

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION  
ATOMIC SAFETY AND LICENSING BOARD

**DOCKETED 04/19/07**

**SERVED 04/19/07**

Before Administrative Judges:

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

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

April 19, 2007

ORDER

(Scheduling Case Management Conference)

The Pre-License Application Presiding Officer (PAPO) Board will hold a case management conference at 1:00 p.m., EDT, Wednesday, May 23, 2007, in the Atomic Safety and Licensing Board Panel hearing room, third floor, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland. As with previous case management conferences, this conference will be open to the public. For the convenience of Nevada counsel, representatives of record, and any members of the public wishing to observe the conference, there will be a video conference link at 10:00 a.m., PDT, May 23, 2007, with the Las Vegas hearing room, Pacific Enterprise Plaza, Building 1, 3250 Pepper Lane, Las Vegas, Nevada.

The purpose of the conference is to assist us in fashioning an appropriate case management order addressing the conduct of document discovery of sensitive unclassified information for which there appears only a bibliographic header on the Licensing Support Network. With our approval, the Department of Energy (DOE), the NRC Staff, and the State of

Nevada (State) filed a proposed third case management order (PTCMO)<sup>1</sup> dealing with the procedures for handling sensitive unclassified information in the pre-license application phase of this proceeding. Thereafter, the Commission issued a second proposed rule addressing, inter alia, the handling of safeguards information (SGI) in agency adjudicatory proceedings.<sup>2</sup> After reviewing the draft order and the proposed rule, we have a number of questions about (1) the meaning of various terms and provisions in the draft order, (2) how various provisions will work in practice, and (3) the statutory or regulatory authority for some provisions. Similarly, we have a number of questions about how the proposed rule, if finalized in its current form, will work in practice, and the time it will take to effectuate some of the provisions. Accordingly, we have set forth several issues to be briefed as well as a number of questions the participants should be prepared to answer at the conference.

Counsel for DOE, the NRC Staff, and the State shall attend and participate in the conference. Because DOE, the NRC Staff, and the State are each represented by multiple counsel, we expect that there will not be any motions to alter the conference date. We encourage counsel or the representatives for other potential participants, interested Indian Tribes, and interested units of local government (collectively potential participants) to attend and, at our discretion, participate in the conference. In that regard, we remind all counsel and representatives that persons and entities appearing before us must file a notice of appearance meeting the requirements of 10 C.F.R. § 2.314(b), our initial July 9, 2004, Order, and our directions given at the March 5, 2007, case management conference (Tr. at 954-55).

Upon arrival at the main entrance of the NRC headquarters Two White Flint North building on Wednesday, May 23, 2007, all participants and members of the public seeking to

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<sup>1</sup> See Joint Proposed Third Case Management Order (Dec. 19, 2005), ADAMS Accession No. ML053540026.

<sup>2</sup> See 71 Fed. Reg. 64,004 (Oct. 31, 2006) [hereinafter Proposed Rule].

attend the case management conference will be required to present photo identification and then undergo security screening. All non-NRC employees must be escorted to the hearing room by an authorized NRC employee. Because of the time required for security procedures, all counsel should arrive no later than 12:30 p.m., EDT, on May 23, 2007, in order not to delay the conference. Similarly, members of the public also should arrive early in order to gain on-time admission to the hearing room.

Counsel, representatives, and members of the public viewing the conference on video monitors at the Las Vegas facility also will be required to present photo identification and then undergo security screening to gain admission into the hearing room.

No later than 1:00 p.m., EDT, Monday, May 21, 2007, the NRC Staff shall e-mail the Board ([PAPO@nrc.gov](mailto:PAPO@nrc.gov)) the names of counsel who will represent the Staff at the conference. No later than that same time and date, counsel for DOE and the State, as well as counsel and the representatives of record of any other potential parties, shall e-mail the Board ([PAPO@nrc.gov](mailto:PAPO@nrc.gov)) the names of all counsel or representatives who wish to participate along with a list of names of all persons associated with that participant who will be attending the conference so that they may be preregistered with NRC Security to expedite entry into the NRC headquarters complex. Any member of the public who wishes to expedite his or her entry into the NRC headquarters complex on May 23, 2007, also should e-mail a similar preregistration by 1:00 p.m., EDT, Monday, May 21, 2007.

