

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

BEFORE THE COMMISSION

In the Matter of)	
)	Docket No. 63-001-HLW
U.S. DEPARTMENT OF ENERGY)	
)	ASLBP No. 09-892-HLW-CAB04
(License Application for Geologic)	
Repository at Yucca Mountain))	July 8, 2010
)	
)	
)	
)	

**AIKEN COUNTY RESPONSE IN OPPOSITION TO COMMISSION REVIEW
OF ATOMIC SAFETY AND LICENSING BOARD ORDER**

Pursuant to the Nuclear Regulatory Commission (NRC) Secretary’s Order of June 30, 2010, Aiken County responds in opposition to Commission review of the Atomic Safety and Licensing Board’s (Licensing Board’s) June 29, 2010 Order denying the Department of Energy’s (DOE’s) motion to withdraw in the above-referenced proceeding. Aiken County further argues that if review of the Licensing Board Order is undertaken, the Order should be upheld.

I. The Commission Should Not Review the Licensing Board Decision

As a preliminary matter, no participant in this proceeding is entitled to an appeal as of right from the Order of the Licensing Board denying DOE’s motion with withdraw. The Licensing Board Order is interlocutory by its nature, because the order does not resolve the merits of the larger context of the proceeding, *i.e.* a merits decision on the construction authorization for the Yucca Mountain geologic repository.¹ NRC regulations provide an exhaustive list of allowed appeals “as of right” in this proceeding, which does not include an

¹ Black’s Law Dictionary defines “interlocutory” as “interim or temporary, not constituting a final resolution of the whole controversy.” BLACK’S LAW DICTIONARY, 8th Ed. at 832 (2004).

appeal from the denial of DOE's motion to withdraw. *See* 10 C.F.R. § 2.1015. While the Commission retains the inherent authority to take review of the Licensing Board Order *as a matter of discretion*, the Commission should not accept review for the reasons set forth below.

A. The Commission Should Not Review the Licensing Board Decision Because a Majority of the Members of the Commission Stated That They Would Not Second Guess the Decision of DOE During Their Confirmation, Demonstrating Undue Political Interference in an Adjudicatory Matter

The Commission should not review of the Licensing Board order, because serious concerns exist about questions posed to three Commissioners during their confirmation process. Three prospective Commissioners were asked whether, if confirmed, they would “second guess the Department of Energy’s decision to withdraw the license application for Yucca Mountain from the NRC’s review.” Steve Tetreault, *NRC Nominees Say They Won’t Oppose Yucca Project Shutdown*, LAS VEGAS REVIEW-JOURNAL, Feb. 11, 2010 (attached hereto as Exhibit A). All prospective Commissioners responded “no,” that they would not second guess the decision. *Id.* This exchange occurred at the behest of the Senate Majority leader about one week after DOE announced that it intended to move to withdraw its application for construction authorization.

The Commission is designed and intended to be insulated from this very form of political pressure. For example, the expiration of the five-year terms of seats on the Commission are staggered one year apart, such that the entire Commission will not, in theory, be replaced during a single presidential administration. *See* 42 U.S.C. § 5841(c). Furthermore, appointment of members to the Commission “shall be made in such a manner that not more than three members of the Commission shall be members of the same political party.” 42 U.S.C. § 5841(b)(2). Once confirmed, Commissioners can only be removed for cause. 42 U.S.C. § 5841(e). These statutory safeguards reflect the intent of Congress to insulate the Commission from political

pressure in specific adjudications. “The fundamental justification for making agencies independent is that since they exercise adjudicatory powers requiring impartial expertise, political interference is undesirable.” *Consumer Energy Council v. FERC*, 673 F.2d 425, 472 (D.C. Cir. 1982).

