

**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' Motion to Calendar Oral Argument

Petitioners respectfully move this Court to calendar oral argument in the above-captioned matter pursuant to Fed. R. App. P. 27 and D.C. Cir. R. 27 and 34(a)(1), and hereby state as follows:

1. Petitioners' cases challenge actions taken by various of the Respondents under the Nuclear Waste Policy Act with respect to the planned repository for high-level radioactive waste at Yucca Mountain, Nevada.
2. This Court consolidated Petitioners' cases by two orders dated April 8, 2010 and May 3, 2010.
3. On May 3, 2010, this Court granted Petitioners' Motion for an expedited briefing schedule, and specifically ordered the Clerk to calendar the consolidated cases for argument on the first available date in September following completion of briefing. *See* May 3, 2010 Order, attached hereto as Exhibit 1.
4. On May 13, 2010, in response to the parties' proposal, the Court set a briefing schedule that required, *inter alia*, that final briefs be filed by August 20, 2010. *See* May 13, 2010 Order, attached hereto as Exhibit 2.
5. On June 15, 2010, the Court scheduled the cases for oral argument on September 23, 2010. *See* June 15, 2010 Order, attached hereto as Exhibit 3.
6. Petitioners timely filed their Opening brief on June 18, 2010. On July 2, 2010, Respondents moved to set aside the briefing schedule and hold the cases in

abeyance. The Court granted Respondents' Motion on July 28, 2010. *See* July 28, 2010 Order, attached hereto as Exhibit 4.

7. On September 28, 2010, Petitioners moved this Court to lift the stay and set a new expedited briefing schedule. *See* Exhibit 5 hereto. The Court granted Petitioners' Motion on December 10, 2010. It accepted Petitioners' earlier filed brief, ordered that (a) Respondents file their Opposition by January 3, 2010; (b) Petitioners' file their Reply Brief by January 18, 2010; and (c) final briefs be filed by February 3, 2010. The order did not set a date for oral argument. *See* December 10, 2010 Order attached hereto as Exhibit 6.

8. The first expedited briefing schedule included a date for oral argument approximately one month after final briefs were due. For the reasons set forth in Petitioners' now-granted Motion to Lift Stay and Set Expedited Briefing Schedule Petitioners respectfully request that oral argument under the new schedule be set for the week of March 7 or March 14, 2011, also approximately one month after final briefs are due. If those dates are not available, Petitioners requires that oral argument be set as soon as possible thereafter.

9. Intervenor NARUC concurs in this Motion.

10. The federal Respondents and the state intervenor Nevada, have advised that they take no position with respect to this Motion.

RESPECTFULLY SUBMITTED this 7th day of January 2011.

s/ Thomas R. Gottshall

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CERTIFICATE OF SERVICE

I hereby certify that on the 7th day of January 2011, a copy of the foregoing Petitioners' Motion to Calendar Oral Argument 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 by

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