

WALLACE L. TAYLOR

ATTORNEY AT LAW

4403 1ST AVE. S.E., SUITE 402

CEDAR RAPIDS, IOWA 52402

e-mail: wtaylorlaw@aol.com

Phone 319-366-2428

Fax 319-366-3886

November 6, 2022

Mr. Mark Langer
Clerk of Court
United States Court of Appeals
District of Columbia Circuit
333 Constitution Ave. N.W.
Washington, D.C. 20001

Re: Don't Waste Michigan et al. v. Nuclear Regulatory Commission et al.
No. 21-1048 (Consolidated)

Dear Mr. Langer:

This letter is submitted on behalf of Petitioners Sierra Club and Don't Waste Michigan et al., pursuant to Federal Rule of Appellate Procedure 28(j).

The following three additional cases are offered to the Court in support of our argument that the National Environmental Policy Act (NEPA) creates an independent basis for seeking review in this Court pursuant to the Hobbs Act, 28 U.S.C. § 2342, 2344. Petitioners are not required to present their NEPA claims exclusively in the Nuclear Regulatory Commission's adjudicative procedure.

The court in *Massachusetts v. United States*, 522 F.3d 115 (1st Cir. 2008), stated:

“Party” can both be defined in one context as a term of art, e.g., as one who has demonstrated standing and whose contention has been admitted for hearing in a licensing adjudication, see 10 C.F.R. § 2.309(a), and deployed in its more general sense of one who participates in a proceeding or transaction, The NRC has not defined the term “party” uniformly throughout its regulations.

In *Calvert Cliffs Coordinating Comm. v. Atomic Energy Comm.*, 449 F.2d 1109 (D.C. Cir. 1971), this Court said that agencies must comply with NEPA to the fullest extent, unless there is a clear conflict of statutory authority.

In *Limerick Ecology Action, Inc. v. NRC*, 869 F.2d 719 (3rd Cir. 1989), the court said:

The language of NEPA indicates that Congress did not intend that it be precluded by the AEA [Atomic Energy Act]. . . . there is not language in NEPA itself that would permit its procedural requirements to be limited by the AEA. Moreover, there is no language in AEA that would indicate AEA precludes NEPA. . . . The legislative history of the phrase “to the fullest extent possible” indicates that Congress intended that NEPA not be limited by other statutes by implication.

We appreciate the Court considering these cases.

Very truly yours,

Wallace L. Taylor

Wallace L. Taylor