



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

OFFICE OF THE  
GENERAL COUNSEL

May 7, 2009

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: Blue Ridge Environmental Defense League v. Nuclear Regulatory Commission and  
United States of America, No. 09-1112

Dear Mr. Langer:

Enclosed you will find an original and one copy of the Motion of the U.S. Nuclear Regulatory Commission for Extension of Time to File Dispositive Motions in the above-referenced 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,

A handwritten signature in cursive script, appearing to read "Grace H. Kim", is written over a horizontal line.

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

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BLUE RIDGE ENVIRONMENTAL DEFENSE )  
LEAGUE )

Petitioners )

v. )

U.S. NUCLEAR REGULATORY COMMISSION )  
and UNITED STATES OF AMERICA, )

Respondents. )

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No. 09-1112

MOTION OF THE U.S. NUCLEAR REGULATORY COMMISSION  
FOR EXTENSION OF TIME TO FILE DISPOSITIVE MOTIONS

By Order dated March 31, 2009, the Court established a filing date of May 15, 2009 as the deadline for filing dispositive motions in this case, involving a challenge by the petitioner to an order of the United States Nuclear Regulatory Commission ("NRC") reinstating the construction permits for two nuclear reactors.<sup>1</sup> The United States Nuclear Regulatory Commission ("NRC") respectfully moves for a 28-day extension of time, to June 12, 2009, for the filing of dispositive motions. The NRC states the following in support of this motion.

1. The undersigned counsel for the NRC and counsel for the petitioner Blue Ridge Environmental Defense League ("BREDL") recently agreed to engage

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<sup>1</sup>The Court also established May 15, 2009 as the deadline for the NRC to file the Certified Index of the Record in this case. In this motion, the NRC is only seeking to extend the deadline for filing dispositive motions.

in discussions regarding possible settlement of this case. However, counsel for petitioner is currently out of the country and not scheduled to return until May 13, two days prior to the current dispositive motion deadline. Therefore, additional time is necessary to allow the parties a reasonable amount of time to explore settlement options. Although counsel for petitioner has consented to an extension of the dispositive motion deadline, he has only consented to a 14-day extension.

We believe that a minimum of 28 additional days is necessary under the circumstances and that a 14-day extension would be not be reasonable. To accomplish any conceivable settlement, undersigned counsel would need to consult NRC management, including each of the four NRC Commissioners, as well as the Department of Justice ("DOJ"), which represents the United States in this case. In the event that settlement discussions prove unsuccessful, it is likely that we will file a motion seeking to dismiss this case for lack of jurisdiction. Accordingly, if settlement cannot be achieved, we would need adequate time to draft and file a motion to dismiss, including consultation with DOJ.

2. A briefing schedule has not yet been established for this case. Therefore, the short extension of time requested by the NRC should cause little or no disruption to the Court's calendar.

3. Extending the dispositive motion deadline by the brief time we request

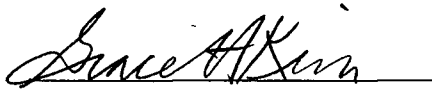
has no meaningful practical effect. The NRC's order reinstating the construction permits does not authorize construction without further steps by the licensee and the NRC. *See In the Matter of Tennessee Valley Authority (Bellefonte Nuclear Plant Units 1 and 2)*, 74 Fed. Reg. 10969, 10970-71 (March 13, 2009).

4. Counsel for Tennessee Valley Authority, an intervenor in this case, has authorized us to state that it consents to the grant of this motion. The United States consents as well.

For the foregoing reasons, the NRC respectfully requests that this Court grant this motion for extension of time to file dispositive motions in this case to June 12, 2009.

Respectfully submitted,

  
JOHN F. CORDES  
Solicitor

  
GRACE H. KIM  
Senior Attorney  
Office of the General Counsel  
U.S. Nuclear Regulatory  
Commission  
Washington, D.C. 20555  
(301) 415-3605

Dated: May 7, 2009

### **CERTIFICATE OF SERVICE**

I hereby certify that on May 7, 2009, a copy of the foregoing Motion of the U.S. Nuclear Regulatory Commission for Extension of Time to File Dispositive Motions was served by mail, postage prepaid, upon the following:

James B. Dougherty, Esq.  
709 3rd Street, SW  
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Maria V. Gillen, Esq.  
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Office of the General Counsel  
400 West Summit Hill Drive  
Knoxville, Tennessee 37902-1401

  
Grace H. Kim