

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

DOCKETED 02/12/08

SERVED 02/12/08

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

February 12, 2008

ORDER

(Proposing Amendment to Joint Proposed Order)

Before us is a joint proposed order of the Department of Energy (DOE) and the City of Las Vegas (City), resolving DOE's January 24, 2008 motion to strike the City's earlier certification of its document collection on the Licensing Support Network. The joint proposed order strikes the City's certification without prejudice to the City's right to re-file a future certification should it choose to do so "pursuant to 10 C.F.R. § 2.1012."

We are prepared to sign the proposed order without inclusion of the last, above-quoted clause. In the circumstances presented, we believe the last clause is unnecessary, and we see no need to interpret that regulatory provision. Section 2.1012 appears to deal with situations arising after the pre-license application phase of the proceeding, a stage of the proceeding over which the Pre-License Application Presiding Officer (PAPO) Board might have no jurisdiction. Further, we wish to emphasize that in signing the proposed order, as modified, we are expressing no view as to the right, if any, the City might have to participate in the pre-license application phase of the proceeding after its certification has been stricken.

Should DOE and the City still wish us to sign the joint proposed order, as modified, they should indicate their assent in a joint filing submitted no later than February 19, 2008. In the event the City does not assent to the joint proposed order, as modified, it should file an answer to DOE's January 24, 2008 motion to strike the City's certification by February 19, 2008.

It is so ORDERED.

For the Pre-license Application
Presiding Officer Board

/RA/

Thomas S. Moore, Chairman
ADMINISTRATIVE JUDGE

Rockville, Maryland
February 12, 2008

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NUCLEAR REGULATORY COMMISSION

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing PAPO BOARD ORDER (PROPOSING AMENDMENT TO JOINT PROPOSED ORDER) have been served upon the following persons either by Electronic Information Exchange or electronic mail (denoted by an asterisk (*)).

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Docket No. PAPO-00
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