

EXHIBIT A

DECLARATION OF RANDOLPH R. LOWELL

EXHIBIT A

DICKINSON WRIGHT PLLC
JOHN P. DESMOND
Nevada Bar No. 5618
BRIAN R. IRVINE
Nevada Bar No. 7758
100 West Liberty Street
Suite 940
Reno, NV 89501
Tel: (775) 343-7500
Fax: (844) 670-6009
Email: jdesmond@dickinsonwright.com
Email: birvine@dickinsonwright.com

ALAN WILSON
South Carolina Attorney General
ROBERT D. COOK
Solicitor General
Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211-1549
Tel: (803) 734-3970
Fax: (803) 734-2981
awilson@scag.gov
bcook@scag.gov

RANDOLPH R. LOWELL
Willoughby & Hoefer, P.A.
133 River Landing Drive, Suite 200
Charleston, South Carolina 29492
Tel: (843) 619-4426
Fax: (803) 256-8062
rlowell@willoughbyhoefer.com
Will comply with LR IA 11-2 within 45 days.
Attorneys for the State of South Carolina

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

STATE OF NEVADA,

Plaintiff,

vs.

UNITED STATES; UNITED STATES
DEPARTMENT OF ENERGY; RICK PERRY,
in his official capacity as Secretary of Energy;
NATIONAL NUCLEAR SECURITY
ADMINISTRATION; and LISA E.
GORDON-HAGERTY, in her official capacity as
Administrator of the National Nuclear Security
Administration and Undersecretary of Nuclear
Security,

Defendants

Case 3:18-CV-00569-MMD-CBC

**DECLARATION OF
RANDOLPH R. LOWELL
IN SUPPORT OF EMERGENCY
MOTION TO INTERVENE**

DECLARATION OF RANDOLPH R. LOWELL

I, Randolph R. Lowell, pursuant to 28 U.S.C. § 1746, declare and state as follows:

1. I am an attorney with the law firm of Willoughby & Hoefer, P.A., attorneys for proposed Intervenor, the State of South Carolina (“South Carolina”), in the above-captioned case.

2. Pursuant to LR 7-4, I submit this Declaration in support of South Carolina’s Emergency Motion to Intervene (“Motion”) in this action. I have personal knowledge of the matters set forth in this Declaration and, if called as a witness, could and would competently testify thereto.

3. The nature of the emergency requiring South Carolina to bring the Motion on an expedited basis is that: (a) South Carolina’s interests will be affected by the disposition of this litigation and are not adequately protected by any other party; (b) this Court has scheduled a hearing on the State of Nevada’s Motion for Preliminary Injunction for January 17, 2019; (c) the injunction sought by the State of Nevada seeks to stop the Federal Defendants from shipping defense plutonium from South Carolina to Nevada; (d) the U.S. District Court for the District of South Carolina, following protracted litigation, issued a December 20, 2017 order enjoining the Federal Defendants to remove one metric ton of defense plutonium from the State of South Carolina; (e) the injunction order was affirmed by the Fourth Circuit Court of Appeals; (f) the South Carolina District Court retained continuing jurisdiction over the matter to ensure compliance with the order for removal; and (g) because of the previous litigation in South Carolina District Court, that Court is the appropriate forum to decide any disputes over the defense plutonium shipment.

4. This Court should allow South Carolina to intervene in this case and decide South Carolina’s Motion to Transfer Venue (attached as Exhibit B to the Motion) prior to any decision on the State of Nevada’s Motion for Preliminary Injunction.

5. The office addresses and phone numbers for movant and all affected parties are as follows:

1 State of South Carolina
2 c/o Dickinson Wright PLLC
3 100 West Liberty St., Suite 940
4 Reno, NV 89501
5 (775) 343-7500

6 State of South Carolina
7 c/o Willoughby & Hoefer, P.A.
8 133 River Landing Drive, Suite 200
9 Charleston, South Carolina 29492
10 (843) 619-4426

11 State of Nevada
12 c/o Office of the Attorney General
13 100 North Carson Street
14 Carson City, Nevada 89701-4717
15 (775) 684-1227

16 State of Nevada
17 c/o Adams Natural Resources Consulting Services, LLC
18 1238 Buzzys Ranch Road
19 Carson City, Nevada 89701
20 (775) 882-4201

21 State of Nevada
22 c/o EGAN, FITZPATRICK, MALSCH & LAWRENCE, PLLC
23 1776 K Street N.W., Suite 200
24 Washington, D.C. 20006
25 (202) 466-3106

26 United States of America and all Defendants
27 c/o United States Attorney, District of Nevada
28 400 South Virginia Street, Suite 900
Reno, NV 89501
(775) 334-3347

United States of America and all Defendants
c/o U.S. Department of Justice
Environment and Natural Resources Div.
c/o U.S. Attorney's Office
800 Park Blvd., # 600
Boise, Idaho 83712
(208) 334-1936

6. Counsel for South Carolina attempted to meet and confer with counsel for both Plaintiff and Defendants prior to filing the Motion. Counsel for the Federal Defendants indicated

1 that the Federal Defendants would “take no position” as to South Carolina’s Motion to Intervene.
2 Counsel for South Carolina also spoke with Wayne Howle from the Nevada Attorney General’s
3 Office about its intention to intervene in the case and to seek a venue transfer to South Carolina.
4 Mr. Howle indicated that he would speak with his client about the issue, but counsel for South
5 Carolina was unable to obtain any stipulation or agreement from the State of Nevada prior to
6 filing the Motion.

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

8 DATED this 3rd day of January, 2019.

9
10 /s/ Randolph R. Lowell
RANDOLPH R. LOWELL