



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

ANDREW M. CUOMO
ATTORNEY GENERAL

July 17, 2008

DIVISION OF SOCIAL JUSTICE
ENVIRONMENTAL PROTECTION BUREAU

Catherine O'Hagan Wolfe
Clerk of the Court
U.S. Court of Appeals, Second Circuit
Thurgood Marshall U.S. Courthouse
40 Foley Square
New York, New York 10007

Re: Spano v. United States Nuclear
Regulatory Commission, No. 07-0324ag

N.J. Environmental Federation v. United States
Nuclear Regulatory Commission, No. 07-1276ag (CON)

Dear Ms. Wolfe:

Enclosed please find an original and 4 copies of a Motion by Amici Curiae States of New York and Connecticut for Permission to Present Oral Argument in this combined matter. Copies of the motion are being served on counsel for the parties via overnight courier. In addition, copies are being served on counsel and the Second Circuit Clerk's Office via e-mail.

Please enter these submissions in the docket for this case.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'John J. Sipos'.

John J. Sipos
Assistant Attorney General
518-402-2251

cc: Grace H. Kim, Esq.
Ann Peterson, Esq.
Matthew Miklave, Esq.
Charlene M. Indelicato, Esq.
Richard Webster, Esq.

MOTION INFORMATION STATEMENT

Docket Number(s): 07-0324ag & 07-1276ag (CON)

Caption [use short title]

Motion for: Permission to participate in oral argument as amici curiae

Spano, et al.

v.

Set forth below precise, complete statement of relief sought:

United States Nuclear Regulatory Commission

Amici Curiae States of New York and Connecticut request permission to participate in oral argument and seek five minutes of argument time.

MOVING PARTY: Amicus Curiae States NY & Conn.

OPPOSING PARTY: US Nuclear Regulatory Commission

Plaintiff Defendant
 Appellant/Petitioner Appellee/Respondent

MOVING ATTORNEY: John J. Sipos, AAG
[name of attorney, with firm, address, phone number, and e-mail]
Office of the New York State Attorney General
The Capitol
Albany, NY 12224
(518) 402-2251
john.sipos@oag.state.ny.us

OPPOSING ATTORNEY: Grace H. Kim, Esq.
[name of attorney, with firm, address, phone number, and e-mail]
Nuclear Regulatory Commission
Office of General Counsel
11555 Rockville Pike Mail
Washington, DC 20555
(301) 415-3605

Court-Judge/Agency appealed from: US Nuclear Regulatory Commission

Please check appropriate boxes:

Has consent of opposing counsel:
A. been sought? Yes No
B. been obtained? Yes No
Is oral argument requested? Yes No
(requests for oral argument will not necessarily be granted)
Has argument date of appeal been set: Yes No
If yes, enter date September 12, 2008

FOR EMERGENCY MOTIONS, MOTIONS FOR STAYS AND INJUNCTIONS PENDING APPEAL:

Has request relief been made below? Yes No
Has this relief been previously sought in this Court? Yes No
Requested return date and explanation of emergency:

Signature of Moving Attorney:

 Date: July 17, 2008

Has service been effected? Yes No
[Attach proof of service]

ORDER

IT IS HEREBY ORDERED THAT the motion is GRANTED DENIED.

FOR THE COURT: Catherine O'Hagan Wolfe, Clerk of Court

Date: _____

By: _____

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

ANDREW J. SPANO, as County Executive of
the County of Westchester, COUNTY OF
WESTCHESTER, NEW JERSEY ENVIRONMENTAL
FEDERATION, and NEW JERSEY CHAPTER OF
THE SIERRA CLUB,

Petitioners,

v.

UNITED STATES NUCLEAR REGULATORY
COMMISSION, and UNITED STATES OF
AMERICA,

Respondents.

