

August 8, 2008

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE PRE-LICENSE APPLICATION PRESIDING OFFICER BOARD

In the Matter of	)	Docket No. PAPO-00
	)	
U.S. DEPARTMENT OF ENERGY	)	ASLBP No. 04-829-01-PAPO
	)	
(High Level Waste Repository: Pre-Application Matters)	)	DEN-6
	)	

**JOINT STIPULATION OF DEPARTMENT OF ENERGY AND  
STATE OF CALIFORNIA REGARDING LSN CERTIFICATION**

On June 10, 2008, the Board entered an order granting the Department of Energy's (DOE) motion to toll any timely challenge to the Licensing Support Network (LSN) certification of the California Energy Commission (CEC) on behalf of the State of California (California). The order provided that in the event DOE and California resolve their differences regarding that certification, they shall file a joint stipulation advising the Board of that resolution.

DOE and California have resolved their differences regarding that certification, and DOE accepts that California is in substantial compliance with its LSN obligations as of this date based on the following representations by California:

1. California intends to seek to intervene in the Yucca Mountain Licensing Proceeding. California is represented by counsel from CEC and the California Attorney General's Office. CEC and the California Attorney General's Office will not file separate petitions to intervene on their own behalf in addition to that of California.

2. To effectuate California's LSN obligations, Counsel for California prepared a letter that directs recipients to review all extant documents in their possession, including email,

in order to identify those that qualify as documentary material, as defined in 10 C.F.R. 2.1001, and to submit them to Counsel for California for inclusion in CEC's Nuclear Policy Advisor's production on the LSN.

3. Counsel for California distributed the letter to all California agencies and inter-agency working groups that reasonably might possess documentary material. Those agencies and inter-agency working groups were directed to provide all documents that deal with, among other topics, all documents addressing any environmental impacts resulting from the construction or operation of the nuclear repository.

4. Utilizing this broad canvas, Counsel for California has provided, and will continue to provide, those documents from the canvas that must be made available on the LSN pursuant to 10 C.F.R. 2.1001 and 2.1003. California has made available on the LSN all the documentary material identified to date that is required by the above cited regulations. California continues to make efforts to find additional documentary material that may be in the possession of California agencies. Counsel for California reasonably believe that the canvas for additional documentary material, and its production of any additional extant documentary material on the LSN as required by 10 C.F.R. 2.1001 and 2.1003, should be complete by October 1, 2008.

5. California believes that it has made, and is continuing to make, a good faith effort to identify all supporting and non-supporting documentary material in its possession based on its expected contentions and has not limited the scope of its LSN production because its contentions are not finalized. California will consider in good faith whether its contentions, as finalized, require any supplemental production of documentary material on the LSN, although DOE

acknowledges that the Commission has stated that the full scope of supporting and non-supporting information may not be apparent until admission of contentions.

6. California has not yet retained experts for the Yucca Mountain Licensing Proceeding, but may in the future. In the event California retains such experts, California will supplement its LSN production with all documentary material these experts create or receive.

7. California has not yet withheld as privileged, confidential or on any other ground any documentary material that its agencies and inter-agency working groups have identified to date. In the event California identifies any documentary material that is subject to a claim of privilege, confidentiality or other protection, California will provide a bibliographic header in the LSN for any such documentary material and, if appropriate, a privilege log entry for that documentary material.

8. The State of California staff, contractors, experts and consultants who work on the Yucca Mountain Licensing Proceeding are under direction to ensure that documents generated or received in the future, including emails, are screened to identify those that qualify as documentary material. They are further directed to ensure that all such documentary material is submitted to CEC's Nuclear Policy Advisor for production on the LSN.

Respectfully submitted,

**U.S. DEPARTMENT OF ENERGY**

By: Michael R. Shebelskie /s/

Donald P. Irwin  
Michael R. Shebelskie  
Kelly L. Faglioni  
HUNTON & WILLIAMS  
Riverfront Plaza, East Tower  
951 East Byrd Street  
Richmond, Virginia 23219-4074  
Telephone: (804) 788-8200  
Facsimile: (804) 788-8218  
Email: dirwin@hunton.com

Of Counsel:

Martha S. Crosland  
U.S. DEPARTMENT OF ENERGY  
Office of General Counsel  
Department of Energy  
1000 Independence Avenue, S.W.  
Washington, D.C. 20585