No later than 10:00 a.m., PDT, May 21, 2007, counsel and representatives of record of any potential participants who seek to participate in the conference from the Las Vegas hearing room shall e-mail ([PAPO@nrc.gov](mailto:PAPO@nrc.gov)) the names of all counsel or representatives who wish to participate.

A. Questions Requiring Written Answers.

Each of the following questions identify one or more participants expected to provide a written answer. Although any potential participant is free to file a memorandum answering any of the questions, the named participant or participants shall file a memorandum fully answering designated questions 1 through 5. Any participant filing a memorandum answering the following questions shall do so by May 16, 2007, and should be prepared to discuss its answers at the conference:

1. Potential substantial delays associated with lack of deadlines for NRC actions.

Given the statutory and regulatory deadlines associated with the high level waste proceeding, time is of the essence during the pre-license application phase.

The PTCMO sets forth a process whereby (a) the originator of the requested SGI document has 20 business days to make an initial need to know determination; (b) the originator has another 40 business days (with the right of indefinite continuance) for the NRC, after receiving the necessary information from the requestor, to conduct a fingerprint criminal history background check or an alternative background check. PTCMO at 16. Thereafter, the requestor who objects to a denial of access to the document cannot file a motion to compel until, *inter alia*, the originator submits a privilege log, for which there is no filing time deadline. Thus, actions required by the originator will likely consume approximately 90 days and, only at that point, can the Board's review of such motion under 10 C.F.R. § 2.1010(b) even begin. Thus, even if the requestor initiated the process for an SGI document on the same day that DOE certifies its LSN collection, the process set forth in the PTCMO would take over 50% of the likely 6 month pre-license application phase to resolve.

The time problem becomes even more acute if the dispute resolution process specified in the proposed 10 C.F.R. § 2.1010(b)(6)(i)(D) is used. The dispute resolution process described in that section of the proposed rule adds 40 days to the time-line after a final determination has been made by the NRC.

(DOE, NRC, and the State) Discuss how the process under both scenarios might be expedited and shortened.

2. State Governor Exemption from fingerprinting and background checks.

Prior to the promulgation of new 10 C.F.R. § 73.59(b)(4) (71 Fed. Reg. 33,989, 33,992 (June 13, 2006)), the "Governor of a State or his/her designated representative" were exempt from the fingerprinting and criminal background check requirements by 10 C.F.R. § 73.57(b)(2)(ii). The new section 73.59(b)(4) amended the pertinent exemption language so that it currently refers to the "Governor of a State or his or her designated

State employee representative” (emphasis added).

Although the plain language of new 10 C.F.R. § 73.59(b)(4) appears to narrow the category of individuals exempt from the fingerprint and background check requirements, the Commission’s Statement of Considerations accompanying the new rule states that the “[c]urrent regulations in §§ 73.21 and 73.57 relieve Governors or their designated representatives . . . from fingerprinting and criminal history records checks if those individuals seek access to SGI as defined in § 73.2. This final rule continues that relief . . . .” 71 Fed. Reg. at 33,989 (emphasis added). Further, the Statement of Considerations states that “[t]he categories of individuals relieved by the final rule from fingerprinting and criminal history checks are broader than those relieved by existing regulations in §§ 73.21 and 73.57 . . . .” 71 Fed. Reg. at 33,990 (emphasis added).

(a) (NRC) Does the NRC Staff interpret new 10 C.F.R. § 73.59(b)(4) (i.e., “his or her designated State employee representative”) as narrowing the category of exempt persons from the previous sections 73.21 and 73.57(b)(2)(ii) (i.e., “his/her designated representative”)?

(b) (NRC) To qualify for the exemption, does the NRC Staff interpret new section 73.59(b)(4) to require the designated representative of a Governor to be a state employee?

(c) (NRC) Does the NRC Staff interpret section 73.59(b)(4) to permit the Governor to delegate the designation authority to another State official? If not, what language in section 73.59, the regulatory history of the new rule, or other authority precludes a delegation by the Governor?

(d) (NRC) If the NRC interprets section 73.59(b)(4) to narrow the category of representatives of a State Governor exempt from the fingerprinting and background checks, was the intent, in whole or in part, of the new section 73.59(b)(4) to require the private counsel representing the State of Nevada in the pre-license application proceeding to undergo fingerprinting and background checks before gaining access to SGI? If not, what was the intent underlying the addition of the language “State employee” in section 73.59(b)(4)?

