

April 24, 2008

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ADVISORY PRE-LICENSE APPLICATION PRESIDING OFFICER BOARD

In the Matter of)	
)	
U. S. DEPARTMENT OF ENERGY)	Docket No. PAPO-001
)	
(High-Level Waste Repository: Pre-Application Matters))	ASLBP No. 08-861-01-PAPO-BD01

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”) on April 18, 2008, requesting that the Advisory Pre-License Application Presiding Officer (“Advisory PAPO”) Board implement webcasting for all Yucca Mountain related proceedings. 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 (Apr. 18, 2008) at 1-2 (“AULGs Motion”).¹ As stated below, the Staff does not object to the AULGs’ request to webstream Yucca Mountain related proceedings, however, the Advisory PAPO Board may not have the authority to immediately implement such a policy.

¹ The AULGs’ previous request for webcasting of all Yucca Mountain related proceedings is pending before the Pre-License Application Presiding Officer Board. Joint Motion by Eureka County, Lander County, Churchill County, Clark County, Esmeralda County, Nye County, and White Pine County to Implement and Institutionalize Webcasting of Yucca Mountain-Related Proceedings (Mar. 26, 2008). The Staff’s response was filed on April 4, 2008. See NRC Staff Response to Implement and Institutionalize Webcasting of Yucca Mountain-Related Proceedings (“Staff Response”).

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 2-3. 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 3. The AULGs request that the Advisory PAPO Board implement webcasting for all proceedings related to Yucca Mountain. *Id.* at 1-2, 11. The AULGs specifically request that webstreaming begin with the conference scheduled for May 14, 2008 in Las Vegas. *Id.* at 2. If the Advisory 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 11.

To the extent that the AULGs' request is limited to public proceedings, the Staff does not object.² However, as noted by the Staff in its previous response, the AULGs request that all future Yucca Mountain related proceedings be webcasted, is a broader policy issue which may involve a considerable commitment of agency resources. Staff Response at 2. Furthermore, the Advisory PAPO Board may not have the authority to implement a webstreaming policy for all related, future proceedings. The Advisory PAPO Board's authority is currently limited to gathering suggestions on procedural issues and submitting proposed case management language to the Commission.³ Establishment of Atomic Safety and Licensing Board, 73 Fed.

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

³ The Advisory PAPO Board's request for additional authority to issue binding case management orders is pending before the Commission. See Memorandum (Advisory Pre-License Application Presiding Officer board Request to the Commission for Additional Authority) (Mar. 31, 2008).

Reg. 9358, 9359 (Feb. 20, 2008). Thus, the AULGs' request, as related to all future Yucca Mountain related proceedings, may be more appropriate for Commission consideration.⁴

CONCLUSION

For the foregoing reasons, the Staff does not object to the AULGs request to webcast future Yucca Mountain related proceedings, however, the Advisory PAPO Board may not have the authority to implement such a policy.

Respectfully submitted,

Signed (electronically) by

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Dated at Rockville, Maryland
this 24th day of April, 2008

⁴ As previously noted in the Staff's Response, 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, although webcasting all Yucca Mountain related proceedings is a novel issue that could reduce litigation expenses. Staff Response at 3 n.3 (citing 10 C.F.R. §§ 2.323 (f), 2.319(l)). In addition, it is not clear that § 2.341 applies to the high-level waste proceeding. See *id.* (citing 10 C.F.R. § 2.341(a)(1)).

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(High-Level Waste Repository:)	
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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 24th day of April, 2008, by Electronic Information Exchange.

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