

August 25, 2008

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE COMMISSION

---

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

**THE NUCLEAR ENERGY INSTITUTE’S COMMENTS IN RESPONSE TO  
COMMISSION’S AUGUST 13, 2008 MEMORANDUM AND ORDER**

**I. Introduction and Summary**

In a Memorandum and Order issued August 13, 2008, the Commission, *inter alia*, announced its “plans to double the existing time permitted to file answers and replies pursuant to 10 C.F.R. §§ 2.309(h)(1) and (h)(2), to fifty (50) and fourteen (14) days, respectively” and afforded an opportunity to participants “in the ongoing matter before the PAPO Board [to] . . . provide comments on these proposed extensions of time . . . .”<sup>1</sup> Given the expected number of petitions to intervene and – even more so – the large number of anticipated contentions, the Nuclear Energy Institute (NEI) believes that the expanded periods of time are appropriate, but only at the initial intervention stage of the Yucca Mountain licensing proceeding. In addition, NEI requests that -- in noting this limitation and to avoid potential confusion -- the Commission note that, under section 2.309(h)(1), only the Department of Energy

---

<sup>1</sup> *U.S. Department of Energy* (High-Level Waste Repository: Pre-Application Matters), CLI-08-18, 68 NRC \_\_ (slip op. at 5-6).

(DOE) and Nuclear Regulatory Commission Staff (NRC Staff) are allowed to file answers to initial petitions and contentions. This latter point is discussed further below.<sup>2</sup>

## **II. Discussion**

The Commission's regulations in 10 C.F.R. § 2.309, "Hearing requests, petitions to intervene, requirements for standing, and contentions," apply to the high-level radioactive waste repository licensing proceeding.<sup>3</sup> Regarding who may answer a request for hearing, a petition to intervene, and/or contentions, the regulations state:

The applicant/licensee, the NRC staff, and any other party to a proceeding may file an answer to request for hearing, a petition to intervene, and/or proffered contentions within twenty-five days after service of the request for hearing, petition, and/or contentions.<sup>4</sup>

Thus, on its face, the regulation provides that, aside from DOE (as the "applicant") and the NRC Staff, only parties to a proceeding may file answers to contentions. At the initial intervention stage of the Yucca Mountain licensing proceeding, when contentions are first proffered, there will be no "parties" aside from DOE and the NRC Staff – only potential parties.<sup>5</sup> Accordingly, by their terms, the regulations permit only DOE and the NRC Staff to answer initial petitions for intervention and contentions. Further, the Statement of Considerations accompanying the intervention rules makes the point crystal clear:

Answers and Replies. Section 2.309(h) allows the applicant or licensee and the NRC staff twenty-five (25) days to file written

---

<sup>2</sup> NEI sought to have this matter addressed by the Advisory Pre-License Application Presiding Officer (APAPO) Board in June. However, NEI's request for consideration of the point was denied in an unpublished Memorandum and Order, issued July 1, 2008, on the basis that it was founded on an incorrect reading of an earlier APAPO Board Order.

<sup>3</sup> 10 C.F.R. § 2.1000.

<sup>4</sup> 10 C.F.R. § 2.309(h)(1) (emphasis added).

<sup>5</sup> 10 C.F.R. § 1.1001 does reference "party" as including "the host State, any affected unit of local government as defined in Section 2 of the Nuclear Waste Policy Act of 1982, as amended (42 U.S.C. 10101), any affected Indian Tribe as defined in section 2 of the Nuclear Waste Policy Act of 1982, as amended (42 U.S.C. 10101) . . . ." However, that definition is explicitly subject to the proviso of 10 C.F.R. § 2.309 that there be determination that the entity "has proposed at least an admissible contention . . . ." See 10 C.F.R. §§ 2.309(a) and 2.309(d)(2).

answers to requests for hearing/petitions to intervene and contentions, and allows the petitioner to file a written reply to the applicant/licensee and staff answers within seven (7) days after service of any answer. No other written answers or replies will be entertained.<sup>6</sup>

This distinction is clear elsewhere in the regulations. When the Commission wants its regulations to refer to persons seeking to be parties, it has done so explicitly. For example, section 2.4 denominates a collective category of entities that includes both “part[ies],” and “an individual or organization that has petitioned to intervene in a proceeding or requested a hearing but that has not yet been granted party status by an Atomic Safety and Licensing Board or presiding officer” as “participant.”