### 3. PTCMO Definitions.

(a) The definition of Naval Nuclear Propulsion Information (NNPI) in the PTCMO states that it “concerns the design, arrangement, development, manufacture, testing, operation, administration, training, maintenance, and repair of the propulsion plants of the naval nuclear powered ships or prototypes, including the associated nuclear support facilities.” PTCMO at 1. It then lists a large swath of statutes, regulations, and an Executive Order as governing the disclosure of NNPI. Id. at 1-2.

The word “concerns” is not generally definitional because many things that concern these subjects are not NNPI.

(1) (DOE) Provide the definition of NNPI. Stated otherwise, specify what NNPI

means.

(2) (DOE) Provide a specific citation to the statute, regulation or other authority directly supporting the definition of NNPI. If no such statute, regulation, or other authority exists directly supporting the definition of NNPI, so state.

(3) (DOE) Provide a specific citation to the specific statute that exempts NNPI disclosure under exemption 3 of the Freedom of Information Act (FOIA), 5 U.S.C. 552(b)(3), and parallel 10 C.F.R. § 2.390(a)(3).

(4) (DOE) Provide a complete list of all the information that must be included in a privilege log to establish a prima facie case that a NNPI document is entitled to be withheld under Exemption 3 of FOIA.

(5) (DOE) If NNPI is not exempt from disclosure under exemption 3 of FOIA, what is the specific statute, regulation, or other authority that authorizes withholding NNPI. If no such statute, regulation, or other authority exists, so state.

(b) The first sentence of the definition of Official Use Only Information (OUO) in the PTCMO states that OUO is “DOE information that may be protected from disclosure under [FOIA] (5 U.S.C. § 552(b) Exemptions 2 and 3.” PTCMO at 2. With respect to Exemption 2, the definition states that OUO is information “predominantly internal to DOE, the disclosure of which would risk circumvention of applicable law or render the documents operationally useless, and includes: critical infrastructure information; vulnerability assessments; inspection guidelines; classification guidelines; and evaluations of critical nuclear systems, facilities, stockpiles and other similar assets.” Id. With respect to Exemption 3, the definition states that OUO is information that “includes export controlled information whose unrestricted public dissemination could assist proliferants or potential adversaries of the United States.” Id.

FOIA Exemption 2 exempts from disclosure documents “related solely to the internal personnel rules and practices of an agency.” 5 U.S.C. § 552(b)(2); see 10 C.F.R. § 2.390(a)(2).

(1) (DOE) With respect to FOIA Exemption 2, explain how the definition in the PTCMO stating that OUO is “predominantly internal to DOE,” is consistent with FOIA Exemption 2, which only exempts records “related solely to the internal personnel rules and practices of an agency.”

(2) (DOE) Provide a specific citation to the statute, regulation or other authority directly supporting the definition in the PTCMO of Exemption 2 OUO. If no such statute, regulation, or other authority exists directly supporting the definition of Exemption 2 OUO, so state.

(3) (DOE) Provide a complete list of all the elements of information that must be included in a privilege log to establish a prima facie case that an OUO document is entitled to be withheld under Exemption 2 of FOIA.

FOIA Exemption 3 exempts from disclosure records that are “specifically exempted from disclosure by statute.” 5 U.S.C. § 552(b)(3); see 10 C.F.R. § 2.390(a)(3).

(4) (DOE) Provide the definition of export controlled information.

(5) (DOE) Provide a specific citation to the statute, regulation, or other authority directly supporting the definition of export controlled information. If no such statute, regulation, or other authority exists directly supporting the definition of export controlled information, so state.

(6) (DOE) Provide a specific citation to the specific statute that exempts export controlled information from disclosure under Exemption 3 of FOIA.

(7) (DOE) Provide a complete list of all the elements of information that must be included in a privilege log to establish a prima facie case that an export controlled information document is entitled to be withheld under Exemption 3 of FOIA.

(c) The PTCMO defines originator as a “potential party that creates and asserts that a document qualifies” as exempt. PTCMO at 2 (emphasis added).

