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August 9, 2005

Ms. Cathy Catterson  
Clerk

U.S. Court of Appeals for the Ninth Circuit  
P.O. Box 193939  
San Francisco, CA 94119-3939

Re: *Nuclear Information and Resource Service, et al v. NRC, et al.*  
Case No. 04-71432

Dear Ms. Catterson:

Enclosed for filing in the above entitled case are an original and 4 copies of  
Notice of Pending Related Appeal.

If any questions arise, please contact me. Thank you.

Yours truly,

Paul H. Lamboley

PHL/nd  
Enc.

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

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NUCLEAR INFORMATION AND  
RESOURCE SERVICE, et al.

Petitioners,

v.

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UNITED STATES NUCLEAR  
REGULATORY COMMISSION, et al.

Respondents.

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)  
) No. 04-71432  
)  
)


) **NOTICE OF PENDING**  
) **RELATED APPEAL**  
)  
)  
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Petitioners hereby advise the Court that on, June 27, 2005, Petitioners and Sierra Club, together as appellants, filed a Notice of Appeal to this Court from the final judgment of dismissal entered on May 31, 2005 in *Nuclear Information and Resource Service, et al. v. United States Department of Transportation Research and Special Programs Administration et al.*, Case No. CV-04-4740 MHP, by the United States District Court for the Northern District of California. The DOT-RSPA appeal has been received by this Court and assigned Case No. 05-16327.

As set forth in Petitioners' Opening Brief, the Nuclear Regulatory Commission ("NRC") rulemaking at issue in this case was a coordinated and companion rulemaking with the Research and Special Projects

Administration of the Department of Transportation's ("RSPA").<sup>1</sup> On November 9, 2004, Petitioners and Sierra Club petitioned the United States District Court for the Northern District of California for judicial review of RSPA's rulemaking. On May 31, 2005, the District Court granted RSPA's motion to dismiss for lack of appellate jurisdiction. Petitioners and Sierra Club have appealed that judgment to this court.

Substantively, the two rulemaking cases are interrelated. The primary issue in both cases is the adequacy of the environmental review under the National Environmental Policy Act (NEPA), which resulted in a single Environmental Assessment (EA) prepared by NRC and relied upon by both NRC and RSPA in making Findings of No Significant Impact ("FONSI").

Respectfully submitted August 10, 2005 by  for  
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Attorneys for Petitioners

<sup>1</sup> 49 CFR Parts 171, 172, *et al.*, Hazardous Materials Regulations; Compatibility With the Regulations of the International Atomic Energy Agency; Final Rule, RIN 2137-AD40, 69 Fed. Reg. 3632 *et seq.* (Jan. 26, 2004).

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing document was served on Counsel of Record identified below via first class U.S. mail, postage prepaid, this \_\_\_\_ day of August, 2005:

(1) Clerk  
United States Nuclear Regulatory Commission  
Washington, DC 20555-0001

\_\_\_\_ (2) Grace H. Kim  
Office of the Solicitor  
United States Nuclear Regulatory Commission  
Washington, DC 20555-0001