

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

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| _____ |) | |
| STATE OF NEVADA, |) | |
| |) | |
| Petitioner, |) | |
| |) | |
| v. |) | Case No. 05-1350 |
| |) | |
| UNITED STATES NUCLEAR |) | |
| REGULATORY COMMISSION, |) | |
| |) | |
| Respondent. |) | |
| _____ |) | |

STATEMENT OF ISSUES TO BE RAISED

Pursuant to the Order entered by the Court on September 8, 2005, Petitioner, the State of Nevada, respectfully submits this Statement of Issues to Be Raised in this matter. The issues raised by the Petition for Review include the following:

1. Whether the finding of the Nuclear Regulatory Commission (“NRC”) that a deep geologic repository for spent nuclear fuel will be available and operational by 2025 – the premise of its Waste Confidence Rule – is arbitrary and capricious in violation of the Administrative Procedure Act.
2. Whether the refusal of the NRC to institute rulemaking proceedings to reconsider its 2025 deadline for an operational repository is arbitrary and capricious in violation of the Administrative Procedure Act in light of, among other things, the NRC’s finding that storage of spent fuel at reactor sites is safe and secure at least until 2099.

3. Whether the finding of the NRC that a repository will be operational by 2025, when the only repository that could meet that deadline is at the Yucca Mountain site, constitutes an unlawful presumption in favor of the application for a license for the Yucca Mountain repository.

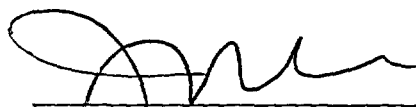
4. Whether the NRC, by continuing to rest its Waste Confidence Rule on a 2025 deadline for an operational repository – a deadline that can only be met by a repository at the Yucca Mountain site – has arbitrarily, capriciously, and unlawfully premised its Waste Confidence Rule on one specific outcome for the agency's future licensing proceeding for the Yucca facility, that is, the granting of the license.

Respectfully submitted,

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Dated: October 6, 2005

CERTIFICATE OF SERVICE


I hereby certify that a true and correct copy of the foregoing Statement Of Issues To Be Raised was served this 6th day of October, 2005 via U.S. First Class Mail, on the following individuals:

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