

April 4, 2008

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE PRE-LICENSE APPLICATION PRESIDING OFFICER BOARD

In the Matter of )  
 )  
U. S. DEPARTMENT OF ENERGY ) Docket No. PAPO-00  
 )  
(High-Level Waste Repository: ) ASLBP No. 04-829-01-PAPO  
Pre-Application Matters) )

NRC STAFF RESPONSE TO THE MOTION TO IMPLEMENT AND  
INSTITUTIONALIZE WEBCASTING OF YUCCA MOUNTAIN-RELATED PROCEEDINGS

INTRODUCTION

Pursuant to 10 C.F.R. § 2.323(c), the Staff of the NRC (“Staff”) hereby responds to a motion filed by the Affected Units of Local Government (“AULGs”)<sup>1</sup> on March 26, 2008, requesting that the Pre-License Application Presiding Officer (“PAPO”) Board “immediately implement and institutionalize” webcasting for all proceedings related to Yucca Mountain. Joint Motion by Eureka County, Lander County, Churchill County, Clark County, Esmeralda County, Inyo County, Lincoln County, Mineral County, Nye County, and White Pine County to Implement and Institutionalize Webcasting of Yucca Mountain-Related Proceedings (Mar. 21, 2008) at 1 (“AULGs Motion”). As stated below, the Staff does not object to the AULGs Motion, provided that the request is granted only with respect to public PAPO Board proceedings and that the PAPO Board determines adequate resources are available.

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<sup>1</sup> In accordance with the Nuclear Waste Policy Act, the Secretary of Energy has identified Eureka, Lander, Churchill, Clark, Esmeralda, Lincoln, Mineral, Nye, and White Pine Counties in Nevada, and Inyo County in California, as AULGs. *Final Environmental Impact Statement for a Geologic Repository for the Disposal of Spent Nuclear Fuel and High-Level Radioactive Waste at Yucca Mountain, Nye County, Nevada* (DOE/EIS-0250F, Feb. 2002), at C-13.

DISCUSSION

The AULGs state they have a strong interest in the Yucca Mountain proceeding and, to the extent possible, would like to attend all live proceedings. AULGs Motion at 2. However, the AULGs claim that geographic distances and financial constraints impede their ability to attend proceedings in Las Vegas, Nevada and Rockville, Maryland. *Id.* at 2-3. The AULGs request that the PAPO Board implement webcasting for all proceedings related to Yucca Mountain. *Id.* at 1, 9, 11. The AULGs claim that webcasting would be consistent with the NRC's commitment to openness. *Id.* at 3-4 (citing NUREG-1614, Vol. 3, Strategic Plan FY 2004-FY 2009, at 14 (Aug. 2004)). In addition, the AULGs note that one Yucca Mountain oral argument has been webcasted, *id.* at 7, and that the Staff indicated this webcast enhanced public involvement. *See id.* at 9 (citing Summary of the U.S. Nuclear Regulatory Commission/U.S. Department of Energy Quarterly Management Meeting, Las Vegas, Nevada (Dec. 19, 2007) (ML080290480)). If the PAPO Board concludes it lacks the authority or resources to implement webcasting for all future Yucca Mountain related proceedings, the AULGs state that the matter should be referred to the Commission pursuant to 10 C.F.R. § 2.323(f). *Id.* at 1, 11.

To the extent that the AULGs' request is limited only to public proceedings before the PAPO Board, and the PAPO Board determines that it has sufficient resources to support webcasting, the Staff does not object to the request.<sup>2</sup> However, the AULGs request that all future Yucca Mountain related proceedings be webcasted (whether or not before the PAPO Board), is a broader policy issue which may involve a considerable commitment of agency resources. Furthermore, the PAPO Board does not have the authority to implement a

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<sup>2</sup> Non-public sessions, such as those involving proprietary or sensitive information, would not be subject to webcasting.

webstreaming policy for all related, future proceedings. The PAPO Board's authority is limited to ruling "on disputes over the electronic availability of documents during the pre-license application phase." 10 C.F.R. § 2.1010(a)(1). Therefore, the AULGs' request, as related to all future Yucca Mountain proceedings, may be more appropriate for Commission consideration.<sup>3</sup>

CONCLUSION

For the foregoing reasons, the Staff does not object to the AULGs request for the PAPO Board to webcast proceedings, provided that the request is limited to public PAPO proceedings.

Respectfully submitted,

Signed (electronically) by

Jessica A. Bielecki  
Counsel for NRC Staff  
U.S. Nuclear Regulatory Commission  
Office of the General Counsel  
Mail Stop O-15 D21  
Washington, DC 20555-0001  
(301) 415-1391  
[jessica.bielecki@nrc.gov](mailto:jessica.bielecki@nrc.gov)

Dated at Rockville, Maryland  
this 4th day of April, 2008

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<sup>3</sup> Although it is not clear that expenses incurred absent webcasting would be unusual or that the resolution of this issue is essential to a fair and efficient proceeding, webcasting all Yucca Mountain related proceedings is a novel issue that could reduce litigation expenses. See 10 C.F.R. §§ 2.323 (f), 2.319(l) (authority of a presiding officer to refer or certify matters to the Commission). The AULGs also refer to 10 C.F.R. § 2.341(f)(1). However, § 2.341, by its terms, does not apply to the high-level waste proceeding. 10 C.F.R. § 2.341(a)(1).

