

NO. 10-1050, 10-1052, 10-1069, 10-1082 *Consolidated*

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

No. 10-1050

IN RE AIKEN COUNTY, Petitioner

No. 10-1052

ROBERT L. FERGUSON, *et al.*, Petitioners,

v.

BARACK OBAMA, President of the United States, *et al.*, Respondents.

No. 10-1069

STATE OF SOUTH CAROLINA, Petitioner,

v.

UNITED STATES DEPARTMENT OF ENERGY, *et al.*, Respondents.

No. 10-1082

STATE OF WASHINGTON, Petitioner,

v.

UNITED STATES DEPARTMENT OF ENERGY, *et al.*, Respondents.

PETITIONERS' STATUS REPORT

The consolidated Petitioners provide this Status Report, in the event that it is necessary, as set forth herein.

In late October 2010, when Petitioners were contemplating the filing of their Supplemental Filing Regarding Motion To Lift Stay And Set Expedited Briefing Schedule, one of the counsel for Petitioners was advised by Court staff that the filing of Petitioner's Motion to Lift Stay on September 27, 2010, had obviated the need for a further status report because the motion automatically lifted the abeyance order.

Nevertheless, Petitioners would advise that defendants President Obama, Secretary Chu and the Department of Energy (DOE) continue to ignore the June 29, 2010, decision of the ASLB, and continue to shut down the Yucca Mountain project, as described in Petitioners' aforementioned Motion to Lift Stay, in Petitioners' Reply Memorandum, filed October 15, 2010, in connection with that motion, and in the Supplement to that filing, which was filed on October 25, 2010. In addition, the Nuclear Regulatory Commission's (NRC) Chair has taken unilateral action and instructed NRC staff to shut down its review of the DOE's license application, in violation of the ASLB decision.

Although apparently the NRC has taken internal votes as long as three months ago regarding its review of the ASLB decision, the matter has still not yet been decided in a formal vote of the Commission. The NRC has now taken no

action for three months longer than the court's original order granting expedited review provided for, and five times longer than the NRC gave the ASLB to review it. Further information about the actions and inactions of the NRC, as these have come to be disclosed to Congress in November, are set forth in the Respondents' Status Report, filed on November 24, 2010.

Again, the Petitioners urge that the Court grant Petitioner's outstanding Motion, filed on September 28, and reset this matter for briefing and hearing. The NRC has taken no action of substance in this case for five months. The ASLB ruled that DOE may not withdraw its license application, yet the NRC continues to allow DOE to shut down the project. The Court should not permit the government to manipulate the judicial process so as to deny parties their statutory right to review.

RESPECTFULLY SUBMITTED this 29th day of November, 2010.

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CERTIFICATE OF SERVICE

I hereby certify that on the 29th day of November 2010, a copy of the foregoing Petitioners' Status Report was filed electronically using the CM/ECF system, which will provide service on the following parties:

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I herby certify that service of the same was made on the following parties

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