Aiken County respectfully submits that the question posed to the prospective Commissioners, and the answers thereto, go to the heart of any review of the Licensing Board Order denying DOE’s motion to withdraw. The litmus test posited to the Commissioners seeking confirmation, and the responses, inescapably raise the issue of the predisposition of these Commissioners to overturn the Licensing Board Order. This predisposition prejudices Aiken County and other participants who have demonstrated that DOE’s motion to withdraw is in violation of the NWPAA. Aiken County and other participants are, of course, entitled to an unbiased adjudicatory proceeding in this agency as elsewhere. As one federal Court of Appeals has noted, “a litigant’s entitlement to a tribunal graced by an unbiased adjudicator obtains in administrative proceedings.” *Doraiswamy v. Sec’y of Labor*, 555 F.2d 832, 843 (D.C. Cir. 1976).

And there is far more at stake than Aiken County’s rights as a litigant in this proceeding. The undue political influence in this proceeding implicates the very independence of NRC from political interference in its adjudications, and the public confidence that derives from such independence. While complete isolation of the Commission is not required, NRC’s espoused values command that “[n]othing but the highest possible standards of ethical performance and professionalism should influence regulation.”² Furthermore, NRC’s values provide that decisions of the Commission “must be based on objective, *unbiased* assessments of all

² <http://www.nrc.gov/about-nrc/values.html>

information”³ These values are squarely implicated by review of the Licensing Board order. Indeed, it is difficult to conceive of a more blatant attempt to exert political influence upon an imminent adjudicatory proceeding, or a more obvious cause for concern of predisposition, than found in the confirmation hearing question related to this proceeding.

The Commission’s actions must be untainted by unethical influence and perceived bias in order to maintain the public’s confidence in the NRC. *See* Gregory B. Jaczko, NRC Chairman, *Public Confidence and the Nuclear Regulatory Commission*, prepared remarks before the Nuclear Power and Global Warming Symposium, Warrenton, Va., Nov. 8, 2005 (“For the NRC to do its job, our stakeholders must see an unbiased agency whose primary goal is ensuring the safe use of nuclear materials.”).⁴ Public confidence is a *sine qua non* to fulfillment of the NRC’s mission. *See id.* (“The most important requirement for the NRC to accomplish [its] mission is to ensure public confidence in what we do.”); *see also* Remarks of Commissioner Kristine L. Svinicki, NRC, Middle East Nuclear Energy Summit, Amman, Jordan, Mar. 22, 2010 (“Experience has shown that safety goals, as well as the *credibility of the regulatory body itself*, are best served by a complete separation of the regulatory body from the promotional and implementing organizations and *political influence*, to the extent possible.”)(emphasis added).⁵

This undue political influence on this adjudication *cannot* be effectively cured by votes to “abstain” by the three Commissioners directly subjected to the inappropriate questions in their confirmation hearing. Indeed, as Aiken County will set forth by separate motion jointly with other parties, full recusal from *any* consideration regarding DOE’s motion to withdraw is the ethically appropriate response by these Commissioners. Anything less, such as a vote to “abstain” by any of the three Commissioners, is effectively a vote to enable just two

³ *Id.*(emphasis added).

⁴ Available online at: <http://www.nrc.gov/reading-rm/doc-collections/commission/speeches/2005/s-05-018.html>.

⁵ Available online at: <http://www.nrc.gov/reading-rm/doc-collections/commission/speeches/2010/s-10-010.html>.

Commissioners to decide whether to review the Licensing Board Order,⁶ under the Internal Commission Procedures.⁷ Aiken County submits that public confidence is not elicited by having a pivotal and politically-charged matter, in a proceeding of such national importance, being decided by a Commission diminished to just two Commissioners by political interference. This is especially true, where, as here, *no party is entitled to any review as of right*. The importance of public confidence in the NRC dictates that the Commission should not accept review of a significant and inherently precedential issue (*i.e.* “withdrawal *with prejudice*”) with just two voting members. Merely voting to “abstain,” or voting in any manner which contributes to reaching a quorum of Commissioners when full recusal is called for, could clearly bring about this undesirable result. The public’s confidence in independent, unbiased adjudications by NRC can only be preserved in this case by full recusal of the three directly-affected Commissioners, the practical result of which is to preclude review of the Licensing Board Order. 42 U.S.C. § 5841.