**STATE OF CALIFORNIA**

By: Kevin W. Bell /s/

Kevin W. Bell  
Senior Staff Counsel  
CALIFORNIA ENERGY COMMISSION  
1516 9<sup>th</sup> Street  
Sacramento, CA 95616  
Telephone: (916) 654-3855  
E-mail: kwbell@energy.state.ca.us

By: Timothy Sullivan /s/

Timothy Sullivan  
Deputy Attorney General  
CALIFORNIA ATTORNEY GENERAL'S OFFICE  
P.O. Box 70550  
Oakland, CA 94612-0550  
Telephone (510) 622-4038  
E-mail: timothy.sullivan@doj.ca.gov

August 8, 2008

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE COMMISSION

In the Matter of	)	Docket No. PAPO-00
	)	
U.S. DEPARTMENT OF ENERGY	)	ASLBP No. 04-829-01-PAPO
	)	
(High-Level Waste Repository: Pre-Application Matters)	)	DEN-6

JOINT STIPULATION OF DEPARTMENT OF ENERGY AND  
CALIFORNIA ENERGY COMMISSION REGARDING LSN CERTIFICATION  
CERTIFICATE OF SERVICE

I certify that copies of the foregoing Joint Stipulation of Department of Energy and California Energy Commission Regarding LSN Certification in the above-captioned proceeding has been served on the following persons on August 8, 2008 through the Electronic Information Exchange.

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  
E-mail: [PAPO@nrc.gov](mailto:PAPO@nrc.gov) & [tsm2@nrc.gov](mailto:tsm2@nrc.gov)  
Alex S. Karlin  
Administrative Judge  
E-mail: [PAPO@nrc.gov](mailto:PAPO@nrc.gov) & [ask2@nrc.gov](mailto:ask2@nrc.gov)  
Alan S. Rosenthal  
Administrative Judge  
E-mail: [PAPO@nrc.gov](mailto:PAPO@nrc.gov) & [rsnthl@comcast.net](mailto:rsnthl@comcast.net) & [axr@nrc.gov](mailto:axr@nrc.gov)  
G. Paul Bollwerk, III  
Administrative Judge  
E-mail: [PAPO@nrc.gov](mailto:PAPO@nrc.gov) & [gpb@nrc.gov](mailto:gpb@nrc.gov)  
Anthony C. Eitrem, Esq.  
Chief Counsel  
E-mail: [PAPO@nrc.gov](mailto:PAPO@nrc.gov) & [acel@nrc.gov](mailto:acel@nrc.gov)  
James M. Cutchin

E-mail: [PAPO@nrc.gov](mailto:PAPO@nrc.gov) & [jmc3@nrc.gov](mailto:jmc3@nrc.gov)  
Joseph Deucher  
Email: [jhd@nrc.gov](mailto:jhd@nrc.gov)  
Daniel J. Graser  
LSN Administrator  
E-mail: [djg2@nrc.gov](mailto:djg2@nrc.gov)  
ASLBP HLW Adjudication  
E-mail:  
[ASLBP\\_HLW\\_Adjudication@nrc.gov](mailto:ASLBP_HLW_Adjudication@nrc.gov)  
Hearing Docket  
E-mail: [hearingdocket@nrc.gov](mailto:hearingdocket@nrc.gov)  
Andrew L. Bates  
E-mail: [alb@nrc.gov](mailto:alb@nrc.gov)  
Adria T. Byrdsong  
E-mail: [atb1@nrc.gov](mailto:atb1@nrc.gov)  
Emile L. Julian, Esq.  
E-mail: [elj@nrc.gov](mailto:elj@nrc.gov)  
Evangeline S. Ngbea  
E-mail: [esn@nrc.gov](mailto:esn@nrc.gov)  
Rebecca L. Gütter  
E-mail: [rll@nrc.gov](mailto:rll@nrc.gov)

**U.S. Nuclear Regulatory Commission  
Office of Public Affairs**

Mail Stop - O-2A13

**David McIntyre**

E-mail: [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)

**Andrea L. Silvia, Esq.**

E-mail: [alc1@nrc.gov](mailto:alc1@nrc.gov)

**Mitzi A. Young, Esq.**

E-mail: [may@nrc.gov](mailto:may@nrc.gov)

**Marian L. Zobler, Esq.**

E-mail: [mlz@nrc.gov](mailto:mlz@nrc.gov)

**Janice E. Moore, Esq.**

Email: [jem@nrc.gov](mailto:jem@nrc.gov)

