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**MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFF'S MOTION FOR  
TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION**

**UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH, CENTRAL DIVISION**

JANUARY WALKER,

Plaintiff,

v.

CHRIS WRIGHT, Secretary of Energy, in his official capacity; UNITED STATES  
DEPARTMENT OF ENERGY; PETE HEGSETH, Secretary of Defense, in his  
official capacity; UNITED STATES DEPARTMENT OF DEFENSE; VALAR  
ATOMICS LLC; ISAAH TAYLOR, Chief Executive Officer, Valar Atomics LLC,

Defendants.

Civil Action No. \_\_\_\_\_



37 to require compliance with the law Congress enacted before an irreversible  
38 physical and regulatory event permanently forecloses that possibility.

39

40

**STATEMENT OF FACTS**

41 The facts supporting this motion are set forth in full in the Complaint filed  
42 contemporaneously herewith and are incorporated by reference. The following  
43 facts are directly relevant to the four Winter factors.

44 The Ward 250 is a 100-kilowatt thermal High Temperature Gas Reactor owned and  
45 operated by Valar Atomics LLC, a California startup whose CEO Isaiah Taylor has  
46 no formal engineering education and no prior nuclear industry experience. It is  
47 deployed at the Utah San Rafael Energy Lab in Orangeville, Emery County, Utah.  
48 It has no NRC construction permit. It has no NRC operating license. Valar Atomics  
49 has never contacted the NRC. Taylor admitted publicly that the company  
50 deliberately chose not to engage with the agency whose authority it contests.

51 The Ward 250 sits in the San Rafael River watershed. The San Rafael River drains  
52 into the Green River which flows into the Colorado River system serving 35 to 40  
53 million people across seven states. Two federally listed endangered species have  
54 documented habitat in the watershed. Documented Native American cultural  
55 resources surround the site. No Section 7 ESA consultation was conducted. No

56 Section 401 water quality certification was obtained. No Section 106 NHPA  
57 consultation was conducted.

58 DOE authorized the deployment through a categorical exclusion published  
59 January 28, 2026 at 91 Fed. Reg. 7736 eliminating NEPA review. DOE did not  
60 document consideration of the extraordinary circumstances exception its own  
61 regulations require. Before the deployment DOE secretly eliminated ALARA, the  
62 cognizant system engineer requirement, and groundwater discharge protections  
63 from its nuclear safety orders without public notice or comment. DOE approved  
64 the Ward 250 Preliminary Documented Safety Analysis on March 4, 2026 under  
65 those secretly rewritten standards.

66 The Ward 250 is not an isolated test reactor. It is step one of Operation Gigawatt,  
67 Utah's legislatively funded commercial nuclear deployment program targeting an  
68 8.97 gigawatt SMR-300 fleet in Brigham City adjacent to the Great Salt Lake  
69 terminal basin. On March 31, 2026, three days before this filing, the State of Utah  
70 formally submitted a response to DOE's own Request for Information identifying  
71 the Ward 250 at USREL as a catalyst that will drive development of the nuclear  
72 industry to the entire Carbon and Emery region and presenting the Ward 250 and  
73 Holtec's SMR-300 fleet as components of one integrated nuclear ecosystem. DOE  
74 solicited that submission. DOE received it. The Ward 250 DOE authorization  
75 baseline will flow through MOU Addendum No. 9 and the April 2, 2026 proposed

76 NRC rule under Docket NRC-2025-1503 into the commercial licensing framework  
77 governing the Holtec SMR-300 Pioneer Units proceeding in NRC Docket Nos. 50-  
78 616 and 50-617, which governs the SMR-300 deployment in Brigham City adjacent  
79 to the Great Salt Lake terminal basin where Plaintiff and her family have lived for  
80 eight generations.

81

82

## ARGUMENT

83

### **I. PLAINTIFF IS LIKELY TO SUCCEED ON THE MERITS.**

84

Under *Loper Bright Enterprises v. Raimondo*, 144 S. Ct. 2244 (2024), this Court  
85 exercises independent judgment in construing the federal statutes at issue. The  
86 government cannot invoke agency expertise to insulate the Ward 250 deployment  
87 from statutory review. The statutory text controls. This Court decides what the  
88 statutes require.

