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UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

STATE OF NEW JERSEY

Appellants,

v.

U.S. NUCLEAR REGULATORY
COMMISSION, et al.

Appellees.

NO. 06-5140

MOTION FOR LEAVE TO INTERVENE

The Nature of the Proceedings for Which Intervention and Review are Sought

Pursuant to Rule 15 of the Federal Rules of Appellate Procedure, §2239(b) of the Atomic Energy Act, 40 U.S.C. 2239(b), and the Hobbs Act, 28 U.S.C. §2342 et. seq., the Board of Chosen Freeholders of the County of Gloucester, New Jersey

(hereinafter the "Board") hereby petitions this Court to grant leave to intervene in an action before the Third Circuit Court of Appeals. This action in which the Board seeks to intervene was brought by the State of New Jersey against the United States Nuclear Regulatory Commission ("NRC") and the United States of America seeking review of the determinations of the NRC to finalize revisions of NUREG-1757 guidance published by the NRC on its website on October 27, 2006.

The Facts on Which Venue is Based

28 U.S.C. §2343 establishes venue in the judicial circuit in which the moving party resides. The Board is located in the Third Judicial Circuit and accordingly this Court is the proper forum to present this Motion for Leave to Intervene. The Board possesses the appropriate standing to submit this Motion as N.J.S.A. § 40:20-1 provides "[t]he property, finances and affairs of every county shall be managed, controlled and governed by a board elected therein, to be known as the board of chosen freeholders of the county, and the executive and legislative powers of the county shall be vested in that board of chosen freeholders". One department operating under the county and managed, controlled and governed by the Board is the Gloucester County Department of Health and Senior Services. The primary purpose of this Department is the prevention of disease and infirmity along with the promotion and preservation of health and wellness in Gloucester County. Their mission is accomplished through: 1) preventing illness and injury; 2) promoting good health practices; 3) keeping the environment clean, healthy and safe; and 4) playing a key role in homeland security, by helping to prevent and prepare for terrorist attacks. (See

mission statement for the Department of Health and Senior Services, Gloucester County 2006 Official Directory, pg. 51., [unofficial and unedited transcript] attached as Exhibit A). Accordingly, as the Board is charged with controlling, managing and governing the affairs of the County and the Department of Health and Senior Services (whose mission is to provide for the health and wellness of Gloucester County) is under County control, the Board has sufficient standing to submit this Motion for Leave to Intervene.

The Grounds on Which Relief is Sought

The Board requests that this Court grant leave to intervene in an action before the Third Circuit Court of Appeals brought forth by the State of New Jersey against the NRC and the United States of America seeking review of the determinations of the NRC to finalize revisions of NUREG-1757 and hold unlawful and set aside the NUREG-1757 guidance as arbitrary and capricious and otherwise contrary to law.

On November 17, 2006, the NRC determined to accept for technical and environmental review a decommissioning plan ("DP") filed by Shieldalloy Metallurgical Corporation, Inc., ("SMC") for its facility located in the Township of Newfield, County of Gloucester, New Jersey. That DP was drafted in accordance with and will be reviewed by the NRC in accordance with the NUREG-1757 guidance. The DP proposes to permanently dispose of radioactive waste at the SMC facility located in a residential area of Newfield, New Jersey, thereby creating a risk to public health, safety, economic well-being and the environment. As the hazardous radioactive waste

SMC proposes to house at their Newfield facility are long-lived nuclides, this risk will be pervasive for generations.

The NUREG-1757 guidance conflicts with the statutory and regulatory requirements, is arbitrary and capricious and lacks a reasoned basis in a number of respects, including but not limited to those described below.

