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Office of Civilian Radioactive Waste Management


***OFFICE OF CIVILIAN RADIOACTIVE WASTE
MANAGEMENT LICENSING SUPPORT NETWORK
CERTIFICATION PLAN FOR INITIAL CERTIFICATION***

Revision 1

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*U.S. Department of Energy
Office of Civilian Radioactive Waste Management
Las Vegas, Nevada*


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CHANGE HISTORY

<u>Revision Number</u>	<u>Interim Change No.</u>	<u>Effective Date</u>	<u>Description of Change</u>
0	0	06/25/2004	Initial issue
1	0	06/29/2004	Provided additional clarification in Section 4.3.

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CONTENTS

	Page
ACRONYMS	ix
1. BACKGROUND	1
2. PURPOSE.....	1
3. CERTIFICATION REQUIREMENTS	1
4. THE DOE’S PROCEDURES TO IMPLEMENT THE REQUIREMENTS OF 10 CFR 2.1003	2
4.1 IDENTIFICATION AND COLLECTION OF DOCUMENTS	2
4.2 PROCESSING OF DOCUMENTS	3
4.3 IDENTIFICATION OF DOCUMENTARY MATERIAL.....	4
4.4 CACI CERTIFICATION.....	7
5. BASIS FOR INITIAL CERTIFICATION.....	7
6. PROCEDURES FOR SUPPLEMENTAL PRODUCTIONS AND UPDATED CERTIFICATION.....	8
7. REFERENCES	8
7.1 DOCUMENTS CITED	8
7.2 CODES, STANDARDS, REGULATIONS, AND PROCEDURES.....	9
APPENDIX A – CACI, INC. CERTIFICATION OF DOCUMENT IDENTIFICATION FOR LSN	A-1
APPENDIX B – NOTIFICATION TO CACI, INC. TO MAKE DOCUMENTS ELECTRONICALLY AVAILABLE.....	B-1
APPENDIX C – CACI, INC. CERTIFICATION OF ELECTRONIC AVAILABILITY	C-1
APPENDIX D – INITIAL LSN CERTIFICATION BY DOE CERTIFYING OFFICIAL.....	D-1

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ACRONYMS

BSC	Bechtel SAIC Company, LLC
DIRS	Document Input Reference System
DOE	U.S. Department of Energy
LA	License Application
LSN	Licensing Support Network
NRC	U.S. Nuclear Regulatory Commission
OCRWM	Office of Civilian Radioactive Waste Management
RMS	Records Management System
TDIF	Technical Data Information Form
TDMS	Technical Data Management System

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1. BACKGROUND

Pursuant to the Nuclear Waste Policy Act of 1982 and the ensuing site recommendation approvals by the President and Congress, the U.S. Department of Energy (DOE) intends to apply for a license from the U.S. Nuclear Regulatory Commission (NRC) to construct a geologic repository for the storage of high-level radioactive waste at Yucca Mountain, Nevada. The Office of Civilian Radioactive Waste Management (OCRWM) is currently preparing a license application (LA) that will be submitted to the NRC. NRC regulation 10 CFR 2.1003 requires the DOE to make available in advance of submitting its LA certain basic licensing documents as well as "documentary material" in connection with the Licensing Support Network (LSN). Additionally, a DOE-designated official must certify, in accordance with 10 CFR 2.1009(b), that the DOE has established and implemented procedures to meet the requirements of 10 CFR 2.1003, and that, to the best of the official's knowledge, the documentary material specified in 10 CFR 2.1003 has been identified and made electronically available. The DOE must provide an initial certification to this effect and an updated certification at the time the LA is submitted.

2. PURPOSE

The purpose of this document is to set forth the basis for the initial certification that (1) the DOE established procedures to implement the requirements in 10 CFR 2.1003, and (2) to the best of the certifying official's knowledge, the documentary material specified in 10 CFR 2.1003 has been identified and made electronically available.

3. CERTIFICATION REQUIREMENTS

The LSN certification requirements are provided in the NRC regulations at 10 CFR 2.1009. The regulation contains two paragraphs, the first of which states:

- (a) Each potential party, interested governmental participant, or party shall:
 - (1) Designate an official who will be responsible for administration of its responsibility to provide electronic files of documentary material;
 - (2) Establish procedures to implement the requirements in § 2.1003;
 - (3) Provide training to its staff on the procedures for implementation of the responsibility to provide electronic files of documentary material;
 - (4) Ensure that all documents carry the submitter's unique identification number;
 - (5) Cooperate with the advisory review process established by the NRC under § 2.1011(d).