STATE OF NEW YORK)
) ss.:
COUNTY OF ALBANY)

Docket Nos. 07-0324ag &
07-1276ag (CON)

**DECLARATION OF
JOHN J. SIPOS IN
SUPPORT OF NEW YORK AND
CONNECTICUT'S MOTION TO
APPEAR AND PARTICIPATE
IN ORAL ARGUMENT AS
AMICI CURIAE**

JOHN J. SIPOS hereby declares under penalty of perjury of the
laws of the United States that the following is true and correct:

1. I am an Assistant Attorney General in the Environmental
Protection Bureau in the office of Andrew Cuomo, Attorney General of
the State of New York, The Capitol, Albany, New York 12224. I make
this declaration pursuant to Federal Rule of Appellate Procedure
29(g) in support a motion by amici curiae States of New York and
Connecticut for permission to participate in oral argument in the
above-reference matter and to be allotted five minutes of argument
time in addition to the time allotted to the petitioners.

2. This case presents a question of great concern to the
citizens of New York and Connecticut: whether the Nuclear Regulatory

Commission ("NRC") may renew a license to operate an aging nuclear power plant for an additional twenty years without considering all of factors that bear on the plant's safety and security in proceedings in which the public can participate. County Executive Andrew J. Spano and the County of Westchester ("Westchester Petitioners") and the New Jersey Environmental Federation and the New Jersey Sierra Club ("New Jersey Petitioners") filed petitions asking the NRC to amend its Part 54 regulations governing the relicensing of nuclear power plants, which narrow the scope of review to age-related degradation of passive structural components and do not require an existing licensee to demonstrate compliance with ongoing safety regulations. Petitioners requested NRC amend its Part 54 relicensing regulations so that it may consider siting and safety criteria - such as changes in local demographics, the adequacy of emergency evacuation plans, and the threat of a terrorist attack - in license renewal proceedings. These criteria have changed significantly since many nuclear power plants were initially licensed in the 1960s and 1970s. The NRC denied petitioners' request, and petitioners have appealed that decision to this Court.

3. On July 10, 2007, the States of New York and Connecticut filed an amici curiae brief in support of petitioners. As set forth more fully in the States' brief, New York and Connecticut have an interest in protecting their citizens and environment by assuring the safe and secure operation of nuclear power plants. A major radiation

release at the Indian Point Energy Center ("Indian Point"), which is located in a densely populated area near New York City and Connecticut, would damage the health and property of millions of people in both New York and Connecticut and could shut down the financial center of the nation. Thus, when NRC considers relicensing an aging nuclear power plant such as Indian Point, New York and Connecticut have a keen interest in ensuring that NRC takes into account all issues that may affect public health and the environment during the period of extended operation.

4. To have a full and fair opportunity to be heard on this important issue, amici curiae States of New York and Connecticut move for permission to participate in oral argument of this case. The two States are actively involved in the license renewal proceedings for the Indian Point reactors as well as other regulatory matters before the NRC and, as such, may be able to provide a unique perspective to the Court during the oral argument. The States request five minutes of oral argument time in addition to the time allotted to the parties.

5. I have conferred with Matthew Miklave, Esq., counsel for Petitioners Spano and Westchester County, and Richard Webster, counsel for Petitioners New Jersey Environmental Federation and New Jersey Chapter of the Sierra Club, who both consent to the States' participation in oral argument. I have also conferred with Grace H. Kim, Esq., counsel for respondent NRC, which does not consent to the

CERTIFICATE OF SERVICE

I hereby certify that on July 17, 2008, I caused two copies of the attached Motion for Permission to Present Oral Argument for Amici Curiae States of New York and Connecticut to be served by Federal Express on the following counsel for the parties:

Grace H. Kim, Esq.
U.S. Nuclear Regulatory Commission
1 White Flint North, 15D21
11555 Rockville Pike
Rockville, MD 20852-2738

Ann Peterson, Esq.
Appellate Section
Environment and Natural Resources Division
U.S. Department of Justice
950 Pennsylvania Ave., N.W.
Washington, DC 20530

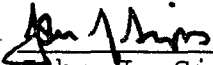
Matthew Miklave, Esq.
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250 Park Avenue
New York, NY 10177-1211

Charlene M. Indelicato, Esq.
Office of the County Attorney
for the County of Westchester
148 Martine Avenue
White Plains, NY 10601

Richard Webster, Esq.
Eastern Environmental Law Center
Suite 1525
744 Broad Street
Newark, NJ 07102

On the same date, copies of the motion were also sent to the above-listed attorneys via e-mail.

Dated: July 17, 2008


John J. Sipos