Pursuant to an expert report to be prepared by Allen Black, Special Appraiser for the firm Todd & Black, Inc., the approval of SMC's DP will have severe and detrimental economic consequences to the residents and businesses of the Township of Newfield and the surrounding areas. Further, as stated by Sue Mavilla, a Newfield resident, she moved to Newfield 30 years ago from Northern New Jersey to escape the refineries present there. (Dec. 12, 2006 Public Information Session, pg. 54, ln 5., [unofficial and unedited transcript] attached as Exhibit B). Upon information and belief, many current residents and local businesses will relocate to escape the dangers presented by the hazardous radioactive materials stored by SMC at the Newfield plant, if the NRC approves the DP. Additionally, potential residents and businesses may choose not to reside and operate in Newfield and the surrounding communities causing a downward spiral of the economic vitality of the community. Accordingly, permitting SMC to facilitate their DP pursuant to NUREG-1757 will have profoundly negative economic consequences for the residents and businesses of the Township of Newfield, the surrounding communities and the County of Gloucester.

Pursuant to 42 U.S.C. §2114(a)(1), "[t]he Commission shall insure the management of any byproduct material is carried out in such manner as (1) the

Commission deems appropriate to protect the public health and safety and the environment from radiological and nonradiological hazards associated with the processing and with the possession and transfer of such material, taking into account the risk to the public health, safety, and the environment, with due consideration of the economic costs and such other factors that the Commission determines to be appropriate". As the Commission is charged with the duty of considering the economic costs of the management of any byproduct material, the Commission must set aside NUREG-1757 guidance as arbitrary and capricious and otherwise contrary to law since the DP proposed by SMC, prepared and reviewed in accordance with NUREG-1757, fails to consider the profoundly negative economic impact NUREG-1757 will have on the Township of Newfield and the County of Gloucester at large.

As discussed in the Public Information Session held on December 12, 2006, there is an extraordinarily high rate of cancer and tumors in the area surrounding SMC's facility in the Township of Newfield. Steve Schultz, Senator Lautenberg's South Jersey Director, and Senator Menendez both acknowledged public concerns about possible cancer clusters in the area attributable to SMC. (Dec. 12, 2006 Public Information Session, pg. 72, ln 7-9; pg. 76, ln 17-19., [unofficial and unedited transcript] attached as Exhibits C and D). Stina Capano indicated that "[t]here isn't a household that you talk to that hasn't had somebody that has died of or has had cancer. (Dec. 12, 2006 Public Information Session, pg. 102, ln 18 to pg. 103, ln 1., [unofficial and unedited transcript] attached as Exhibit E). Dawn Pennino discussed that several members of her family, all of which resided on Rena Street which is located very close

to the SMC facility, became sick with cancer or developed some type of tumor. Dawn's grandmother died from a brain tumor, her brother was diagnosed with a sudotumor, and her and her son both developed brain tumors. (Dec. 12, 2006 Public Information Session, pg. 119, ln 19 to pg. 121 ln 22., [unofficial and unedited transcript] attached as Exhibit F). The families' treating doctors indicated that none of these tumors were genetically related and the cause of the tumors must be environmental. (Dec. 12, 2006 Public Information Session, pg. 121, ln 11-15., [unofficial and unedited transcript] attached as Exhibit G). Additionally, Doug Quene stated that . . . "when you go up and down Rena Street, you're not talking just one family that's been affected with cancer. I mean you can take about six or seven families right down the street that all have had cancer in their homes." (Dec. 12, 2006 Public Information Session, pg. 139, ln 21 to pg. 140, ln 1., [unofficial and unedited transcript] attached as Exhibit H).

As there is present an innately high level of cancer and tumors in the area located near SMC's Newfield, New Jersey facility, this Court must set aside NUREG-1757 as arbitrary and capricious and otherwise contrary to law as NUREG-1757 fails to adequately protect the public health and safety from the radiological and nonradiological hazards associated with the processing and possession of the byproduct material SMC seeks to house on-site at the Newfield, New Jersey facility. 42 U.S.C. 2114 (a)(1).