The second paragraph of 10 CFR 2.1009 states:

- (b) The responsible official designated under paragraph (a)(1) of this section shall certify to the Pre-License Application Presiding Officer that the procedures specified in paragraph (a)(2) of this section have been implemented, and that to the best of his or

her knowledge, the documentary material specified in § 2.1003 has been identified and made electronically available. The initial certification must be made at the time the participant is required to comply with § 2.1003. The responsible official for the DOE shall update this certification at the time the DOE submits the LA.

4. THE DOE'S PROCEDURES TO IMPLEMENT THE REQUIREMENTS OF 10 CFR 2.1003

As described below, the DOE established procedures to identify, collect, and process documents that might be potentially relevant to the Yucca Mountain proceeding. The DOE established additional procedures to identify and make electronically available from those documents, for purposes of its initial certification, the documents that comprise the documentary material called for under 10 CFR 2.1003.

4.1 IDENTIFICATION AND COLLECTION OF DOCUMENTS

The DOE, aided by its Litigation Support Contractor, CACI, Inc., identified and collected potentially relevant documents in accordance with the *OCRWM Licensing Support Network Certification Plan for Document Collection* (DOE 2004a), including the procedures and training referenced therein. The DOE and CACI conducted compliance assurance reviews, as set forth in the *Office of Civilian Radioactive Waste Management Licensing Support Network Compliance Assurance Plan for Document Collection* (DOE 2004c), to provide added assurance that affected DOE and contractor offices identified, segregated, and provided appropriate documents for processing by CACI.

As a result of those efforts, the following collections of documents were identified. The documents in these various collections are, to a certain extent, duplicative:

- **The OCRWM Records Management System (RMS)**—In effect since 1987, the RMS is an integrated records program designed to collect, categorize, and maintain documents for the Yucca Mountain project. This includes a requirement to create and retain records packages for comments on draft technical work products circulated for comment, including comments transmitted via email. Affected DOE and contractor personnel are trained regarding the record-keeping requirements of the RMS, and audits and self-assessments are periodically performed to monitor compliance with those requirements. Deficiencies detected through those means are addressed and resolved through OCRWM's corrective action program.
- **Paper collection**—This collection consists of the paper documents identified and submitted to CACI in response to the May 5, 2003 memorandum from the Office of the General Counsel to affected DOE and contractor offices seeking potentially relevant documents (Call Memo) (Otis 2003).

This collection includes potential documentary material in the files of the employee concerns programs of OCRWM and Bechtel SAIC Company, LLC (BSC). All such documents were received, generated, or collected in connection with concerns raised with the OCRWM Concerns Program (and its predecessors) or the BSC Concerns

Programs. These files are protected under the Privacy Act of 1974. Because of the confidential nature of these files, they were not made available to CACI for processing. Rather, the DOE provided CACI with information sufficient for CACI to create a bibliographic header for each employee concerns file containing potential documentary material and directed CACI to make the bibliographic header electronically available. The employee concerns files will be preserved and retained by the respective OCRWM and BSC concerns programs.

- **E-file collection**—This collection consists of documents on electronic media identified and submitted to CACI by affected DOE and contractor offices in response to the Call Memo. Included in this collection are electronic copies of the emails that persons submitted in response to the Call Memo. These emails were not limited to those authored by the person submitting the emails.
- **Legacy paper collection**—This collection consists of paper documents from the archived files of former DOE contractors for the Yucca Mountain Project.
- **Electronic databases**—This collection consists of server-based electronic databases maintained by the DOE management and operating contractor for the Yucca Mountain Project, BSC, and the DOE information technology contractor, RSIS.
- **OCRWM emails**—This collection consists of emails from OCRWM's Lotus Notes email system designated by their authors as potentially relevant to the Yucca Mountain proceeding when the emails were sent. This collection is the result of an electronic template added to the OCRWM email system in February 2004.
- **Archival emails**—This collection consists of OCRWM email system back-up tapes that contain archival emails authored or received by current and former OCRWM personnel. These back-up tapes were not created as a supplement to the RMS or otherwise to be used in the normal course of OCRWM's activities. Rather, they were created as a means of temporarily storing email data to guard against a catastrophic failure in OCRWM's email systems. These back-up tapes would not have been saved indefinitely in the ordinary course, but these particular tapes were retained in connection with litigation involving the DOE. A small fraction of the OCRWM archival email was collected from other diverse sources. This includes a small group of archival emails retained in Foremost, which was an additional email retention system that was tested on some OCRWM systems for a limited period of time and that was never fully implemented across the Project.

