

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

	)	
In re TEXAS,	)	No. 17-60191
Petitioner.	)	
	)	

**RESPONSE OF THE FEDERAL RESPONDENTS  
TO NEVADA’S COUNTERMOTION TO DISMISS**

The State of Nevada, an intervenor in this case, has filed a Countermotion to dismiss the petition filed by the State of Texas in this matter (“Countermotion”). Nevada filed the Countermotion as part of its response to Texas’ motion for declaratory judgment and preliminary injunction. While the Federal Respondents (the U.S. Nuclear Regulatory Commission, Departments of Energy and the Treasury, and associated respondents) do not necessarily concur in all of the characterizations or statements in the Countermotion, the Federal Respondents concur in the relief requested by Nevada and agree that there are significant problems as to the Court’s jurisdiction over, and the justiciability of, the claims in Texas’ petition.

The Federal Respondents believe that the most appropriate place for them to raise jurisdiction, justiciability, and other issues is in their responses to Texas’ petition that this Court has ordered, which are due on June 30, 2017. *See* Fed. R. App. P. 21; Order on scheduling, May 30, 2017; Federal Respondents’ Opposition to Motion by Texas and the State of Nevada for Extensions of Time, June 20,

2017; Order denying extension motion, June 21, 2017. Accordingly, the Federal Respondents intend to provide their views concerning the jurisdictional, justiciability, and merits *vel non* of Texas' petition in their forthcoming responses.

Respectfully submitted,

**For NRC:**

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**For DOE, Treasury, et al.:**

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June 22, 2017

**CERTIFICATE OF SERVICE**

I hereby certify that on the date below a copy of the foregoing was filed electronically with the Clerk and served upon all counsel of record in the case through the court's CM/ECF System.

Dated: June 22, 2017

/s/Charles E. Mullins

Charles E. Mullins  
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Office of the General Counsel  
U.S. Nuclear Regulatory Commission

Counsel for NRC and Associated NRC Respondents

## CERTIFICATE OF COMPLIANCE

I hereby certify that this document complies with (1) the type-volume limit of Fed. R. App. P. 21(d) because it contains 208 words; and (2) the typeface requirements of Rule 32(a)(5) and the type-style requirements of Rule 32(a)(6) because it has been prepared in a proportionally spaced typeface (14-point Times New Roman) using Microsoft Word 2013.

Dated: June 22, 2017

/s/Charles E. Mullins

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