B. The Commission Should Not Review the Licensing Board Order Prior to the Court of Appeals’ Decision in an Earlier-Filed Action Challenging the Decision to Withdraw the License Application.

The Commission should not review the Order of Licensing Board before the Court of Appeals for the District of Columbia Circuit rules on the propriety of DOE’s decision to withdraw its License Application in civil actions which were filed in that Court prior to DOE’s motion to withdraw in this proceeding. Aiken County filed a Petition for Declaratory and Injunctive Relief and Writ of Mandamus in the Court of Appeals for the District of Columbia Circuit on February 19, 2010, directly challenging DOE’s authority to withdraw the license

⁶ Assuming the other two directly-affected Commissioners properly recused themselves.

⁷ Internal Commission Procedures, Appendix 4, at <http://www.nrc.gov/about-nrc/policy-making/internal.html#Appendix4>

application. The civil action filed by Aiken County is authorized by Nuclear Waste Policy Act (NWPA) Section 119, which provides that “the United States courts of appeals shall have original and exclusive jurisdiction over any civil action” alleging that decisions and actions of the Secretary of Energy, the NRC, or President violate the NWPA. *See* 42 U.S.C. § 10139. While the Licensing Board correctly ruled on DOE’s motion to withdraw when directed to do so by the Commission, Aiken County has maintained from the outset that the Court of Appeals is the *proper, Congressionally-sanctioned* forum to resolve controversies surrounding the DOE’s duty to seek licensure for construction authorization under the NWPA.

At the time of the filing of Aiken County’s petition in the Court of Appeals, DOE had not yet moved to withdraw its motion, although it had obtained a stay of proceedings and announced its intent to file the motion. The issue of the lawfulness of withdrawal, therefore, was not before the Licensing Board or this Commission. Aiken County requested to DOE and NRC, by way of letter dated February 19, 2010, that the application not be withdrawn until resolution in the Court of Appeals. Like Aiken County, the State of South Carolina also filed an action under Section 119 of the NWPA, initially in the Fourth Circuit Court of Appeals, on February 25, 2010. DOE’s eventual filing of its motion to withdraw in this proceeding, on March 3, 2010, in no way divested the Courts of Appeals of their original and exclusive jurisdiction granted by statute over the direct actions alleging violations of the NWPA.

The posture of the earlier-filed action in the Court of Appeals and the original and exclusive jurisdiction accorded the Court warrant this Commission not accepting review of the Licensing Board decision. The petitions of Aiken County and South Carolina have been consolidated with similar petitions, and a motion for expedited briefing has been granted in part

by the Court of Appeals, with the expedited briefing schedule already well underway.⁸ This Commission should not review the identical legal issue being properly determined by the Court of Appeals. Indeed, in a situation where an earlier-filed federal court action addressing the same legal issues is already underway, abstention by this Commission “would appear to be called for by considerations of comity between court and agency.” *In the Matter of Pub. Serv. Co. of N.H., et al.*, 4 N.R.C. 365 (1976). In such circumstances, the Commission “should (even if not absolutely required to do so) allow the court to act on the matter first.” *Id.* These considerations carry even more force where, as here, Congress has selected the Court of Appeals as the *original and exclusive* forum for challenges to actions and decisions alleged to be in violation of the NWPA. Because the legal challenge to DOE’s actions is in the original and exclusive jurisdiction of Court of Appeals, and because an expedited briefing schedule for the Court of Appeals action has been established and partially executed, this Commission should await resolution of the legal issue in the Court, the forum designated by Congress for resolution of such controversies.

