

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

Thomas S. Moore, Chairman
Alex S. Karlin
Alan S. Rosenthal

DOCKETED
USNRC

July 19, 2004 (5:15PM)

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

SERVED July 20, 2004

In the Matter of

U.S. DEPARTMENT OF ENERGY

(High Level Waste Repository:
Pre-Application Matters)

Docket No. PAPO-00

ASLBP No. 04-829-01-PAPO
NEV-01

July 19, 2004

MEMORANDUM AND ORDER

(Directing the Licensing Support Network Administrator to Respond to Questions)

On July 12, 2004 the State of Nevada (NEV) electronically filed a motion with the pre-license application presiding officer (PAPO) Board challenging, inter alia, the availability of the Department of Energy's (DEN's) documentary material pursuant to 10 C.F.R. § 2.1003(a) and seeking to strike DEN's June 30, 2004 certification regarding same. On July 14, 2004 the Board issued a Memorandum and Order instructing DEN and other participants to answer nine questions. Pursuant to 10 C.F.R. § 2.1011(c)(3), the Board requests that, on or before July 23, 2004, the Licensing Support Network (LSN) Administrator file written answers to the following questions and requests for information:

1. The LSN is defined, in pertinent part, as "the combined system that makes documentary material available electronically to the parties, potential parties, and interested governmental participants." 10 C.F.R. § 2.1001. As the official who coordinates the LSN under 10 C.F.R. § 2.1011(c), briefly describe the system.

2. Briefly describe the history of the LSN, focusing particularly on the nature and extent of any DOE involvement in its development.

3. Describe the process whereby documentary material provided by a participant is made accessible to other participants and the public via the LSN.

4. With regard to the process described in response to the preceding question, did you and DEN ever discuss it and/or agree to it? If so, briefly describe these discussions or agreements.

5. Is there is any agreement or understanding between you and DEN as to when documentary material is deemed "available" as specified in 10 C.F.R. § 2.1003(a)? If so, describe it.

6. Are all documents accessible to the LSN automatically accessible to the public? If not, explain why not, and explain the process whereby documents indexed by the LSN are made accessible to the public.

7. At what rate can the LSN index documentary material from a participant so that it is accessible to the public? What is the total capacity of the LSN? Provide an estimate of the date when the documentary material that DEN certified on June 30, 2004 will be indexed by the LSN and be accessible to the public via the LSN.

8. When was the LSN first ready and able to index documentary material from participants?

9. When did DEN start making its documentary materials accessible to the LSN? How many documents and pages of material from DEN have been indexed by the LSN?

10. Over what period of time have you communicated with representatives of DEN concerning it's making documentary material accessible to the LSN? Based on these

communications, what was the approximate first date when, as a technical matter (in contrast to policy matters), DEN would have been able to make documentary material accessible to the LSN had DEN chosen to do so. Briefly describe the circumstances.

11. What are the differences, advantages, and disadvantages between making documentary materials accessible via a participant's web site versus making them accessible via the LSN?

12. As the Board understands it, DEN has established its own web site where certain DEN documents can be accessed by members of the public. Is this DOE web site a "web accessible server which is able to be canvassed by web indexing software" as required by 10 C.F.R. § 2.1011(b)(2)(i)? More generally, does DEN's web site and computer system satisfy the design standards specified in 10 C.F.R. § 2.1011(b)? If not, briefly describe those respects in which it does not meet this standard.

13. Does the DEN web site satisfy the requirement that DOE shall provide "a system to provide electronic access to the [LSN]" as required by 10 C.F.R. § 2.1007(a). If not, briefly describe those respects in which it does not meet this standard.

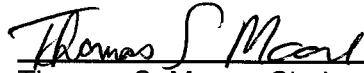
14. With regard to the documentary material that DEN has produced to the LSN, did DEN provide an electronic bibliographic header for each document for which DEN asserted a claim of privilege, confidentiality, or safeguards as specified in 10 C.F.R. 2.1003(a)(4)? If not, please describe the current status of any such document that are known to you.

Your answers to the above specified matters should be in the form of an affidavit filed with the Board and served in accordance with our Order of July 9, 2004. Your signature shall affirm that, to the best of the your knowledge, information, and belief, formed after reasonable inquiry, the answers are complete and correct as of the time they are made.

In accordance with 10 C.F.R. § 2.1011(c), the Board also invites you to provide it with any other relevant information, identify any problems, and provide any recommendations relative to the resolution of this dispute regarding the availability of DEN's documentary material.

It is so ORDERED.

For the Pre-license Application
Presiding Officer Board¹


Thomas S. Moore, Chairman
Administrative Judge

Rockville, Maryland

July 19, 2004

¹A copy of this Memorandum and Order was sent, this date, by e-mail to the LSN Administrator.

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB MEMORANDUM AND ORDER (DIRECTING THE LICENSING SUPPORT NETWORK ADMINISTRATOR TO RESPOND TO QUESTIONS) have been served upon the following persons by electronic mail and/or Electronic Information Exchange as denoted by an asterisk (*).

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Docket No. PAPO-00
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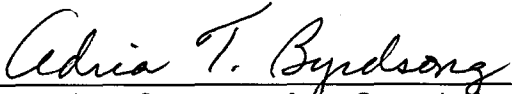
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Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 20th day of July 2004