(1) (NRC) Under the definition of originator, is it the NRC’s position that it is not the “creator” of SGI and, therefore, the NRC is not the originator of such information?

(2) (NRC) If not, explain when and how the NRC is the creator and originator of SGI.

#### 4. Production of redacted documents by other federal agencies.

The PTCMO requires DOE, which definitionally includes the Naval Nuclear Propulsion Program, to produce redacted documents. PTCMO at 1, 9. It also requires “[a]ll other federal agencies originating sensitive unclassified information [SUI] subject to this [PTCMO]” to produce redacted versions of such documents. Id. at 9.

(a) (NRC, DOE and State) Under the PTCMO, is the NRC required to produce redacted versions of SGI documents?

(b) (NRC, DOE and State) What “other federal agencies” will be potential parties to the PAPO proceeding and “subject to” the PTCMO?

(c) (NRC, DOE and State) What entity, if any, produces the redacted version of a document on the LSN where the NRC possesses the document but the “other federal agenc[y],” which is the originator, is not “subject to” the PTCMO?

#### 5. SUI Log.

The PTCMO requires the originator of a document to produce a privilege log for certain

contested SUI. PTCMO at 17. The proposed SUI log states, *inter alia*, that the originator should provide “[a] justification . . . that the information qualifies as [SUI].” PTCMO at App. F.

It appears that the proposed SUI privilege log in the PTCMO is fundamentally different from the privilege log formats contained in the July 8, 2005, Second Case Management Order. The privilege logs in our previous order are based upon the requirement in 10 C.F.R. § 2.336(b)(5) that logs contain “sufficient information for assessing the claim of privilege or protected status.” In turn, that regulatory requirement has its roots in Rule 26(b)(5) of the Federal Rules of Civil Procedure, requiring that a privilege log describe a withheld document in a manner that “will enable other parties to assess the applicability of the privilege or protection.”

(NRC, DOE and State) Explain why the proposed SUI privilege log should not have to present facts sufficient to establish a *prima facie* case that the document at issue is entitled to be withheld. Stated otherwise, should not the SUI privilege log require sufficient facts to establish each element of the particular protection claimed for the document?

B. Questions Requiring Oral Answers at the Case Management Conference.

The participant or participants identified at the beginning of each of the following questions 6 through 10 should be prepared to answer the questions at the conference. Many of these questions may be answered with an extremely short answer and, where appropriate, the named participant should be prepared to answer them in that fashion. If time permits, other participants also may be given an opportunity to respond to some or all of the following questions.

1. Previously DOE indicated that it had ten Unclassified Controlled Nuclear Information (UNCI) documents in its LSN document collection. Tr. at 692. After our questions concerning the requirements for characterizing documents under section 148 of the AEA, 42 U.S.C. § 2168 (2000), Tr. at 800-03, DOE re-examined its UNCI documents and indicated it was unlikely to have any such documents. Tr. at 928.

(a) (DOE) In light of its previous representations, does DOE currently have any UNCI documents in its LSN document collection?

(b) (DOE) If not, is DOE likely to have any UNCI documents to add to its LSN document collection in the future?

(c) (DOE) If the answer to question (a) and (b) above is no, explain why we should be making provisions for UNCI documents in the PTCMO.

2. Immediate opportunity to initiate long lead time actions.

(a) Under the process set forth in the PTCMO, it appears that the “fingerprint criminal history background check” (fingerprint check) and the “alternative background check” (background check), (PTCMO at 11-12), are long lead time actions on the critical path for processing and resolving requests for SGI.

(1) (NRC) For NRC created and possessed SGI documents, what entity or entities (within and without NRC) conducts the fingerprint check?

(2) (NRC) For NRC created and possessed SGI documents, what entity or entities (within and without NRC) conducts the background check?

(3) (NRC) Will the NRC, or the outside entity conducting such checks, accept and expeditiously process requests for fingerprint checks and background checks by a potential party prior to the potential party requesting a specific SGI document or establishing a need to know for such document? If not, why not?

(4) (NRC) If the NRC conducts the fingerprint check and/or the background check, how long will it take to conduct the checks?

(5) (NRC) If the NRC does not conduct the fingerprint check and/or the background check, has the NRC discussed and reached agreement with the entity conducting such checks on how long it will take to conduct the checks?

