

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

<b>In the Matter of</b>	)	<b>Docket No. PAPO-00</b>
	)	
<b>U.S. DEPARTMENT OF ENERGY</b>	)	<b>ASLBP No. 04-829-01 PAPO</b>
	)	
<b>(High Level Waste Repository: Pre-Application Matters)</b>	)	<b>November 7, 2007</b>

**STATEMENT IN SUPPORT OF  
THE STATE OF NEVADA'S MOTION TO STRIKE**

The Nevada Nuclear Waste Task Force (Task Force) supports the State of Nevada's Motion to Strike DOE's October 19, 2007 LSN Recertification and to Suspend Certification Obligations of Others Until DOE Validly Recertifies.

The Task Force has been actively involved with the Licensing Support Network (LSN) as the public representative on the Licensing Support Network Advisory Review Panel (LSNARP) which began more than a decade ago. As an active participant with that panel, the Task Force was part of decision-making discussions regarding all aspects of the LSN including the contents, access and requirements for certification. We were part of negotiations and agreements made regarding the six-month rule where DOE is required to have all documents available to the public before any submission of a license application.

On July 22, 2004 the Task Force and other public interest organizations provided the NRC Pre-license Application Presiding Officer (PAPO) Board with an Answer in support of the State of Nevada's Motion to Strike the previous DOE LSN certification. At that time we pointed out that the DOE document collection submitted to the NRC was incomplete and inappropriately indexed on the LSN site. Those conditions still exist and make the site even more difficult to use because of the overwhelming number of duplicate documents that have now accumulated in the

collection. In addition to the specific examples given in our last answer, there are now a number of new documents impossible to find on the LSN, using the title or author. DOE, apparently in their haste to certify the collection at this time, just dumped abbreviated notations into the LSN that became titles that had no meaning except to the unknown author. Since the LSN cannot be “browsed” or flipped through like a large book, it is our opinion that any document not accessible by title or the name of the author should be considered missing.

The Department recently published two supplemental Draft Environmental Impact Statements. The final versions of these documents will be included with the License Application (LA). In an effort to make comment on these documents now and to review the FEISs in the LA, we must be able to see reference material that is the basis for statements and conclusions. The obvious place to find this back-up material is on the LSN since these are all documents that are required to be there. However, to be successful in a search for the materials in the repository draft supplemental environmental impact statement, one must be a master of word and number games. A search on the LSN for the title of the documents either brings you thousands of hits, with no sign of what you are looking for. After extensive trial and error, we discovered that by use of a number that accompanied documents in the SEIS appendix, but appeared no where else, and then adding some letters, we got to the document directly and its title was this series of numbers and letters. In the case of the draft supplemental EIS for the Nevada rail corridor, when reference documents could not be found, DOE was called and the documents were added to the already certified LSN.

Another issue that I have attempted to check in the LSN DOE document collection is the use of the term: "pre-decisional draft" or "preliminary pre-decisional draft." This designation has been used as sort of an insurance policy; meaning that if they decide they do not want us to have something, they can say that if it is so labeled, we cannot have access to it, but if they don't care,

they let us have it. Many hand-outs and presentations are labeled “preliminary pre-decisional draft” so that term should not be used or certainly cannot be the justification for withholding or restricting access to documents.

We know that critically important documents such as the pre-closure safety analysis and the Total System Performance Assessment for the license application are missing because the DOE has said that they were not included on the LSN when they certified. We do not have any ability to analyze these huge technical documents and computer analyses, but the State of Nevada does. When I am seeking answers to technical questions regarding aspects of the repository system that need scientific expertise, or when I receive inquiries from others who are interested in Yucca Mt., I go to the State for answers. So, if the State does not have access to these documents, it means that the public doesn't either.

The Nevada Nuclear Waste Task Force asks that you grant the State of Nevada’s motion to strike the DOE’s LSN certification.