4.2 PROCESSING OF DOCUMENTS

At the direction of the DOE, CACI processed the documents from the foregoing collections that were submitted to it as of April 15, 2004 according to the *Office of Civilian Radioactive Waste Management Licensing Support Network Certification Plan for Document Processing* (DOE 2004b), including the procedures and training described in that plan. The cut-off date of April 15, 2004 was necessary for purposes of DOE's initial certification because of the lead time necessary to process the large volume of documents consistent with the requirements of NRC

regulations and guidance. For purposes of the DOE's updated certification, CACI will continue to process documents generated or received after April 15, 2004.

As more particularly described in the document processing plan, CACI performed conformance reviews as part of its processing activities to determine whether the documents submitted from the paper, e-file, and legacy paper collections satisfied the criteria of the Call Memo. CACI also created electronic images and searchable full text of submitted documents (when appropriate) as well as bibliographic headers for the documents consistent with the LSN regulations. The DOE and CACI also conducted compliance assurance reviews, as set forth in the *Office of Civilian Radioactive Waste Management Licensing Support Network Compliance Assurance Plan for Document Processing* (DOE 2004d), to provide added assurance that the processing of documents was consistent with the regulatory requirements.

4.3 IDENTIFICATION OF DOCUMENTARY MATERIAL

The DOE directed CACI to identify the following documents from those that had been submitted to CACI for processing as of April 15, 2004 (and to the extent feasible, those submitted to and processed by CACI since April 15, 2004), and upon further notice by the DOE, to make those documents electronically available consistent with the LSN regulations:

- The following basic licensing documents: Yucca Mountain Site Characterization Plan; Yucca Mountain Environmental Impact Statement.
- From the RMS:
 - Documents that are referenced in the Document Input Reference System (DIRS) or the Technical Data Management System (TDMS). The DIRS is a database established in 1999 to identify and track the inputs to OCRWM's technical work products on the Yucca Mountain Project. The TDMS is a database that collects technical data generated by or on behalf of OCRWM in connection with the Yucca Mountain Project.
 - Documents in the RMS comprising the records packages associated with these documents that are referenced in the DIRS or TDMS (with the proviso that CACI was not directed to include documents in the records packages if their only document type code¹ is Package, Controlled Document Issuance, Position Description, Position Qualification Statement, Training Assignment Sheet, Training Attendance Record, Verification of Education, or Verification of Work Experience, because those categories of documents are not believed to contain information that would qualify the documents as documentary material).
 - Documents with one or more of the following document type codes: AMR (Analysis Model Report), Design, Plan, PMR (Process Model Report), Report, Requirement, Software, and Vendor and Supplier, along with the other documents in

¹ A code assigned to a category of documents, in the RMS, by OCRWM contractors.

the RMS comprising the records package associated with each such document (with the proviso that CACI was not directed to include documents in the records packages if their only document type code is Controlled Document Issuance, Package, Position Description, Position Qualification Statement, Training Assignment Sheet, Training Attendance Record, Verification of Education, or Verification of Work Experience, because those categories of documents are not believed to contain information that would qualify the documents as documentary material); however, CACI was authorized to exclude documents with a document type code of AMR, Design, Plan, PMR, Report, or Requirement if a title review indicates that the documents concern a topic outside the draft *Topical Guidelines for the Licensing Support Network* (NRC 2002) or otherwise can be excluded from the LSN pursuant to regulation.