(6) (NRC) What time limits, if any, can we impose upon NRC to perform these actions?

(i) (NRC) Does the five day time limit of 10 C.F.R. § 2.1018(f)(i) apply? If not, why not?

(ii) (NRC) Does the thirty day time limit of 10 C.F.R. § 2.707 apply? If not, why not?

(7) (DOE) For DOE created and possessed SGI documents, what entity or entities (within and without DOE) conduct the fingerprint check?

(8) (DOE) For DOE created and possessed SGI documents, what entity or entities (within and without DOE) conduct the background check?

(9) (DOE) Will DOE, or the outside entity conducting such checks, accept and expeditiously process requests for fingerprint checks and background checks by a potential party prior to the potential party requesting a specific SGI document or establishing a need to know for such document?

(10) (DOE) If DOE conducts the fingerprint check and/or the background check, how long will it take to conduct the checks?

(11) (DOE) If DOE does not conduct the fingerprint check and/or the background check, has DOE discussed and reached agreement with the entity conducting such checks on how long it will take to conduct the checks?

(12) (DOE) What time limits, if any, can we impose upon DOE to perform these actions?

(i) (DOE) Does the five day time limit of 10 C.F.R. § 2.1018(f)(i) apply? If not, why not?

(ii) (DOE) Does the thirty day time limit of 10 C.F.R. § 2.707 apply? If not, why not?

(b) Under the process set forth in the proposed rule, it appears that a "FBI criminal history check" and a "background check" (proposed 10 C.F.R. § 2.1010(b)(6)(i)(B)&(C)) are actions in the critical path for processing and resolving requests for SGI.

(1) (NRC and DOE) The PTCMO states that the information required to be provided for the background check shall be submitted on standard form SF-85. PTCMO at 12. Under the proposed rule, will SF-85 be used to gather the information for the background check?

(2) (NRC) Under the proposed rule, will the NRC accept and expeditiously process requests for fingerprint checks and background checks by potential parties prior to the potential party requesting a specific SGI document or establishing a need to know for such document?

(3) (NRC) Under the proposed rule, will the time needed for a background check be any different than the time needed for one under the PTCMO?

(4) (NRC) What will the NRC background check cost?

(5) (NRC) Under the proposed rule, what time limits, if any, can we impose upon NRC to perform the fingerprint and background checks?

(6) On its face, the proposed rule does not appear to designate what entity will perform the fingerprinting and background checks for non dual possession DOE SGI.

(i) If DOE performs the checks, will DOE accept and expeditiously process requests for fingerprint and background checks by potential parties prior to the potential party requesting a specific SGI document or establishing a need to know for such document?

(ii) (DOE) If DOE performs the checks, what process will it follow to determine trustworthiness and reliability?

(iii) (DOE) If DOE is not to perform the checks, how will the process

work?

(iv) (DOE) If DOE performs the background check, how long will it take?

(v) (DOE) If DOE performs the check, what will the background check cost?

### 3. Criminal history and background check determinations - criteria and standards.

Under the proposed 10 C.F.R. § 2.1010(b)(6)(i), in addition to the requisite “need to know,” an individual seeking access to SGI must undergo (1) a FBI criminal history check (10 C.F.R. 2.1010(b)(6)(i)(B)) and (2) a background check for trustworthiness and reliability (10 C.F.R. § 2.1010(b)(6)(i)(C)).

(a) Proposed 10 C.F.R. § 2.1010(b)(6)(i)(B) states that the requestor must submit fingerprints to the NRC Office of Administration [OA] and that the same office will make a “determination” on “[the] individual’s criminal history.”

(1) (NRC) Is the submission of fingerprints the only step necessary for an individual seeking access to SGI to initiate the process?

(2) (NRC) What information from a criminal history check is provided OA upon which a “determination” is made?

(3) (NRC) What criteria or standards are applied by OA to reach a “determination”?

(4) (NRC) With regard to the determination on an individual’s criminal history, is this a distinct determination, separate from an overall determination regarding the individual’s trustworthiness and reliability?

(5) (NRC) If OA makes an initial determination on criminal history alone, is this determination subject to challenge?