89

#### **A. The Ward 250 Deployment Violates the Atomic Energy Act of 1954.**

90

The Atomic Energy Act provides that no person may possess, use, or operate any  
91 utilization facility except pursuant to a license issued by the NRC. 42 U.S.C. §  
92 2133(a). A utilization facility includes any nuclear reactor designed to produce  
93 heat or power through fission. 42 U.S.C. § 2014(cc). The Ward 250 is a nuclear

94 reactor designed to produce heat through fission. It is a utilization facility. No  
95 NRC license exists for it. The violation is established on the face of the undisputed  
96 record.

97 The government's anticipated defense that Executive Order 14301 and the DOE  
98 Nuclear Reactor Pilot Program authorize the Ward 250 without an NRC license  
99 fails on three independent grounds.

100 First, executive orders do not supersede congressional statutes. The Supremacy  
101 Clause establishes that federal statutes enacted by Congress constitute the  
102 supreme law of the land. U.S. Const. art. VI, cl. 2. A presidential executive order  
103 that purports to authorize operation of a civilian nuclear reactor without the  
104 NRC license that Congress requires is without legal effect to the extent it  
105 conflicts with 42 U.S.C. § 2133. *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S.  
106 579 (1952). Where as here the executive order operates in direct conflict with  
107 an express congressional command it falls in the zone where presidential  
108 power is at its lowest ebb and must yield to the congressional statute.

109 Second, the Section 31 research exemption does not reach the Ward 250. Section  
110 31 of the Atomic Energy Act, 42 U.S.C. § 2051, provides a limited exemption  
111 for research and development activities conducted under DOE authorization.  
112 That exemption does not apply to privately owned commercially funded

113 reactors whose principals publicly describe their purpose as the first step in an  
114 industrial-scale commercial deployment program. Valar Atomics' own public  
115 statements document that the Ward 250 is a proof of concept for its gigasite  
116 commercial program with commercial deployment anticipated beginning in  
117 2027. The research exemption does not reach a deployment whose commercial  
118 purpose is documented in the operator's own published business model.

119 Third, the AEA's licensing requirement is jurisdictional. The NRC's licensing  
120 authority over civilian nuclear reactors is established by Congress in the AEA  
121 and cannot be displaced by executive order. The *NRC v. Texas* decision of June  
122 2025 confirmed that where no NRC proceeding exists the Hobbs Act does not  
123 displace federal district court jurisdiction to enforce the AEA's licensing  
124 requirements. This Court has jurisdiction and authority to enforce 42 U.S.C. §  
125 2133 directly.

126

127 **B. The Ward 250 Deployment Violates the National Environmental Policy Act.**

128 NEPA requires every federal agency to prepare a detailed Environmental Impact  
129 Statement before taking any major federal action significantly affecting the quality  
130 of the human environment. 42 U.S.C. § 4332(2)(C). An EIS must analyze the  
131 environmental impact of the proposed action, adverse environmental effects that

132 cannot be avoided, alternatives to the proposed action, and irreversible and  
133 irretrievable commitments of resources. 40 C.F.R. § 1502.16.

134 The Ward 250 deployment is a major federal action. DOE selected Valar Atomics  
135 for the Nuclear Reactor Pilot Program. DOE approved the Ward 250 PDSA. DOE  
136 issued the categorical exclusion. DOD provided military airlift. Each of those  
137 actions is a federal action within the meaning of 42 U.S.C. § 4332(2)(C). Together  
138 they constitute a major federal action significantly affecting the human  
139 environment. A nuclear reactor deployed in a watershed serving 35 to 40 million  
140 people with documented endangered species habitat, documented cultural  
141 resources, and no thermodynamic analysis of its consequences is precisely the  
142 kind of action NEPA's EIS requirement was enacted to address.