- Documents with one or more of the following document type codes: Audit, Calibration, Correspondence (except for congressional correspondence as permitted by 10 CFR 2.1005(i)), Data, Email, Job Package, Notebook, Policy (final versions), Procedure or Instruction (final versions), Publication, Self-Assessment, and TDIF (Technical Data Information Form); however, CACI was authorized to exclude documents with a document type code of Audit, Data, Email, Job Package, Notebook, Policy, Procedure or Instruction, Publication, or Self-Assessment if a title review indicates that the documents concern a topic outside the draft *Topical Guidelines for the Licensing Support Network* (NRC 2002) or otherwise can be excluded from the LSN pursuant to regulation.
- The contracts for the DOE's three management and operating contractors for the Yucca Mountain project.
- Documents with one or more of the following document type codes to the extent they are (1) referenced in DIRS or TDMS, (2) cross-coded with one of the document type codes above, or (3) included in a records package selected for inclusion with a document type code of Administration, Agreement, Change Control, Computer Documentation, Drawing, Legal, Map, Order or Directive, Package, Permit, Procurement, Qualification Records, Review, and Self-Study.
- Documents with "errata" in the title, except that CACI was authorized to exclude such a document if a title review indicates that it concerns a topic outside the draft *Topical Guidelines for the Licensing Support Network* (NRC 2002) or otherwise can be excluded from the LSN pursuant to regulation.
- For any document to be made available from the RMS pursuant to one of the foregoing criteria, any other document in the RMS that is identified as a related document in the bibliographic header with one or more of the following codes: COR (corrects); COR-BY (corrected by); DUP (duplicate); PARTS; PART-OF; SUPR (supersedes); SUPR-BY (superseded by); SUPL (supplements); and SUPL-BY (supplemented by).

- From the paper documents produced in response to the Call Memo and legacy paper:
 - Documents with one or more of the following paper document type codes²: Data, Email, Meeting Aid, Notebook, and Report; however, CACI was authorized to exclude such a document if a title review indicates that it concerns a topic outside the draft *Topical Guidelines for the Licensing Support Network* (NRC 2002) or otherwise can be excluded from the LSN pursuant to regulation.
 - Documents with a paper document type code of Correspondence (except for congressional correspondence as permitted by 10 CFR 2.1005(i)).
 - Documents with one or more of the following paper document type codes to the extent they are cross-coded with one of the paper document type codes otherwise being produced: Drawing, Financial Statement, Form, Legal Document, List, Manual, Map, Media, Photograph, or Procurement.
 - Bibliographic header for the employee concerns files determined to contain potential documentary material.
- From the e-files:
 - All documents, including the emails that were submitted as e-files in response to the Call Memo.
- From the databases:
 - A bibliographic header only for each database identified as containing potential documentary material.
- From the OCRWM emails:
 - Emails identified as potentially relevant through the contemporaneous author-review process.
- From the archival emails:
 - Emails identified as potentially relevant through the current user review process that OCRWM implemented for purposes of identifying emails from the back-up tapes for potential inclusion on the LSN.

Pursuant to 10 CFR 2.1003, the DOE further instructed CACI to make available a bibliographic header only for any document identified for inclusion that has been designated as privileged, or that otherwise can be produced in header-only format pursuant to the LSN regulations.

² A code assigned to a category of documents by CACI.

The identification of certain documents as privileged was based solely on computer software screening protocols. The DOE is reviewing these designations.

4.4 CACI CERTIFICATION

CACI will certify to the DOE certifying official when it has identified the documents outlined in Section 4.3 and that CACI is ready to make those documents electronically available upon notice by the DOE certifying official (Appendix A). Following notice by the DOE certifying official to make those documents electronically available (Appendix B), CACI will certify to the DOE certifying official when the documents have been made electronically available (Appendix C).

5. BASIS FOR INITIAL CERTIFICATION

The procedures referenced above, and the resulting certifications, provide the basis for the DOE certifying official to certify that (1) the DOE has implemented procedures required by 10 CFR 2.1009(a)(2), and (2) to the best of the certifying official's knowledge, certain basic licensing documents as well as the three categories of documentary material specified in 10 CFR 2.1003 and submitted to CACI by April 15, 2004, have been identified and made electronically available (Appendix D). These procedures create a reasonable basis for that belief because:

- **Category 1**—The documents that CACI has been instructed to make available are reasonably calculated to encompass the information from the documents processed by CACI that the DOE intends to cite or rely on in support of its LA (although the LA is not yet complete, additional information will be developed, new documents will be created, and existing ones revised).
- **Category 2**—The documents that CACI has been instructed to make available are reasonably calculated to encompass the information that the DOE knows of and has in its possession, or that the DOE has developed, but does not support the information the DOE intends to cite or rely on in support of the LA. The OCRWM Program has procedures for obtaining comments on technical products, resolving comments on technical work products, registering and resolving non-concurrences with technical work products, addressing employee concerns, and retaining records for all of these. The documents identified for production from RMS should capture these records. Additionally, the DOE is making available several hundred thousand paper and electronic documents that were identified in response to the Call Memo. The Call Memo directed production of documents regardless of whether their contents were supporting or non-supporting.
- **Category 3**—The documents that CACI has been instructed to make available are reasonably calculated to encompass the reports and studies that the DOE prepared or that were prepared on its behalf, and that are relevant to the LA and the issues set forth in the draft *Topical Guidelines for the Licensing Support Network* (NRC 2002).

