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October 6, 2010

SENT VIA EMAIL

Ellen J. Durkee
U.S. Department of Justice
Environment and Natural Resources Division
P.O. Box 23795 (L'Enfant Station)
Washington, D.C. 20026-3795
ellen.durkee@usdoj.gov

John F. Cordes, Solicitor
Nuclear Regulatory Commission
11555 Rockville Pike
Rockville, MD 20852-2738
john.cordes@nrc.gov

Dear Ms. Durkee and Mr. Cordes:

I am writing on behalf of Washington, South Carolina, Aiken County, and the Ferguson petitioners in the consolidated matter *In re: Aiken County*, No. 10-1050 (DC Cir.).

We have become aware of information suggesting that the staff of the Nuclear Regulatory Commission (NRC), apparently at the direction of Chairman Jaczko, has ceased (or is in the process of ceasing) work it has been conducting in relation to the Department of Energy's (DOE's) application to license a proposed repository for high-level radioactive waste and spent nuclear fuel at Yucca Mountain, Nevada. This includes, but may not be limited to, the NRC staff's review of DOE's license application materials and the NRC staff's preparation of Safety Evaluation Reports.

We are writing to ask that you confirm whether or not this information is accurate. We are directing our inquiry to you, rather than the NRC directly, based on the fact that our question relates to a matter in litigation in which you represent the NRC, among other respondents. In responding, we request that you honor the spirit of our question, rather than splitting any technical hairs in how our question is framed. In our opinion, this information is relevant to our mutual obligation to continue to inform the D.C. Circuit Court of Appeals of the status of the administrative matter before the NRC.

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We ask that you please respond on or before Monday, October 11, 2010. Thank you in advance for your cooperation.

Sincerely,



ANDREW A. FITZ
Senior Counsel
(360) 586-6752

AAG:dmm

cc: All parties of record in the consolidated matter
In re: Aiken County, No. 10-1050 (DC Cir.)

\\YUCCA MOUNTAIN\CORRESPONDENCE\DURKEE.NRC.LETTER