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April 20, 2007

Richard Cushing Donovan, Clerk
United States Court of Appeals for the First Circuit
United States Courthouse
1 Courthouse Way, Suite 2500
Boston, MA 02210

Re: Commonwealth of Massachusetts v. United States; United States Nuclear
Regulatory Commission
No. 07-1482

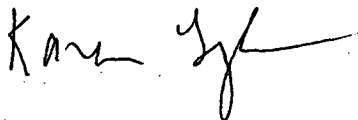
Dear Mr. Donovan:

Please find enclosed for filing in the above-stated matter:

1. New England Coalition, Inc.'s (NEC) Motion to Intervene;
2. An Appearance Form executed by counsel for NEC;
3. An Application for Admission executed by counsel for NEC; and
4. Certificate of Service.

A check in the amount of \$200.00 in payment of the attorney admission fee is also enclosed. Thank you for your attention to this matter.

Sincerely,



Karen Tyler
SHEMS DUNKIEL KASSEL & SAUNDERS PLLC

Cc: attached service list
Raymond Shadis

UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT

Commonwealth of Massachusetts)	
)	
Petitioner)	
)	No. 07-1482
v.)	
)	
United States; United States Nuclear)	
Regulatory Commission)	
)	
Respondents)	

MOTION TO INTERVENE AS PETITIONER

The New England Coalition, Inc. ("NEC"), pursuant to F.R.App.P. 15(d), moves to intervene in this proceeding as a petitioner. The Commonwealth of Massachusetts ("Massachusetts") appeals from the Nuclear Regulatory Commission's ("NRC") denial of its Contention, in the NRC proceeding for relicensing of the Vermont Yankee nuclear power plant in Vernon, Vermont,¹ that the NRC must address, in an environmental impact statement, the environmental impacts of serious spent fuel pool accidents caused by a wide range of factors.

NEC, a non-profit education and advocacy organization incorporated in the State of Vermont since 1971, has a direct interest in this matter. NEC is a party to the NRC Vermont Yankee relicensing proceeding. The ASLB found NEC to have both organizational and representational standing to participate in that proceeding due to the facts that its purpose is to oppose

¹ USNRC-Atomic Safety and Licensing Board ("ASLB") Docket No. 50-271-LR

nuclear hazards; its headquarters are located within ten miles of the Vermont Yankee plant; many of its members live in close proximity to the plant; and both NEC and its members expressed the concern that the proposed license extension will increase the potential for an accident or other incident leading to a harmful offsite radiological release from the plant. *In the Matter of Entergy Nuclear Vermont Yankee, LLC, and Entergy Nuclear Operations, Inc. (Vermont Yankee Nuclear Power Station)*, 64 NRC 131, 145-146 (2006).

NEC filed a timely notice of its intent to adopt Massachusetts' spent fuel pool Contention that is the subject of this appeal, and would have been a co-sponsor of this Contention had it been admitted for adjudication in the relicensing proceeding. *See, Id. at 207*; 10 C.F.R. § 2.309(f)(3).

NEC's adoption of Massachusetts' Contention follows on NEC's long record of advocacy concerning the hazards of spent fuel storage on-site at the Vermont Yankee plant. NEC intervened in NRC licensing proceedings in 1976 and 1987, both of which resulted in amended spent fuel storage parameters at the plant. Over NEC's objections, license amendments authorized a change in the use and purpose of the spent fuel pool as originally licensed from a temporary cooling tank to an interim long-term storage facility. Now, virtually all of the spent fuel generated at Vermont Yankee is stored in the spent fuel pool at several times the density originally planned. While some fuel will be removed to air-cooled, sealed onsite storage

in the near term, a recent license amendment permitting an increase in reactor power, coupled with a potential twenty-year license renewal, ensure that fuel will continue to be stored at densities beyond original design, placing NEC and its members at increased risk from unplanned radiological releases, whether resulting from accident or malevolent act.

NEC can effectively contribute to discussion and understanding of the underlying issues in this matter. NEC, through its staff technical advisor, participated in the formulation of key NRC documents on nuclear plant risk and oversight policy: in particular (1) NUREG-1738 (Staff Technical Study), "Spent Fuel Pool Accident Risks at Decommissioning Nuclear Power Stations" (2001); and (2) Report of the Initial Implementation Evaluation Panel [FACA Panel] for the Reactor Oversight Process, Commission Briefing (July 20, 2001). NEC also provided technical comments on a current NRC rulemaking, initiated by Massachusetts, regarding the assessment of spent fuel storage hazards.

Massachusetts may not fully represent NEC's interests in this matter. Massachusetts' position will be influenced by a broad spectrum of policy considerations and constituencies, and may not be fully consistent with that of NEC, a non-profit organization solely focused on advocating against nuclear hazards. *See, Sierra Club, Inc. v. E.P.A.*, 358 F.3d 516, 518 (7th Cir. 2004)(private party and government agency may not agree as to the "general importance" of an issue, or the "wisdom of carrying the battle forward.").

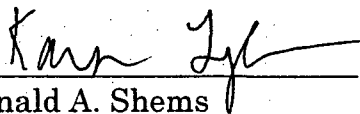
NEC will argue that NRC's refusal to assess the environmental impacts of serious spent fuel pool accidents violates the Atomic Energy Act, the National Environmental Policy Act, the Administrative Procedure Act, and the NRC's regulations implementing these statutes. NEC will coordinate with Massachusetts to the greatest extent possible to avoid duplicative filings.

