

NO. 11-1271

ORAL ARGUMENT NOT REQUESTED

Oral Argument Held on May 2, 2012

Order Issued on August 13, 2013

Rehearing *En Banc* Denied October 28, 2013

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

In Re: AIKEN COUNTY, SOUTH CAROLINA; ROBERT L. FERGUSON; WILLIAM LAMPSON; GARY PETERSEN; STATE OF SOUTH CAROLINA; STATE OF WASHINGTON; NATIONAL ASSOCIATION OF REGULATORY UTILITY COMMISSIONERS; NYE COUNTY, NEVADA, Petitioners.

UNITED STATES NUCLEAR REGULATORY COMMISSION,
and GREGORY B. JACZKO, Chairman of the United States Nuclear
Regulatory Commission, Respondents.

**PETITIONERS AIKEN COUNTY, SOUTH CAROLINA,
STATE OF SOUTH CAROLINA, STATE OF WASHINGTON, AND
NYE COUNTY, NEVADA'S RESPONSE TO RULE 28(J) LETTER**

Petitioners Washington, South Carolina, Aiken County, and Nye County hereby respond to the Respondents' September 11, 2014 letter filed pursuant to Fed. R. App. P. 28(j). (Doc. # 1511894). Respondents' letter informs the Court that the U.S. Government Accountability Office (GAO) will not opine on whether Respondents may further deplete their Nuclear Waste Fund appropriations by funding a potential award of attorneys fees from these appropriations. This does not constitute a "pertinent and significant authorit[y]" pursuant to Rule 28(j); this Court (rather than GAO) holds the inherent power and discretion to "fashion an appropriate sanction" when awarding attorneys fees. *Chambers v. NASCO, Inc.*, 501 U.S. 32, 44-45 (1991). Petitioners have previously briefed the issue that Congress has enacted no prohibition on the use of general appropriations for radioactive waste disposal activities. *See* Reply Brief of Petitioners (Doc. # 1358043) at 21-22.

[signature page follows]

RESPECTFULLY SUBMITTED this 19th day of September 2014.

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CERTIFICATE OF SERVICE

I hereby certify that on the 19th day of September, 2014, a copy of the foregoing was filed using the CM/ECF system which will serve the same on all parties of record as follows:

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I further certify that, a copy of the foregoing was served on the following via
first class U.S. Mail:

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DATED this 19th day of September, 2014, in Columbia, South Carolina.

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