II. If the Commission Reviews the Licensing Board Decision, the Order Should Stand.

If the Commission undertakes review of the Licensing Board Order denying DOE’s Motion to Withdraw, the Order should be upheld. The Order of the Licensing Board is based upon focused, adversary legal arguments for and against withdrawal by over a dozen participants, each with a unique perspective, resulting in over one hundred pages of legal briefing in support of DOE’s motion, and over one hundred pages of legal briefing in opposition to

⁸ Pursuant to the expedited briefing schedule, the initial brief of the Petitioners in the consolidated action was filed on June 18, 2010, and a supporting amicus brief was filed on June 28, 2010.

withdrawal. The Order is a neutral, independent, and informed determination of whether DOE has the authority to withdraw its license application.⁹

Specifically, the Licensing Board held that the NWPA requires the Secretary of Energy to submit to NRC a license application for construction authorization once Congress approves the geologic repository site. 42 U.S.C. § 10134(b); Order at 7. No party disputes that the site approval by Congress in 2002 triggered the DOE's duty to apply. Submission of the license application thereby triggered the duty of NRC to consider the application and issue a final decision on its merits. Section 114(d) of the NWPA provides that the NRC "shall consider" the Application and "issue a final decision approving or disapproving the issuance of a construction authorization." 42 U.S.C. § 10134(d); Order at 7. The Licensing Board Order reveals how the text, structure, and legislative history of the NWPA each demonstrate that DOE lacks the authority to derail the repository at this stage, after Congress has approved the site and the license application has been submitted. Order at 4-9.¹⁰

The Licensing Board Order also convincingly dispels various arguments by DOE, holding (a) that NRC should abide by the policy of Congress rather than deferring to DOE's "policy" regarding Yucca Mountain, Order at 10-11; (b) that DOE has no residual authority discretion under the Atomic Energy Act which trumps the more recent, specific mandates of the NWPA, Order at 11-13; (c) that NRC regulations do not allow a withdrawal "as of right," especially for a mandatory application, and particularly in light of the NWPA's directive that the

⁹ The Licensing Board based its order denying DOE's Motion to Withdraw squarely upon the NWPA, rather than DOE's failure to meet the mandates of the National Environmental Policy Act ("NEPA") regarding environmental assessment for major federal actions. *See* Order at 5 n.13 ("Because we conclude that DOE's motion clearly must be denied under the NWPA, the Board does not address objections that have been raised on other grounds, such as DOE's alleged failure to comply with the National Environmental Policy Act of 1969 (NEPA).").

¹⁰ *See also* Brief of Petitioners, Aiken County, Robert L. Ferguson, William Lampson, Gary Petersen, State of South Carolina, State of Washington, and Intervenor-Petitioner, National Association of Regulatory Utility Commissioners, June 18, 2010, at 4-16, 35-42 (setting forth at length Aiken County's argument that withdrawal of the license application by DOE violates NWPA).

applicable regulations do not apply to the extent that they jeopardize NRC's duty to render a final decision on the merits of the license application, Order at 13-16; (d) that DOE is not entitled to deference where Congress has clearly spoken, or for its interpretation of NRC duties under the NWPA, Order at 16-17; (e) that DOE is not a "voluntary" applicant, and Congress did not intend for DOE to be treated as such, Order at 17; (f) that the fact that the NWPA doesn't mandate repository construction is insignificant to the issue at hand, Order at 18; (g) that the establishment of a Blue Ribbon Commission does not alter DOE's or NRC's duties under the NWPA, Order at 18-19; and (h) that denial of the DOE's motion to withdraw does not result in an absurd result, especially where DOE does not maintain that Yucca Mountain is unsafe or that there are flaws in the application, Order at 19-20.

As discussed above, the Commission should decline the invitation to second-guess the Licensing Board's reasoned determination that DOE lacks authority to withdraw its license application. However, if review of the Licensing Board Order is undertaken, the Licensing Board's independent and unbiased determination of the DOE's authority to withdraw should be afforded more weight than the DOE's recent determination that withdrawal of its license application is somehow permissible, notwithstanding the clear statutory commands of the NWPA. As noted in the Licensing Board Order, as recently as last year, the DOE claimed no such authority to withdraw the license application. Order at 8 n.27.

