

Morgan, Lewis & Bockius LLP
1111 Pennsylvania Avenue, NW
Washington, DC 20004
Tel: 202.739.3000
Fax: 202.739.3001
www.morganlewis.com

Morgan Lewis
C O U N S E L O R S A T L A W

Alex S. Polonsky
Partner
202.739.5830
apolonsky@MorganLewis.com

November 5, 2008

VIA EIE

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

Re: Case Management Order Governing Classified Information

Judge Moore:

In response to this Board's Order of October 9, 2008, the U.S. Department of Energy submits the attached joint proposed Case Management Order and associated Protective Order and Non-Disclosure Agreement to govern classified information in this licensing proceeding. Also in accordance with this Board's Order of October 9, 2008, the DOE circulated on October 22, 2008, a draft of these documents to all the parties who had filed a notice of appearance. Only the NRC Staff and the State of Nevada provided comments. DOE worked with counsel for the NRC Staff and the State of Nevada to resolve their comments and, on November 4, 2008, circulated a second draft to all the parties who had filed a notice of appearance.

Only one issue remains unresolved: Nevada believes that the requirement in the draft case management order and draft protective order that requesters be United States citizens should be limited to Restricted Data, and not extended to all other classified information. DOE does not agree with this position and believes that any person given access to the classified information at issue in this licensing proceeding must be a United States citizen.

Sincerely,


Alex S. Polonsky

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD**

**Before Administrative Judges:
Thomas S. Moore, Chairman
Alex S. Karlin
Alan S. Rosenthal**

_____)	Docket No. PAPO-00
In the Matter of)	
U.S. DEPARTMENT OF ENERGY)	ASLBP No. 04-829-01-PAPO
(High-Level Waste Repository:)	
Pre-Application Matters) _____)	November ____, 2008

SIXTH CASE MANAGEMENT ORDER
(Regarding Classified Information)

In order to protect the national security, the United States Department of Energy (“DOE”) and the Staff of the United States Nuclear Regulatory Commission (“NRC Staff”) have applied for a Protective Order to protect classified National Security Information, Restricted Data, and Formerly Restricted Data pursuant to the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2162 and 2231; Executive Orders 13292 and 12958, as amended, and to have that Protective Order supplement, but in no way supersede, 10 C.F.R. Part 2, Subpart I or any other regulation or statute.¹ This Case Management Order grants that request.

¹ The DOE filed a partially unopposed Protective Order regarding the handling of Classified Information with the Commission on May 30, 2008. In CLI-08-21, the Commission, among other things, referred the Protective Order to this PAPO Board for resolution. This Board held a conference call with the parties on October 8, 2008, and pursuant to that call and our Order of October 9, 2008, this Board required DOE to submit a draft Case Management Order, Protective Order, and Non-Disclosure Agreement by November 5, 2008.

I. DEFINITIONS

For purposes of this Sixth Case Management Order, and its accompanying Protective Order (see Appendix A), the following definitions shall apply:

- (A) “Classified Information” refers to any information that qualifies as National Security Information, as defined by Executive Order 12958, as amended, Restricted Data (“RD”) or Formerly Restricted Data (“FRD”), as defined in 42 U.S.C. 2014(y) and 2162 and 10 C.F.R. Part 1045, which has not been declassified by the United States Federal Government (“Government”). This includes classified Naval Nuclear Propulsion Information or any other information deemed classified in accordance with law and regulations. A Party must assume that notes, memoranda, work product, etc. that are based—even in part—upon Classified Information, are also classified until a qualified Derivative Classifier certifies otherwise.
- (B) “Classified Information protection requirements” refers to the controls or systems that must be in place to possess Classified Information and prevent its unauthorized dissemination, as presented in this Sixth Case Management Order and the attached Protective Order (Appendix A).
- (C) “Counsel” refers to all lawyers representing or assisting in the representation of a Party in this proceeding, together with their paralegal, secretarial, clerical and other support staff.
- (D) “Document” refers to any written or graphic matter, or other means of preserving thought or expression, that contains “documentary material” as that term is defined in 10 C.F.R. 2.1001, including, but not limited to, writings, correspondence, contracts, memoranda, handwritten notes, applications, notebooks, books, studies, surveys, graphs, charts, calculations, analyses, drawings, reports, computer printouts or matter stored on computer or on computer disk, tape recordings, photographs, microfilm, microfiche, transcripts, diary entries, and desk calendar entries, whether originals or copies, however produced or reproduced. It also includes any tangible objects, including, but not limited to, mockups, models, devices, or any other object that could be inspected.
- (E) “DOE” means the U.S. Department of Energy, which includes the Naval Nuclear Propulsion Program.
- (F) “DOE Personnel” refers to all personnel employed by, under contract to, or assigned to the U.S. Department of Energy who are involved in this proceeding, including any stenographic reporters and videographers engaged in such proceedings retained by the U.S. Department of Energy.