**Margaret J. Bupp**

Email: [mjb5@nrc.gov](mailto:mjb5@nrc.gov)

**Daniel W. Lenehan**

Email: [dwl2@nrc.gov](mailto:dwl2@nrc.gov)

**Nina E. Bafundo**

Email: [neb1@nrc.gov](mailto:neb1@nrc.gov)

**OGCMailCenter**

E-mail: [OGCMailCenter@nrc.gov](mailto:OGCMailCenter@nrc.gov)

**Egan, Fitzpatrick & Malsch, PLLC  
Counsel for the State of Nevada**

The American Center at Tysons Corner  
8300 Boone Boulevard, Suite 340

Vienna, VA 22182

**Joseph R. Egan, Esq.**

E-mail: [eganpc@aol.com](mailto:eganpc@aol.com)

**Charles J. Fitzpatrick, Esq.**

E-mail: [cfitzpatrick@nuclearlawyer.com](mailto:cfitzpatrick@nuclearlawyer.com)

**Laurie Borski, Esq.**

E-mail: [lborski@nuclearlawyer.com](mailto:lborski@nuclearlawyer.com)

**Martin G. Malsch, Esq.**

E-mail: [mmalsch@nuclearlawyer.com](mailto:mmalsch@nuclearlawyer.com)

**Susan Montesi**

E-mail: [smontesi@nuclearlawyer.com](mailto:smontesi@nuclearlawyer.com)

**Egan, Fitzpatrick & Malsch, PLLC  
Counsel for the State of Nevada**

12500 San Pedro Avenue, Suite 555

San Antonio, TX 78216

**John W. Lawrence**

E-mail: [jlawrence@nuclearlawyer.com](mailto:jlawrence@nuclearlawyer.com)

**Nuclear Energy Institute**

1776 I Street, NW, Suite 400

Washington, DC 20006-3708

**Michael A. Bauser, Esq.**

**Associate General Counsel**

E-mail: [mab@nei.org](mailto:mab@nei.org)

**Ellen C. Ginsberg, Esq.**

E-mail: [ecg@nei.org](mailto:ecg@nei.org)

**Ann W. Cottingham**

E-mail: [awc@nei.org](mailto:awc@nei.org)

**Pillsbury Winthrop Shaw Pittman LLP  
Counsel for Nuclear Energy Institute, Inc.**

2300 N Street, N.W.

Washington, D.C. 20037-1122

Jay E. Silbert, Esq.

E-mail: [jay.silberg@pillsburylaw.com](mailto:jay.silberg@pillsburylaw.com)

Timothy J.V. Walsh, Esq.

E-mail: [timothy.walsh@pillsburylaw.com](mailto:timothy.walsh@pillsburylaw.com)

**Carter Ledyard & Milburn LLP  
Counsel for Lincoln County**

Ethan I. Strell, Esq.

2 Wall Street

New York, New York 10005

E-mail: [strell@clm.com](mailto:strell@clm.com)

**White Pine County**

**City of Caliente**

**Lincoln County**

**Jason Pitts**

E-mail: [jayson@idtservices.com](mailto:jayson@idtservices.com)

**Lander, Churchill and Mineral County**

P. O. Box 33908

Reno, NV 89533

**Loreen Pitchford, LNS Administrator for Lander**

E-mail: [lpitchford@comcast.net](mailto:lpitchford@comcast.net)

**Armstrong Teasdale LLP  
Counsel for Lander, Churchill,  
Esmeralda and Mineral Counties**  
1975 Village Center Circle, Suite 140  
Las Vegas, NV 89134-62237

**Robert List, Esq.**

E-mail: [rlist@armstrongteasdale.com](mailto:rlist@armstrongteasdale.com)

**Talisman International, LLC**

1000 Potomac St., NW  
Suite 300  
Washington, D.C. 20007

**Patricia Larimore**

E-mail: [plarimore@talisman-intl.com](mailto:plarimore@talisman-intl.com)

**Inyo County (CA) Yucca Mtn Nuclear  
Waste Repository Assessment Office**

**Chris Howard**

**GIS/LAN Administrator**

Inyo County  
163 May St.  
Bishop, CA 93514

E-mail: [choward@inyowater.org](mailto:choward@inyowater.org)

**Nye County (NV) Regulatory/Licensing  
Adv.**

18160 Cottonwood Rd. #265  
Sunriver, OR 97707

**Malachy Murphy**

E-mail: [mrmurphy@chamberscable.com](mailto:mrmurphy@chamberscable.com)

and

Jeffrey D. VanNiel, Esq.

