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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20655-0001

November 16, 1993

The Honorable Joseph T. Lieberman, Chairman
Subcommittee on Clean Air and Nuclear Regulation
Committee on Environment and Public Works
United States Senate
Washington, D.C. 20510

RE: State of Nevada v. O'Leary, No. CV-N-93-399-ECR (D.
Nev., decided Oct. 7, 1993)

Dear Mr. Chairman:

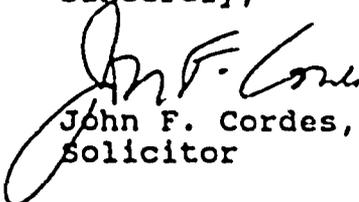
The State of Nevada brought this lawsuit under FED.R.CIV.P. 27 against the Department of Energy, the EPA and the NRC. The lawsuit sought to "preserve" testimony of twenty-seven scientists for use in possible future proceedings concerning the proposed Yucca Mountain high-level waste repository. The twenty-seven scientists had participated in various studies of a possible flooding problem at Yucca Mountain. The government agencies sought dismissal of the lawsuit as outside the purpose of Rule 27.

The district court (Edward C. Reed, J.) on October 7 granted the motion to dismiss. The court reasoned that deposition testimony was inappropriate under Rule 27 because any future judicial proceedings involving Yucca Mountain likely would be based on an administrative record, not expert testimony in court. The court suggested that the federal agencies themselves were best-positioned to determine the procedures necessary to produce an adequate administrative record.

Nevada has sought reconsideration by the district court.

We will keep you informed of any significant development in the case.

Sincerely,


John F. Cordes, Jr.
Solicitor

cc: The Honorable Alan K. Simpson

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PDR ORG NRCGC
PDR

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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

November 16, 1993

The Honorable Philip Sharp, Chairman
Subcommittee on Energy and Power
Committee on Energy and Commerce
United States House of Representatives
Washington, D.C. 20515

RE: State of Nevada v. O'Leary, No. CV-N-93-399-ECR (D.
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cc: The Honorable Michael Bilirakis



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November 16, 1993

The Honorable Richard H. Lehman, Chairman
Subcommittee on Energy and Mineral Resources
Committee on Natural Resources
United States House of Representatives
Washington, D.C. 20515

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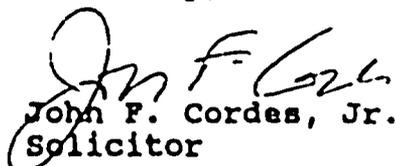
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cc: The Honorable Barbara Vucanovich



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

November 16, 1993

The Honorable J. Bennett Johnston, Chairman
Subcommittee on Energy and Water Development
Committee on Appropriations
United States Senate
Washington, D.C. 20510

RE: State of Nevada v. O'Leary, No. CV-N-93-399-ECR (D.
Nev., decided Oct. 7, 1993)

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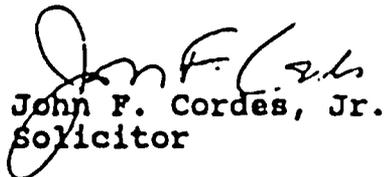
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Solicitor

cc: The Honorable Mark O. Hatfield



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NUCLEAR REGULATORY COMMISSION
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November 16, 1993

The Honorable Tom Bevill, Chairman
Subcommittee on Energy and Water Development
Committee on Appropriations
United States House of Representatives
Washington, D.C. 20515

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cc: The Honorable John T. Myers

CONGRESSIONAL CORRESPONDENCE SYSTEM
DOCUMENT PREPARATION CHECKLIST

This checklist is to be submitted with each document (or group of Qs/As) sent for filing into the CCS.

1. BRIEF DESCRIPTION OF DOCUMENT(S) Ltr. to Weberman, Stoyitska

2. TYPE OF DOCUMENT Correspondence Hearings (Qs/As)

3. DOCUMENT CONTROL Sensitive (NRC Only) Non-sensitive

4. CONGRESSIONAL COMMITTEE and SUBCOMMITTEES (if applicable)

Congressional Committee

Subcommittee

5. SUBJECT CODES
(a) _____
(b) _____
(c) _____

6. SOURCE OF DOCUMENTS
(a) 5520 (document name _____)
(b) Scan- (c) _____ Attachments
(d) Rekey (e) _____ Other _____

7. SYSTEM LOG DATES
(a) 12/16/93 Date OCA sent document to CCS
(b) _____ Date CCS receives document
(c) 080010 Date returned to OCA for additional information
(d) _____ Date resubmitted by OCA to CCS
(e) _____ Date entered into CCS by _____
(f) _____ Date OCA notified that document is in CCS

8. COMMENTS