Respectfully submitted:

/s/  
Judy Treichel  
Executive Director  
Nevada Nuclear Waste Task Force  
P. O. Box 26177  
Las Vegas, NV 89126  
Telephone: 702-248-1127  
Facsimile: 702-248-112

Dated: November 7, 2007

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 the foregoing Statement in Support of the State of Nevada's Motion to Strike has been served upon the following persons either by Electronic Information Exchange or electronic mail (denoted by an asterisk (\*)).

U.S. Nuclear Regulatory Commission  
Atomic Safety and Licensing Board Panel  
Mail Stop - T-3 F23  
Washington, DC 20555-0001  
Thomas S. Moore, Chair  
Administrative Judge  
Email: [PAPO@nrc.gov](mailto:PAPO@nrc.gov)  
Alex S. Karlin  
Administrative Judge  
Email: [PAPO@nrc.gov](mailto:PAPO@nrc.gov)  
Alan S. Rosenthal  
Administrative Judge  
Email: [PAPO@nrc.gov](mailto:PAPO@nrc.gov) & [rsnthl@comcast.net](mailto:rsnthl@comcast.net)  
G. Paul Bollwerk, III  
Administrative Judge  
Email: [PAPO@nrc.gov](mailto:PAPO@nrc.gov)  
Anthony C. Eitreim, Esq.  
Chief Counsel  
Email: [PAPO@nrc.gov](mailto:PAPO@nrc.gov)  
James M. Cutchin  
Email: [PAPO@nrc.gov](mailto:PAPO@nrc.gov)  
Jered Lindsay  
Email: [PAPO@nrc.gov](mailto:PAPO@nrc.gov)  
Marcia Carpentier\*  
Email: [PAPO@nrc.gov](mailto:PAPO@nrc.gov)  
Margaret Parish  
Email: [PAPO@nrc.gov](mailto:PAPO@nrc.gov)  
Debra Wolf  
Email: [PAPO@nrc.gov](mailto:PAPO@nrc.gov)  
Bradley S. Baxter\*  
Email: [bxh@nrc.gov](mailto:bxh@nrc.gov)  
Daniel J. Graser  
LSN Administrator  
Email: [djg2@nrc.gov](mailto:djg2@nrc.gov)  
ASLBP HLW Adjudication  
Email: [ASLBP\\_HLW\\_Adjudication@nrc.gov](mailto:ASLBP_HLW_Adjudication@nrc.gov)

U.S. Nuclear Regulatory Commission  
Office of the Secretary of the Commission  
Mail Stop - O-16 C1  
Washington, DC 20555-0001  
Hearing Docket  
Email: [hearingdocket@nrc.gov](mailto:hearingdocket@nrc.gov)  
Andrew L. Bates  
Email: [alb@nrc.gov](mailto:alb@nrc.gov)  
Adria T. Byrdsong  
Email: [atb1@nrc.gov](mailto:atb1@nrc.gov)  
Emile L. Julian, Esq.  
Email: [elj@nrc.gov](mailto:elj@nrc.gov)  
Evangeline S. Ngbea  
Email: [esn@nrc.gov](mailto:esn@nrc.gov)  
Rebecca L. Giitter  
Email: [rll@nrc.gov](mailto:rll@nrc.gov)

U.S. Nuclear Regulatory Commission  
Office of Congressional Affairs  
Mail Stop O-17A3

U.S. Nuclear Regulatory Commission  
Office of Public Affairs  
Mail Stop O-2A13  
David McIntyre  
Email: [dtm@nrc.gov](mailto:dtm@nrc.gov)

U.S. Nuclear Regulatory Commission  
Office of the General Counsel  
Mail Stop - O-15 D21  
Washington, DC 20555-0001  
Karen D. Cyr, Esq.\*  
General Counsel  
Email: [kdc@nrc.gov](mailto:kdc@nrc.gov)  
Gwendolyn D. Hawkins  
Email: [gxh2@nrc.gov](mailto:gxh2@nrc.gov)  
Janice E. Moore, Esq.  
Email: [jem@nrc.gov](mailto:jem@nrc.gov)

