

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 10-1050

Consolidated With Nos. 10-1052, 10-1069, 10-1082, 10-1084

IN RE AIKEN COUNTY,
PETITIONER

ON PETITIONS FOR MANDAMUS AND PETITIONS FOR REVIEW
AND INJUNCTIVE RELIEF

RESPONDENTS' STATUS REPORT

In response to the Court's Order of July 28, 2010, directing that the parties file a status report by August 27, 2010, and every thirty days thereafter, Federal Respondents and State of Nevada^{1/} jointly submit the following report:^{2/}

Briefing by participants in the licensing proceeding on whether the Nuclear Regulatory Commission should review, and reverse or uphold, the Atomic Safety and Licensing Board's June 29, 2010, order was completed on July 19, 2010. The

^{1/}State of Nevada concurs in and joins this status report.

^{2/}On August 25, 2010, Federal Respondents circulated this status report to all parties in an attempt to file a joint status report. Petitioners declined to join it. On the afternoon of August 27, 2010, the day on which status reports were due to this Court, Petitioners circulated the "Petitioners' Status Report" seeking concurrence of the parties. In that purported "Status Report," Petitioners ask this Court to reconsider the abeyance issued by this Court on July 28, 2010. Should the Court desire a response from Respondents, we would be happy to provide one.

Board order denied the Department of Energy's motion to withdraw with prejudice its application to construct a high-level waste repository at Yucca Mountain, Nevada. The Commission received a total of 23 briefs from 13 litigants on the motion-to-withdraw issue. The Commission has not yet issued a final decision in response to those briefs.

Individual Commissioners have issued decisions responding to a motion filed on July 9, 2010, by several participants in the licensing proceeding (the States of Washington and South Carolina, and the Counties of Aiken, South Carolina, and White Pine, Nevada) to disqualify three Commissioners. On July 15, 2010, one of the three Commissioners, Commissioner Apostolakis, issued a notice of recusal for reasons unrelated to the motion for disqualification. On August 11, 2010, the other two, Commissioners Magwood and Ostendorff, issued decisions denying the motion for recusal/disqualification.

Respectfully submitted,

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August 27, 2010
DJ # 90-13-5-13056

CERTIFICATE OF SERVICE

Pursuant to Fed. R. App. P. 25(c), D.C. Circuit Rule 25(c), and this Court's Administrative Order of May 15, 2009, I hereby certify that on this date, August 27, 2010, I caused the foregoing status report to be filed upon the Court through the use of the D.C. Circuit CM/ECF electronic filing system, and thus also served on counsel of record. The resulting service is consistent with the preferences articulated by counsel of record in the Service Preference Report. I have also served a copy by U.S. Mail to the following addresses:

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