As another example, the regulations provide that a “requestor/petitioner may file a reply to any answer . . . .”<sup>7</sup> The intervention regulations could have been crafted to provide that a “requestor/petitioner” may file answers to intervention petitions, but they weren’t. Thus, while the Commission could have drawn the line with respect to filing answers elsewhere, it did not.

Clearly, the Commission’s regulations permit only DOE and the NRC Staff to answer the initial petitions for intervention and contentions in this proceeding. Under the regulation, the authority contained in section 2.309(h)(1) for “any other party to a proceeding” to file an answer does not find application at the outset of the Yucca Mountain proceeding. However, that phrase will not be surplusage once there are “other parties” in the proceeding. This provision will apply, however, to late-filed requests for hearing, petitions to intervene, and contentions.<sup>8</sup>

---

<sup>6</sup> Final Rule, Changes to Adjudicatory Process, 69 Fed. Reg. 2,182, 2,222 (Jan. 14, 2004) (emphasis added). *See also id.* at 2,203.

<sup>7</sup> 10 C.F.R. § 2.309(h)(2).

<sup>8</sup> 10 C.F.R. § 2.309(h) imposes the requirements set forth in that section “[u]nless otherwise specified by the Commission, presiding officer, or the Atomic Safety and Licensing Board designated to rule on requests for hearings or petitions for leave to intervene.” Based on the Statement of Considerations, this provision is intended only to allow some flexibility in the time periods provided to file answers and replies. 69 Fed. Reg. at 2,203 (“If there are special circumstances, the requestor/petitioner may request a short extension from the presiding officer.”).

Finally, this proceeding promises to be one of the most complex proceedings ever adjudicated before the NRC. As the Commission has noted repeatedly, if a proceeding is, in fact, initiated on an application to construct a high-level waste repository on Yucca Mountain, it has the potential to be one of the most expansive proceedings in agency history.<sup>9</sup> Under such circumstances, adding unnecessary elements – such as a multitude of answers by entities not even established as parties, as well as related replies – would simply be contrary to sound policy.

### **III. Conclusion**

Based on the foregoing the Commission should:

- (1) provide 50 and 14 day periods for the filing of answers and replies, respectively, pursuant to 10 C.F.R. §§ 2.309(h)(1) and (2), but limited to the initial intervention stage; and
- (2) specifically note that, pursuant to the regulations, only DOE and the NRC Staff are entitled to file answers to petitions and contentions at that point.

Respectfully submitted,

/s/ Michael A. Bauser  
Michael A. Bauser  
Deputy General Counsel  
Nuclear Energy Institute  
1776 I Street, N.W., Suite 400  
Washington, D.C. 20006  
Tel: (202) 739-8144  
Fax: (202) 533-0231  
E-mail: mab@nei.org

August 25, 2008

---

<sup>9</sup> See *U.S. Department of Energy* (High-Level Repository: Pre-Application Matters) CLI-08-18, 68 NRC \_\_ (slip op. at 4-5 August 13, 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)	)	
	)	

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing “The Nuclear Energy Institute’s Comments in Response to Commission’s August 13, 2008 Memorandum and Order” dated August 25, 2008, has been served on the following persons via the Nuclear Regulatory Commission’s Electronic Information Exchange (EIE) this 25<sup>th</sup> day of August, 2008:

U.S. Nuclear Regulatory Commission  
Atomic Safety and Licensing Board Panel  
Mail Stop T-3F23  
Washington, DC 20555-0001

Thomas S. Moore, Chair  
Administrative Judge  
E-mail: [tsm2@nrc.gov](mailto:tsm2@nrc.gov)

Alan Rosenthal  
Administrative Judge  
E-mail: [axr@nrg.gov](mailto:axr@nrg.gov)  
E-mail: [rsnthi@comcast.net](mailto:rsnthi@comcast.net)

Alex S. Karlin  
Administrative Judge  
E-mail: [ask2@nrc.gov](mailto:ask2@nrc.gov)

Anthony C. Eitreim, Esq.  
Chief Counsel  
E-mail: [ace1@nrc.gov](mailto:ace1@nrc.gov)

ASLBP (cont’d.)

