

**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

In re: AIKEN COUNTY,

Petitioner,

ROBERT L. FERGUSON, et al.,

Petitioners,

v.

U.S. DEPARTMENT OF ENERGY, et al.,

Respondents,

STATE OF SOUTH CAROLINA,

Petitioner,

v.

U.S. DEPARTMENT OF ENERGY, et al.,

Respondents,

STATE OF NEVADA,

Intervenor.

Case Nos. 10-1050
10-1052
10-1069

STATUS REPORT OF INTERVENOR STATE OF NEVADA

In response to the Court's Order of July 28, 2010, directing that the parties file a status report by August 27, 2010, and every 30 days thereafter, Intervenor State of Nevada (Nevada) submits the following report:

The Nuclear Regulatory Commission (NRC) has under active consideration the 23 briefs filed on or before July 19, 2010, by 13 participants in the licensing proceeding addressing whether the NRC should review, and reverse or uphold, the Construction Authorization Board's (CAB) June 29, 2010 Order denying the Department of Energy's (DOE) Motion to Withdraw with prejudice its application to construct a high-level waste repository at Yucca Mountain, Nevada. The Commission has not yet issued a final decision in response to those briefs.

On October 7, 2010, Aiken County, South Carolina, and the States of South Carolina and Washington filed a "Motion for a Commission Order Restoring the Technical Review of the Yucca Mountain License Application," before the NRC. The Motion was based on "news reports" that NRC Chairman Gregory Jaczko had allegedly unilaterally directed NRC Staff to halt its technical review of the DOE's Yucca Mountain License Application. The motion asked for an Order restoring NRC Staff's review of the Application.

On October 18, 2010, NRC Staff and Nevada filed Answers, opposing the foregoing Motion (and on October 19, Nevada filed a corrected Answer to supply an attachment). Those Answers opposed the Aiken, et al. Motion on its merits, and

also pointed out that: (1) the Motion nowhere suggested that the Commission would not continue with its consideration and decision regarding the CAB's June 29 decision on DOE's Motion to Withdraw Its License Application (only that NRC Staff might halt work on the SER, i.e., its technical review of the application that is **unrelated** to the licensing proceeding); and (2) that Aiken, et al., had failed to comply with 10 C.F.R. § 2.323, a meet-and-confer effort to resolve disputes, which failure requires rejection of any non-compliant motion.

The Commission has not yet issued a decision on the Aiken, et al. motion. In the interim since the last status report, various parties in the licensing proceeding have continued to file Licensing Support Network supplements and updated witness lists, in accordance with existing CAB orders.

Respectfully submitted,

signed electronically

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Dated: October 27, 2010

CERTIFICATE OF SERVICE

I certify that on October 27, 2010, the Status Report of Intervenor State of Nevada was served on all parties or their counsel of record through the CM/ECF system if they are registered users or, if they are not, by serving a true and correct copy at the addresses listed below:

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