At the Public Information Session held on December 12, 2006, Mayor Westergaard noted that the cost benefit analysis to SMC's DP fails to consider the

costs of sampling surface and ground water, security monitoring, cap and fence repair and replacement, the devastating impact on property values in the region, the danger of a groundwater clean up in case of cell leaks, soil sampling, sediment analysis of the Hudson branch, storm water sampling of run off from the site pile, and groundwater modeling of the plume. (Dec. 12, 2006 Public Information Session, pg. 68, lns 9-18., [unofficial and unedited transcript] attached as Exhibit I). Further, NRC attorney John Hall, at the Public Information Session held on December 12, 2006, indicated that "[NRC] can't make any conclusions at this point on what would happen if [SMC] later claims bankruptcy. It's a hypothetical and I'm sorry we can't answer that right now." (Dec. 12, 2006 Public Information Session, pg. 114, ln 24 to pg. 115, ln 3, [unofficial and unedited transcript] attached as Exhibit J). As the DP proposed by SMC, prepared and reviewed pursuant to NUREG-1757, fails to consider several unaccounted for economic costs, this Court must set aside NUREG-1757 guidance as arbitrary and capricious and otherwise contrary to law.

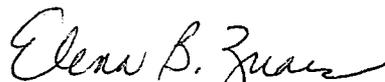
Finally, the NRC's review of SMC's application plan under the NRC's long-term storage license program is an improper and prejudicial application of its regulatory authority in that the NRC's long-term storage license program was not meant to cover manufacturing activities like SMC, which could open the door for countless abandoned radioactive waste piles like SMC across the country. Nor was the NRC's long-term storage license regulation intended to give waste generators the right to handle or manage their waste (or abandon it, as the case may be) in a fashion

different or less environmentally protective from other waste generators across the country.

RELIEF REQUESTED

For the foregoing reasons, the Gloucester County Board of Chosen Freeholders respectfully requests that this Court grant the Board leave to intervene in an action by the State and set aside the NUREG-1757 guidance as arbitrary, capricious and otherwise contrary to law.

PARKER McCAY P.A.
Attorneys for Gloucester
County Board of Chosen Freeholders

By: 
ELENA B. ZUARES

Dated: 1/19/07

PARKER McCAY P.A.
Attorneys for Gloucester
County Board of Chosen Freeholders

By: 
JOSEPH J. McGOVERN
Application for Admission Pending

Dated: 1/19/07

EXHIBIT A

OFFICES & DEPARTMENTS

HEALTH & SENIOR SERVICES, DEPARTMENT OF

262-4100

FAX 262-0469

E Mail: chruner@co.gloucester.nj.us

DIVISION OF HEALTH

262-4100

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tjones@co.gloucester.nj.us

The primary purpose of the Gloucester County Department of Health is the prevention of disease and infirmity along with the promotion and preservation of health and wellness among all the people of the county. Our Mission is accomplished through: 1) preventing illness and injury; 2) promoting good health practices; 3) Keeping the environment clean, healthy and safe; and 4) Playing a key role in homeland security, by helping to prevent and prepare for terrorist attacks.

The Health Department offers the following services:

- Child Health Services
- Lead Poisoning Prevention Program
- School Age Immunization Program
- Tuberculosis (TB) Control Program
- Sexually Transmitted Disease (STD) Clinic
- HIV/AIDS Antibody Testing
- Influenza Immunization (Flu Shot) Program
- Reportable Disease Program
- Health Education/Public Health Information
- Mental Health Administration
- Prevention Oriented Services for Child and Health Education (PORSCHÉ) Program
- Special Child Health Services
- WIC (Women, Infants, and Children) Program
- Food Surveillance Program
- Rabies Program
- Right To Know Program
- Health & Safety Inspections
- Tobacco Age of Sale (TASE) Program
- Groundwater Pollution control Program (Wells & Septic Systems)
- Potable water supply inspections
- Hazardous Materials Control services
- Solid Waste Control program
- Surface Water Pollution Control Program
- Body Art Program
- Bioterrorism Preparedness Program
- Air/Noise Pollution Control Program
- Oral Health Education Services

The Addiction Services Staff are located at the Budd Blvd. Complex in Woodbury (Direct dial - 384-6885). The Health Dept. is located at 160 Fries Mill Rd., Washington Twp.

EXHIBIT B

we go further into the review process.

