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and all Defendants*

IN THE UNITED STATES DISTRICT COURT
FOR THE 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, in her official capacity
as Administrator of the National Nuclear
Security Administration and Undersecretary
for Nuclear Security,

Defendants.

Case No. 3:18-cv-569-MMD-CBC

**DECLARATION OF WILLIAM
HARRIS WALKER IN SUPPORT
OF UNITED STATES' RESPONSE
TO PLAINTIFF'S MOTION FOR
PRELIMINARY INJUNCTION**

1 I, William Harris Walker, declare as follows:

2
3 1. I am the Director of the Office of Intergovernmental Affairs at the National Nuclear Security
4 Administration ("NNSA").

5
6 2. As Director of the Office of Intergovernmental Affairs, I am responsible for communications
7 between NNSA and the State of Nevada regarding NNSA's plan to remove one metric ton of
8 plutonium from the Savannah River Site.

9
10 3. In April 2018, the Department of Energy's ("DOE" or "Department") Office of
11 Intergovernmental & External Affairs informed the State of Nevada of the possibility of some
12 plutonium to be moved from the Savannah River Site being shipped to the Nevada National
13 Security Site ("NNSS").

14
15 4. Soon after this, I began discussions of the issue with Brad Crowell, the Director of the
16 Nevada Department of Conservation and Natural Resources. On Friday, May 18, 2018, I led a
17 conference call that included myself, Mr. Crowell, the NNSA Associate Principal Deputy
18 Administrator & Chief of Staff Ike White, and the Principal Associate Deputy Administrator for
19 Defense Nuclear Nonproliferation Dave Huizenga. The purpose of this call was to communicate
20 to the State of Nevada the parameters of the plutonium removal project and Nevada's potential
21 role therein. The NNSA officials on the call clearly explained that it intended to perform a full
22 Supplemental Analysis ("SA") to of the project but would only perform a full EIS if the SA
23 found some reason to do so. At the conclusion of the call, NNSA and the State of Nevada agreed
24 to convene a meeting of the Nevada Working Group in the coming months to further discuss the
25 issue. The Nevada Working Group is a body convened to discuss issues of mutual interest
26 between the Department of Energy and the State of Nevada.

27
28 5. On July 27, 2018, nearly a dozen participants at the field and headquarters levels of DOE and

1 NNSA met with Brad Crowell, Governor Brian Sandoval's Policy Director Pam Robinson, and
2 Director of the Nevada Department of Environmental Protection Greg Lovato and Chris Andres
3 also from the Nevada Department of Environmental Protection in a daylong meeting. The
4 meeting discussed the Department's enduring mission at NNSS, including a discussion of the
5 potential staging at the NNSS of the one metric ton of plutonium to be moved from the Savannah
6 River Site. NNSA thoroughly briefed the State on the proposed plan and the possibility of
7 NNSS being chosen to receive some or all of the one metric ton of plutonium. In addition,
8 NNSA also explained how the staging of the material at the NNSS's Device Assembly Facility
9 ("DAF") would not change the normal operations of the site and explained the extensive safety
10 and security measures in place at the DAF to protect the material.

11
12 6. On August 27, 2018, I informed Brad Crowell by electronic mail that NNSA had completed
13 its SA and determined that the new scope of work had no significant environmental impacts
14 which would justify creating a new EIS and that NNSS continued to be a possible location for
15 the staging of some or all of the plutonium to be moved from the Savannah River Site.

16
17 7. On August 29, 2018, I met with Brad Crowell via phone, explained the findings in the SA,
18 and informed him of NNSA's intent to publish the document on August 30, 2018. The SA was
19 published to the public on August 30, 2018, as planned.

20
21 8. After reviewing the SA, the State of Nevada requested a phone call on September 14, 2018, to
22 discuss the issue further. The request was granted and a conference call that included the Deputy
23 Chief of Staff to Secretary Perry, Dan Wilmot, and NNSA General Counsel Bruce Diamond, and
24 State Officials was conducted further discussing the issue and the State's objections. This call
25 resulted in a follow up meeting of the Nevada Working Group on October 30, 2018. During the
26 meeting, the Department further detailed its plans for shipping plutonium to the State, and
27 extensive discussions were had pertaining to the methods and procedures for shipping the
28 material – including a presentation of a 3013 shipping container insert for reference.

1
2 9. During all discussions listed above, the State expressed extensive public perception concerns
3 with planned activities. The State also made claims that there was a substantive difference
4 between the existing mission use of plutonium at the site and the temporary staging of material to
5 be used at other sites and this made the previous NEPA analysis inadequate. At no time,
6 however, did the State express grave concerns for the health and safety of the citizens of Nevada
7 and explained that they understood the safety and security with which we transport nuclear
8 materials, particularly when done so by the Office of Secure Transportation, as would be the case
9 here. The State's primary concern throughout the process, as state both verbally and in
10 correspondence, has been a public perception concern and the fact that the Department was not
11 providing any sort of compensation or new missions to the State in exchange for being willing to
12 temporarily stage the material.

13
14 10. During our discussions, I also explained to the State that any plutonium transport would
15 occur in conformance with all existing federal laws and regulations, including all safety
16 requirements for "Type B Packaging" required for the transport of fissile materials.

1 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true
2 and correct to the best of my knowledge, information, and belief.

3 Executed on January 3, 2019

By:



William Harris Walker

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was electronically filed on January 4, 2019, with the Clerk of the Court and served using the CM/ECF system upon the following parties/attorneys of record:

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