

**NEVADA NUCLEAR WASTE TASK FORCE
NUCLEAR INFORMATION RESOURCE SERVICE
PUBLIC CITIZEN**

June 22, 2005

DOCKETED 07/18/2005

Thomas S. Moore, Chairman
Pre-License Application Presiding Officer Board
US Nuclear Regulatory Commission

SERVED 07/18/2005

Re: Docket No. PAPO-00
ASLBP No. 04-829-01-PAPO

We are writing in regard to the tentatively scheduled conference on July 19, 2005 regarding document retention and related issues as ordered in your June 16, 2005 Order: Scheduling Motion Argument and Tentatively Scheduling Case Management Conference.

A meeting was held on June 15, 2005 at the offices of Hunton & Williams with telephone access for those wishing to participate but not able to attend the meeting in person. We appreciate the availability of this means for our involvement. During the meeting, it was obvious that there was little agreement among the various parties that may be involved in a licensing proceeding for a Yucca Mountain repository.

The Preamble to the LSN rules makes it clear that the rules are intended to make documents and materials available electronically, avoid discovery delays, and for the Department of Energy's (DOE) and the Nuclear Regulatory Commission's (NRC) materials to be made accessible to other parties. However, at the last two Case Management meetings it appears that the DOE, through a proposal of so-called "uniformity," is trying to make it difficult or impossible for public interest organizations to participate. Certainly, we would expect that all parties would have to follow the existing legal standards, but there are clear differences in the burdens and requirements of the applicant and the regulator – the two federal government agencies – and the other participants in a licensing proceeding.

The public, i.e. all potential parties, other than the applicant and regulator, have produced little documentary material relevant to a Yucca Mountain licensing case that is not already in the document records of DOE and NRC. In practice, these entities react to policy and regulatory proposals such as those surrounding the national nuclear waste repository program over the past more than twenty years. The documents relevant to a Yucca Mountain licensing proceeding that evidence these reactions have been submitted to DOE and NRC in the course of noticed review and comment, and occasionally as unsolicited comment.

We strongly oppose any document retention or production directive that would impose a retroactive standard as a prerequisite for public participation in any prospective Yucca Mountain licensing proceeding. Such a directive would ignore the intent and spirit of the LSN rule and certainly prejudice the proceeding in the eyes of the public.

It is essential that the DOE not be allowed to manipulate the rules of the LSN or the existing legal standards to limit the participation of non-governmental parties, or to make the process so onerous that interested, concerned and affected groups are discouraged from entering a licensing proceeding where their voice and presence, and those of the public are vitally important.

Sincerely,

Judy Treichel,
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Nevada Nuclear Waste Task Force

Kevin Kamps,
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Michele Boyd,
Legislative Director
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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of	)	
	)	
U.S. DEPARTMENT OF ENERGY	)	Docket No. PAPO-00
	)	
	)	
(High-Level Waste Repository:	)	
Pre-Application Matters)	)	

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing 6/22/2005 RESPONSE LETTER TO LB ORDER (NEVADA NUCLEAR WASTE TASK FORCE, NUCLEAR INFORMATION RESOURCE SERVICE, AND PUBLIC CITIZEN RESPONSE TO 6/16/2005 LB ORDER) have been served upon the following persons by electronic mail and/or Electronic Information Exchange as denoted by an asterisk (*).

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2

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3

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4

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[Original signed by Rebecca L. Giitter]

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Dated at Rockville, Maryland
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