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CERTIFICATE OF SERVICE

I hereby certify that copies of the "NRC Staff Response to the Motion to Implement and Institutionalize Webcasting of Yucca Mountain-Related Proceedings" in the above-captioned proceeding have been served on the following persons this 4th day of April, 2008, by Electronic Information Exchange.

Thomas S. Moore, Chair  
Administrative Judge  
U.S. Nuclear Regulatory Commission  
Atomic Safety and Licensing Board  
Mail Stop: T-3F23  
Washington, DC 20555-0001  
E-mail: [tsm2@nrc.gov](mailto:tsm2@nrc.gov)

Alan S. Rosenthal  
Administrative Judge  
U.S. Nuclear Regulatory Commission  
Atomic Safety and Licensing Board  
Mail Stop: T-3F23  
Washington, DC 20555-0001  
E-mail: [axr@nrc.gov](mailto:axr@nrc.gov)  
[rsnthl@comcast.net](mailto:rsnthl@comcast.net)

Alex S. Karlin  
Administrative Judge  
U.S. Nuclear Regulatory Commission  
Atomic Safety and Licensing Board  
Mail Stop: T-3F23  
Washington, DC 20555-0001  
E-mail: [ask2@nrc.gov](mailto:ask2@nrc.gov)

G. Paul Bollwerk, III  
Administrative Judge  
Atomic Safety and Licensing Board  
Mail Stop: T-3F23  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001  
E-mail: [gpb@nrc.gov](mailto:gpb@nrc.gov)

E. Roy Hawkens  
Administrative Judge  
Atomic Safety and Licensing Board  
Mail Stop: T-3F23  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001  
E-mail: [erh@nrc.gov](mailto:erh@nrc.gov)

Office of the Secretary  
ATTN: Docketing and Service  
Mail Stop: O-16C1  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555  
E-mail: [HEARINGDOCKET@nrc.gov](mailto:HEARINGDOCKET@nrc.gov)

Engelbrecht von Tiesenhausen  
Clark County Nuclear Waste Division  
500 S. Grand Central Parkway  
Las Vegas, NV 89155  
E-mail: [evt@co.clark.nv.us](mailto:evt@co.clark.nv.us)

Edward P. Noonan, Esq.  
W. Jeffrey Edwards, Esq.  
Kelly L. Faglioni, Esq.  
Donald P. Irwin, Esq.  
Michael R. Shebelskie, Esq.  
Stephanie Meharg  
Audrey B. Rusteau  
Belinda A. Wright  
Pat Slayton  
Hunton & Williams LLP  
951 East Byrd Street  
Richmond, VA 23219  
E-mail: [noonan@hunton.com](mailto:noonan@hunton.com)  
[jedwards@hunton.com](mailto:jedwards@hunton.com)  
[kfaglioni@hunton.com](mailto:kfaglioni@hunton.com)  
[dirwin@hunton.com](mailto:dirwin@hunton.com)  
[mshebelskie@hunton.com](mailto:mshebelskie@hunton.com)  
[smeharg@hunton.com](mailto:smeharg@hunton.com)  
[arusteau@hunton.com](mailto:arusteau@hunton.com)  
[bwright@hunton.com](mailto:bwright@hunton.com)  
[pslayton@hunton.com](mailto:pslayton@hunton.com)

Michael A. Bauser, Esq.  
Associate General Counsel  
Anne W. Cottingham, Esq.  
Ellen C. Ginsberg, Esq.  
Nuclear Energy Institute  
1776 I Street, NW, Suite 400  
Washington, DC 20006-3708  
E-mail: [mab@nei.org](mailto:mab@nei.org)  
[awc@nei.org](mailto:awc@nei.org)  
[ecg@nei.org](mailto:ecg@nei.org)

Elizabeth A. Vibert, Esq.  
Deputy District Attorney  
Clark County District Attorney Office  
P.O. Box 553315  
Las Vegas, NV 89155-2215  
E-mail: [VibertE@co.clark.nv.us](mailto:VibertE@co.clark.nv.us)

Timothy C. Gunter, Director  
Susan L. Rives  
U.S. Department of Energy  
Office of Civilian Radioactive Waste  
Management  
Office of Repository Development  
1551 Hillshire Drive  
Las Vegas, NV 89134-6321  
E-mail: [timothy\\_gunter@ymp.gov](mailto:timothy_gunter@ymp.gov)  
[Susan\\_rives@ymp.gov](mailto:Susan_rives@ymp.gov)

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

Atomic Safety and Licensing Board Panel  
ASLB HLW Adjudication  
U.S. Nuclear Regulatory Commission  
Mail Stop: T-3F23  
Washington, DC 20555-0001  
E-mail: [ASLB\\_HLW\\_Adjudication@nrc.gov](mailto:ASLB_HLW_Adjudication@nrc.gov)