DOE's main argument, that it retains residual authority under the Atomic Energy Act (AEA) to unilaterally set a policy *diametrically opposed* to the policy choice of Congress in the Nuclear Waste *Policy* Act, should be seen for what it is: an outcome-based attempt to find discretion where none exists. The Licensing Board appropriately denied the motion to withdraw as contrary to DOE's clear mandate from Congress under the NWPA. This Commission should

also defer to Congress, and to the Licensing Board's even-handed assessment of the propriety of DOE's motion, rather than the DOE's eleventh-hour attempt to justify an action that it has no legal discretion to take.

CONCLUSION

The legal issue of whether DOE has the authority to withdraw its license application has been decided by the Licensing Board after substantial briefing. This same legal issue is being considered by the Court of Appeals, in a direct challenge under its original and exclusive jurisdiction, for which an expedited briefing schedule has been partially completed. Principles of comity and the importance of the independence of the NRC compel the Commission not to accept review of the Licensing Board Order. Public confidence in the NRC demands that the politically charged and nationally significant issue of whether to second-guess the Licensing Board's independent decision should not be undertaken by a Commission that has demonstrated predisposition, nor by a Commission effectively diminished to just two members by obvious and intentional political interference. However, if review is undertaken, the Licensing Board's correct interpretation of the NWPA should be upheld.

Respectfully submitted,

Signed (electronically) by
Thomas R. Gottshall
tgottshall@hsblawfirm.com

Executed in accordance with
10 C.F.R. 2.304(d) by
S. Ross Shealy, Esq.
rshealy@hsblawfirm.com

HAYNSWORTH SINKLER BOYD, P.A.
P. O. Box 11889
Columbia, SC 29211-1889
(803) 779-3080

Attorneys for Petitioner Aiken County

July 8, 2010



1 of 1 DOCUMENT

Copyright 2010 DR Partners d/b/a Las Vegas Review-Journal
All Rights Reserved
Las Vegas Review-Journal (Nevada)

February 11, 2010 Thursday

SECTION: B; Pg. 3B

LENGTH: 477 words

HEADLINE: NRC nominees say they won't oppose Yucca project shutdown

BYLINE: Steve Tetreault

BODY:

STEPHENS WASHINGTON BUREAU

WASHINGTON - Three officials nominated to fill seats on the Nuclear Regulatory Commission indicated this week that they would not stand in the way of a shutdown of the Yucca Mountain nuclear waste program.

But one suggested that because it now looks as if radioactive spent fuel will remain at power plants for the foreseeable future, their steel-and-concrete storage canisters should be checked for safety.

"When we first started storing spent fuel at reactor sites, nobody was thinking it was going to be there for 100 years," said William Magwood, a former Department of Energy official. "I think we have to go back and take a look at what we have in place now and assure ourselves it is able to stay in place another 50 years if necessary."

The NRC has indicated that nuclear waste can remain on site for decades at least. But if there are places where it might not stay safe that long, Magwood said, he would call for "corrective action as soon as possible."

At a Senate hearing Tuesday, Magwood and two other NRC nominees said they would not "second-guess" a decision by the Obama administration to withdraw a license application for the Yucca Mountain waste repository that is pending at the commission. The administration has created a blue-ribbon commission to recommend alternatives for waste management.

Sen. Barbara Boxer, D-Calif., chairwoman of the Environment and Public Works Committee, posed the question. She said it came from Sen. Harry Reid, D-Nev., who is engineering the Nevada project shutdown with administration officials.

Exhibit A: NRC nominees say they won't oppose Yucca project shutdown Las Vegas Review-Journal (Nevada) February 11, 2010 Thursday

"You can just answer yes or no: If confirmed, would you second-guess the Department of Energy's decision to withdraw the license application for Yucca Mountain from the NRC's review?" Boxer asked.

