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UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

James Salsman,
Petitioner, *pro se*,

v.

U.S. Nuclear Regulatory Commission (NRC),
and the United States, Respondents

**Petition for Rehearing *en Banc* and
Request for Oral Argument**

Case No. 08-74043

NRC nos. PRM-20-26
and NRC-2005-0017

Petition for Rehearing *en Banc*

The Court's Panel, in its *MEMORANDUM* filed June 14, 2010, conflicts with *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560 (1992) and consideration by the full court is therefore necessary to secure and maintain uniformity of the court's decisions. The Court's Panel wrote that Petitioner, "did not demonstrate that he suffered an 'injury in fact' that is concrete and particularized and actual or imminent." On the contrary, Petitioner made such a demonstration by the facts alleged on pages 1-4 of the opening brief, because Petitioner is one of the "other people ... exposed to ... uranium...." (*Petitioner's Review Brief*, p. 3.)

The injury in fact is exposure to the poison uranium. (*Ibid.*, p. 1-2) That is a concrete and particularized injury because everyone is exposed to uranium to the extent that the NRC regulations in question allow. (*Ibid.*, p. 4) Those specific, concrete facts demonstrate that the

challenged regulations and Respondents' failure to investigate the quantitative toxicity of uranium both harm Petitioner, who would personally would benefit in a tangible way from the court's intervention, in accordance with *Warth v. Seldin*, 422 U. S. 490, 508 (1975.)

Exposure to the poison uranium is also an actual, recurring injury Petitioner has sustained and is immediately in danger of sustaining as a direct injury and as the result of the challenged official conduct. (*Petitioner's Review Brief*, pp. 1-4.) This injury and threat of further injury is neither conjectural nor hypothetical because everyone is exposed to varied amounts of uranium daily. (*Respondent's Excerpts of Record*, p. 59, "Pharmokinetic/Metabolism Studies.")

Request for Oral Argument

Petitioner repeats his request for oral argument because of the same reasons stated on page 13 of *Petitioner's Review Brief*.

Certificate of Service

I certify that a copy of this petition for rehearing was served on the NRC's Counsel, Mr. Maxwell Smith, by electronic mail of of June 24, 2010 to Maxwell.Smith@nrc.gov.

Dated: June 24, 2010

Respectfully submitted,

/signed/ James Salsman

Petitioner, proceeding without assistance of counsel