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Thursday, Oct 31, 2002

Local



Posted on Fri, Jun. 21, 2002

Hodges loses another round

Federal appeals court turns down governor's bid to stop plutonium

shipments to SRS

By SAMMY FRETWELL
Staff Writer

A federal appeals court Thursday denied Gov. Jim Hodges' request to stop upcoming plutonium shipments to South Carolina from Colorado.

But whether those shipments start by Saturday depends on how a federal agency responds to another decision the court made.

The U.S. 4th Circuit Court of Appeals also agreed to put on the fast track a lawsuit Hodges' filed against the U.S. Department of Energy last month. The court said it will hear Hodges' appeal July 10.

Energy Department officials must now decide if they will follow through on plans to start trucking plutonium to the Savannah River Site by the weekend, or whether they should delay the shipments until after the court hears the matter.

If the court rules against the shipments in deciding Hodges' lawsuit, it could halt most of the future plutonium transports to South Carolina. Hauling about 6 metric tons of the material to the state is expected to take about 18 months, the DOE said in court this past week.

Hodges' lawsuit seeks to delay shipments until detailed environmental studies are done on plutonium storage at SRS. Thursday's decision against Hodges denied a request for a temporary delay until the case could be decided.

"The Department of Energy ought to wait and see what the decision is," Hodges' spokesman Morton Brilliant said. "It would be a real mistake to send plutonium here, if three weeks from now they'd be ordered to take the plutonium back out."

University of South Carolina law professor Eldon Wedlock questioned whether a court would actually order the material removed, even if Hodges won.

"The shipments themselves might be valid under the earlier regulations," Wedlock told The Associated Press.

Asked by The State Thursday if the DOE would delay shipments, agency spokesman Joe Davis said he would have to find out. The Energy Department later issued a statement saying only that it was "gratified" the appeals court denied Hodges' request for an immediate halt to the plutonium shipments.

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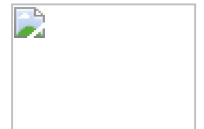
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Hodges wants to stop plutonium shipments to South Carolina until the government signs a legally binding agreement to send plutonium out of the state at a future date. He said he does not want South Carolina to become the nation's dumping ground for plutonium.

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Hodges sued the Energy Department May 1, alleging that it had not properly studied the environmental impacts of sending excess weapons grade plutonium to the Savannah River Site. He wants the court to halt all shipments until the government conducts more environmental studies.

U.S. District Judge Cameron Currie threw out Hodges' case last week. She then ordered the governor Tuesday not to block plutonium shipments as he had threatened. Hodges is appealing Currie's order dismissing his lawsuit.

Plutonium is being sent to South Carolina to help speed the cleanup of the Rocky Flats, Colo., weapons site, and to comply with international arms agreements, the DOE says. The plutonium is to be turned into mixed oxide fuel for use in commercial power plants. The government says the process makes the material useless for future nuclear bombs.

In a statement Thursday, Hodges said he was disappointed the court did not order a delay in shipments this weekend, but its decision to hear the case quickly is good news.

It often takes months for legal challenges to be heard in the appeals court. In this case, it will be heard in three weeks.

"I am encouraged by the court's decision to hear our case so quickly," the governor said in a statement. "I look forward to our day in court in early July."



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