

ORAL ARGUMENT NOT YET SCHEDULED

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

| | | |
|-------------------------------------|---|-------------|
| STATE OF NEVADA, |) | |
| |) | |
| Petitioner |) | |
| |) | |
| v. |) | |
| |) | No. 09-1133 |
| U.S. NUCLEAR REGULATORY COMMISSION, |) | |
| |) | |
| Respondent |) | |
| |) | |
| Nuclear Energy Institute, |) | |
| |) | |
| Intervenor |) | |

JOINT STATUS REPORT

In this case, petitioner (the State of Nevada) challenges a Nuclear Regulatory Commission (NRC) final rule on dose standards for the proposed Yucca Mountain radioactive material repository. On March 12, 2010, this Court entered an order holding the case in abeyance, and directing the parties to file status reports at 90-day intervals beginning June 10, 2010.¹ This is the first such status

¹ The Court entered the same order in the pending companion litigation involving the Environmental Protection Agency’s Yucca Mountain Rule, a case that is also held in abeyance. *Nevada v. EPA*, Nos. 08-1237 & 08-1345.

report. NRC is filing it on behalf of all parties.

This Court held this case in abeyance in response to an unopposed motion by Nevada seeking that relief. Nevada's motion pointed out that the U. S. Department of Energy (DOE), which had been seeking an NRC license to construct the Yucca Mountain repository, has filed a motion before the NRC to withdraw its license application with prejudice. Nevada's motion to hold this case in abeyance indicated that "disposition of DOE's motion to withdraw the Yucca Mountain license application, and any challenges to that motion, could substantially alter, narrow, or even remove entirely issues that otherwise would be raised in this action." (Nevada Motion, at 4).

That remains the case. The NRC proceedings relating to DOE's motion to withdraw the application are not yet complete. An NRC licensing board (an adjudicatory hearing tribunal) is currently considering DOE's motion to withdraw, and opposition to it. The Licensing Board heard oral argument on DOE's motion on June 3, 2010, and has announced it expects to reach a decision no later than June 30. The Board decision may then be reviewable by the Commission itself. In addition, various parties have filed suit in

this Court challenging DOE's actions to withdraw its Yucca Mountain license application. *In re: Aiken County*, No. 10-1050 (and consolidated cases). Briefs are currently under preparation in those cases.

The parties will file another status report or motion to govern further proceedings, as appropriate, in accordance with the Court's March 12, 2010, order holding this case in abeyance.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on June 10, 2010, a copy of the foregoing “JOINT STATUS REPORT” was filed with the Clerk and served upon all counsel of record in the case through the CM/ECF System.

/s/

John F. Cordes
Solicitor, NRC