James M. Cutchin  
E-mail: [jmc3@nrc.gov](mailto:jmc3@nrc.gov)  
Joseph Deucher  
E-mail: [jhd@nrc.gov](mailto:jhd@nrc.gov)  
Marcia Carpentier  
E-mail: [mx7@nrc.gov](mailto:mx7@nrc.gov)  
Lauren Bregman  
E-mail: [lrb1@nrc.gov](mailto:lrb1@nrc.gov)  
Zachary Kahn:  
E-mail: [zxk1@nrc.gov](mailto:zxk1@nrc.gov)  
Erica LaPlante  
E-mail: [eal1@nrc.gov](mailto:eal1@nrc.gov)  
Johanna Thibault  
E-mail: [jrt3@nrc.gov](mailto:jrt3@nrc.gov)  
Emily Krause  
E-mail: [eik1@nrc.gov](mailto:eik1@nrc.gov)

Daniel J. Graser  
LSN Administrator  
E-mail: [djg2@nrc.gov](mailto:djg2@nrc.gov)

U.S. Nuclear Regulatory Commission  
Office of the Secretary of the Commission  
Mail Stop O-16C1  
Washington, DC 20555-0001  
Hearing Docket  
E-mail: [hearingdocket@nrc.gov](mailto:hearingdocket@nrc.gov)

U.S. Nuclear Regulatory Commission  
Office of the General Counsel  
Mail Stop O-15D21  
Washington, DC 20555-0001  
Janice E. Moore, Esq.  
E-mail: [jem@nrc.gov](mailto:jem@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)  
Andrea L. Silvia, Esq.  
E-mail: [alc1@nrc.gov](mailto:alc1@nrc.gov)  
Margaret J. Bupp, Esq.  
E-mail: [mjb5@nrc.gov](mailto:mjb5@nrc.gov)  
Daniel W. Lenehan, Esq.  
E-mail: [dwl2@nrc.gov](mailto:dwl2@nrc.gov)  
Jessica Bielecki, Esq.  
E-mail: [jab2@nrc.gov](mailto:jab2@nrc.gov)  
OGC Mail Center  
E-mail: [OGCMailCenter@nrc.gov](mailto:OGCMailCenter@nrc.gov)

U.S. Nuclear Regulatory Commission  
Office of Public Affairs  
Mail Stop O-16D3  
Washington, DC 20555-0001  
David McIntyre:  
E-mail: [dtm@nrc.gov](mailto:dtm@nrc.gov)

ASLB HLW Adjudication  
E-mail: [ASLBP\\_HLW\\_Adjudication@nrc.gov](mailto:ASLBP_HLW_Adjudication@nrc.gov)

U.S. Department of Energy  
1551 Hillshire Drive  
Las Vegas, NV 89134-6321  
Timothy C. Gunter  
E-mail: [timothy\\_gunter@ymp.gov](mailto:timothy_gunter@ymp.gov)  
Susan L. Rives  
E-mail: [susan\\_rives@ymp.gov](mailto:susan_rives@ymp.gov)

U.S. Department of Energy  
Office of General Counsel  
1000 Independence Avenue S.W.  
Washington, DC 20585  
Martha S. Crosland, Esq.  
E-mail: [martha.crosland@hq.doe.gov](mailto:martha.crosland@hq.doe.gov)  
Nicholas P. DiNunzio, Esq.  
E-mail: [nick.dinunzio@hq.doe.gov](mailto:nick.dinunzio@hq.doe.gov)  
Angela M. Kordyak, Esq.  
E-mail: [angela.kordvak@hq.doe.gov](mailto:angela.kordvak@hq.doe.gov)  
Mary B. Neumayr, Esq.  
E-mail: [mary.neumayr@hq.doe.gov](mailto:mary.neumayr@hq.doe.gov)