Joseph R. Egan, Esq.  
Martin G. Malsch, Esq.  
Susan Montesi  
Egan, Fitzpatrick, Malsch & Cynkar, PLLC  
The American Center at Tysons Corner  
2001 K Street, NW, Suite 400  
Washington, DC 20006  
E-mail: [eganpc@aol.com](mailto:eganpc@aol.com)  
[mmalsch@nuclearlawyer.com](mailto:mmalsch@nuclearlawyer.com)  
[smontesi@nuclearlawyer.com](mailto:smontesi@nuclearlawyer.com)

Charles J. Fitzpatrick, Esq.  
Egan, Fitzpatrick & Malsch, PLLC  
12500 San Pedro Avenue, Suite 555  
San Antonio, TX 78216  
Email: [cfitzpatrick@nuclearlawyer.com](mailto:cfitzpatrick@nuclearlawyer.com)

Margaret Parish  
James M. Cutchin  
Atomic Safety and Licensing Board Panel  
U.S. Nuclear Regulatory Commission  
Mail Stop: T-3 F23  
Washington, DC 20555-0001  
E-mail: [map4@nrc.gov](mailto:map4@nrc.gov)  
[jmc3@nrc.gov](mailto:jmc3@nrc.gov)

Merril Hirsh  
State of Nevada  
Ross Dixon & Bell, LLP  
2001 K Street NW, Suite 400  
Washington, DC 20006  
E-mail: [Mhirsh@rblaw.com](mailto:Mhirsh@rblaw.com)

Martha S. Crosland, Esq.  
Angela M. Kordyak, Esq.  
U.S. Department of Energy  
Office of the General Counsel  
1000 Independence Avenue, S.W.  
Washington, DC 20585  
E-mail: [martha.crosland@hq.doe.gov](mailto:martha.crosland@hq.doe.gov)  
[angela.kordyak@hq.doe.gov](mailto:angela.kordyak@hq.doe.gov)

Anthony C. Eitreim, Esq.  
Chief Counsel  
Atomic Safety and Licensing Board Panel  
U.S. Nuclear Regulatory Commission  
Mail Stop: T-3 F23  
Washington, DC 20555  
E-mail: [ace1@nrc.gov](mailto:ace1@nrc.gov)

Kevin Kamps  
Nuclear Information and Resource Service  
6930 Carroll Avenue, Suite 340  
Takoma Park, MD 20910  
E-mail: [Kevin@nirs.org](mailto:Kevin@nirs.org)

Daniel J. Graser  
Licensing and Support Network  
Administrator  
Atomic Safety and Licensing Board Panel  
U.S. Nuclear Regulatory Commission  
Mail Stop: T-3 F23  
Washington, DC 20555-0001  
E-mail: [djq2@nrc.gov](mailto:djq2@nrc.gov)

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

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

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

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

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

Diane Curran, Esq.  
Eureka County  
Harmon, Curran, Spielberg & Eisenberg,  
LLP  
1726 M. Street N.W., Suite 600  
Washington, DC 20036  
E-mail: [dcurran@harmoncurran.com](mailto:dcurran@harmoncurran.com)

Chris Howard, GIS/LAN Administrator  
Inyo County (CA)  
Yucca Mountain Nuclear Waste  
Repository Assessment Office  
163 May St  
Bishop, CA 93514  
E-mail: [choward@inyowater.org](mailto:choward@inyowater.org)

Joe Kennedy, Chairman  
E-mail: [Chairperson@timbisha.org](mailto:Chairperson@timbisha.org)

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

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

Margaret Plaster, Management Analyst  
City of Las Vegas  
400 Stewart Avenue  
Las Vegas, NV 89101  
E-mail: [mplaster@lasvegasnevada.gov](mailto:mplaster@lasvegasnevada.gov)

John M. Peebles, Esq.  
Darcie L. Houck, Esq.  
Fredericks & Peebles, LLP  
1001 Second St.  
Sacramento, CA 95814  
E-mail: [jpeebles@ndnlaw.com](mailto:jpeebles@ndnlaw.com)  
[dhouck@ndnlaw.com](mailto:dhouck@ndnlaw.com)

Barbara Durham  
Tribal Historic Preservation Officer  
E-mail: [Dvdurbarbara@netscape.com](mailto:Dvdurbarbara@netscape.com)

Malachy R. Murphy, Esq.  
18160 Cottonwood Rd. #265  
Sunriver, OR 97707  
E-mail: [mrmurphy@chamberscable.com](mailto:mrmurphy@chamberscable.com)

Robert F. List, Esq.  
Armstrong Teasdale LLP  
1975 Village Center Circle, Suite 140  
Las Vegas, NV 89134-6237  
E-mail: [rlist@armstrongteasdale.com](mailto:rlist@armstrongteasdale.com)

Signed (electronically) by,

Jessica A. Bielecki  
Counsel for NRC Staff  
U.S. Nuclear Regulatory Commission  
Mail Stop O-15 D21  
Washington, DC 20555-0001  
(301) 415-1391  
[jessica.bielecki@nrc.gov](mailto:jessica.bielecki@nrc.gov)