Magwood, former director of the Office of Nuclear Energy at the Department of Energy: "No."

George Apostolakis, nuclear science and engineering professor at the Massachusetts Institute of Technology: "No."

William Ostendorff, former principal deputy administrator at the National Nuclear Security Administration: "No."

Boxer said she expected a speedy confirmation for Apostolakis, Magwood and Ostendorff, who were nominated by President Barack Obama to fill three seats on the five-member NRC board.

The exchange at the hearing means that, if confirmed, a majority of the NRC board will be on record that they will not intervene to keep the Yucca project alive .

Reid wanted to get the nominees on record saying just that, spokesman Jon Summers said. Reid sought acknowledgement "that as regulators they are in no position to question DOE's decision to withdraw the license application for Yucca," Summers said.

A fourth member of the NRC board, Chairman Gregory Jaczko, may also be expected not to intervene. Jaczko worked as Reid's science adviser before being sworn onto the commission in January 2005.

LOAD-DATE: February 12, 2010

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

BEFORE THE COMMISSION

_____)	
In the Matter of)	Docket No. 63-001-HLW
)	
U.S. DEPARTMENT OF ENERGY)	ASLBP No. 09-892-HLW-CAB04
)	
(License Application for Geologic)	
Repository at Yucca Mountain))	
)	
)	
_____)	

CERTIFICATE OF SERVICE

I hereby certify that copies of the **AIKEN COUNTY RESPONSE IN OPPOSITION TO COMMISSION REVIEW OF ATOMIC SAFETY AND LICENSING BOARD ORDER** in the above-captioned proceeding have been served on the following persons this 8th day of July, 2010, by Electronic Information Exchange.

CAB 04

Thomas S. Moore, Chairman
Paul S. Ryerson
Richard E. Wardwell
Atomic Safety and Licensing Board Panel U.S.
Nuclear Regulatory Commission Washington,
D.C. 20555-0001
E-mail: tsm2@nrc.gov
psr1@nrc.gov
rew@nrc.gov

Martin G. Maisch, Esq.
Egan, Fitzpatrick & Maisch, PLLC
1750 K Street, N.W. Suite 350
Washington, D.C. 20006
E-mail: mmalsch@nuclearlawyer.com

Office of the Secretary
ATTN: Docketing and Service Mail Stop: 0-
16C1
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
E-mail: HEARINGDOCKET@nrc.gov

Brian W. Hembacher, Esq.
Deputy Attorney General
California Attorney General's Office 300 South
Spring Street
Los Angeles, CA 90013
E-mail: brian.hembacher@doLca.gov

Office of Commission Appellate Adjudication
ocaamail@nrc.gov

Timothy E. Sullivan, Esq.
Deputy Attorney General California Department of
Justice 1515 Clay Street., 20th Fir.
P.O. Box 70550
Oakland, CA 94612-0550
E-mail: timothy.sullivan@doLca.gov

Charles J. Fitzpatrick, Esq.
John W. Lawrence, Esq.
Egan, Fitzpatrick, Maisch & Lawrence PLLC
12500 San Pedro Avenue, Suite 555
San Antonio, TX 78216
E-mail: cfitzpatrick@nuclearlawyer.com
jlawrence@nuclearlawyer.com

Kevin W. Bell, Esq.
Senior Staff Counsel California Energy Commission
1516 9th Street
Sacramento, CA 95814
E-mail: kwbell@energy.state.ca.us

Bryce C. Loveland
Jennings Strouss & Salmon, PLC
8330 W. Sahara Avenue, Suite 290
Las Vegas, NV 89117-8949
E-mail: bloveland@jsslaw.com

Martha S. Crosland, Esq.
Angela M. Kordyak, Esq.
Nicholas P. DiNunzio
James Bennett McRae, Esq.
U.S. Department of Energy
Office of the General Counsel
1000 Independence Avenue, S.W.
Washington, DC 20585
E-mail: martha.crosland@hq.doe.gov
angela.kordyak@hq.doe.gov
nick.dinunzio@rw.doe.gov
ben.mcrae@hq.doe.gov

