

Michigan, Citizens for Alternatives to Chemical Contamination, Public Citizen, Inc., San Luis Obispo Mothers for Peace, Nuclear Energy Information Service, Citizens' Environmental Coalition, Sustainable Energy and Economic Development ("SEED") Coalition and Leona Morgan, Individually ("Petitioners"), through their undersigned counsel, hereby petition for review of the following orders entered by the United States Nuclear Regulatory Commission (the "NRC" or "Commission"): the Commission's Memorandum and Order CLI-20-14, issued on December 17, 2020 ("CLI-20-14") (attached as Exhibit A); and the Commission's Memorandum and Order CLI-20-13, issued on December 4, 2020 ("CLI-20-13") (attached as Exhibit B).

APPEAL AS TO CLI-20-14

Petitioners seek review of CLI-20-14 on the grounds that the Commission wrongfully and unlawfully denied all but one of the Petitioners, to wit, Don't Waste Michigan, Citizens' Environmental Coalition, Citizens for Alternatives to Chemical Contamination, Nuclear Energy Information Service, Public Citizen, Inc., San Luis Obispo Mothers for Peace and Leona Morgan, leave to participate as formal intervenors in a licensing proceeding pending before the Commission captioned *In the Matter of INTERIM STORAGE PARTNERS LLC, (WCS Consolidated Interim Storage Facility)*, Docket No. 72-1050-ISFSI. Denial to

these Petitioners of the opportunity to participate in the licensing proceeding violated the Atomic Energy Act (“AEA”), 42 U.S.C. §§ 2011 *et seq.*, the Nuclear Waste Policy Act (“NWPA”), 42 U.S.C. §§ 10101 *et seq.*, and the Administrative Procedure Act (“APA”), 5 U.S.C. §§ 706.

All Petitioners, including Sustainable Energy and Economic Development Coalition, maintain that in CLI-20-14, the NRC wrongfully and unlawfully applied the AEA, NWPA, APA and/or the National Environmental Policy Act (“NEPA”), 42 U.S.C. §§ 4321 *et seq.* when it ruled that all Petitioners had failed to plead any contentions that were admissible in the aforementioned proceeding. Specifically, all Petitioners seek review of the Commission’s rulings on the below Contentions:

- Contention 1 (NEPA Analysis of Transportation Impacts)
- Contention 4 (Underestimation of Low-Level Radioactive Waste Volume)
- Contention 5 (Environmental Justice Effects of Transportation)
- Contention 6 (Effects of Oil and Gas Drilling)
- Contention 8 (Inadequate Consideration of Alternatives)
- Contention 11 (Lack of a Dry Transfer System)
- Contention 14 (NEPA Analysis of Security Risks)

APPEAL AS TO CLI-20-13

Further, Petitioner Sustainable Energy and Economic Development Coalition maintains that in CLI-20-13, the NRC wrongfully and unlawfully applied the AEA, NWPA, APA and/or the National Environmental Policy Act (“NEPA”), 42 U.S.C. §§ 4321 *et seq.* when it ruled that SEED had failed to plead an admissible Contention 17. Petitioner SEED seeks review of the Commission’s rulings as to SEED’s Contention 17 that the Interim Storage Partners’ Environmental Report was inadequate for failing to include and analyze the findings of a report by the Nuclear Waste Technical Review Board.

Consequently, Petitioners respectfully request this Court to review, reverse, and vacate CLI-20-14 and CLI-20-13; alternatively and/or cumulatively, to order the dismissal of the license application under review; and to grant such other and additional remedies that may be warranted by law and equity.

Petitioners’ filing is timely because it is made within the 60-day period established by the Hobbs Act, 28 U.S.C. § 2344, for bringing a petition for judicial review of an agency action. Both CLI-20-13 and CLI-20-14 were decided within the 60 days next preceding the date of filing of this Petition for Review.

Further, venue is appropriate within the D.C. Circuit pursuant to 28 U.S.C. § 2343.

