

October 20, 2008

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE COMMISSION

In the Matter of	)	
	)	
U.S. DEPARTMENT OF ENERGY	)	Docket Nos. 63-001, PAPO-00,
	)	PAPO-001
(High-Level Waste Repository)	)	

NRC STAFF'S NOTICE OF INTENT  
TO INTRODUCE RESTRICTED DATA INTO THE HIGH-LEVEL WASTE PROCEEDING

The NRC staff ("Staff") hereby issues a "notice of intent" to introduce Restricted Data ("RD") into the high-level waste ("HLW") proceeding pursuant to 10 C.F.R. § 2.907. DOE's License Application for Authority to Construct a Geologic Repository at a Geologic Repository Operations Area at Yucca Mountain contains RD, and as such, it appears to the Staff that it may be impracticable for it to avoid the introduction of RD in the course of the HLW proceeding.

The Commission's regulations in 10 C.F.R. § 2.908(a)(1)-(4) govern the content of this notice of intent to introduce RD. Pursuant to those requirements, 1) the subject matter of the RD is related to several classified portions throughout DOE's License Application regarding naval spent nuclear fuel ("SNF") and naval SNF canisters. The Staff's requests for additional information on these topics may reference RD and may also result in the creation of additional RD; 2) the highest level of classification of the information is "confidential"; 3) the Staff

anticipates that it may become necessary to introduce the information in the proceeding; and 4), this information may be both relevant and material to the issues in the proceeding.

Respectfully submitted,

Signed (electronically) by

Nina E. Bafundo  
Counsel for the NRC Staff  
U.S. Nuclear Regulatory Commission  
Office of the General Counsel  
Mail Stop O-15 D-21  
Washington, DC 20555-0001  
(301) 415-1621  
[nina.bafundo@nrc.gov](mailto:nina.bafundo@nrc.gov)

Dated at Rockville, Maryland  
this 20th day of October, 2008.

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE COMMISSION

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

CERTIFICATE OF SERVICE

I hereby certify that copies of the "NOTICE OF INTENT TO INTRODUCE RESTRICTED DATA INTO THE HIGH-LEVEL WASTE PROCEEDING" in the above-captioned proceeding have been served on the following persons this 20<sup>th</sup> day of October, 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)

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)

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)

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

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)

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)

Office of Commission Appellate  
Adjudication  
[ocaamail@nrc.gov](mailto:ocaamail@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: [enoonan@hunton.com](mailto:enoonan@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)

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

Martin G. Malsch, Esq.  
Susan Montesi  
Egan, Fitzpatrick & Malsch, PLLC  
2001 K Street, NW, Suite 400  
Washington, DC 20006  
E-mail: [mmalsch@nuclearlawyer.com](mailto:mmalsch@nuclearlawyer.com)  
[smontesi@nuclearlawyer.com](mailto:smontesi@nuclearlawyer.com)

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

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: [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.  
Mary B. Neumayr, Esq.  
Nicholas P. DiNunzio  
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)  
[mary.neumayr@hq.doe.gov](mailto:mary.neumayr@hq.doe.gov)  
[nick.dinunzio@rw.doe.gov](mailto:nick.dinunzio@rw.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)

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: [djg2@nrc.gov](mailto:djq2@nrc.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)

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)

Ethan I. Strell, Esq.  
Carter Ledyard & Milburn LLP  
2 Wall Street  
New York, NY 10005  
E-mail: [strell@clm.com](mailto:strell@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)

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

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

Donald J. Silverman, Esq.  
Thomas A. Schmutz, Esq.  
Thomas C. Poindexter, Esq.  
Paul J. Zaffuts, Esq.  
Alex S. Polonsky, Esq.  
Lewis Csedrik, Esq.  
Thomas E. Reinert, Jr., Esq.  
Corinne A. Niosi  
Morgan, Lewis & Bockius LLP  
1111 Pennsylvania Avenue, N.W.  
Washington, DC 20004  
E-mail: [dsilverman@morganlewis.com](mailto:dsilverman@morganlewis.com)  
[tschmutz@morganlewis.com](mailto:tschmutz@morganlewis.com)  
[tpoindexter@morganlewis.com](mailto:tpoindexter@morganlewis.com)  
[pzaffuts@morganlewis.com](mailto:pzaffuts@morganlewis.com)  
[apolonsky@morganlewis.com](mailto:apolonsky@morganlewis.com)  
[lcshedrik@morganlewis.com](mailto:lcshedrik@morganlewis.com)  
[treinert@morganlewis.com](mailto:treinert@morganlewis.com)  
[cniosi@morganlewis.com](mailto:cniosi@morganlewis.com)

Timothy E. Sullivan, Esq.  
Deputy Attorney General  
California Department of Justice  
1515 Clay St., 20th Flr.  
P.O. Box 70550  
Oakland, CA 94612-0550  
E-mail: [timothy.sullivan@doj.ca.gov](mailto:timothy.sullivan@doj.ca.gov)

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

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

Brian Hembacher, Esq.  
Deputy Attorney General  
California Department of Justice  
300 S. Spring St  
Los Angeles, CA 90013  
E-mail: [brian.hembacher@doj.ca.gov](mailto:brian.hembacher@doj.ca.gov)

Signed (electronically) by,

Nina E. Bafundo  
Counsel for NRC Staff  
U.S. Nuclear Regulatory Commission  
Mail Stop O-15 D21  
Washington, DC 20555-0001  
(301) 415-1621  
[NEB1@nrc.gov](mailto:NEB1@nrc.gov)