143 DOE's categorical exclusion fails for two independent reasons.

144 First, DOE applied a categorical exclusion to an action that presents  
145 extraordinary circumstances under DOE's own regulations at 10 CFR Part 1021  
146 Appendix B. Extraordinary circumstances include actions that may affect  
147 threatened or endangered species, actions that may affect National Register  
148 eligible properties, actions with highly uncertain environmental effects, and  
149 actions that may violate federal law. Every one of those conditions is present.  
150 DOE did not document its consideration of those extraordinary circumstances.

151 An agency that fails to document consideration of its own required exception  
152 before applying a categorical exclusion has not followed the procedure  
153 required by law. 5 U.S.C. § 706(2)(D). *Marsh v. Oregon Natural Resources Council*,  
154 490 U.S. 360, 371 (1989).

155 Second, DOE's characterization of the Ward 250 as a limited research  
156 demonstration to justify the categorical exclusion is arbitrary and capricious  
157 under the APA because it is directly contradicted by DOE's own documented  
158 conduct. *Motor Vehicle Manufacturers Association v. State Farm*, 463 U.S. 29, 43  
159 (1983). An agency may not justify a categorical exclusion by mischaracterizing  
160 the scope of the action it is authorizing. *Robertson v. Methow Valley Citizens*  
161 *Council*, 490 U.S. 332, 350 (1989). DOE's own contractual instruments, its own  
162 MOU commitments, and the formal government submission it solicited and  
163 received three days before this filing all document that the Ward 250 is the first  
164 step of a national commercial nuclear deployment program. A categorical  
165 exclusion justified by a characterization the agency's own documents  
166 contradict is arbitrary and capricious on its face.

167

168 **C. The APA Notice and Comment Violations Are Established in the**  
169 **Documentary Record.**

170 The APA requires federal agencies to publish notice of proposed rulemaking and  
171 provide an opportunity for public comment before adopting any substantive rule.  
172 5 U.S.C. § 553. A substantive rule is one that has the force and effect of law and  
173 alters the rights and interests of regulated parties and the public. *American Mining*  
174 *Congress v. Mine Safety & Health Administration*, 995 F.2d 1106, 1109 (D.C. Cir. 1993).  
175 DOE eliminated ALARA, the cognizant system engineer requirement, and  
176 groundwater discharge protections from its nuclear safety orders without notice  
177 or comment. Those changes are substantive rules. They altered radiation  
178 protection standards, safety personnel requirements, and environmental  
179 protection obligations governing civilian nuclear reactor operations. They had the  
180 force and effect of law. They were shared with regulated companies before public  
181 release. None were published for notice and comment before they took effect.  
182 An agency rule adopted without the notice and comment the APA requires is  
183 invalid. *United States v. Chrysler Corp.*, 158 F.3d 1350, 1354 (D.C. Cir. 1998). The  
184 Ward 250 PDSA was approved under standards established through a process that  
185 violated 5 U.S.C. § 553. That approval is itself arbitrary, capricious, and not in  
186 accordance with law. 5 U.S.C. § 706(2)(A).

187

188 **D. The Remaining Statutory Violations Are Established on the Undisputed**  
189 **Record.**

190 The ESA Section 7 violation, the Clean Water Act Section 401 violation, and the  
191 NHPA Section 106 violation are each established on the same undisputed facts.  
192 No Section 7 consultation was conducted. No biological assessment was prepared.  
193 No biological opinion was issued. No Section 401 certification was obtained from  
194 Utah. No Section 106 consultation was conducted with the Utah SHPO or tribal  
195 governments. Those failures are documented in the administrative record and are  
196 not disputed. Each independently supports the relief requested.

197

198 **II. PLAINTIFF WILL SUFFER IRREPARABLE HARM IN THE ABSENCE OF**  
199 **RELIEF.**

200 To satisfy the irreparable harm factor a plaintiff must demonstrate that the harm  
201 is not compensable by money damages and cannot be remedied after the fact.  
202 *Heideman v. South Salt Lake City*, 348 F.3d 1182, 1189 (10th Cir. 2003). Environmental  
203 harm satisfying those criteria meets the standard in this circuit. *Greater Yellowstone*  
204 *Coalition v. Flowers*, 321 F.3d 1250, 1258 (10th Cir. 2003). Three independent  
205 grounds each satisfy the standard here and each is independently sufficient.