/s/ Terry J. Lodge

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UNITED STATES COURT OF APPEALS
DISTRICT OF COLUMBIA CIRCUIT

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DOCKETING STATEMENT

Administrative Agency Review Proceedings (To be completed by appellant/petitioner)

- 1. CASE NO.
2. DATE DOCKETED: Feb. 4, 2021
3. CASE NAME (lead parties only) Don't Waste Michigan, Inc. v. U.S. Nuclear Regulatory Commission
4. TYPE OF CASE: [X] Review [] Appeal [] Enforcement [] Complaint [] Tax Court
5. IS THIS CASE REQUIRED BY STATUTE TO BE EXPEDITED? [] Yes [X] No
6. CASE INFORMATION:
a. Identify agency whose order is to be reviewed: US Nuclear Regulatory Commission
b. Give agency docket or order number(s): CLI-20-13 and CLI-20-14
c. Give date(s) of order(s) CLI-20-13, December 4, 2020; CLI-20-14, December 17, 2020
d. Has a request for rehearing or reconsideration been filed at the agency? [] Yes [X] No
e. Identify the basis of appellant's/petitioner's claim of standing. See D.C. Cir. Rule 15(c)(2): Prudential, proximity and "proximity plus," detailed in declarations as well as legal arguments filed before the NRC
f. Are any other cases involving the same underlying agency order pending in this Court or any other? [] Yes [X] No
g. Are any other caess, to counsel's knowledge, pending before the agency, this Court, another Circuit Court, or the Supreme Court which involve substantially the same issues as the instant case presents? [X] Yes [] No
h. Have the parties attempted to resolve the issues in this case through arbitration, mediation, or any other alternative for dispute resolution? [] Yes [X] No

Signature /s/ Terry J. Lodge Date February 4, 2021
Name of Party (Print) Don't Waste Michigan and all other Petitioners
Name of Counsel for Appellant/Petitioner (Print) Terry J. Lodge
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ATTACH A CERTIFICATE OF SERVICE

Note: If counsel for any other party believes that the information submitted is inaccurate or incomplete, counsel may so advise the Clerk within 7 calendar days by letter, with copies to all other parties, specifically referring to the challenged statement. An original and three copies of such letter should be submitted.

**UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

DON'T WASTE MICHIGAN,)
CITIZENS' ENVIRONMENTAL)
COALITION, CITIZENS FOR)
ALTERNATIVES TO CHEMICAL)
CONTAMINATION, NUCLEAR)
ENERGY INFORMATION)
SERVICE, PUBLIC CITIZEN, INC.,)
SAN LUIS OBISPO MOTHERS)
FOR PEACE, SUSTAINABLE)
ENERGY AND ECONOMIC)
DEVELOPMENT COALITION)
AND LEONA MORGAN,)
INDIVIDUALLY,)

Case No. 21-1048

Petitioners,)

v.)

UNITED STATES NUCLEAR)
REGULATORY COMMISSION and)
the UNITED STATES OF)
AMERICA,)

Respondents.)

* * * * *

**CERTIFICATE OF SERVICE OF AGENCY
DOCKETING STATEMENT AND
PETITION FOR REVIEW**

I hereby certify that on February 4, 2021 I served a copy of the Agency Docketing Statement and Petition for Review that I filed this date upon the following persons of record in the underlying licensing proceeding before the U.S. Nuclear Regulatory Commission: Emily.Krause@nrc.gov, Gary.Arnold@nrc.gov, nicholas.trikouros@nrc.gov, paul.bessette@morganlewis.com, Krupskaya.Castellon@nrc.gov, Sheldon.Clark@nrc.gov, dcurran@harmoncurran.com, ian.curry@nrc.gov, dianed@nirs.org, hearing.docket@nrc.gov, grant.eskelsen@morganlewis.com, stephanie.fishman@nrc.gov, joe.gillespie@nrc.gov, magolds@emory.edu, karendhadden@gmail.com, chris.hebner@sanantonio.gov, Jared.Heck@nrc.gov, a.kanner@kanner-law.com, Sara.Kirkwood@nrc.gov, Mauri.Lemoncelli@nrc.gov, ryan.lighty@morganlewis.com, tjlodge50@yahoo.com, timothy.matthews@morganlewis.com, molly.mattison@nrc.gov, Patrick.Moulding@nrc.gov, Brian.Newell@nrc.gov, ocaamail.resource@nrc.gov, monicap@forl.com, Kevin.Roach@nrc.gov, Carrie.Safford@nrc.gov, Stacy.Schumann@nrc.gov, clara.sola@nrc.gov, herald.speiser@nrc.gov, thomas.steinfeldt@nrc.gov, stefen@nealrgross.com, wtaylorlaw@aol.com, a.tennis@kanner-law.com, Alana.Wase@nrc.gov

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