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Posted on Fri, Jun. 14, 2002

Plutonium suit dismissed

Ruling against Hodges clears way for shipments to S.C.By **SAMMY FRETWELL**
Staff Writer

AIKEN - A federal judge says plutonium can be shipped from Colorado to South Carolina, where some leaders fear it will be left forever.

Judge Cameron McGowan Currie on Thursday dismissed Gov. Jim Hodges' lawsuit that challenged federal shipments to the Savannah River Site near Aiken.

Trucks could leave for SRS as soon as Saturday, although it was unclear whether the U.S. Department of Energy would move that quickly.

Hodges said he will appeal the judge's decision to the U.S. Fourth Circuit Court of Appeals to try to keep the plutonium out of South Carolina.

The ruling comes amid increasing fears that nuclear material might fall into the hands of terrorists, who could use small amounts of the material to create so-called "dirty bombs."

Concerned that the weapons-grade material will be left in South Carolina indefinitely, Hodges wants the DOE to study the environmental impact of storing plutonium in the state more closely.

Currie said the DOE has studied the issue thoroughly within the past six years.

Hodges, citing the dangers of plutonium, has pledged to have state troopers stop shipments at the South Carolina border. He's even vowed to lie in the road to turn back plutonium trucks. His lawyers say just 10 pounds of plutonium can be fashioned into an atomic bomb.

Hodges would not specifically say Thursday if he still planned to use state troopers as a roadblock.

But Hodges' attorney Billy Want told Currie the governor "does not plan to break any state or federal law." Currie, in denying a DOE request to prevent Hodges from trying to block the plutonium, said she believed he would obey the law.

Hodges' spokesman, Morton Brilliant, said the governor was considering an executive order effectively closing the roads to plutonium shipments.

Currie ordered Hodges to notify the court if he planned to try to stop the shipments.

Energy Secretary Spencer Abraham did not say when the shipments would begin, but U.S. Sen. Wayne Allard, R-Colo., said he would press for them to start immediately.

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Hodges sued the Energy Department on May 1 to block the plutonium shipments. He has questioned the federal commitment to remove plutonium. And he argued the environmental impact of storing the material at SRS has not been properly studied.

"If we lose, then the nation's weapons grade plutonium comes to South Carolina for long-term storage, and that's simply unacceptable," Hodges said of his appeal. "I will continue to use every legal power that I have to make sure South Carolinians are taken care of and that our health and safety is protected."

Lawyers familiar with the 4th Circuit Court of Appeals said it's unlikely to overturn Currie's decision. The court, in Richmond, Va., is one of the country's most conservative appeals courts, Columbia environmental lawyer Bob Guild said.

Abraham said Thursday's ruling will allow the DOE to continue with its plan to ship the material from Rocky Flats, Colo., where workers are scrambling to cleanse the site of nuclear waste and unused plutonium.

"We are very pleased with the court's ruling, which protects our national security as well as the people of South Carolina," Abraham said in a statement.

Abraham also said the judge's decision helps preserve a treaty with Russia to render 34 metric tons of weapons grade plutonium in each country into a form useless for atomic bombs.

Currie's ruling follows months of wrangling between the DOE and Hodges over long-term plans for plutonium in South Carolina.

Hodges wants assurances the Energy Department won't leave the material at SRS forever. He says the government is trying to renege on a commitment to turn plutonium into mixed oxide fuel for use in nuclear power plants over the next two decades.

The DOE says it has committed \$3.8 billion to the MOX fuel program. The federal government says Hodges' opposition threatens national security, international arms treaties, and the cleanup of atomic material at Rocky Flats.

Currie clearly sided with the DOE on Thursday.

She dismissed Hodges' attempt to temporarily block the shipments until the environmental impacts of plutonium could be studied. And she surprised nuclear activists and state attorneys by throwing out the governor's entire case.

In her ruling, Currie said the federal government had adequately examined the risks of keeping plutonium in an old SRS reactor for up to 50 years. The issue was examined in a 1996 environmental impact study and two follow-up reports, she said.

Currie said the plutonium coming from Rocky Flats was less dangerous than plutonium already at SRS. Plutonium at SRS has not been stabilized or packaged, as opposed to the material from Rocky Flats, she said.

About 650 of nearly 2,000 cans of plutonium to be shipped from Rocky Flats are already packaged said Paul Golan, chief operating officer for the DOE's environmental management program.

In addition, Currie agreed with federal lawyers that postponing the shipments would delay completion of the Rocky Flats cleanup. An extended delay could cost taxpayers millions of dollars, the government says.

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