- (G) “Facility Security Officer” (“FSO”) refers to a U.S. citizen, with an access authorization equivalent to, or higher than, the facility where the FSO is located, assigned the responsibility of administering the requirements of a security protection program within a secure facility.
- (H) “Naval Nuclear Propulsion Information” (“NNPI”) is defined in NAVSEAINST 5511.32C and includes "all information, classified or unclassified, concerning the design, arrangement, development, manufacture, testing, operation, administration, training, maintenance, and repair of the propulsion plants of Naval nuclear powered ships and prototypes, including the associated shipboard and shore-based nuclear support facilities.” The disclosure of this information is restricted by Federal Statutes, regulations, and directives, including NAVSEAINST 5511.32C.
- (I) “NRC” refers to the U.S. Nuclear Regulatory Commission.
- (J) “NRC Personnel” refers to all personnel employed by, under contract to, or assigned to the U.S. Nuclear Regulatory Commission who are involved in this proceeding, including any stenographic reporters and videographers engaged in such proceedings.
- (K) “Originator” means a Party that creates and asserts that information in a document is, consistent with 10 C.F.R. 2.1005(g), exempt from inclusion on the Licensing Support Network (LSN) because it contains Classified Information.
- (L) “Party” or “Parties” refers to: (1) the DOE and the NRC Staff; (2) the State of Nevada; (3) any affected unit of local government, and any affected Indian Tribe, (as those terms are defined by section 2 of the Nuclear Waste Policy Act of 1982, as amended (42 U.S.C. 10101)), which may not have yet Petitioned to Intervene in the licensing proceeding, provided that each of the foregoing has made substantial and timely compliance with 10 C.F.R. 2.1003; (4) any other governmental entity which has filed a Petition to Intervene and has made substantial and timely compliance with 10 C.F.R. 2.1003, and (5) a person who is admitted to the proceeding in accordance with 10 C.F.R. 2.309 or 2.315(c).
- (M) “Proceeding Security Officer” or “PSO” refers to the person or persons designated by the NRC, in a separate order, to assist the presiding officer and Parties with security procedures, classification, and safeguards to be observed pursuant to 10 CFR 2.904.
- (N) “Receiver” means any person to whom access has been granted to a document that contains Classified Information pursuant to this Sixth Case Management Order.
- (O) “Representatives” of a Party refers to its officers, employees and all employees of any independent contractors, expert witnesses, and consultants furnishing

services related to the Party's involvement in this proceeding, including its Counsel.

- (P) "Requester" is any Party seeking access to a document that contains Classified Information pursuant to this Sixth Case Management Order.

II. GENERAL REQUIREMENTS

A. Scope.

The requirements of this Sixth Case Management Order shall apply equally to all Parties, and their Counsel, Representatives and any other persons acting on their behalf in connection with this proceeding. In addition to the requirements contained herein, the general requirements set forth in the Revised Second Case Management Order (dated July 6, 2007) in Parts II.C ("Appearance Practice and Representation"), II.D ("Signature"), II.G ("No Subject Matter Waiver"), II.K ("Good Faith Consultation"), II.N ("Filings and Service via the NRC's Adjudicatory EIE System"), II.O ("Captions for Filings"), and the Other Matters set forth in Parts VII.C. ("Subsequent Case Management Orders"), and VII.D. ("Controlling Issues") are also applicable.²

This Case Management Order does not govern the process for acquiring security clearances for access to Classified Information. Each Party, Representative of a Party or Counsel who expects to have a need to know Classified Information in connection with this proceeding

² The provisions of this Sixth Case Management Order do not apply to NRC staff, counsel, consultants, and contractors with respect to Classified Information that the NRC is entitled to receive apart from its role as a litigant in this proceeding (e.g., information available to, or required to be submitted to, the NRC by statute, regulation, or license condition or information submitted to the NRC in support of a requested licensing action). Such information is subject to internal NRC requirements governing the treatment of Classified Information. See NRC Management Directive 12.2, "Classified Information Security Program." The provisions of this Sixth Case Management Order do apply to NRC staff, counsel, consultants, and contractors with respect to Classified Information that NRC would not be entitled to receive except by virtue of an Order in this proceeding. The provisions of this Sixth Case Management Order also do not apply to DOE staff, counsel, consultants, and contractors with respect to Classified Information in this proceeding because such information is otherwise subject to protection pursuant to internal DOE Orders. See DOE Manual 470.4-4, "Information Security"; DOE Order 475.2, "Identifying Classified Information".

and who does not otherwise have an appropriate security clearance should obtain the appropriate access authorization (security clearance) with the NRC in accordance with 10 C.F.R. 2.905(c), and as described in the NRC Personnel Security Program Handbook 12.3. However, any Party, Representative, or Counsel who wishes to apply to the NRC for a security clearance to access Classified Information in this proceeding, must submit its application within 14 days of the issuance of this Order, and must request access to the Classified Information within 14 days of receiving the clearance or within 14 days of issuance of this Order, whichever is later.

