

FEB 22 2011
RECEIVED UNITED STATES COURT OF APPEALS
DISTRICT OF COLUMBIA CIRCUIT

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PRAIRIE ISLAND INDIAN COMMUNITY,

Petitioners,

-against-

11-1057
No. 11-_____ - ag

UNITED STATE NUCLEAR
REGULATORY COMMISSION, and
UNITED STATES OF AMERICA,

Respondents.

-----X

**PETITION FOR JUDICIAL REVIEW OF
ADMINISTRATIVE AGENCY ACTION**

Pursuant to § 189 of the Atomic Energy Act, 42 U.S.C. § 2239, 28 U.S.C. §§ 2341-2344; the Administrative Procedure Act, 5 U.S.C. § 551 *et seq.*; and Rule 15 of the Federal Rules of Appellate Procedure, the petitioner, Prairie Island Indian Community, by its attorney, Joseph F. Halloran, attorney with Jacobson Buffalo, hereby petition this Court for review of the United States Nuclear Regulatory Commission's ("NRC") Consideration of Environmental Impacts of Temporary Storage of Spent Fuel After Cessation of Reactor Operation rule ("Temporary Storage Rule") and affiliated Waste Confidence

Decision Update, both issued December 23, 2010. *See* 75 Fed. Re. 80132 (Dec. 23, 2010); 75 Fed. Reg. 80137 (Dec. 23, 2010) (both attached to this petition).

The NRC acted arbitrarily, abused its discretion, and violated the National Environmental Policy Act, the Administrative Procedure Act, the Atomic Energy Act, the Commission's policies and regulations, the Council on Environmental Quality's regulations, and other applicable laws and regulations in promulgating these rules and findings.

The Prairie Island Indian Community, through their attorney, submitted extensive comments on both the draft Temporary Storage Rule and the draft Waste Confidence Decision Update in February 2009. The Prairie Island Indian Community also submitted supplemental comments on February 9, 2010. As the NRC published notice of these rules in the Federal Register on December 23, 2010. This filing is within the Hobbs Act's 60-day statute of limitation and is timely. 28 U.S.C. § 2344.

Venue is appropriate within the D.C. Circuit pursuant to 28 U.S.C. § 2343. Therefore, the Prairie Island Indian Community respectfully request that this Court review the NRC's Temporary Storage Rule and Waste Confidence Decision Update, vacate both, and remand the matter to the NRC for further

analysis and the preparation and issuance of an environmental impact statement,
and grant any other relief that the Court may deem just and appropriate.

Dated: February 18, 2011

Respectfully submitted,



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GENERAL COUNSEL, PRAIRIE ISLAND
INDIAN COMMUNITY

ATTACHMENT

U.S. Nuclear Regulatory Commission

Consideration of Environmental Impact of Temporary Storage of
Spent Fuel After Cessation of Reactor Operation rule
and
Waste Confidence Decision Update

Issued December 23, 2010

75 Fed. Reg. 80132-37 (Dec. 23, 2010);
75 Fed Reg. 80137-76 (Dec 23, 2010)



Federal Register

Thursday,
December 23, 2010

Part VI

Nuclear Regulatory Commission

10 CFR Part 51

Consideration of Environmental Impacts
of Temporary Storage of Spent Fuel After
Cessation of Reactor Operation; Waste
Confidence Decision Update; Final Rules

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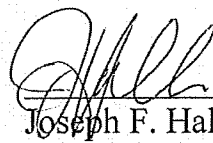
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In accordance with Circuit Rule 26.1 of the United States Circuit Court of Appeals for the District of Columbia Circuit, the Prairie Island Indian Community states that it is a federally recognized Indian tribe that is not subject to disclosure requirements concerning non-governmental parties.

Dated: February 18, 2011



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CERTIFICATE OF SERVICE

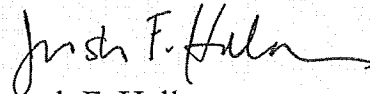
Joseph F. Halloran, Attorney for the Prairie Island Indian Community, with Buffalo, Jacobson, Magnuson, Anderson and Hogen, hereby declares that on February 22, 2011, he served a copy of the Petition for Review in this proceeding and the attachment thereto on the two individuals below by Federal Express overnight delivery, properly sealed in an envelope and deposited in a receptacle designated for that purpose:

Hon. Annette L. Vietti-Cook
Secretary of the Commission
United States Nuclear Regulatory
Commission
11555 Rockville Pike
Rockville, MD
20852-2738

Eric H. Holder, Jr., Esq.
United States Attorney General
United States Department of
Justice
950 Pennsylvania Ave., N.W.
Washington, D.C. 20530-0001

I declare under penalty of perjury that the foregoing is true and correct.

Dated: February 22, 2011



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