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

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

Counsel for the U.S. Department of Energy  
Morgan, Lewis, Bockius LLP  
1111 Pennsylvania Ave., NW  
Washington, DC 20004  
Cliff Cooper, Paralegal  
E-mail: [ccooper@morganlewis.com](mailto:ccooper@morganlewis.com)  
Lewis Csedrik, Esq.  
E-mail: [lcshedrik@morganlewis.com](mailto:lcshedrik@morganlewis.com)  
Jay Gutierrez, Esq.  
E-mail: [jgutierrez@morganlewis.com](mailto:jgutierrez@morganlewis.com)  
Thomas Poindexter, Esq.  
E-mail: [tpoindexter@morganlewis.com](mailto:tpoindexter@morganlewis.com)  
Alex S. Polonsky, Esq.  
E-mail: [apolonsky@morganlewis.com](mailto:apolonsky@morganlewis.com)  
Thomas A. Schmutz, Esq.  
E-mail: [tschmutz@morganlewis.com](mailto:tschmutz@morganlewis.com)  
Donald Silverman, Esq.  
E-mail: [dsilverman@morganlewis.com](mailto:dsilverman@morganlewis.com)  
Paul J. Zaffuts, Esq.  
E-mail: [pzaffuts@morganlewis.com](mailto:pzaffuts@morganlewis.com)  
Thomas E. Reinert, Jr., Esq.  
E-mail: [treinert@morganlewis.com](mailto:treinert@morganlewis.com)  
Corrine A. Niosi, Esq.  
E-mail: [cniosi@morganlewis.com](mailto:cniosi@morganlewis.com)  
Liesel J. Danjczek, Esq.  
E-mail: [ldanjczek@morganlewis.com](mailto:ldanjczek@morganlewis.com)  
Anna L. Vinson, Esq.  
E-mail: [avinson@morganlewis.com](mailto:avinson@morganlewis.com)  
Annette M. White, Esq.  
E-mail: [annette.white@morganlewis.com](mailto:annette.white@morganlewis.com)  
Raphael Kuyler  
E-mail: [rkuyler@morganlewis.com](mailto:rkuyler@morganlewis.com)  
Shannon Staton  
E-mail: [sstaton@morganlewis.com](mailto:sstaton@morganlewis.com)

Clark County (NV) Nuclear Waste Division  
500 S. Grand Central Parkway  
Las Vegas, NV 98155  
Engelbrecht von Tiesenhausen  
E-mail: [evt@co.clark.nv.us](mailto:evt@co.clark.nv.us)  
Phil Klevorick  
E-mail: [klevorick@co.clark.nv.us](mailto:klevorick@co.clark.nv.us)

Clark County, Nevada  
500 South Grand Central Parkway  
Las Vegas, NV 89106  
Elizabeth A. Vibert, Deputy District Attorney  
E-mail: [VibertE@co.clark.nv.us](mailto:VibertE@co.clark.nv.us)

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

Churchill County, Eureka County, Lander County,  
Mineral County, Esmeralda County  
1975 Village Center Circle, Suite 140  
Las Vegas, NV 89134-6237  
Robert F. List, Esq.  
E-mail: [rlist@armstrongteasdale.com](mailto:rlist@armstrongteasdale.com)

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

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 for Nye County, Nevada  
530 Farrington Court  
Las Vegas, NV 89123  
Jeffrey D. VanNiel, Esq.  
E-mail: [nbrjdv@gmail.com](mailto:nbrjdv@gmail.com)

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

California Department of Justice  
Office of the Attorney General  
1515 Clay Street, 20th Floor  
P.O. Box 70550  
Oakland, CA 94612-0550  
Timothy E. Sullivan, Deputy Attorney General  
Email: [Timothy.Sullivan@doj.ca.gov](mailto:Timothy.Sullivan@doj.ca.gov)

Counsel for the State of Nevada  
Egan, Fitzpatrick & Malsch, PLLC  
2001 K Street  
Washington, DC 20006  
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  
12500 San Pedro Avenue, Suite 555  
San Antonio, TX 78216  
Charles J. Fitzpatrick, Esq.  
E-mail: [cfitzpatrick@nuclearlawyer.com](mailto:cfitzpatrick@nuclearlawyer.com)  
John W. Lawrence, Esq.  
E-mail: [jlawrence@nuclearlawyer.com](mailto:jlawrence@nuclearlawyer.com)  
Laurie Borski, Paralegal  
E-mail: [lborski@nuclearlawyer.com](mailto:lborski@nuclearlawyer.com)

Counsel for the State of Nevada  
Ross Dixon & Bell  
2001 K. Street N.W., Suite 400  
Washington, DC 20006  
Merril Hirsh, Esq.  
E-mail: [mhirsh@rdbl.com](mailto:mhirsh@rdbl.com)