Trip Rothschild, Esq.\*  
Email: [tbr@nrc.gov](mailto:tbr@nrc.gov)  
Mitzi A. Young, Esq.  
Email: [may@nrc.gov](mailto:may@nrc.gov)  
Marian L. Zobler, Esq.  
Email: [mlz@nrc.gov](mailto:mlz@nrc.gov)  
Andrea L. Silvia, Esq.  
Email: [alc1@nrc.gov](mailto:alc1@nrc.gov)  
David Roth, Esq.  
Email: [der@nrc.gov](mailto:der@nrc.gov)  
Margaret J. Bupp  
Email: [mjb5@nrc.gov](mailto:mjb5@nrc.gov)  
OGCMailCenter  
Email: [OGCMailCenter@nrc.gov](mailto:OGCMailCenter@nrc.gov)

Hunton & Williams LLP  
Counsel for the U.S. Department of Energy  
Riverfront Plaza, East Tower  
951 East Byrd Street  
Richmond, VA 23219  
W. Jeffery Edwards, Esq.  
Email: [jedwards@hunton.com](mailto:jedwards@hunton.com)  
Kelly L. Faglioni, Esq.  
Email: [kfaglioni@hunton.com](mailto:kfaglioni@hunton.com)  
Melissa Grier  
Email: [mgrrier@hunton.com](mailto:mgrrier@hunton.com)  
Donald P. Irwin, Esq.  
Email: [dirwin@hunton.com](mailto:dirwin@hunton.com)  
Stephanie Meharg  
Email: [smeharg@hunton.com](mailto:smeharg@hunton.com)  
Edward P. Noonan, Esq.  
Email: [enoonan@hunton.com](mailto:enoonan@hunton.com)  
Audrey B. Rusteau  
Email: [arusteau@hunton.com](mailto:arusteau@hunton.com)  
Michael R. Shebelskie, Esq.  
Email: [mshebelskie@hunton.com](mailto:mshebelskie@hunton.com)  
Pat Slayton  
Email: [pslayton@hunton.com](mailto:pslayton@hunton.com)  
Belinda A. Wright  
Email: [bwright@hunton.com](mailto:bwright@hunton.com)

U.S. Department Of Energy  
Office of General Counsel  
1551 Hillshire Drive  
Las Vegas, NV 89134-6321  
George W. Hellstrom  
Email: [george.hellstrom@ymp.gov](mailto:george.hellstrom@ymp.gov)

U.S. Department of Energy  
Office of General Counsel  
1000 Independence Avenue, S.W.  
Washington, DC 20585  
Martha S. Crosland, Esq.  
Email: [martha.crosland@hq.doe.gov](mailto:martha.crosland@hq.doe.gov)

Angela M. Kordyak, Esq.  
Email: [angela.kordyak@hq.doe.gov](mailto:angela.kordyak@hq.doe.gov)  
Mary B. Neumayr, Esq.\*  
Email: [mary.neumayr@hq.doe.gov](mailto:mary.neumayr@hq.doe.gov)

Carter Ledyard & Milburn, LLP  
Counsel for Lincoln County  
1401 Eye Street, N.W., Suite 300  
Washington, DC 20005  
Barry S. Neuman, Esq.  
Email: [neuman@clm.com](mailto:neuman@clm.com)

U.S. Department of Energy  
1000 Independence Avenue, S.W.  
Washington, DC 20585  
Eric Knox, Associate Director, Systems  
Operations and External Relations, OCRWM\*  
Email: [eric.knox@hq.doe.gov](mailto:eric.knox@hq.doe.gov)  
Dong Kim, LSN Project Manager, OCRWM\*  
Email: [dong.kim@rw.doe.gov](mailto:dong.kim@rw.doe.gov)

Churchill, Esmeralda, Eureka, Mineral  
and Lander Counties  
1705 Wildcat Lane  
Ogden, UT 84403  
Loreen Pitchford, LSN Coordinator  
for Lander County  
Email: [lpitchford@comcast.net](mailto:lpitchford@comcast.net)

U.S. Department of Energy  
Office of Civilian Radioactive Waste Mgmt  
Office of Repository Development  
1551 Hillshire Drive  
Las Vegas, NV 89134-6321  
Timothy C. Gunter  
Email: [timothy\\_gunter@ymp.gov](mailto:timothy_gunter@ymp.gov)