WHEREFORE, NEC respectfully requests that this motion be granted.

April 20, 2007

New England Coalition, Inc.

by:



Ronald A. Shems

Karen Tyler

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Attorneys for New England Coalition, Inc.

**UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT
(617-748-9057)**

**APPLICATION FOR ADMISSION TO PRACTICE
(Please type or print all answers)**

Name Tyler, Karen, Lee

Last, First, Middle

Firm or Business Name Shems Dunkiel Kassel & Saunders, PLLC

Firm Address 91 College Street

City Burlington State VT Zip 05401

Telephone (802) 860-1003, ext. 114

Fax (802) 860-1208 E-mail ktyler@sdkslaw.com

Name one court before which you have been admitted to practice, and in which you are in good standing, and give the date of your admission to the court.

Name of Court State of Vermont Date of Admission 2006

Have you ever changed your name or been known by any name other than that appearing on the application? If so, please elaborate.

No

Have you ever been disbarred or suspended from practice before any court, department, bureau, or commission of the United States or of any state, or have you ever received any reprimand from any such court, department, bureau, or commission pertaining to your conduct or fitness as a member of the bar? If so, attach a separate statement.

If you are filing an appearance subject to admission, please indicate the Appeals Court docket number and name of the case in which you wish to appear.

Case No. 07-1482 Case Caption Commonwealth of Massachusetts v. United States; United States Nuclear Regulatory Commission

CERTIFICATION AND OATH

I certify that the foregoing answers are true, and further,

I do solemnly swear (or affirm) that I will conduct myself as an attorney and counselor of this court, uprightly and according to law; and that I will support the Constitution of the United States.

4/20/07
(Date)

Karen J. Lee
(Signature of Applicant)

Counsel are referred to Fed.R.App.P. 12(b) and 1st Cir. R. 12.0

Rev.4/02

UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT

APPEARANCE FORM

(Please type or print all answers)

Case No.: 07-1482

Case Name (short): Massachusetts v. United States; U.S. Nuclear Regulatory
Commission

**FAILURE TO FILL OUT COMPLETELY MAY RESULT IN THE REJECTION
OF THIS FORM AND COULD AFFECT THE PROGRESS OF THE APPEAL**

THE CLERK WILL ENTER MY APPEARANCE AS COUNSEL ON BEHALF OF:

New England Coalition, Inc. as the
(Specify name of person or entity represented.)

*If you represent a litigant who was a party below, but who is not a party on appeal, do not
designate yourself as counsel for the appellant or the appellee.*

☐ appellant(s)

☐ appellee(s)

☐ amicus curiae

☐ petitioner(s)

☐ respondent(s)

☒ intervenor(s)

☐ not a party on appeal

Karen Tyler
(Signature)

Name & Address:

Karen Tyler

Shems Dunkiel Kassel & Saunders, PLLC

91 College Street

Burlington, VT 05401

Telephone: (802) 860-1003, x114 Court of Appeals Bar Number: Pending

Fax: (802) 860-1208

E-Mail: ktyler@sdkslaw.com

Has this case or any related case previously been on appeal?

Yes _____

Court of Appeals No. _____

No X

[] IF YOU WILL NOT BE PARTICIPATING IN THIS CASE, PLEASE CHECK HERE AND RETURN, AND GIVE US THE NAME AND ADDRESS OF ANOTHER ATTORNEY, IF ANY, WHO WILL PROVIDE APPELLATE REPRESENTATION.

NOTE: Must be signed by an Attorney admitted to practice before the United States Court of Appeals for the First Circuit pursuant to 1st Cir. R. 46.0(a)(2). If you are applying for admission, please return this appearance form **with** your application for admission, including the admission fee.

If your name has changed since you were admitted to the First Circuit Bar PLEASE show the name under which you were admitted.

**COUNSEL MUST COMPLETE & RETURN THIS APPEARANCE FORM
IN ORDER TO FILE PLEADINGS IN THIS COURT**

**UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT**

Commonwealth of Massachusetts)	
)	
Petitioner)	
)	No. 07-1482
v.)	
)	
United States; United States Nuclear)	
Regulatory Commission)	
)	
Respondents)	

CERTIFICATE OF SERVICE

I, Michelle Cronin, hereby certify that on April 20, 2007, copies of the foregoing Motion to Intervene and Notice of Appearance in the above-captioned proceeding were served by first class mail on the parties to the U.S. Nuclear Regulatory Commission's license renewal proceeding for the Vermont Yankee nuclear power plant, as listed below:

Office of Commission Appellate Adjudication
Mail Stop: O-16C1
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Diane Curran, Esq.
Harmon, Curran, Spielberg & Eisenberg, LLP
1726 M Street NW, Suite 600
Washington, DC 20036

Office of the Secretary
Attn: Rulemaking and Adjudications Staff
Mail Stop: O-16C1
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Callie B. Newton, Chair
Gail MacArthur
Lucy Gratwick
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Mary C. Baty, Esq.
Office of the General Counsel
Mail Stop O-15 D21
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Washington, DC 20555-0001

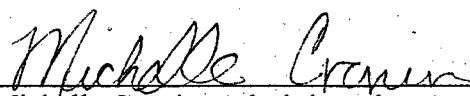
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by:


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