2 MS. MAVILLA: My name is Sue Mavilla, 600 Drive, Newfield. I've been a resident here for about 430 years. I chose to move to Newfield from North Jersey where there are refineries and a lot of different corporate business. I chose Newfield 30 years ago and the question I have is I think NRC has a responsibility to this town to return this town and to return the land to where it was in 1955. I personally don't care how much money it takes. I don't care what the engineers are saying. I believe that this land should be the way it was in 1955 when Shield Alloy moved into town.

14 I have to tell this room that I was a supporter of Shield Alloy in the 30 years that I've lived here. I'm embarrassed that they've left us with this mess. I believe you're talking about land that they own on the other side of town that has nothing to do with this. I think their assets have everything to do with this and I think the NRC should look into the rules and regs or whatever will allow them to attach any assets that they have right now so that this can be cleaned up, moved out of town.

25 The community, the legislators,

EXHIBIT C

submitted by ShieldAlloy regarding its site in Newfield, New Jersey. During last week's meeting, the public voiced their opposition to the plan and described the past and present environmental impact of the site on their town. They described the particulate that flows through the air and lays on their homes and in their cars. They talk about the many instances of cancer that they feel are directly related to the mismatch at ShieldAlloy. They're concerned about the groundwater and do not want their health and the health of their families put at risk. These are all valid concerns which must be considered before the final plan is set in motion.

15 The focus of tonight's meeting was supposed to be the environmental impact of the decommissioning plan. I am very concerned that this plan may put the health and well-being of the residents and the fragile eco-system surrounding the site at risk. At the previous meeting, members of the public educated on nuclear materials informed the audience that radioactive slag will take anywhere from 500,000 years to 14 billion years to break down. ShieldAlloy's plan calls for the site to be closed and monitored for 1,000

EXHIBIT D

financially to clean up these sites, they are paying with their health as families drink polluted water and children play in contaminated soil. Now I know that we're not talking in this context as it relates to the Commission about a Superfund site. That's already -- it's a Superfund site, but in a different context. This is particularly, however, relevant here, because ShieldAlloy has been a Superfund site for over 22 years, with extensive contamination of the soil, river, and groundwater by chromium and other toxic compounds. ShieldAlloy has been cleaning up since the late 1970s, as they should. But there is no denying that the residents of Newfield have been exposed to a serious health hazard for quite some time, one that still lingers to this day.

17 I am aware of concerns in the community that a cancer cluster may exist here and those concerns need to be investigated. While I understand that this is a separate issue, I think it is irrelevant to mention it because on top of this existing hardship, the community has experienced, it is simply too much to ask them to also accept a 30 foot high pile of radioactive waste that will supposedly need to be monitored for a thousand

EXHIBIT E

1 MAYOR BARSE: We stand behind Newfield,
our legislators. It's really scary when you have
to talk to residents and talk to good people and
say a nuclear dump that's out in the open literally
a few hundred yards away from our northern border
with all the issues we've had over the years. It's
just scary and we have to do something about it.
We are here to support this effort in any matter or
form we can. God bless each and all of you and
let's keep up the good fight. Thank you.

11 (Applause.)

12 FACILITATOR RAKOVAN: Thank you, Mayor.
I'd like to point out that it's about 9:05 p.m. My
last word count said that we had about 14 people
yet that wanted to speak. So again if you could
please keep your comments short and to the point,
we would appreciate it. Stina Capano.

18 MS. CAPANO: Hello. My name is Stina
Capano. I live in North Vineland. No one asked me
if they could put a test well in my front yard. I
had no voice. My voice is now for all the people
who have gone down because of the cancer. Okay.
We know it's there. I have it in my household.
There isn't a household that you talk to that
hasn't had somebody that has died or has had

cancer.

2 I plead with the Commission to do the
right thing. When you make your decision, think of
your children playing in that dirt. Think of it as
your family and please use your voices. Thank you.
God bless.

7 (Applause.)