City of Las Vegas  
400 Stewart Ave.  
Las Vegas, NV 89101  
Margaret Plaster, Management Analyst  
Email: [mplaster@LasVegasNevada.gov](mailto:mplaster@LasVegasNevada.gov)

Clark County (NV) Nuclear Waste Division  
500 S. Grand Central Parkway  
Las Vegas, NV 89155  
Irene Navis\*  
Email: [iln@co.clark.nv.us](mailto:iln@co.clark.nv.us)  
Engelbrecht von Tiesenhausen  
Email: [evt@co.clark.nv.us](mailto:evt@co.clark.nv.us)

Nuclear Waste Project Office  
1761 East College Parkway, Suite 118  
Carson City, NV 89706  
Robert Loux  
Email: [bloux@nuc.state.nv.us](mailto:bloux@nuc.state.nv.us)  
Steve Frishman, Tech. Policy Coordinator  
Email: [steve.frishman@gmail.com](mailto:steve.frishman@gmail.com)

Eureka County and Lander County, Nevada  
Harmon, Curran, Speilberg & Eisenberg, LLP  
1726 M. Street N.W., Suite 600  
Washington, DC 20036  
Diane Curran, Esq.  
Email: [dcurran@harmoncurran.com](mailto:dcurran@harmoncurran.com)

Public Citizen  
215 Pennsylvania Ave, SE  
Washington, DC 20003  
Michele Boyd, Legislative Director  
Critical Mass Energy and Environment  
Email: [mboyd@citizen.org](mailto:mboyd@citizen.org)

Nevada Nuclear Waste Task Force  
P.O. Box 26177  
Las Vegas, NV 89126  
Judy Treichel, Executive Director  
Email: [judyntwf@aol.com](mailto:judyntwf@aol.com)

Talisman International, LLC  
1000 Potomac St., NW  
Suite 300  
Washington, D.C. 20007  
Patricia Larimore  
Email: [plarimore@talisman-intl.com](mailto:plarimore@talisman-intl.com)

Nuclear Energy Institute  
1776 I Street, NW, Suite 400  
Washington, DC 20006-3708  
Michael A. Bauser, Esq.  
Associate General Counsel  
Email: [mab@nei.org](mailto:mab@nei.org)  
Anne W. Cottingham, Esq.  
Email: [awc@nei.org](mailto:awc@nei.org)  
Ellen C. Ginsberg, Esq.  
Email: [ecg@nei.org](mailto:ecg@nei.org)  
Rod McCullum\*  
Email: [rxm@nei.org](mailto:rxm@nei.org)  
Steven P. Kraft\*  
Email: [spk@nei.org](mailto:spk@nei.org)

White Pine County  
City of Caliente  
Lincoln County  
P.O. Box 126  
Caliente, NV 89008  
Jason Pitts  
Email: [jayson@idtservices.com](mailto:jayson@idtservices.com)

Nuclear Information and Resource Service  
6930 Carroll Avenue, Suite 340  
Takoma Park, MD 20912  
Kevin Kamps  
Email: [kevin@nirs.org](mailto:kevin@nirs.org)

Yucca Mountain Project, Licensing Group,  
DOE/BSC  
Regulatory Programs  
1180 North Town Center Drive  
Las Vegas, NV 89144  
Jeffrey Kriner  
Email: [jeffrey\\_kriner@ymp.gov](mailto:jeffrey_kriner@ymp.gov)

Abigail Johnson\*  
612 West Telegraph Street  
Carson City, NV 89703  
Email: [abbyj@gbis.com](mailto:abbyj@gbis.com)

National Congress of American Indians  
1301 Connecticut Ave. NW - Second floor  
Washington, DC 20036  
Robert I. Holden, Director\*  
Nuclear Waste Program  
Email: [robert\\_holden@ncai.org](mailto:robert_holden@ncai.org)

