



OFFICE OF THE
GENERAL COUNSEL

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

ADAMS

February 22, 2006

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: Ohngo Gaudadeh Devia, et al. v. Nuclear Regulatory Commission, No. 05-1419 and
05-1420 (consolidated)

Dear Mr. Langer:

Enclosed you will find an original and four copies of the Response of the United States Nuclear Regulatory Commission in Opposition to Motion to Consolidate in the above-reference case. 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,

Grace H. Kim
Senior Attorney
Office of the General Counsel

Enclosures: As stated

cc: service list

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

OHNGO GAUDADEH DEVIA, et al.,)	
)	
Petitioners)	
)	
v.)	Nos. 05-1419 and
)	05-1420 (consolidated)
U.S. NUCLEAR REGULATORY COMMISSION)	
and UNITED STATES OF AMERICA,)	
)	
Respondents.)	

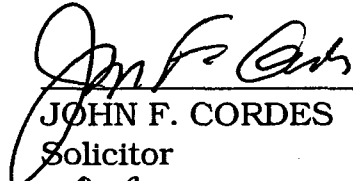
RESPONSE OF THE UNITED STATES
NUCLEAR REGULATORY COMMISSION
IN OPPOSITION TO MOTION TO CONSOLIDATE

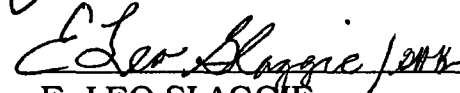
By motion filed on February 9, 2006, Mr. William D. Peterson requests that this Court consolidate the present case, D.C. Circuit Case Nos. 05-1419 and 05-1420, with *William D. Peterson v. U.S. Department of Energy*, D.C. Circuit Case No. 06-1037 (filed Jan. 17, 2006). Respondent United States Nuclear Regulatory Commission ("NRC") opposes Mr. Peterson's motion to consolidate these cases.

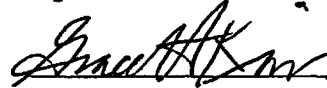
In Case No. 06-1037, Mr. Peterson indicates that he is appealing a decision of the Department of Energy ("DOE") concerning "rejection of Peterson Form-95 Claim for damages." Appeal from DOE rejection of claims at 1 (Jan. 17, 2006). In Case Nos. 05-1419 and 05-1420, petitions for review have challenged an NRC order under the Atomic Energy Act, 42 U.S.C. § 2011, *et seq.*, authorizing the issuance of a license to Private Fuel Storage ("PFS") to

construct and operate a facility for the interim storage of commercial spent nuclear fuel. Mr. Peterson previously filed a petition, dated December 3, 2005, to intervene in No. 05-1420, a petition on which the Court has not yet acted. In support of his motion to consolidate, Mr. Peterson indicates that the subject of spent nuclear fuel is common to both the NRC and DOE cases. But this alone does not constitutes grounds for consolidation. These cases are entirely unrelated and there is no basis whatever for consolidation.

Respectfully submitted,


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E. LEO SLAGGIE
Special Counsel


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Dated: February 22, 2006

CERTIFICATE OF SERVICE

I hereby certify that on February 22, 2006, copies of the foregoing Response of the United States Nuclear Regulatory Commission in Opposition to Motion for Consolidation were served by mail, postage prepaid, upon the following:

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