

KAFB 91

ENTERED

IN THE COURT OF APPEALS FOR THE STATE OF NEW MEXICO

UNITED STATES OF AMERICA,  
DEPARTMENT OF THE AIR FORCE,  
APPELLANT

COURT OF APPEALS OF NEW MEXICO

FILED

NO. 12,550

V.

JAN 2 1991

STATE OF NEW MEXICO,  
ENVIRONMENTAL IMPROVEMENT  
DIVISION OF THE HEALTH AND  
ENVIRONMENT DEPARTMENT,  
APPELLEE.

*Patricia C. Mangano*

MOTION FOR EXTENSION OF TIME TO FILE BRIEF-IN-CHIEF

COMES NOW, the Appellant, the United States of America, Department of the Air Force and moves this Court for an Order extending the filing date for Appellants' Brief-in-Chief until February 6, 1991. In support of this Motion Appellant states the following:

1. This case involves the appeal of a hazardous waste operating permit issued to Kirtland Air Force Base by the New Mexico Environmental Improvement Division. The issues involved are technically complex and require the cross-application of both state and federal regulations.

2. Pursuant to this Court's case settlement procedure the case was assigned to a settlement facilitator. While the case was not completely resolved by negotiations, two of seven points raised by the Docketing Statement have been settled.

KAFB1070



3. On or about December 19, 1990, Counsel for Appellant was advised by Counsel for Appellee that Appellee was not willing to further negotiate on the remaining points raised in the Docketing Statement.

4. The report of the facilitator and a Stipulation of Agreement on the points settled has not been completed.

5. In order to narrow and simplify the technical application and issues on appeal, the assistance and coordination of Air Force environmental personnel is required. Due to reduced manpower availability and the holiday season such assistance will not be available until January 1991.

6. In addition, Appellant intends to file by mid-January 1991 a formal permit modification in accordance with 40 CFR 270.41 to attempt to resolve the disputed portions of the current permit.

WHEREFORE, the Appellant respectfully requests an extension of time to file it's Brief-in-Chief until February 6, 1991.

Respectfully submitted,

FOR APPELLANT:

WILLIAM L. LUTZ  
US Attorney  
District of New Mexico



By: JOHN W. ZAVITZ  
Assistant US Attorney  
PO Box 607  
Albuquerque, New Mexico 87103  
(505) 766-1060

WILLIAM D. BENTON, Lt Col, USAF  
Staff Judge Advocate  
1606 ABW/JA  
Kirtland AFB, New Mexico 87117  
(505) 846-4217

Note →  
\*