In addition, the DOE is making available the archival emails identified as potentially relevant through the current user review process. The NRC has stated in 53 FR 44414 that "DOE will not

be expected to make an exhaustive search of its archival material that conceivably might be within the topical guidelines but has not been reviewed or consulted in any way in connection with DOE's work on its license application." Nevertheless, the DOE decided to make available the archival emails identified through the current user review process. That review process did not include a small fraction of active users' archival emails that posed technological difficulties in processing (i.e., encrypted emails and emails on the Foremost system) or emails authored by a small number of active users who were unavailable for the review process (e.g., the user was on medical leave).

The DOE has not undertaken to review or produce for its initial certification the collection of archival emails that were authored by persons other than active users (i.e., persons who had accounts on OCRWM's email system at the time of the email review process). The archival back-up tapes are an indiscriminate snapshot of the OCRWM email system on a given day and contain all manner of email unrelated to Yucca Mountain, including personal emails with privacy protected information, and are not coded or arranged by content. Further, the DOE does not intend to cite or rely on archival emails in support of its LA, and the emails would not appear to qualify as reports and studies. Given OCRWM's record-keeping procedures, the number of documents, including emails, being produced from the other document collections, and the experience of the current user review, only an extremely small number, if any, of archival emails in this group might contain non-supporting information not reflected in the other documents the DOE is producing. The "rule of reason" that the NRC has said "must be applied" to an LSN participant's obligation to identify documentary material, 53 FR 44414, does not require the DOE to review and produce this archival collection in light of (1) the extraordinary expenditure of public funds that would be required to process and review these emails authored by persons other than active users, (2) the extremely low percentage of these emails that might be considered even potentially relevant to the Yucca Mountain licensing (based on the active user email review), (3) the number of documents from other collections that are being produced (including emails authored by former DOE personnel), and (4) the otherwise marginal utility of the archival email collection.

6. PROCEDURES FOR SUPPLEMENTAL PRODUCTIONS AND UPDATED CERTIFICATION

As set forth in the *OCRWM Licensing Support Network Certification Plan for Document Collection* (DOE 2004a) and the *Office of Civilian Radioactive Waste Management Licensing Support Network Certification Plan for Document Processing* (DOE 2004b), the DOE's collection, processing, and review efforts will continue for documents identified after April 15, 2004. Any documentary material identified as a result of those efforts will be made available as required by LSN regulations.

7. REFERENCES

7.1 DOCUMENTS CITED

DOE (U.S. Department of Energy) 1988. *Site Characterization Plan Yucca Mountain Site, Nevada Research and Development Area*. DOE/RW-0199. Nine volumes. Washington, D.C.:

U.S. Department of Energy, Office of Civilian Radioactive Waste Management.
ACC: HQO.19881201.0002.

DOE 2002. *Environmental Impact Statement for a Geologic Repository for the Disposal of Spent Nuclear Fuel and High-Level Radioactive Waste at Yucca Mountain*. DOE/EIS-0250. Nye County, Nevada. Washington, D.C.: U.S. Department of Energy, Office of Civilian Radioactive Waste Management. ACC: MOL.20020524.0314 through MOL.20020524.0320.

DOE 2004a. *OCRWM Licensing Support Network Certification Plan for Document Collection*. Revision 0, April 2004. Washington, D.C.: U.S. Department of Energy, Office of Civilian Radioactive Waste Management.

DOE 2004b. *Office of Civilian Radioactive Waste Management Licensing Support Network Certification Plan for Document Processing*. Revision 0, May 2004. Washington, D.C.: U.S. Department of Energy, Office of Civilian Radioactive Waste Management.

DOE 2004c. *Office of Civilian Radioactive Waste Management Licensing Support Network Compliance Assurance Plan for Document Collection*. Revision 0, April 2004. Washington, D.C.: U.S. Department of Energy, Office of Civilian Radioactive Waste Management.