206

207 **A. Physical Irreversibility.**

208 Once TRISO fuel is inserted into the Ward 250 reactor vessel enriched uranium  
209 exists in the Colorado River watershed. That physical condition cannot be reversed  
210 by any court order regardless of the merits of any subsequent legal proceeding.  
211 No monetary award removes radioactive material from a public watershed. The  
212 SMR-300 creates a 24,110-year physical liability period under ANS/ANS-5.1-2014,  
213 the NRC's own decay heat standard. No court order addresses a liability period  
214 measured in millennia. The injury is irreparable by definition because money  
215 cannot un-insert nuclear fuel from a reactor vessel. The fuel insertion date has not  
216 been disclosed. The emergency is not July 4. The emergency is the undisclosed  
217 date on which fuel insertion occurs. This Court should order disclosure of that  
218 date within seventy-two hours of service to allow the Court to assess the scope of  
219 the emergency before the first irreversible threshold is crossed.

220

221 **B. Regulatory Irreversibility.**

222 The Ward 250 DOE authorization baseline will be incorporated into the Pioneer  
223 Units commercial licensing proceeding through the April 2, 2026 proposed NRC  
224 rule under Docket NRC-2025-1503 before that proceeding is resolved. Once  
225 incorporated no subsequent court order can remove a deficient safety baseline

226 from the regulatory record. The harm to the integrity of the commercial licensing  
227 framework is permanent. Courts in this circuit have recognized that harm to  
228 procedural rights in ongoing administrative proceedings constitutes irreparable  
229 harm where those rights cannot be restored after the fact. *Forest Guardians v.*  
230 *Babbitt*, 174 F.3d 1178, 1197 (10th Cir. 1999).

231

232 **C. Informational and Participatory Irreversibility.**

233 Plaintiff is an active participant in NRC Docket Nos. 50-616 and 50-617. The  
234 deficient Ward 250 baseline will be incorporated into that proceeding before  
235 Plaintiff's formal adjudicatory petition is adjudicated. Once incorporated  
236 Plaintiff's statutory right to participate in a proceeding based on a lawfully  
237 established safety baseline is permanently extinguished. The right to participate in  
238 environmental review before an irreversible federal decision is not compensable  
239 after the fact. *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 572 n.7 (1992). No  
240 subsequent proceeding can restore participation rights in a decision that is already  
241 irreversible.

242

243 **III. THE BALANCE OF EQUITIES TIPS DECISIVELY IN PLAINTIFF'S**  
244 **FAVOR.**

245 The balance of equities analysis requires the Court to weigh the nature and  
246 magnitude of harm to each party. *Amoco Production Co. v. Village of Gambell*, 480  
247 U.S. 531, 542 (1987). The nature of the harms here is determinative. The two sides  
248 of the scale do not contain comparable harms measured in the same units.

249

250 **A. Defendants' Harms Are Quantifiable and Compensable.**

251 Defendants face three categories of harm from a TRO. Commercial delay. Political  
252 cost. Speculative energy security impact.

253 Commercial delay is a financial harm. Financial harms are by definition  
254 compensable by money damages and do not constitute irreparable harm. *Rolo v.*  
255 *City Investing Co. Liquidating Trust*, 155 F.3d 644, 657 (3d Cir. 1998). If Defendants  
256 ultimately prevail on the merits they can calculate and seek compensation for  
257 commercial losses caused by the delay. That harm is not irreparable.

258 Political costs to an administration from compliance with federal environmental  
259 statutes are not cognizable harms in a TRO analysis. Courts do not weigh political  
260 inconvenience against statutory compliance. The executive branch's political  
261 interest in a particular nuclear deployment timeline is not a legally cognizable  
262 harm that defeats injunctive relief requiring compliance with Congress's  
263 enactments.