Ross, Dixon & Bell  
2001 K Street N.W.  
Washington D.C. 20006-1040  
William H. Briggs\*  
Email: [wbriggs@rdblaw.com](mailto:wbriggs@rdblaw.com)  
Merril Hirsh, Esq.\*  
Email: [mhirsh@rdblaw.com](mailto:mhirsh@rdblaw.com)

Churchill County (NV)  
155 North Taylor Street, Suite 182  
Fallon, NV 89406  
Alan Kall\*  
Email: [comptroller@churchillcounty.org](mailto:comptroller@churchillcounty.org)

Inyo County Water Department  
Yucca Mtn Nuclear Waste  
Repository Assessment Office  
163 May St.  
Bishop, CA 93514  
Matt Gaffney, Project Associate\*  
Email: [mgaffney@inyoyucca.org](mailto:mgaffney@inyoyucca.org)

Environmental Protection Agency  
Ray Clark\*  
Email: [clark.ray@epa.gov](mailto:clark.ray@epa.gov)

Nuclear Waste Technical Review Board  
Joyce Dory\*  
Email: [dory@nwtrb.gov](mailto:dory@nwtrb.gov)

Intertech Services Corporation  
(for Lincoln County)  
P.O. Box 2008  
Carson City, NV 89702-2008  
Dr. Mike Baughman\*  
Email: [bigboff@aol.com](mailto:bigboff@aol.com)

Nye County (NV) Department of Natural  
Resources & Federal Facilities  
1210 E. Basin Road, Suite 6  
Pahrump, NV 89048  
David Swanson\*  
Email: [dswanson@nyecounty.net](mailto:dswanson@nyecounty.net)

Lincoln County (NV) Nuclear Oversight Prgm  
100 Depot Ave., Suite 15; P.O. Box 1068  
Caliente, NV 89008-1068  
Lea Rasura-Alfano, Coordinator\*  
Email: [jcciac@co.lincoln.nv.us](mailto:jcciac@co.lincoln.nv.us)

Nye County (NV) Regulatory/Licensing Adv.  
18160 Cottonwood Rd. #265  
Sunriver, OR 97707  
Malachy Murphy\*  
Email: [mrmurphy@cmc.net](mailto:mrmurphy@cmc.net)

Mineral County (NV) Board of County  
Commissioners  
P.O. Box 1600  
Hawthorne, NV 89415  
Linda Mathias, Administrator\*  
Office of Nuclear Projects  
Email: [yuccainfo@mineralcountynv.org](mailto:yuccainfo@mineralcountynv.org)

State of Nevada (NV)  
100 N. Carson Street  
Carson City, NV 89710  
Marta Adams\*  
Email: [maadams@ag.state.nv.us](mailto:maadams@ag.state.nv.us)

White Pine County (NV) Nuclear  
Waste Project Office  
959 Campton Street  
Ely, NV 89301  
Mike Simon, Director\*  
(Heidi Williams, Adm. Assist.\*)  
Email: [wpnucwst1@mwpower.net](mailto:wpnucwst1@mwpower.net)

Fredericks & Peebles, L.L.P.  
1001 Second Street  
Sacramento, CA 95814  
916-441-2700  
FAX 916-441-2067  
Darcie L. Houck  
Email: [dhouck@ndnlaw.com](mailto:dhouck@ndnlaw.com)  
John M. Peebles  
Email: [jpeebles@ndnlaw.com](mailto:jpeebles@ndnlaw.com)

Egan, Fitzpatrick & Malsch, PLLC  
12500 San Pedro Avenue, Suite 555  
San Antonio, TX 78216  
Joseph R. Egan  
Email: [eganpc@aol.com](mailto:eganpc@aol.com)  
Charles J. Fitzpatrick  
Email: [cfitzpatrick@nuclearlawyer.com](mailto:cfitzpatrick@nuclearlawyer.com)  
Martin G. Malsch  
Email: [mmalsch@nuclearlawyer.com](mailto:mmalsch@nuclearlawyer.com)  
Susan Montesi  
Email: [smontesi@nuclearlawyer.com](mailto:smontesi@nuclearlawyer.com)

/s/  
Judy Treichel