

UNITED STATES DISTRICT COURT

for the

District of Columbia

George Berka
57 Concord St.
Waterbury, CT 06710

Plaintiff(s)

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U.S. Nuclear Regulatory Commission
Washington, DC 20555

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) U.S. Nuclear Regulatory Commission
Washington, DC 20555

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

George Berka
57 Concord St.
Waterbury, CT 06710

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: 12/14/2017

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* U.S. Nuclear Regulatory Commission
was received by me on *(date)* _____.

☐ I personally served the summons on the individual at *(place)* _____
on *(date)* _____; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
on *(date)* _____; or

☐ I returned the summons unexecuted because _____; or

☒ Other *(specify)*: I mailed the summons to the Defendant via Certified U.S. Mail.

My fees are \$ 0.00 for travel and \$ 5.95 for services, for a total of \$ 5.95.

I declare under penalty of perjury that this information is true.

Date: _____

George Berka
Server's signature

George Berka
Printed name and title

57 Concord St.
Waterbury, CT 06710

Server's address

Additional information regarding attempted service, etc:

UNITED STATES DISTRICT AND BANKRUPTCY COURTS
FOR THE DISTRICT OF COLUMBIA

George Berka
57 Concord St.
Waterbury, CT 06710

vs.

CIVIL ACTION NO. _____

U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

COMPLAINT

The Plaintiff, Mr. George Berka, hereby respectfully requests the Defendant, the U.S. Nuclear Regulatory Commission, to (1), amend 10 C.F.R. Part 52.110(b) to read as follows:

Upon docketing of the certifications for permanent cessation of operations and permanent removal of fuel from the reactor vessel, or when a final legally effective order to permanently cease operations has come into effect, the 10 CFR part 52 license no longer authorizes operation of the reactor or emplacement or retention of fuel into the reactor vessel. **except as follows:**

(b)(1) If the facility had been in an operational condition at the time of retirement, had last operated no more than twenty (20) calendar years prior to the retirement date, and remains intact, the licensee shall have the option to return the facility to a fully operational status, after having successfully passed a general safety inspection. The safety standards that had been in place at the time the facility had last operated will govern, and the plant will not have to be updated to the latest standards.

(b)(2) If the facility had not been in an operational condition at the time of retirement, had last operated more than twenty (20) calendar years prior to the retirement date, is not intact, and / or has had significant decommissioning and / or dismantling activities commence, the licensee shall

still have the option to return the facility to a fully operational status, provided the following actions are accomplished: (a), The facility is repaired or re-built to the safety standards that had been in place at the time the facility had last operated. The facility will not have to be updated to the latest standards. (b) Furthermore, the facility will have to successfully pass a safety inspection appropriate to the degree of repairs or reconstruction that had been performed. At the very least, this inspection would be a general safety inspection, as above, if the plant had been largely intact and well maintained, but it may range all the way up to the typical testing required for a new build, if significant reconstruction or repairs had to be performed.

The Plaintiff also requests the Defendant to, (2), Generally allow the owner and / or operator of a nuclear power plant a fair, reasonable, and unobstructed opportunity to return a retired facility to full operational status, even if the operating license for the facility had previously been surrendered. The facility will only have to meet the safety standards that had been in place at the time the facility had last operated, and not the latest standards.

The Plaintiff makes the above request of the Defendant in accordance with the National Environmental Policy Act, U.S. Code Title 42, Chapter 55, Paragraph 4321. In general, when a nuclear power plant closes, it is typically replaced with natural gas fired electrical generation, which produces much higher air pollution and carbon dioxide emissions than the nuclear source that it replaced. This situation runs counter to the spirit and intent of Paragraph 4321, which aims to: *"declare a national policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man."* Given the fact that the carbon dioxide emissions of this new natural gas plant are about 60% of those of an

equivalent coal plant. (up from the 5% or so that the nuclear plant used to generate). replacing shuttered nuclear plants with natural gas fired plants is definitely a step backwards from a climate standpoint. Also, in light of the now well – understood link between carbon emissions and global warming, the importance of Paragraph 4321 takes on a whole new meaning: lowering carbon dioxide levels in the atmosphere (not raising them) is a necessary step to “*prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man*”. Keeping the ultra – clean, and virtually carbon – free, nuclear generating stations on – line is one way to help accomplish this step.

In addition to Paragraph 4321 above, the Plaintiff also cites the Clean Air Act, U.S. Code Title 42, Chapter 85, Subchapter I, Part A, Paragraph 7401. Sections (a)(2) and (c) of this paragraph also apply; “*the growth in the amount and complexity of air pollution brought about by urbanization, industrial development, and the increasing use of motor vehicles, has resulted in mounting dangers to the public health and welfare, including injury to agricultural crops and livestock, damage to and the deterioration of property, and hazards to air and ground transportation.*” This does apply to the rising levels of carbon dioxide in the atmosphere, which are likely to endanger public health and welfare, injure agricultural crops and livestock, and damage property, through rising air temperatures, which will likely cause melting ice sheets, rising ocean levels and coastal flooding, along with more severe wild fires, hurricanes, and droughts. We have witnessed many of these events first hand in recent years.

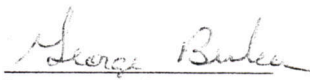
Next, Section (c) also applies; i.e. “*A primary goal of this chapter is to encourage or otherwise promote reasonable Federal, State, and local governmental actions, consistent with the provisions of this chapter, for pollution prevention.*” Promoting the continued operation of

nuclear generating stations would certainly constitute an action that would help prevent pollution.

In summary, if 10 C.F.R. Part 52.110(b) were amended as requested above, it may potentially enable previously – shuttered nuclear generating stations to be returned to service, without imposing unreasonable cost burdens on their operators. If this were to occur, potentially several gigawatts of ultra – clean, and very low – carbon, electrical generating capacity could be restored to the electrical grid, which would help to reduce carbon dioxide levels in the atmosphere. This may eventually reduce global temperatures, which may help mitigate some of the most adverse effects of global warming discussed above, thereby promoting human well – being, in accordance with Chapters 55 and 85 of Title 42.

The Plaintiff had previously made the above request of the Defendant in 2015, by submitting a “Petition for Rule Making”, asking that previously shuttered nuclear power plants be permitted to re-start largely “as they were”. His request was denied.

Finally, the Plaintiff also requests a Trial by Jury in this matter.


George Berka
Pro Se Plaintiff
57 Concord St.
Waterbury, CT 06710

UNITED STATES DISTRICT AND BANKRUPTCY COURTS
FOR THE DISTRICT OF COLUMBIA

PLAINTIFF

George Berka
57 Concord St.
Waterbury, CT 06710

vs.

CIVIL ACTION NO. _____

DEFENDANT

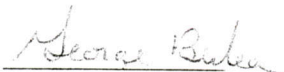
U.S. Nuclear Regulatory Commission
Washington, DC 20555

AFFIDAVIT OF SERVICE

I, (name the person who actually mailed the summons/complaint), hereby declare that on the
14th day of December, 2017, I mailed a copy of the Summons and
Complaint, certified mail return receipt requested, to the Defendant, the U.S. Nuclear Regulatory
Commission. Attached hereto is the certified green card acknowledging service.

STAPLE GREEN CARD HERE

**Make sure it bears the original signature of the person
who signed for the summons and complaint.**


George Berka
57 Concord St.
Waterbury, CT 06710

