

February 21, 2003

Mark J. Langer, Clerk
U. S. Court of Appeals
E. Barrett Prettyman U.S. Courthouse
333 Constitution Ave., N.W.
Washington, D.C. 20001

RE: State of Nevada, et al., v. Nuclear Regulatory Commission, No. 02-0116

Dear Mr. Langer:

Enclosed you will find the original and four copies of the "Motion to Extend Briefing Deadline and to Modify Briefing Schedule" in Nevada v. USNRC, Case No. 02-0116. Please date stamp the enclosed copy of this letter to indicate date of receipt, and return the copy to me in the enclosed envelope, postage pre-paid, at your convenience.

Respectfully submitted,

/RA/

Steven F. Crockett
Attorney
Office of the General Counsel

Enclosure: As stated

cc: service list

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

STATE OF NEVADA, <i>et al.</i> ,)	
)	
Petitioners,)	
)	
v.)	No. 02-1116
)	
U.S. NUCLEAR REGULATORY COMMISSION)	
and THE UNITED STATES OF AMERICA,)	
)	
Respondents.)	

MOTION TO EXTEND BRIEFING DEADLINE AND TO MODIFY BRIEFING SCHEDULE

Pursuant to District of Columbia Circuit Rule 28(f), the U.S. Nuclear Regulatory Commission (NRC) and the United States request a 12-day extension of time, to and including March 19, 2003, to file an answering brief in the above-captioned case. We also request an appropriate modification in the remaining briefing schedule. Counsel for all other parties have consented to the extension of time and to the modified schedule. We ask that this Court grant this motion for the following reasons.

1. Under this Court's current scheduling order, the NRC and the United States must file an answering brief by March 7, 2003. This is an important case. It involves the NRC's licensing standards for a proposed national repository for spent nuclear fuel at Yucca Mountain, Nevada. Petitioners' opening brief, filed on January 27, 2003, is lengthy (13,916 words) and raises many issues. It warrants a fully-researched and careful response.

2. The recent large snowstorm and resulting transportation problems in the Washington, D.C., metropolitan area have disrupted research by our attorneys and delayed preparation of initial drafts. An extension of the briefing deadline will allow us to submit a thorough analysis that will aid this Court's disposition of this case.

3. By order dated November 7, 2002, this Court granted the petitioners' suggestion that the above-captioned case be considered in tandem with several related cases, No. 01-1258, *et al.*, and No. 01-1516, *et al.*, involving the U.S. Environmental Protection Agency (EPA) and the U.S. Department of Energy (DOE). The Court accordingly postponed oral argument in this case from its original date, May 5, 2003 (see order of October 9, 2002), until a yet-to-be-determined date in September 2003. Hence, a short extension of the current briefing schedule will not delay disposition of this case or interfere with this Court's consideration of it.

4. It is necessary to coordinate the NRC position in the current case with agency and U.S. Department of Justice counsel in the related EPA and DOE cases. This coordination requires extra time to assure a consistent and well-considered government position.

5. Final briefs in one of the related cases, *Nevada v. Department of Energy*, No. 01-1516, etc., will not be filed until May 20, 2003. Under the modified briefing schedule proposed below, final briefs in the present case will be filed the next day.

6. Counsel for all parties consent to the schedule proposed below. It attends to their schedules and provides enough time for them to complete their briefs.

7. We therefore propose the briefing schedule set out below (which includes a 12-day postponement in the current March 7 deadline for our answering brief, and equivalent postponements in other deadlines). Final briefs would be filed more than 3 months before oral argument.

Petitioners' Brief	Already filed
Respondents' Brief	Wednesday, March 19, 2003
Intervenor for Respondents' Brief	Wednesday, April 9, 2003
Petitioners' Reply Brief	Wednesday, April 23, 2003
Deferred Appendix	Wednesday, May 7, 2003
Final Briefs	Wednesday, May 21, 2003

For the foregoing reasons, we ask that the court grant this motion to modify the briefing schedule.

Respectfully submitted,

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February 21, 2003

CERTIFICATE OF SERVICE

I hereby certify that on February 21, 2003, copies of the foregoing motion to modify the briefing schedule were served by mail, postage prepaid, upon the following counsel:

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