

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

STATE OF NEVADA, CLARK
COUNTY, NEVADA, and CITY OF
LAS VEGAS, NEVADA

Petitioners,

v.

UNITED STATES NUCLEAR
REGULATORY COMMISSION

Respondent.

COPY

Case No. 02-1116

**JOINT MOTION FOR ENTRY OF ORDER REGARDING
POTENTIAL SUPPLEMENTATION OF ADMINISTRATIVE RECORD**

Petitioners the State of Nevada, Clark County, Nevada, and the City of Las Vegas, Nevada (collectively, "Petitioners") and Respondents United States Nuclear Regulatory Commission and the United States, (collectively, "NRC"), jointly move for entry of an order deferring, pending oral argument, consideration of whether certain documents should be included in the administrative record and authorizing the parties to prepare and file a supplemental appendix containing such documents to the extent relied upon in the parties' briefing. In connection with this joint motion, the parties submit the attached Joint Stipulation Regarding Submission of Supplemental Appendix ("Joint Stipulation") (appended as Exhibit A).

As explained in the Joint Stipulation, the NRC has designated and certified an administrative record for the Court's consideration in this matter. Petitioners have asked the NRC to include in that record a number of additional documents that Petitioners believe the NRC did or should have considered during its deliberations in the underlying agency action. The NRC has agreed to inclusion of several of those documents, but believes that the remaining documents are not properly

template 060 002

ERISSOC01

included in the record. Those disputed documents are listed in an attachment to the Joint Stipulation.

The parties have agreed that Petitioners should be allowed to prepare and file with the Court a supplemental appendix containing such of those documents as are relied upon in the parties' briefs. The parties have moreover agreed that it would be proper for the Court to defer consideration of whether these documents should be included in the administrative record pending oral argument. The procedure that the parties have agreed to is consistent with the Court's resolution of a similar issue in another pending case involving a challenge to regulations and decisions relating to the Yucca Mountain project. *See Nevada v. Department of Energy*, No. 01-1516 (orders of Sept. 6, 2002 and Sept. 20, 2002) (appended as Attachment B & C).

Accordingly, the parties respectfully move the Court to proceed in accordance with the Joint Stipulation, and to enter an order permitting Petitioners to submit the supplemental appendix and deferring consideration of the propriety of the inclusion in the record of the documents contained therein until oral argument.

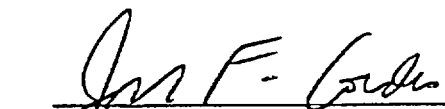
Dated this 23rd day of November, 2002.

Respectfully submitted,



Joseph R. Egan
Special Deputy Attorney General
EGAN & ASSOCIATES, PLLC
7918 Jones Branch Drive, Suite 600
McLean, VA 22102
(703) 918-4942

Attorney for Petitioners



John F. Cordes
Solicitor
Office of the General Counsel
U.S. Nuclear Regulatory Commission
O15B18
Washington, D.C. 20555-0001
(301) 415-1600

Attorney for Respondents

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served this
21st day of November, 2002, by First Class Mail, postage prepaid.

Michael A. Bauser, esq.
Associate General Counsel
Nuclear Energy Institute, Inc.
1776 I Street, N.W.
Suite 400
Washington, D.C. 20006

A handwritten signature in black ink, appearing to read 'Joseph R. Egan', written over a horizontal line.

Joseph R. Egan
Attorney for Petitioners