8 FACILITATOR RAKOVAN: Thank you very
much. 9 I believe it's Perry Barse.

10 AUDIENCE MEMBER: That was the mayor.

11 FACILITATOR RAKOVAN: Okay. I guess I
did have a card for him. John Nordberg.

13 MR. NORDBERG: I think I want to
comment that I'm trying over again. When they pick
on the NRC, I think they're picking on the wrong
people. I believe the NRC represents us in their
capacity as engineers and people to work with
statistics.

19 I reviewed the disk that was given out
last week and there is all kind of calculations
that nobody unless they were physicist in nuclear
energy would understand any of it. But their
calculations are probably right. The right thing
to do is probably eliminate radiation and I'm not
talking about the low level. It's just the concept

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EXHIBIT F

stuckiwith the rest.

2 MS. TADESSE: I think we're looking at that.3

4 FACILITATOR RAKOVAN: Okay. I think we're about -- Sir, we've passed your question and if you have any further questions afterwards, I think we can -- Hopefully someone will be around to talk to you. There had better be. I have six more commentors here. I'm going to try to get through them. We'll start with Dawn Pennino.

11 MS. PENNINO: Yes. I'm Dawn Pennino. I was born and raised in --

13 FACILITATOR RAKOVAN: I'm sorry to interrupt. If everybody could please give her your attention. If you're going to have side conversations, if you could take them out to the hall. I want to make sure that everybody could hear her make her statements. Thank you.

19 MS. PENNINO: Really it's a comment that I want to make. I want to put it on the record. I was born and raised in Newfield. I left for a very brief amount of time, came back to live on property next to my parents' house which is the street right adjacent to where Shieldalloy is. That would be Rena Street.

1 A brief history of my family. I have had a grandmother who passed away from a brain tumor who lived on Rena Street. I had a brother who has, he's still living, but he was diagnosed with a sudotumor when he was three years old. I have, thank God, a son who survived a brain tumor at two and a half years old. I myself am living with a brain tumor right now. I'm not sure if they were cancerous. My son's was not. My brother's was not. Mine, thank God to this day, is not.

11 But the main thing that people need to know, I did speak to the doctors in Philly where we took my son, is none of these tumors were related. So that they were definitely not genetic. It has to be environmental. Now Shieldalloy is there. That is a main concern. That's going back to 1955. My grandmother passed away in 1975.

18 My concern is it's not just cancer. There are other factors. I have lost a lot of very dear friends to me and at a very young age. I have lost a lot of family members. I am begging you. At the last meeting, there was a statement made by your people that you were not responsible to a health study and to look into this. I beg of you. This is a very, very important for the people in

this town.

2 Like it was stated last week and it was stated tonight, there is nobody in here that can say they were not affected by a cancer or unfortunately brain tumors is a very, very big think in this town. Now I don't know. I'm not a scientist. I don't know if it has anything to do with that, but I think it's an issue that needs to be addressed because I want to stay here with my family. I want to continue to raise my family here and it's funny. Most people when they are growing up they can't wait to get out of here, but they can't wait to get back in here to raise their family. I mean that's a statement anybody will tell you.

16 So I'm just begging you on behalf of my children. My whole family lives on that street and I beg of you to please do the health study or whoever it is that needs to do the health study, then you need to push that button and to follow up on it and to take that into consideration when you make your decision. Thank you.

23 (Applause.)

24 FACILITATOR RAKOVAN: Thank you very much 25 Terry Ragone. Would you like to go to the

EXHIBIT G

this town.

2 Like it was stated last week and it was stated tonight, there is nobody in here that can say they were not affected by a cancer or unfortunately brain tumors is a very, very big think in this town. Now I don't know. I'm not a scientist. I don't know if it has anything to do with that, but I think it's an issue that needs to be addressed because I want to stay here with my family. I want to continue to raise my family here and it's funny. Most people when they are growing up they can't wait to get out of here, but they can't wait to get back in here to raise their family. I mean that's a statement anybody will tell you.

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23 (Applause.)

24 FACILITATOR RAKOVAN: Thank you very much 25 Terry Ragone. Would you like to go to the

EXHIBIT H

1 MR. QUENE: But does the NRC feel that they've monitored them properly and let them build up a 35 foot pile in Newfield? It doesn't make sense4to -- It's not even common sense to do something like that.

