By Electronic Mail (washoshrccommission@oshrc.gov)

The Honorable Ray H. Darling, Jr., Executive Secretary
Occupational Safety and Health Review Commission

Re: Kiewit Power Constructors Co., OSHRC Docket No. 11-2395

Dear Mr. Darling:

KPCC respectfully submits the following regarding the Secretary’s reply to its citation of additional authorities: Contrary to the Secretary’s principal argument that the authorities are “inapplicable because they concern…retroactiv[ity],” at least one (Ledezma-Galicia v. Holder, 636 F.3d 1059, 1067, 1075 (9th Cir. 2010), cert. denied, 555 U.S. 1170 (2009)) concerns implied repeal—thus showing that the principle of INS v. St. Cyr, 533 U.S. 289, 320 n.45 (2001), applies to any matter required to be clear.

Please distribute this letter to the Commission and the General Counsel, and electronically acknowledge receipt to asapper@mwe.com.

Respectfully submitted,

/s/ Arthur G. Sapper

Cc: Messrs. Glabman and Joseph (electronic service certified this date)