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October 2, 2007

Office of the Clerk
United States Court of Appeals for the Third Circuit
21400 U.S. Courthouse
601 Market Street
Philadelphia, PA 19106-1790.

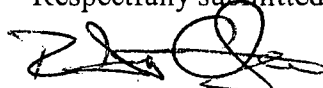
RE: NJ Department of Environmental Protection v. U.S. Nuclear Regulatory Commission
Case No. 07-2271

Dear Sir/Madam:

Enclosed for filing, please find an original and three (3) copies of the motion for leave to proceed as amicus curiae and extend time for filing an amicus curiae brief in support of the petitioner.

Thank you for your attention to this matter. If there are any discrepancies, please do not hesitate to contact me.

Respectfully submitted,



R. Scott Clayton, Esq.
For the Firm

c.c.
Eileen P. Kelly, D.A.G.
Brad Fagg, Esq.
Charles E. Mullins

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R. Scott Clayton (RSC 1868)
Attorneys for the Ocean County Board of Chosen Freeholders
File No. 42496

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

NEW JERSEY DEPARTMENT OF
ENVIRONMENTAL PROTECTION

No. 07-2271

: Petitioner
v.

UNITED STATES NUCLEAR
REGULATORY COMMISSION, UNITED
STATES OF AMERICA, and AMERGEN
ENERGY COMPANY, L.L.C.

**MOTION FOR LEAVE TO PROCEED
AS AMICUS CURIAE AND EXTEND
TIME TO FILE AMICUS CURIAE
BRIEF IN SUPPORT OF
PETITIONER**

Respondents

PLEASE TAKE NOTICE that on a date to be set by the Court, the undersigned will apply to the Court at the United States Court of Appeal for the Third Circuit, for an order of the Court granting the within motion for leave to proceed as Amicus and extend time to file an Amicus Curiae Brief in support of Petitioner, New Jersey Department of Environmental Protection. The undersigned will rely on the Attorney Certification attached to this motion. Oral argument is not requested at this time.

BERRY SAHRADNIK KOTZAS & BENSON
Attorneys for the Ocean County Board of
Chosen Freeholders



R. Scott Clayton, Esq.

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UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

NEW JERSEY DEPARTMENT OF
ENVIRONMENTAL PROTECTION

Petitioner

v.

UNITED STATES NUCLEAR
REGULATORY COMMISSION, UNITED
STATES OF AMERICA, and AMERGEN
ENERGY COMPANY, L.L.C.

Respondents

No. 07-2271

**ATTORNEY CERTIFICATION IN
SUPPORT OF MOTION FOR LEAVE
TO PROCEED AS AMICUS CURIAE
AND EXTEND TIME TO FILE
AMICUS CURIAE BRIEF IN
SUPPORT OF PETITIONER**

I, R. Scott Clayton, Esquire, of full age, do hereby certify as follows:

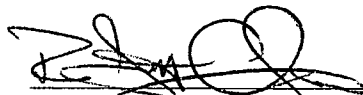
1. I am an attorney with the law firm Berry, Sahradnik, Kotzas & Benson, counsel for the Ocean County Board of Chosen Freeholders, and am fully familiar with the facts underlying this lawsuit.
2. This lawsuit involves the decision of the NRC rejecting the contention of the State of New Jersey that the National Environmental Protection Act (NEPA) requires the preparation of an environmental impact statement (EIS) to consider the

impacts of an air attack on the Oyster Creek nuclear power generating facility.

3. The Oyster Creek facility is located in the Township of Lacey, which is situated in the County of Ocean.
4. The moving party, the Ocean County Board of Chosen Freeholders has an interest in the safe and efficient operations of the Oyster Creek facility because it involves the safety, health, and welfare of the residents of Ocean County, New Jersey.
5. The within motion is filed pursuant to Federal Rule of Appellate Procedure 29(b), which allows amicus curiae to seek leave of the Court to proceed as such.
6. In addition to seeking leave to proceed as amicus curiae, the within motion seeks an extension of time within which to file the amicus brief.
7. Specifically, the moving party seeks an extension of at least seven (7) days from the date of the order granting the within application to file its amicus curiae brief.
8. The reason for the application for an extension of time is that the undersigned was unaware of the due date for Petitioners' brief and was therefore not able to calculate the due date for amicus curiae brief under the Federal Rule of Appellate Procedure 29(e).

9. An amicus curiae brief on behalf of the Ocean County Board of Chosen Freeholders is desirable in this case because of the potential for significant impact upon the human environment directly affecting the residents of Ocean County.
10. The matters asserted in this motion and in the proposed amicus curiae brief are relevant to the disposition of this case because the Ocean County Board of Chosen Freeholders is the governing body of Ocean County and represents the residents of Ocean County.
11. I certify that the foregoing statements made by me are true and accurate to the best of my knowledge. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

BERRY SAHRADNIK KOTZAS & BENSON
Attorneys for the Ocean County
Board of Chosen Freeholders

A handwritten signature in black ink, appearing to read "R. Scott Clayton", is written over a horizontal line.

R. Scott Clayton, Esq.

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UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

NEW JERSEY DEPARTMENT OF
ENVIRONMENTAL PROTECTION

No. 07-2271

Petitioner

v.

ORDER

UNITED STATES NUCLEAR
REGULATORY COMMISSION, UNITED
STATES OF AMERICA, and AMERGEN
ENERGY COMPANY, L.L.C.

Respondents

THIS MATTER, having been brought before the Court on a motion filed by R. Scott Clayton, Esquire of Berry Sahradnik Kotzas & Benson, attorneys for The Ocean County Board of Chosen Freeholders and the Court having considered the papers filed and arguments made by counsel, and appearances having been entered as indicated below,

It is, on this ____ day of _____, 2007,

ORDERED AND ADJUDGED as follows:

1. The Ocean County Board of Chosen Freeholders' motion to proceed as Amicus Curiae and extend time to file an amicus curiae brief in support of the petitioners is hereby GRANTED.

- ☐ Motion Opposed
☐ Motion Unopposed

Appearances By:

Circuit Judge

CERTIFICATION OF SERVICE

I. R. Scott Clayton, Esq. a member in good standing of the Bar of the United States Court of Appeals for the Third Circuit, certify that a copy of this motion was served today via overnight mail on the following:

Charles E. Mullins
Senior Attorney
Office of the General Counsel
U.S. Nuclear Regulatory Commission
11555 Rockville Pike
Rockville, MD 20852-2738

Brad Fagg, Esq.
Morgan, Lewis & Bockius, LLP
1111 Pennsylvania Avenue
Washington, D.C. 20004

Eileen P. Kelly
Deputy Attorney General
R.J. Hughes Justice Complex
P.O. Box 093
Trenton, NJ 08625

Dated: October 2, 2007



R. Scott Clayton, Esq.

CERTIFICATION OF BAR MEMBERSHIP

I certify that I am a member in good standing of the Bar of the United States Court of Appeals for the Third Circuit,

Dated: October 2, 2007



R. Scott Clayton, Esq.