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

City of Las Vegas  
400 Stewart Avenue  
Las Vegas, NV 89101  
Margaret Plaster, Management Analyst  
E-mail: [mplaster@LasVegasNevada.gov](mailto:mplaster@LasVegasNevada.gov)  
Liane Lee, Legislative Affairs Officer  
E-mail: [lllee@LasVegasNevada.GOV](mailto:lllee@LasVegasNevada.GOV)

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

Michele Mercado, Analyst  
Email: [Michele.Mercado@doj.ca.gov](mailto:Michele.Mercado@doj.ca.gov)  
California Department of Justice  
300 S. Spring Street, Suite 1700  
Los Angeles, CA 90013

Brian Hembacher, Deputy Attorney General  
Email: [brian.hembacher@doj.ca.gov](mailto:brian.hembacher@doj.ca.gov)

California Department of Justice  
Office of the Attorney General  
1300 I Street  
P.O. Box 944255  
Sacramento, CA 94244-2550  
Susan Durbin, Deputy Attorney General  
E-mail: [susan.durbin@doj.ca.gov](mailto:susan.durbin@doj.ca.gov)

California Energy Commission  
1516 9th Street  
Sacramento, CA 95814  
Kevin, W. Bell, Senior Staff Counsel  
E-mail: [kwbell@energy.state.ca.us](mailto:kwbell@energy.state.ca.us)

NWOP Consulting, Inc.  
1705 Wildcat Lane  
Ogden, UT 84403

Loreen Pitchford, LSN Coordinator  
For Churchill, County, Eureka County, and  
Lander County,  
E-mail: [lpitchford@comcast.net](mailto:lpitchford@comcast.net)

Nye County (NV) Regulatory/Licensing Adv.  
18160 Cottonwood Rd. #265  
Sunriver, OR 97707  
Malachy Murphy, Esq.  
E-mail: [mrmmurphy@chamberscable.com](mailto:mrmmurphy@chamberscable.com)  
Zoie Choate, Secretary  
E-mail: [zchoate@co.nye.nv.us](mailto:zchoate@co.nye.nv.us)  
Sherry Dudley, Administrative Technical  
Coordinator  
E-mail: [sdudley@co.nye.nv.us](mailto:sdudley@co.nye.nv.us)



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

Nuclear Energy Institute  
1776 I St., NW  
Suite 400  
Washington, DC 20006  
Michael A. Bauser, Esq.  
E-mail: [mab@nei.org](mailto:mab@nei.org)  
Anne W. Cottingham, Esq.  
E-mail: [awc@nei.org](mailto:awc@nei.org)  
Ellen C. Ginsburg, Esq.  
E-mail: [ecg@nei.org](mailto:ecg@nei.org)  
Steven P. Kraft  
E-mail: [spk@nei.org](mailto:spk@nei.org)  
Rod McCullum  
E-mail: [rxm@nei.org](mailto:rxm@nei.org)

Timbisha Shoshone Tribe  
Frederick and Peebles, LLP  
1001 Second St.  
Sacramento, CA 95814  
Darcie L. Houck, Esq.  
E-mail: [dhouch@ndlaw.com](mailto:dhouch@ndlaw.com)  
John M. Peebles, Esq.  
E-mail: [ipeebles@ndlaw.com](mailto:ipeebles@ndlaw.com)  
Joe Kennedy, Esq.  
E-mail: [chairperson@timbisha.org](mailto:chairperson@timbisha.org)

Counsel for the Nuclear Energy Institute  
Winston & Strawn LLP  
1700 K Street, N.W.  
Washington, DC 20006-3817  
David A. Repka, Esq.  
E-Mail: [drepka@winston.com](mailto:drepka@winston.com)  
Carlos L. Sisco, Senior Paralegal  
E-Mail: [csisco@winston.com](mailto:csisco@winston.com)

Dated: August 25, 2008

/s/ Timothy J. V. Walsh  
Jay E. Silberg  
Timothy J. V. Walsh  
Pillsbury Winthrop Shaw Pittman LLP  
2300 N St., NW  
Washington, DC 20037-1122  
Tel: (202) 663-8455  
Fax: (202) 663-8007  
E-mail: [timothy.walsh@pillsburylaw.com](mailto:timothy.walsh@pillsburylaw.com)

Counsel for the Nuclear Energy Institute