DOE 2004d. *Office of Civilian Radioactive Waste Management Licensing Support Network Compliance Assurance Plan for Document Processing*. Revision 0, May 2004. Washington, D.C.: U.S. Department of Energy, Office of Civilian Radioactive Waste Management.

Otis, L.L. 2003. "Screening and Processing of Licensing Support Network Documentary Material." Memorandum from L.L. Otis (Office of the General Counsel) to affected DOE and subcontractor offices, May 5, 2003. ACC: HQO.20030610.0012.

NRC (U.S. Nuclear Regulatory Commission) 2002. Regulatory Guide 3.69, *Topical Guidelines for the Licensing Support Network*. Revision 0, June 2002. Draft Regulatory Guide DG-3022. Washington, D.C.: U.S. Nuclear Regulatory Commission. Readily available.

7.2 CODES, STANDARDS, REGULATIONS, AND PROCEDURES

10 CFR (Code of Federal Regulations) Part 2, Subpart J. Nuclear Regulatory Commission: Rules of Practice for Domestic Licensing Proceedings and Issuance of Orders. Readily available.

53 FR (Federal Register) 44414. Rule on the Submission and Management of Records and Documents Related to the Licensing of a Geologic Repository for the Disposal of High-Level Radioactive Waste. Readily available.

Nuclear Waste Policy Act of 1982. 42 U.S.C. 10101 et seq. Readily available.

Privacy Act of 1974. 5 U.S.C. 552a. Readily available.

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APPENDIX A

CACI, INC. CERTIFICATION OF DOCUMENT IDENTIFICATION FOR LSN

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CACI, INC. CERTIFICATION OF DOCUMENT IDENTIFICATION FOR LSN

Pursuant to the Office of Civilian Radioactive Waste Management Licensing Support Network Certification Plan for Initial Certification (OCRWM, June 2004) ("OCRWM Certification Plan"), I hereby certify that the documents identified in Section 4.3 of the OCRWM Certification Plan that were submitted to CACI, Inc. by April 15, 2004, have been processed by CACI, Inc. and loaded on the DOE Licensing Support Network server. These documents are ready to be accessed by the U. S. Nuclear Regulatory Commission and made available on the World Wide Web.

Signature

Printed Name

Title

Date

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APPENDIX B

**NOTIFICATION TO CACI, INC. TO MAKE DOCUMENTS
ELECTRONICALLY AVAILABLE**

APPENDIX B

**NOTIFICATION TO CACI, INC. TO MAKE DOCUMENTS
ELECTRONICALLY AVAILABLE**

As provided in the Office of Civilian Radioactive Waste Management Licensing Support Network Certification Plan for Initial Certification (OCRWM, June 2004) ("OCRWM Certification Plan"), I hereby direct CACI, Inc. to make electronically available to the U. S. Nuclear Regulatory Commission and on the World Wide Web the documents identified in Section 4.3 of the OCRWM Certification Plan.

Signature

Printed Name

Title

Date

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APPENDIX C

CACI, INC. CERTIFICATION OF ELECTRONIC AVAILABILITY

APPENDIX C

CACI, INC. CERTIFICATION OF ELECTRONIC AVAILABILITY

Pursuant to the direction of the DOE Certifying Official, I hereby certify that the documents identified in Section 4.3 of the Office of Civilian Radioactive Waste Management Licensing Support Network Certification Plan for Initial Certification (OCRWM, June 2004) that were submitted to CACI, Inc. by April 15, 2004, have been made electronically available to the NRC and on the World Wide Web.

Signature

Printed Name

Title

Date

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APPENDIX D

INITIAL LSN CERTIFICATION BY DOE CERTIFYING OFFICIAL

APPENDIX D

INITIAL LSN CERTIFICATION BY DOE CERTIFYING OFFICIAL

Based on the procedures referenced in the Office of Civilian Radioactive Waste Management Licensing Support Network Certification Plan for Initial Certification (OCRWM, June 2004), I certify that (i) DOE has implemented procedures as required by 10 CFR 2.1009(a)(2) and (ii) to the best of my knowledge, the documentary material specified in 10 CFR 2.1003 has been identified from those documents submitted to CACI by April 15, 2004 and made electronically available. Pursuant to the LSN regulations, DOE will provide additional documentary material that it may hereafter identify. It will update this certification when it submits its License Application.

Signature

Printed Name

Title

Date

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