6 MR. KALMAN: They operated within their license requirements.

8 MR. QUENE: Well, who makes their license and allows them to do that? I mean you say you've been checking them and monitoring them since 196311 You never had a question about what they've doing2there. I mean this stuff has been blowing in our yards since `63. I mean I know that some of the discoloration of some of the houses on Rena Street and the cars.

16 In the night time, there used to be cloud7of smoke blowing over this town when nobody was watching it. No, it's ridiculous what these people have been able to do and I mean you guys are supposed to be monitoring them. I don't understand it. 2I mean I have grandkids and kids and when you go up2and down Rena Street, you're not talking just one family that's been affected with cancer. I mean2you can take about six or seven families right down2the street that all have had cancer in their

homes¹ It's not right.

2 (Applause.)

3 FACILITATOR RAKOVAN: Okay. We're
slowly approaching 10:00 p.m. I see a hand in the
back.⁵ If you could identify yourself, sir.

6 MR. PRICE: Robert Price. I live in
Newfield. One question.

8 FACILITATOR RAKOVAN: If everyone could
give him your attention please.

10 MR. PRICE: This radioactive pile, the
so-called slag, the pile, how did they come up with
the upper licensing for the quantity? Is that by
the volume that they see on top? Because we all
know¹⁴ that some of that stuff can be heavier than
dirt¹⁵ and can be pushing the dirt away. I'm a
scientist, but in a geology, magna flows through
dirt¹⁷ pushes it and this for slag 20 feet down can
it be¹⁸ impeding the groundwater. Is it larger than
what¹⁹ they say it is?

20 I was out there working for a company
that²¹ was crushing the big pieces of slag, taking
them²² out of the earth. I wasn't told that that
stuff²³ was radioactive. I have a right to know.
Can ~~somebody~~ answer that? How do we judge how much
tonnage was their license allowed?

EXHIBIT I

would be terrible if at the end of our process, our residents are left with yet another battle to remove this massive contamination. Any cost benefit analysis which concludes that the dangers to health and safety, plus the existence of a viable alternative of shipping the material off site, doesn't outweigh the financial concerns of ShieldAlloy, is it in word again, unacceptable.

9 I want to express the need of your analysis to include costs left out of the ShieldAlloy plan. These include sampling of surface water and ground water, security monitoring, cap and fence repair and replacement, the devastating impact on property values in the region if the material remains, the danger of a cleanup of groundwater in the event of cell leaks. Your agency calls it a safety net. We call it a disaster.

19 On and off soil sampling, sediment analysis of the Hudson branch, stormwater sampling of run off from the site pile, and groundwater modeling of the plume. Excuse me. The ShieldAlloy plan is not the only course. The continued submission and rejection by the NRC of their plans continues to provide an economic windfall to the

EXHIBIT J

approve the DP, the decommissioning plan, there will be a financial assurance in place. We will not approve it until we have that assurance in place.

5 MR. LISI: Now if they claim bankruptcy in the meantime, what happens?

7 MS. TADESSE: John.

8 MR. HALL: It's already being allocated now.

10 MS. TADESSE: It's allocated. I mean the money is allocated so far to do the activity that they have submitted. But if there is other issues in terms of bankruptcy, I would have to defer to --

15 MR. LISI: Please. Can someone answer that please?

17 MR. HALL: Yes. Hi. I'm John Hall, NRC attorney. I don't know if I can answer your question directly or specifically but our process is set up so that part of their decommissioning plan has to include what's called a decommissioning funding plan. We've reviewed the decommissioning funding plan as part of the overall DP review. We're early in the process. We can't make any conclusions at this point on what would happen if

Shieldalloy later claims bankruptcy. It's a hypothetical and I'm sorry we can't answer that right now. We're in the process, the early process, of doing our review and we don't have any indication at this point that Shieldalloy will later declare bankruptcy.

