

MOTION INFORMATION STATEMENT

Caption [use short title]

Docket Number(s): No. 09-1901-ag

Motion for: Reinstatement of Appeal and Leave to File Documents

Set forth below precise, complete statement of relief sought:
The motion seeks reinstatement of the appeal and leave to submit certain documents nunc pro tunc.

MOVING PARTY: Petitioner Nancy Burton
 Plaintiff Defendant
 Appellant/Petitioner Appellee/Respondent

OPPOSING PARTY: United States of America, United States Nuclear Regulatory Commission, Dominion Nuclear/Conner

MOVING ATTORNEY: Nancy Burton, pro se
[name of attorney, with firm, address, phone number and e-mail]

OPPOSING ATTORNEY [Name]: Please see attached
[name of attorney, with firm, address, phone number and e-mail]

Nancy Burton
147 Cross Highway
Redding Ridge CT 06876
Tel. 203-938-3952 NancyBurtonCT@aol.com

Court-Judge/Agency appealed from: United States 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 _____

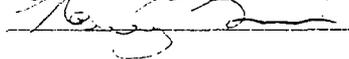
FOR EMERGENCY MOTIONS, MOTIONS FOR STAYS AND INJUNCTIONS PENDING APPEAL:

Has request for 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: December 18, 2009

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

NANCY BURTON, : 09-1901-ag
Petitioner :
v. :
UNITED STATES OF AMERICA :
UNITED STATES NUCLEAR :
REGULATORY COMMISSION :
DOMINION NUCLEAR CONNECTICUT, INC. :
Respondents : December 18, 2009

CERTIFICATE OF SERVICE

I, Nancy Burton, hereby certify that copies of the foregoing Motion and accompanying Affidavit were sent via U.S. Mail, postage pre-paid, and e-mailed on December 18, 2009 to the following:

John E. Arbab, Esq.
United States Department of Justice
Environment and Natural Resources Division
P.O. Box 23795
L'Enfant Plaza Station
Washington DC 20026-3795
John.Arbab@usdoj.gov

David Lewis, Esq.
Pillsbury Winthrop Shaw Pittman LLP
2300 N Street NW
Washington DC 20037-1122
David.Lewis@pillsburylaw.com

Robert Rader, Esq.
Office of the General Counsel
United State Nuclear Regulatory Commission
11555 Rockville Pike
Mail Stop O15-D21
Rockville MD 20852
Robert.Rader@nrc.gov


Nancy Burton

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

NANCY BURTON,	:	09-1901-ag
Petitioner	:	
	:	
v.	:	
	:	
UNITED STATES OF AMERICA	:	
UNITED STATES NUCLEAR	:	
REGULATORY COMMISSION	:	
DOMINION NUCLEAR CONNECTICUT, INC.	:	
Respondents	:	December 18, 2009

MOTION TO REINSTATE APPEAL AND FOR LEAVE
AND TO FILE DOCUMENTS *NUNC PRO TUNC*

The petitioner, Nancy Burton, respectfully moves to reinstate this appeal and for leave to file documents *nunc pro tunc*.

This motion is submitted pursuant to a communication received from the office of the clerk indicating the need for the petitioner to file a motion for reinstatement on or before December 18, 2009 for the appeal to be considered for reinstatement.

In support of this motion, the petitioner respectfully represents that this appeal in the public interest should be reinstated.

The petitioner apologizes to this Court and to the parties for the fact that certain documents were not submitted timely, namely, corrected covers, certification with regard to the petitioner's brief word count, a special appendix containing the orders on appeal in addition to the joint appendix which contained such orders and PDF format copies.

These documents are being submitted contemporaneously with this filing. These

documents are being submitted untimely owing to difficult and unexpected personal circumstances, which required the petitioner to tend to the needs of family members, including a close family member with sudden onset aggressive liver cancer which proved fatal, a granddaughter born seriously prematurely requiring very special care and successive medical treatments, biopsies and other diagnostic tests at medical facilities in two states involving a very close family member. The petitioner's intensive caregiving interfered with her ability to attend to other professional matters timely.

The present appeal is an important appeal. It challenges decisions by a federal agency to allow owners of a nuclear power plant to release increased radiation doses to the air and water - indisputably raising human health risks - and an environmentally harmful elevated thermal plume to the public waters, consequent to a risky power uprate in the complete absence of an expression of a countervailing public need.

The appeal alleges serious error by the federal agency; it is meritorious and it is informed with the expert assistance of a consulting nuclear engineer and a consulting radiation health physicist. The appeal was brought by a member of the public *pro se* in the absence of intervention or participation by state governmental authorities responsible for protecting the public health and safety.