(6) (NRC) Proposed section 2.1010(b)(6)(i)(B) states that “before an adverse determination . . . on individual’s criminal history, the individual shall be afforded the protections of § 73.57.” Are the “protections” cited in the proposed section the protections found in section 73.57(e)(1) & (2)?

(7) (NRC) Is completion of a criminal history check, and any determination relating to such a check, required before the NRC initiates a “background check”?

(b) Proposed 10 C.F.R. § 2.1010(b)(6)(i)(C) states that in order for an individual to gain access to SGI the OA must find, “based on a background check, that the individual is trustworthy and reliable.”

(1) (NRC) What information must an individual seeking SGI provide for the OA to make its determination?

(2) (NRC) Will the individual seeking SGI be required to submit this information to OA at the same time the individual submits fingerprints? If not, when will the individual seeking SGI be required to submit this information?

(3) (NRC) What criteria or standards are applied by OA to reach a determination that an individual is trustworthy and reliable?

(4) (NRC) The proposed rule defines “trustworthiness and reliability” generally as “dependable in judgment, character, and performance.” What specific guidelines will OA use when making this determination?

(c) Proposed 10 C.F.R. § 2.1010(b)(6)(i)(D) provides, *inter alia*, for an appeal to the PAPO from the OA’s “final adverse determination on trustworthiness and reliability” under an “abuse of discretion” standard of review.

(1) (NRC) If section 2.1010(b)(6)(i)(B) requires a distinct and preliminary determination based upon criminal history, is there an appeal process to challenge the OA determination on the individual’s criminal history?

4. Proposed 10 C.F.R. § 2.1010(b)(6)(i)(D) states that “[f]or purposes of review, the adverse determination [on trustworthiness and reliability] must be in writing and set forth the grounds for the determination.”

(a) (NRC) Under proposed section 2.1010(b)(6)(i)(D), how much time may NRC take to issue its written adverse determination?

(b) (NRC) What time limits, if any, can we impose upon NRC to issue its written adverse determination?

(c) (NRC) Is the “formal adverse determination” of the first sentence of proposed 10 C.F.R. § 73.57(e)(3) referring to the same written final adverse determination on trustworthiness and reliability in proposed 10 C.F.R. § 2.1010(b)(6)(i)(D)?

5. Existence of safeguards information during pre-license application phase.

The Commission’s current regulations, 10 C.F.R. § 73.2, define SGI as information that identifies two categories of “a licensee’s or applicant’s” security measures. At an earlier case management conference, NRC Staff counsel indicated that, by definition, there can be no SGI until an application is filed. Tr. at 288-89. We rejected this interpretation of the regulations because, *inter alia*, the regulations clearly contemplate that SGI exists during the pre-license application phase proceeding. Tr. at 312-14. See 10 C.F.R. § 2.1003(a)(4)(iii) (during the pre-license application phase a bibliographic header for SGI must be provided); 10 C.F.R. § 2.1010(b)(6) (potential parties must protect SGI in accordance with requirements of 10 C.F.R. § 73.21; PAPO may prescribe procedures to prevent disclosure of SGI).

Although more expansive, the new definition of SGI in the recently promulgated 10 C.F.R. § 73.59(a), 71 Fed. Reg. at 33,992, which applies only to that section, carries forth the same limitation in section 73.2 of “a licensee’s or applicant’s” security measures with respect to the categories of security measures. The definition of safeguards in proposed 10 C.F.R. § 2.4 generally tracts the definition in section 73.59(a).

(a) (NRC) Does the NRC Staff interpret the meaning of SGI in recently promulgated 10 C.F.R. § 73.59(a) definitionally to preclude SGI during the pre-license application phase of the proceeding before DOE files its application?

(b) (NRC) Is it the NRC Staff’s position that the definition of SGI in proposed 10 C.F.R. § 2.4 definitionally precludes the existence of SGI during the pre-license application phase of the proceeding before DOE files its application?

It is so ORDERED.

For the Pre-License Application  
Presiding Officer Board

[Original signed by:]

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Thomas S. Moore, Chairman  
Administrative Judge

Rockville, MD  
April 19, 2007

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing PAPO BOARD ORDER (SCHEDULING CASE MANAGEMENT CONFERENCE) have been served upon the following persons either by Electronic Information Exchange or electronic mail (denoted by an asterisk (\*)).

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