530 Farrington Court  
Las Vegas, Nevada 89123

[nbrjdv@gmail.com](mailto:nbrjdv@gmail.com)

**Nuclear Waste Project Office**

1761 East College Parkway, Suite 118  
Carson City, NV 89706

**Robert Loux**

E-Mail: [bloux@nuc.state.nv.us](mailto:bloux@nuc.state.nv.us)

**Steve Frishman, Tech. Policy Coordinator**

E-mail: [steve.frishman@gmail.com](mailto:steve.frishman@gmail.com)

**Counsel to Eureka County and Lander  
County, Nevada**

1726 M Street N.W., Suite 600  
Washington, D.C. 20036

**Diane Curran**

E-mail: [dcurran@harmoncurran.com](mailto:dcurran@harmoncurran.com)

**Fredericks & Peebles, LLP**

**Counsel for Timbisha Shoshone Tribe**

1001 Second Street  
Sacramento, CA 95814

**Darcie L. Houck, Esq.**

[dhouck@ndnlaw.com](mailto:dhouck@ndnlaw.com)

**John M. Peebles**

[jpeebles@ndnlaw.com](mailto:jpeebles@ndnlaw.com)

**Morgan, Lewis & Bockius LLP**

**Counsel for the U.S. Department of  
Energy**

1111 Pennsylvania Avenue, N.W.  
Washington, DC 20004

**Donald J. Silverman, Esq.**

E-mail: [dsilverman@morganlewis.com](mailto:dsilverman@morganlewis.com)

**Thomas A. Schmutz, Esq.**

[tschmutz@morganlewis.com](mailto:tschmutz@morganlewis.com)

**Thomas C. Poindexter, Esq.**

E-mail: [tpoindexter@morganlewis.com](mailto:tpoindexter@morganlewis.com)

**Paul J. Zaffuts, Esq.**

E-mail: [pzaffuts@morganlewis.com](mailto:pzaffuts@morganlewis.com)

**Alex S. Polonsky, Esq.**

E-mail: [apolonsky@morganlewis.com](mailto:apolonsky@morganlewis.com)

**Lewis Csedrik, Esq.**

E-mail: [lcsedrik@morganlewis.com](mailto:lcsedrik@morganlewis.com)

**Office of Administrative Services**

City of Las Vegas, Nevada

**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

**Phil Klevatorick**

**Email:** [Klevatorick@co.clark.nv.us](mailto:Klevatorick@co.clark.nv.us)

**Irene Navis**

**Email:** [in@co.clark.nv.us](mailto:in@co.clark.nv.us)

**Elizabeth A. Vibert**

**Email:** [VibertE@co.clark.nv.us](mailto:VibertE@co.clark.nv.us)

**Engelbrecht von Tiesenhausen**

**E-mail:** [evt@co.clark.nv.us](mailto:evt@co.clark.nv.us)

**Barbara Durham**

**Email:** [dvdurbarbara@netscape.com](mailto:dvdurbarbara@netscape.com)

**Merril Hirsh**

**Email:** [mhirsh@rdblaw.com](mailto:mhirsh@rdblaw.com)

**Kevin Kamps**

**Email:** [kevin@beyondnuclear.org](mailto:kevin@beyondnuclear.org)

**Joe Kennedy**

**Email:** [chairperson@timbisha.org](mailto:chairperson@timbisha.org)

**Liane Lee**

**Email:** [lilee@LasVegasNevada.gov](mailto:lilee@LasVegasNevada.gov)

**Barry Neuman**

**Email:** [neuman@clm.com](mailto:neuman@clm.com)

**U.S. DEPARTMENT OF ENERGY**

By Original Signed by Stephanie Meharg

Donald P. Irwin  
Michael R. Shebelskie  
Kelly L. Faglioni  
HUNTON & WILLIAMS  
Riverfront Plaza, East Tower  
951 East Byrd Street  
Richmond, Virginia 23219-4074  
Telephone: (804) 788-8200  
Facsimile: (804) 788-8218  
Email: dirwin@hunton.com

Of Counsel:

Martha S. Crosland  
U.S. DEPARTMENT OF ENERGY  
Office of General Counsel  
Department of Energy  
1000 Independence Avenue, S.W.  
Washington, D.C. 20585