

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

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|------------------------------|---|-------------|
| STATE OF NEW MEXICO, ex rel. |) | |
| HECTOR H. BALDERAS, Attorney |) | |
| General and the NEW MEXICO |) | |
| ENVIRONMENT DEPARTMENT, |) | |
| Petitioners, |) | |
| v. |) | |
| |) | No. 21-9593 |
| UNITED STATES NUCLEAR |) | |
| REGULATORY COMMISSION and |) | |
| UNITED STATES OF AMERICA, |) | |
| Respondents. |) | |

**RESPONDENTS’ UNOPPOSED MOTION FOR EXTENSION OF
TIME TO FILE REPLY IN SUPPORT OF MOTION TO DISMISS**

Respondents Nuclear Regulatory Commission (“NRC”) and the United States of America respectfully request an extension of 12 days, up to and including January 11, 2022, to file a reply in support of their motion to dismiss this Petition for Review for lack of subject-matter jurisdiction. Counsel for Respondents have conferred with counsel for Petitioners and counsel for Intervenor, and all counsel consent to this request.

In support of their motion, Respondents state:

1. This case concerns the issuance of a license by NRC to Interim Storage Partners, L.L.C., to construct and operate a “consolidated interim storage facility” for the storage of spent nuclear fuel in Andrews County, Texas. NRC issued the license on September 13, 2021.

2. On December 8, 2021, Respondents filed a motion to dismiss the Petition for Review for lack of subject-matter jurisdiction. Petitioners' response is due on December 23, 2021.

3. Preparing a reply in support of the motion to dismiss will require coordination between NRC and the Department of Justice, which represents Respondent United States of America, and will require approvals within both agencies. This process is made more difficult as a consequence of the holidays and the number of employees at both agencies taking time off.

4. If Petitioners file their response on December 23, 2021, Respondents' reply would be due on December 30. A twelve-day extension would enable Respondents to avoid disrupting their plans over the holidays and would not unreasonably delay resolution of the proceedings.

Accordingly, Respondents respectfully request that this Court grant their unopposed request for an extension of 12 days, up to and including January 11, 2022, to file their reply in support of their motion to dismiss.

Respectfully submitted,

/s/ Justin D. Heminger

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December 20, 2021

**CERTIFICATE OF COMPLIANCE WITH
FEDERAL RULE OF APPELLATE PROCEDURE 27(D)**

I certify that this filing complies with the requirements of Fed. R. App. P. 27(d)(1)(E) because it has been prepared in 14-point Times New Roman, a proportionally spaced font.

I further certify that this filing complies with the type-volume limitation of Fed. R. App. P. 27(d)(2)(A) because it contains 278 words, excluding the parts of the of the filing exempted under Fed. R. App. P. 32(f), according to the count of Microsoft Word.

/s/ Andrew P. Averbach

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Counsel for Respondent

U.S. Nuclear Regulatory Commission

CERTIFICATE OF SERVICE

I certify that on December, 20, 2021, I served a copy of RESPONDENTS' UNOPPOSED MOTION FOR EXTENSION OF TIME TO FILE REPLY IN SUPPORT OF MOTION TO DISMISS upon counsel for the parties in this action by filing the document electronically through the CM/ECF system. This method of service is calculated to serve counsel at the following e-mail addresses:

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