Alan I. Robbins, Esq.
Debra D. Roby, Esq.
Jennings Strouss & Salmon, PLC
1350 I Street, NW Suite 810
Washington, D.C. 20005-3305
E-mail: arobbins@jsslaw.com
drobv@jsslaw.com

George W. Hellstrom
U.S. Department of Energy
Office of General Counsel
1551 Hillshire Drive
Las Vegas, NV 89134-6321
E-Mail: george.hellstrom@ymp.gov

Donald J. Silverman, Esq.
Thomas A. Schmutz, Esq.
Thomas C. Poindexter, Esq.
Paul J. Zaffuts, Esq.
Alex S. Polonsky, Esq.
Lewis Csedrik, Esq.
Raphael P. Kuyler, Esq.
Morgan, Lewis & Bockius LLP
1111 Pennsylvania Avenue, N.W.
Washington, DC 20004
E-mail: dsilverman@morganlewis.com
tschmutz@morganlewis.com
tpoindexter@morganlewis.com
pzaffuts@morganlewis.com
apolonsky@morganlewis.com
lcsedrik@morganlewis.com
rkuyler@morganlewis.com

Jeffrey D. VanNiel, Esq.
530 Farrington Court
Las Vegas, NV 89123
E-mail: nbrjdv@gmail.com

Malachy R. Murphy, Esq.
18160 Cottonwood Rd. #265
Sunriver, OR 97707
E-mail: mrmurphy@chamberscable.com

Susan L. Durbin, Esq.
Deputy Attorney General
1300 I Street
P.O. Box 944255
Sacramento, CA 94244-2550
E-mail: susan.durbin@doj.ca.gov

Robert M. Andersen
Akerman Senterfitt
801 Pennsylvania Avenue N.W., Suite 600
Washington, DC 20004 USA
E-mail: robert.andersen@akerman.com

Frank A. Putzu
Naval Sea Systems Command Nuclear Propulsion
Program
1333 Isaac Hull Avenue, S.E.
Washington Navy Yard, Building 197
Washington, DC 20376
E-mail: frank.putzu@naw.mil

Shane Thin Elk
Fredericks Peebles & Morgan, LLP 3610 North
163rd Plaza
Omaha, Nebraska 68116
E-mail: sthinelk@ndnlaw.com

John M. Peebles
Darcie L. Houck
Fredericks Peebles & Morgan LLP
1001 Second Street
Sacramento, CA 95814
E-mail: jpeebles@ndnlaw.com
dhouck@ndnlaw.com

Ellen C. Ginsberg
Michael A. Bauser
Anne W. Cottingham
Nuclear Energy Institute, Inc.
1776 I Street, N.W., Suite 400
Washington, D.C. 20006
E-mail: eca@nei.org
mab@nei.org
awc@nei.org

Steven A. Heinzen
Douglas M. Poland
Hannah L. Renfro
Godfrey & Kahn, S.C.
One East Main Street, Suite 500
P.O. Box 2719
Madison, WI 53701-2719
E-mail: sheinzen@aklaw.com
dpoland@gklaw.com
hrenfro@gklaw.com

David A. Repka
William A. Horin
Rachel Miras-Wilson
Winston & Strawn LLP
1700 K Street N.W. Washington, D.C. 20006
E-mail: drepka@winston.com
whorin@winston.com
rwilson@winston.com

Robert F. List, Esq.
Jennifer A. Gores, Esq.
Armstrong Teasdale LLP
1975 Village Center Circle, Suite 140
Las Vegas, NV 89134-6237
E-mail: rlist@armstrongteasdale.com
iaores@armstronateasdale.com

Jay E. Silberg Timothy JV Walsh
Pillsbury Winthrop Shaw Pittman LLP
2300 N Street, N.W.
Washington, D.C. 20037-1122
E-mail: iav.silberg@pilisburvlaw.com
timothy.walsh@pilisburvlaw.com