Wherefore, it is respectfully moved that the appeal be reinstated.

THE PETITIONER-APPELLANT



Nancy Burton
147 Cross Highway
Redding Ridge CT 06876
Tel. 203-938-3952/NancyBurtonCT@aol.com

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

NANCY BURTON, : 09-1901-ag
Petitioner :
v. :
UNITED STATES OF AMERICA :
UNITED STATES NUCLEAR :
REGULATORY COMMISSION :
DOMINION NUCLEAR CONNECTICUT, INC., :
Respondents : December 18, 2009

AFFIDAVIT IN SUPPORT OF
MOTION TO REINSTATE APPEAL AND FOR LEAVE
AND TO FILE DOCUMENTS *NUNC PRO TUNC*

I, Nancy Burton, under penalty of perjury, declare the following to be true:

1. I am above the age of eighteen (18) years and I believe in the obligation of an oath.
2. I am the petitioner-appellant in these proceedings and now move for reinstatement of the appeal and for leave to file certain documents *nunc pro tunc*.
3. This motion is submitted pursuant to a communication received from the office of the clerk indicating the need for the petitioner to file a motion for reinstatement on or before December 18, 2009 for the appeal to be considered for reinstatement.
4. In support of this motion, the petitioner respectfully represents that this appeal in the public interest should be reinstated.
5. The petitioner apologizes to this Court and to the parties for the fact that certain documents were not submitted timely, namely, corrected covers, certification with regard to the petitioner's brief word count, a special appendix containing the orders on

appeal in addition to the joint appendix which contained such orders and PDF format copies.

6. These documents are being submitted contemporaneously with this filing.

7. These documents are being submitted untimely owing to difficult and unexpected personal circumstances, which required the petitioner to tend to the needs of family members, including a close family member with sudden onset aggressive liver cancer which proved fatal, a granddaughter born seriously prematurely requiring very special care and successive medical treatments, biopsies and other diagnostic tests at medical facilities in two states involving a very close family member. The petitioner's intensive caregiving interfered with her ability to attend to other professional matters timely.

8. The present appeal is an important appeal. It challenges decisions by a federal agency to allow owners of a nuclear power plant to release increased radiation doses to the air and water - indisputably raising human health risks - and an environmentally harmful elevated thermal plume to the public waters, consequent to a risky power uprate in the complete absence of an expression of a countervailing public need.

9. The appeal alleges serious error by the federal agency; it is meritorious and it is informed with the expert assistance of a consulting nuclear engineer and a consulting radiation health physicist. The appeal was brought by a member of the public *pro se* in the absence of intervention or participation by state governmental authorities responsible for protecting the public health and safety.

A handwritten signature in black ink, appearing to be "K. B.", is written over a horizontal line.

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

NANCY BURTON, : 09-1901-ag
Petitioner :
v. :
UNITED STATES OF AMERICA :
UNITED STATES NUCLEAR :
REGULATORY COMMISSION :
DOMINION NUCLEAR CONNECTICUT, INC. :
Respondents : December 18, 2009

CERTIFICATE OF SERVICE

I, Nancy Burton, hereby certify that copies of the foregoing Motion and accompanying Affidavit were sent via U.S. Mail, postage pre-paid, and e-mailed on December 18, 2009 to the following:

John E. Arbab, Esq.
United States Department of Justice
Environment and Natural Resources Division
P.O. Box 23795
L'Enfant Plaza Station
Washington DC 20026-3795
John.Arbab@usdoj.gov

David Lewis, Esq.
Pillsbury Winthrop Shaw Pittman LLP
2300 N Street NW
Washington DC 20037-1122
David.Lewis@pillsburylaw.com

Robert Rader, Esq.
Office of the General Counsel
United State Nuclear Regulatory Commission
11555 Rockville Pike
Mail Stop O15-D21
Rockville MD 20852
Robert.Rader@nrc.gov



Nancy Burton

REVISED CERTIFICATE OF COMPLIANCE

This is to certify that the foregoing brief is proportionately spaced, has a typeface of 14 points and, as calculated by my word processing software, contains 11,883 words exclusive of the Table of Contents and Table of Authorities.

This is to further certify that the attached document submitted in this case as a PDF attachment to agencycases@ca2.uscourts.gov was scanned on my computer by Norton anti-virus software and by software at Fed-Ex Kinko's.



Nancy Burton
147 Cross Highway
Redding Ridge CT 06876
Tel. 203-938-3952