

IN THE UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

BENNETT BROWN, ROBERT)
SCHULTES, M.D., PAMELA MACKEY)
TAYLOR, and IOWA PHYSICIANS) No. 11-1441
FOR SOCIAL RESPONSIBILITY,)
)
Petitioners,)
)
vs.) MOTION FOR REVISED
) BRIEFING SCHEDULE
NULCEAR REGULATORY COMMISSION)
and UNITED STATES OF AMERICA,)
)
Respondents.)

Come now the Petitioners and in support of this Motion for Revised Briefing Schedule, state to the Court as follows:

1. This case is a petition for review of administrative action, pursuant to 28 U.S.C. § 2341-2344, which require review directly by this Court from the administrative agency without bringing the case to district court first.

2. On February 28, 2011, the Clerk of this Court issued a briefing schedule for this case. Pursuant to that schedule, the Petitioners' Brief is due by April 11, 2011, and the Respondents are required to submit the administrative record within 40 days after February 28, or April 9, 2011.

3. This case specifically seeks review by this Court of the decision by the Nuclear Regulatory Commission (NRC) to approve the Environmental Impact Statement (EIS) for the relicensing of a nuclear power plant. There were no formal proceedings within the agency so there is no formal adjudicatory record that was created during the agency proceedings.

4. The administrative record in this case will be compiled by the agency for purposes of this Court's review from information obtained by the agency during the preparation and review of the EIS. In other words, the administrative record will be what the NRC asserts it relied upon in making the determination to approve the EIS.

5. Based on the foregoing, the Petitioners will not have any knowledge of what the administrative record will contain until the record is submitted by the Respondents. Thus, the Petitioners are not able to prepare a Brief until the administrative record is submitted, which may not be until essentially the date now fixed for filing the Petitioners' Brief.

6. Petitioners' counsel has attempted to contact the General Counsel for the NRC and left messages to find out whether the administrative record might be submitted prior to April 9, but a return call has not been received.

7. Based on the foregoing, Petitioners believe a revised briefing schedule should be issued, delaying the briefing until after the administrative record is submitted.

WHEREFORE, the Petitioners request that the Court issue a revised briefing schedule, delaying the briefing until after the administrative record is submitted.

/s/ *Wallace L. Taylor*

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing instrument was served upon each of the parties to the above-entitled cause, or their attorneys of record, if any, electronically to each such attorney or party at his or her respective email address as disclosed by the pleadings of record herein, on this 7th day of March, 2011.

/s/ *Wallace L Taylor*

Individuals served:

General Counsel
Nuclear Regulatory Commission

Eric Holder
Attorney General of the United States