264 The national energy security argument fails at the Ward 250 scale. A 100-kilowatt  
265 thermal microreactor in rural Utah is not a material contributor to national energy  
266 security on any timeline relevant to a TRO. To put that scale in perspective the  
267 Ward 250 produces enough thermal energy to power approximately five average  
268 American homes. The government cannot credibly argue that halting one  
269 microreactor pending environmental review threatens national energy security.

270

271 **B. Plaintiff's Harms Are Physical, Permanent, and Not Compensable.**

272 Plaintiff faces permanent physical harm from radiological conditions in the  
273 Colorado River watershed that cannot be reversed. Plaintiff faces permanent  
274 regulatory harm from a deficient commercial licensing baseline that cannot be  
275 removed from the regulatory record once established. Plaintiff faces permanent  
276 informational and participatory harm from the incorporation of that baseline into  
277 an ongoing NRC proceeding in which she has statutory participation rights. None  
278 of those harms is compensable by money damages. None can be reversed by a  
279 subsequent court order.

280

281 **C. The Asymmetry Is Dispositive.**

282 The government can delay a commercial timeline. No court can un-insert nuclear  
283 fuel, un-establish a regulatory baseline, or restore the public's right to participate  
284 in a decision that is already irreversible. The Supreme Court recognized in *Amoco*  
285 that environmental injury is often permanent and irreparable in ways that  
286 economic loss is not, and that this asymmetry tips the balance of equities in favor  
287 of the party facing permanent environmental harm. 480 U.S. at 545. That  
288 asymmetry is present here and is dispositive.

289

290 **IV. THE PUBLIC INTEREST STRONGLY FAVORS THE INJUNCTION.**

291 In cases against the government the public interest inquiry merges with the  
292 balance of equities. *Diné Citizens*, 839 F.3d at 1281. There is generally no public  
293 interest in the perpetuation of unlawful agency action. *League of Women Voters of*  
294 *United States v. Newby*, 838 F.3d 1, 12 (D.C. Cir. 2016). The public interest always  
295 lies in having government agencies follow the law. *Id.*

296 Beyond that general principle the public interest in this specific case is  
297 documented through institutional actors with direct knowledge of what is  
298 happening inside the agencies whose conduct is challenged.

299 Twelve state attorneys general formally challenged the DOE categorical exclusion  
300 as illegal, arbitrary, and capricious before the March 4, 2026 comment deadline.

301 Those twelve governments represent hundreds of millions of Americans whose  
302 water supply flows through the Colorado River system and whose nuclear safety  
303 oversight depends on the integrity of the regulatory framework this deployment  
304 undermines.

305 The former chair of the Nuclear Regulatory Commission publicly stated the  
306 regulator is no longer independent and the safety culture is under threat. Three  
307 independent NRC officials described the erosion of that safety culture as being a  
308 lobster in a slowly boiling pot. NRC lawyers withdrew from an Atomic Safety and  
309 Licensing Board proceeding for the first time in over twenty years. The NRC's top  
310 attorney was replaced by an oil and gas DOGE lawyer. ProPublica reported two  
311 days before this filing that a DOGE operative told NRC leadership the NRC will  
312 do whatever we tell it to do.

313 The public interest in maintaining an independent nuclear regulatory system  
314 whose safety standards were established through lawful democratic processes and  
315 cannot be secretly rewritten by executive fiat is not a contested proposition. It is  
316 the documented position of twelve governments and every institutional voice  
317 with direct knowledge of the regulatory conditions under which the Ward 250 will  
318 achieve criticality.

319 The public interest in this circuit specifically favors injunctive relief where agency  
320 action threatens irreversible environmental harm and the agency failed to follow  
321 the procedural requirements designed to assess that harm before it occurs. *Diné*  
322 *Citizens*, 839 F.3d at 1283. That is precisely this case.

