

IN THE COURT OF APPEALS  
OF THE STATE OF NEW MEXICO

REGENTS OF THE UNIVERSITY )  
OF CALIFORNIA, )  
 )  
Appellant, )  
 )  
v. )  
 )  
THE ENVIRONMENTAL IMPROVEMENT )  
DIVISION OF THE NEW MEXICO )  
HEALTH AND ENVIRONMENT )  
DEPARTMENT; RICHARD )  
MITZELFELT, Director, )  
Environmental Improvement )  
Division, and THE )  
ENVIRONMENTAL IMPROVEMENT )  
BOARD, )  
 )  
Appellees. )  
\_\_\_\_\_ )

NO. 12190

COURT OF APPEALS OF NEW MEXICO  
**FILED**

JUN 19 1990

*Patricia C. Mangano*

MOTION TO DELAY FILING OF RECORD ON APPEAL

The Regents of the University of California (the "University") move the Court to approve a delay in the filing of the Record in this appeal until the University's motion to stay, filed on April 25, 1990, has been decided by this Court. In support of this motion, the University states:

1. The University filed a motion to stay this appeal on April 25, 1990.



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2. In a companion appeal filed by the United States of America, Cause No. 12233, the United States Department of Energy also filed a motion to stay on April 6, 1990.

3. The motions to stay this appeal and Cause No. 12233 are still pending.

4. Under the rules of this Court, there is no stated time period for submission of the Record on appeal. Nonetheless, the Environmental Improvement Division of the New Mexico Health and Environment Department ("EID"), appellee, has requested that the Record be filed with the Court.

5. The Record is estimated to constitute nearly 7000 pages and the cost associated with preparing and photocopying the Record will be approximately \$2,450.

6. Should the University's motion to stay be granted, the expense of preparing the Record would be a substantial and unnecessary expense to incur at this time.

7. The Record is not necessary to the Court's determination of the University's motion to stay this appeal.

8. Neither the University's brief in support of the motion to stay this appeal, EID's Response in opposition to a stay, nor the University's Reply make reference to the Record, or absence of Record before the Court.

9. The appellees are not prejudiced by not having the Record presently before the Court, nor will the appellees be prejudiced by an extension of time in which to file the Record.

10. The Court has the inherent power to grant this motion and to delay the filing of the Record in this appeal.

11. Opposing counsel for EID does not concur in this motion.

WHEREFORE, the University requests the Court to grant the University's motion to delay filing of the Record pending disposition of the University's motion to stay. If the University's motion to stay is denied, the University requests that the Court's order establish the date upon which the Record should be filed with the Court.

RESPECTFULLY SUBMITTED this 19th day of June,  
1990.

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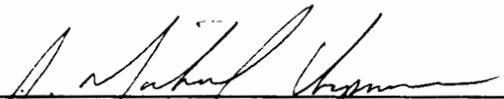
CERTIFICATE OF SERVICE

I hereby certify that a copy of appellant's Motion to Delay Filing of Record on Appeal was hand delivered this 19th day of June 1990, on the following counsel of record:

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