

EXHIBIT C

[Proposed] Order Setting an Expedited Briefing Schedule

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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

**[PROPOSED] ORDER SETTING
EXPEDITED BRIEFING
SCHEDULE ON THE STATE OF
SOUTH CAROLINA'S
EMERGENCY MOTION TO
INTERVENE**

1 The State of South Carolina has filed an Emergency Motion to Intervene in this action
2 pursuant to LR 7-4 (“Motion”). The Court, having considered the Motion, the Declaration of
3 Randolph R. Lowell and exhibits submitted therewith, finds and concludes as follows:

4 1. Mr. Lowell testified that South Carolina filed the Motion on an expedited basis
5 because:

6 (a) South Carolina’s interests will be affected by the disposition of this litigation and are
7 not adequately protected by any other party;

8 (b) this Court has scheduled a hearing on the State of Nevada’s Motion for Preliminary
9 Injunction for January 17, 2019;

10 (c) the injunction sought by the State of Nevada seeks to stop the Federal Defendants
11 from shipping defense plutonium from South Carolina to Nevada;

12 (d) the U.S. District Court for the District of South Carolina, following protracted
13 litigation, issued a December 20, 2017 order enjoining the Federal Defendants to remove one
14 metric ton of defense plutonium from the State of South Carolina;

15 (e) the injunction order was affirmed by the Fourth Circuit Court of Appeals;

16 (f) the South Carolina District Court retained continuing jurisdiction over the matter to
17 ensure compliance with the order for removal; and

18 (g) because of the previous litigation in South Carolina District Court, that Court is the
19 appropriate forum to decide any disputes over the defense plutonium shipment.

20 2. Mr. Lowell further testified that he attempted to meet and confer with counsel for
21 both Plaintiff and Defendants prior to filing the Motion. Counsel for the Federal Defendants
22 indicated that the Federal Defendants would “take no position” as to South Carolina’s Motion to
23 Intervene.

24 3. Mr. Lowell also testified that Counsel for South Carolina also spoke with Wayne
25 Howle from the Nevada Attorney General’s Office about its intention to intervene in the case
26 and to seek a venue transfer to South Carolina. Mr. Howle indicated that he would speak with his
27
28

1 client, but counsel for South Carolina was unable to obtain any stipulation or agreement from the
2 State of Nevada prior to filing the Motion.

3 4. This Court finds that the Declaration sets forth an adequate reason for the
4 emergency filing and otherwise complies with the requirements of LR 7-4.

5 IT IS THEREFORE ORDERED that the parties shall file and serve any opposition to
6 South Carolina's Motion on or before _____, 2019. South Carolina must file any
7 reply on or before _____, 2019 so that the Motion will be fully-briefed in
8 advance of the hearing on the State of Nevada's Motion for Preliminary Injunction set for
9 January 17, 2019.

10 IT IS SO ORDERED this ____ day of _____, 2019 at _____.m.

11
12
13 _____
UNITED STATES DISTRICT JUDGE

14
15 *Submitted by:*

16 DICKINSON WRIGHT PLLC

17
18 /s/ Brian R. Irvine
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