323

324 **V. THE TRO SHOULD ISSUE WITHOUT NOTICE IF NECESSARY.**

325 Federal Rule of Civil Procedure 65(b)(1) authorizes a TRO without notice where  
326 specific facts show that immediate and irreparable injury will result before the  
327 adverse party can be heard in opposition. The fuel insertion date for the Ward 250  
328 has not been disclosed. Fuel insertion may occur before Defendants can respond  
329 to this motion. Once fuel is inserted the first irreversible threshold is crossed. The  
330 Declaration of January Walker establishes specific facts showing that immediate  
331 and irreparable injury will result before the adverse party can be heard. The TRO  
332 should issue immediately upon filing without waiting for notice and response if  
333 this Court concludes that the undisclosed fuel insertion date creates a risk that the  
334 emergency threshold will be crossed before Defendants can be heard.

335 If this Court declines to issue the TRO without notice Plaintiff respectfully requests  
336 that the Court order Defendants to disclose the planned fuel insertion date within  
337 twenty-four hours of service and set an emergency hearing within forty-eight

338 hours thereafter so that the Court may assess the scope of the emergency before  
339 that threshold is crossed.

340

341

### CONCLUSION

342 Each of the four *Winter* factors is satisfied independently and on multiple grounds.

343 Plaintiff is likely to succeed on the merits of at least eight counts. Plaintiff will

344 suffer irreparable harm on three independently sufficient grounds none of which

345 is compensable by money damages. The balance of equities tips decisively in

346 Plaintiff's favor because Defendants face quantifiable reversible commercial delay

347 while Plaintiff faces permanent physical, regulatory, and participatory harm that

348 no subsequent court order can reverse. The public interest strongly favors

349 requiring the government to follow the law Congress enacted before deploying

350 nuclear technology in a watershed serving tens of millions of people under safety

351 standards secretly rewritten without public participation.

352 The government can delay a commercial timeline. No court can un-insert nuclear

353 fuel, un-establish a regulatory baseline, or restore the public's right to participate

354 in a decision that is already irreversible.

355 Plaintiff respectfully requests that this Court issue a temporary restraining order

356 immediately upon filing halting all fuel insertion activities and all actions directed

357 toward nuclear criticality in the Ward 250 reactor, order Defendants to disclose the  
358 planned fuel insertion date within seventy-two hours of service, and set an  
359 emergency hearing on the preliminary injunction at the earliest practicable date.

360

361

362 Respectfully submitted,

363

364

A handwritten signature in black ink, appearing to read "January Walker", with a stylized flourish at the end. To the right of the signature is a small handwritten "/s/".

365

January Walker

366

Planetary Information Security Officer

367

Plaintiff Pro Se

368

Salt Lake City, Utah

369

April 7, 2026

370

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<https://orcid.org/0009-0000-6843-2051>

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*Forest Guardians v. Babbitt*. 174 F.3d 1178. 10th Cir. 1999.

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*Greater Yellowstone Coalition v. Flowers*. 321 F.3d 1250. 10th Cir. 2003.

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394 *League of Women Voters of United States v. Newby*. 838 F.3d 1. D.C. Cir. 2016.

395 *Rolo v. City Investing Co. Liquidating Trust*. 155 F.3d 644. 3d Cir. 1998.

396 *United States v. Chrysler Corp.*. 158 F.3d 1350. D.C. Cir. 1998.

397

398 **Federal Statutes**

399 Administrative Procedure Act. 5 U.S.C. §§ 553 and 706.

400 Atomic Energy Act of 1954. 42 U.S.C. §§ 2014 and 2133.

401 Clean Water Act. 33 U.S.C. § 1341.

402 Endangered Species Act. 16 U.S.C. § 1536.

403 National Environmental Policy Act. 42 U.S.C. § 4332.

404 National Historic Preservation Act. 54 U.S.C. § 306108.

405

406 **Federal Regulations**

407 10 C.F.R. Part 1021 Appendix B.

408 10 C.F.R. § 50.43(e)(3).

409 40 C.F.R. § 1501.4.

410 40 C.F.R. § 1502.16.

411 91 Fed. Reg. 7736. January 28, 2026.

412 91 Fed. Reg. 16584. April 2, 2026.