7 MR. LISI: What does the law say with regard to the subject here?

9 MR. HALL: Excuse me?

10 MR. LISI: What does the law say with regard to the subject? Take the hypothetical question. If they were to claim bankruptcy before you decided on a binding, what would the financial implications be for the cleanup?

15 MR. HALL: I haven't looked into that. I can't answer the question.

17 FACILITATOR RAKOVAN: Can we get back to him with that information? Is that something we can get back to him on.

20 MR. HALL: Yes, that's a foremost question on our mind.

22 MR. FLANDERS: We will. We can get back to him on that point.

24 FACILITATOR RAKOVAN: Okay.

25 MR. FLANDERS: I think it also should

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

No. 06-5140

State of New Jersey vs. U.S. Nuclear Regulatory Com.

The Clerk will enter my appearance as Counsel of Record for (please list names of all parties represented, using additional sheet(s) if needed):

Gloucester County Board of Chosen Freeholders

who IN THIS COURT is (please check only one):

 Petitioner(s) Appellant(s) x Intervenor (s)

 Respondent(s) Appellee(s) Amicus Curiae

(Type or Print) Name Elena B. Zures, Esquire
 Mr. Ms. Mrs. Miss

Firm Parker McCay P.A.

Address Three Greentree Centre, 7001 Lincoln Drive West, P.O. Box 974

City & State Marlton, NJ

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Phone (856) 985-4059

Fax (856) 552-1427

PLEASE TYPE E-Mail Address ezures@parkerMcCay.com

SIGNATURE OF COUNSEL: Elena B. Zures

ONLY COUNSEL OF RECORD SHALL ENTER AN APPEARANCE AND ONLY THAT ATTORNEY WILL BE THE ONE NOTIFIED OF THE COURT'S ACTION IN THIS CASE. OTHER ATTORNEYS WHO DESIRE NOTIFICATION SHOULD MAKE APPROPRIATE ARRANGEMENTS WITH COUNSEL OF RECORD.

ONLY ATTORNEYS WHO ARE MEMBERS OF THE BAR OF THE COURT OF APPEALS FOR THE THIRD CIRCUIT OR WHO HAVE SUBMITTED A PROPERLY COMPLETED APPLICATION FOR ADMISSION TO THIS COURT'S BAR MAY FILE AN APPEARANCE FORM. (BAR ADMISSION IS WAIVED FOR FEDERAL ATTORNEYS.)

IT IS IMPORTANT THAT ALL REQUESTED INFORMATION BE PROVIDED AND THAT COUNSEL SIGN THE FORM IN THE APPROPRIATE AREA.

Law Offices

PARKER McCAY P.A.

By: Elena B. Zuares, Esquire

**By: Joseph J. McGovern, Esquire
(Admission Application Pending)**

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Attorneys for Gloucester County Board of Chosen Freeholders

**UNITED STATES COURT OF APPEALS
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Appellants,

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**U.S. NUCLEAR REGULATORY
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Appellees.

NO. 06-5140

PROOF OF SERVICE

I, Elena B. Zuares, of full age, hereby certify that:

1. I am an attorney with the Law Firm of Parker McCay P.A., and am one of the attorneys assigned with the handling of this matter on behalf of Gloucester County Board of Chosen Freeholders.

2. On January 19, 2007, I caused to have forwarded an original and four copies each of the within Notice of Appearance and Motion for Leave to Intervene with accompanying Exhibits by Hand Delivery on the following:

Clerk, Marcia M. Waldron
Via Hand Delivery
United States Court of Appeals for the Third Circuit
601 Market Street, Room 21400
Philadelphia, PA 19106-1790

3. On January 19, 2007, I also caused one copy of the within Notice of Appearance and Motion for Leave to Intervene with accompanying Exhibits to be served upon the following via Federal Express:

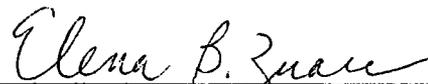
✓ Charles E. Mullins, Esquire
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I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, then I am subject to punishment.

Dated: 1/19/07



Elena B. Zuares