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October 27, 2008

VIA Overnight U.S. Mail and Email to Merits Clerk

Ms. Denise J. McNerney
Merits Cases Clerk
Office of the Clerk
Supreme Court of the United States
Washington, D.C. 20543

Re: Carcieri v. Kempthorne, 07-526 – Final Position of Counsel; Emergency Motion for Reconsideration


Dear Ms. McNerney:

Late Friday the Town of Charlestown learned that there will be no change whatsoever in the position of the Governor and Attorney General with respect to the oral argument in this case. Both insist that counsel from the Town must withdraw his oral argument form in favor of Mr. Olson. The Town remains convinced that the way to resolve this impasse is either to divide time between Mr. Olson and counsel for the Town or for the advocates to flip a coin. Unfortunately, that means Mr. Olson and counsel for the Town will be unable to sign a joint letter indicating which of us is to argue this case.

The Town understands that this impasse will be placed on the Court's calendar for resolution at its regularly scheduled conference set for Friday morning, October 31.

As such, the Town attaches hereto an Emergency Motion for Reconsideration of the Court's denial of the Town's earlier Motion for Divided Time (hardcopies to follow via overnight mail) in the hopes of presenting all possible avenues for resolution to the Court at its conference. Thank you for all of your patience with this very difficult and unfortunate situation.

Sincerely,


Joseph S. Larisa, Jr., Esq.
Counsel of Record
Town of Charlestown

cc: William K. Suter, Clerk (via email w/attach.)
Cynthia Rapp, Deputy Clerk (via email w/attach.)
Theodore Olson, Esq. (via email w/ attach.)
Neil F.X. Kelly, Esq. (via email w/ attach.)