement of position. Due to the importance of the issues in this proceeding, this delay of two months will not significantly delay the entire waste confidence proceeding.

CONCLUSION

Based on the foregoing, Minnesota respectfully requests that the schedule outlined in the First Prehearing Order be moved back by 60 days. The new schedule would be as follows:

By August 8, 1980, all participants shall file their statements of position.

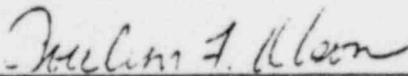
By October 10, 1980, all participants shall file their cross-statements.

By November 10, 1980, all participants shall file their suggestions as to further proceedings, additional areas of inquiry or further data or studies.


In the event that this motion is denied, Minnesota respectfully requests that it be granted an extension until at least July 31, 1980, to file its statement of position.

Respectfully submitted,

Dated: 5/8/80



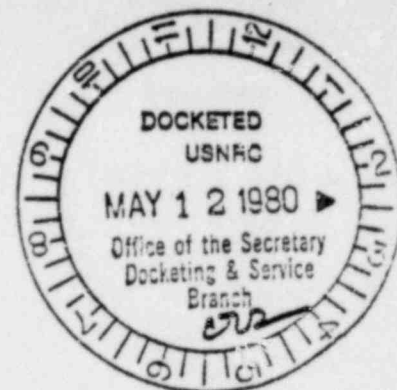
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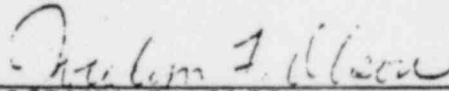
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I hereby certify that I have served one copy of the enclosed document, entitled "State of Minnesota's Motion for a Sixty Day Extension of all Dates in the Schedule of the First Phase of this Proceeding, or, in the Alternative, for an Extension of Time to File Minnesota's Statement of Position," by mail, upon all persons listed on the attached mailing list, this 8th day of May, 1980:



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