

ORAL ARGUMENT SCHEDULED 03/22/2011
NO. 10-1050, 10-1052, 10-1069, 10-1082 *Consolidated*

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

No. 10-1050
IN RE AIKEN COUNTY, Petitioner

No. 10-1052
ROBERT L. FERGUSON, *et al.*, Petitioners,
v.
BARACK OBAMA, President of the United States, *et al.*, Respondents.

No. 10-1069
STATE OF SOUTH CAROLINA, Petitioner,
v.
UNITED STATES DEPARTMENT OF ENERGY, *et al.*, Respondents.

No. 10-1082
STATE OF WASHINGTON, Petitioner,
v.
UNITED STATES DEPARTMENT OF ENERGY, *et al.*, Respondents.

On Petitions for Review and for Other Relief With Respect to Decisions of the
President, the Secretary of Energy, the Department of Energy, and the Nuclear
Regulatory Commission

**ERRATA TO
RESPONSE BRIEF OF THE STATE OF NEVADA, INTERVENOR**

Response Brief of Intervenor State of Nevada was filed on January 3, 2011, with incorrect information to be corrected as follows.

Table of Authorities

- The cases, statutes and authorities cited on which the State of Nevada chiefly relies are marked with an asterisk in the left margin in compliance with “Handbook of Practice and Internal Procedures, United States Courts of Appeal for the District of Columbia,” Section IX. A. 8.

- The page numbers for citations that were formerly marked as “*passim*” are now enumerated.

Please replace the Table of Authorities in the Response Brief of Intervenor State of Nevada filed on January 3, 2011, with the pages which follow this Errata.

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U.S. Department of Energy (High Level Waste Repository),
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U.S. Department of Energy (High Level Waste Repository),
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*U.S. Department of Energy (High-Level Waste Repository, Pre-Application
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Senate Joint Resolution 34,
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Senate Report No. 100-152
100th Congress, 1st Session4, 5

Other Authorities:

COMSECY-10-00079

J. Samuel Walker, "The Road to Yucca Mountain,"
University of California Press, 20093, 4, 6, 7, 9

NRC "Plan for Integrating Spent Nuclear Fuel Regulatory Activities,"
Revision 00, June 21, 20109

Respectfully submitted,

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Dated: January 13, 2011

CERTIFICATE OF SERVICE

I certify that on January 13, 2011, the *Errata to Response Brief of Intervenor State of Nevada* was filed with the Court by electronic service and served on all parties or their counsel of record electronically by email or by serving a true and correct copy at the addresses listed below:

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