Diane Curran
Harmon, Curran, Spielberg, & Eisenberg, L.L.P.
1726 M Street N.W., Suite 600
Washington, D.C. 20036
E-mail: dcurran@harmoncurran.com

Gregory L. James
710 Autumn Leaves Circle
Bishop, California 93514
Email: aliames@earthlink.net

Arthur J. Harrington
Godfrey & Kahn, S.C.
780 N. Water Street Milwaukee, WI 53202
E-mail: aharring@gklaw.com

Curtis G. Berkey
Scott W. Williams
Rovianne A. Leigh
Alexander, Berkey, Williams, & Weathers LLP
2030 Addison Street, Suite 410
Berkley, CA 94704
E-mail: cberkev@abwwlaw.com
swilliams@abwwlaw.com
rleigh@abwwlaw.com

Bret O. Whipple
1100 South Tenth Street
Las Vegas, Nevada 89104
E-mail: bretwhipple@nomademail.com

Bret O. Whipple
1100 South Tenth Street
Las Vegas, Nevada 89104
E-mail: bretwhipple@nomademail.com

Gregory Barlow
P.O. Box 60
Pioche, Nevada 89043
E-mail: Icda@lcturbonet.com

Ian Zabarte, Board Member
Native Community Action Council
P.O. Box 140
Baker, NV 89311
E-mail: mrizabarte@gmail.com

Richard Sears
District Attorney No. 5489
White Pine County District Attorney's Office 801
Clark Street, Suite 3
Ely, NV 89301
E-mail: rwsears@wpcda.org

Donald P. Irwin
Michael R. Shebelskie
Kelly L. Faglioni
Hunton & Williams LLP
Riverfront Plaza, East Tower
951 East Byrd Street
Richmond, VA 23219-4074
E-mail: dirwin@hunton.com
mshhebelskie@hunton.com
kfaglioni@hunton.com

Dr. Mike Baughman
Intertech Services Corporation
P.O. Box 2008
Carson City, Nevada 89702
E-mail: bigoff@aol.com

Michael Berger
Robert S. Hanna
Attorney for the County of Inyo
233 East Carrillo Street Suite B
Santa Barbara, California 93101
E-mail: mberger@bsglaw.net
rshanna@bsalaw.net

Don L. Keskey, Esq.
Public Law Resource Center PLLC
505 N. Capitol Avenue
Lansing, MI 48933
E-mail: donkeskev@publiclawresourcenter.com

Michael L. Dunning
Andrew A. Fitz
H. Lee Overton
Jonathan C. Thompson
State of Washington
Office of the Attorney General
P.O. Box 40117
Olympia, WA 98504-0117
E-mail: MichaelD@atg.wa.gov
AndyF@atg.wa.gov
Lee01@atg.wa.gov
JonaT@atg.wa.gov

Kenneth P. Woodington
Davidson & Lindemann, PA
1611 Devonshire Drive
P.O. Box 8568
Columbia, SC 29202
E-mail: kwoodington@dml-law.com

Connie Simkins
P.O. Box 1068
Caliente, Nevada 89008
E-mail: icciac@co.lincoln.nv.us

James Bradford Ramsay, Esq.
National Association of Regulatory Utility
Commissioners
1101 Vermont Avenue NW, Suite 200
Washington, DC 20005
E-mail: iramsav@naruc.org

Philip R. Mahowald
General Counsel
Prairie Island Indian Community
5636 Sturgeon Lake Road
Welch, MN 55089
E-mail: pmahowald@piic.org

Respectfully submitted,

Signed (electronically) by
Thomas R. Gottshall
HAYNSWORTH SINKLER BOYD, P.A.
tgottshall@hsblawfirm.com
P. O. Box 11889
Columbia, SC 29211-1889
(803) 779-3080
Attorneys for Petitioner Aiken County

July 8, 2010