In accordance with CLI-08-21, this Sixth Case Management Order does not address “disputed questions [related to] the NRC’s authority to (1) review and/or overturn another federal agency’s classification determinations made on information associated with the Yucca Mountain construction authorization application; and (2) direct DOE to disclose Classified Information to Nevada representatives (holding an appropriate security clearance) over DOE’s objection as the originating agency. These issues are appropriately considered in the context of a live controversy.” See *U.S. Department of Energy* (High Level Waste Repository) (Memorandum and Order) slip op. at 5 (Sept. 8, 2008) (emphasis in original). Discussion of these disputed issues is properly deferred to subsequent briefing by the parties only after a dispute materializes.

B. Reclaiming Documents that Contain Classified Information.

If any Party or its Representative or Counsel has knowledge that any person has obtained unauthorized access to Classified Information in this proceeding, the Party shall provide immediate written notice to the PSO and the federal agency originating the Classified Information about the unauthorized access. This notice is in addition to any other reporting obligations that each individual has who holds a security clearance. An originating agency that has knowledge that any person has obtained unauthorized access to Classified Information in this

proceeding shall seek appropriate relief from the PAPO Board, or other Atomic Safety and Licensing Board, and/or elsewhere to protect the Classified Information from further unauthorized dissemination.

C. Withdrawal of Classified Information Protection.

A Party that withdraws its claim that a document requires Classified Information protection shall, as soon thereafter as practicable, add the document to its LSN document collection in full or redacted text or header-only format as appropriate.

D. Stipulations.

The right and terms of access to Classified Information pursuant to this Sixth Case Management Order may be stipulated by written agreement among the relevant Parties, and the stipulation will be filed with the PAPO Board.

E. Accounting Records.

Receivers shall keep a record of all documents containing Classified Information that they receive pursuant to this Sixth Case Management Order. Six months after a Party has been granted access to Classified Information, that Party shall submit to the PSO the name, business address, business telephone number, and security clearance level of all its Counsel and Representatives who have been given access to Classified Information. A Party shall update this submittal every six months and provide similar information concerning all additional Counsel and Representatives who have been provided access to Classified Information in the intervening six months.

F. Inadvertent Public Release.

Any unauthorized access or public release of Classified Information, regardless of when such unauthorized access or release occurs, does not relieve anyone from complying with this Case Management Order or the attached Protective Order. Information formerly designated as

Classified Information that is properly disclosed in the public record of this proceeding is no longer subject to this Sixth Case Management Order.

III. REDACTION OF CLASSIFIED INFORMATION

As required by 10 C.F.R. 2.906, it is the obligation of all parties to avoid, where practicable, the introduction of Classified Information into the proceeding. The Board expects the parties to adhere to this requirement by not including, or redacting, if practicable, Classified Information from pleadings and testimony filed with a Board.

In its Hearing Notice, CLI-08-25 (October 17, 2008), the Commission directed this Board to, among other things, resolve the question of whether “provision of redacted versions of classified documents . . . could provide a basis for the formulation of contentions before the security clearance application reviews are completed.” (slip .op at 14). The procedures below resolve this question.

Any Party whose Counsel or Representative has an application for a security clearance pending before the NRC³ and who wishes to formulate contentions based upon the Classified Information in DOE’s License Application (*i.e.*, the “Technical Support Document” and docketed supporting references (*i.e.*, Background Evaluation and Analysis Reports (“BEARs”)), shall:

1. Within 14 days of the issuance of this order, identify in writing to the PSO the specific document(s) it wants to review in redacted form.
2. The PSO will determine whether an authorized representative of that Party has applied for a security clearance and, once it has confirmed that fact, will forward the request to

³ The Board views a request for non-classified redacted versions of classified documents as a precursor to, and with the intent of, ultimately reviewing the classified documents. Accordingly, only those Parties whose Counsel or Representative has an application for a security clearance pending before the NRC may request redaction of classified documents.

DOE. Upon receipt of such a request, DOE shall commence the process of redacting the identified classified document(s).

3. If DOE concludes that a redacted version of a document would contain little or no meaningful information that could provide a basis for the formulation of contentions, it may notify the requesting Party who is required to confer in good faith with DOE about its request. If DOE and the requesting Party do not agree on the utility of redacting the document, either Party may move for relief from the Board.

4. When DOE has redacted a document identified in a request, DOE shall provide the requesting Party with a copy of the redacted document and make available a copy on the LSN.

5. If a Party that has timely requested a non-classified redacted version of a classified document receives such redacted document [more than 14 days after the request](#), that Party may move for a reasonable extension of time to file contentions based on that redacted document.

6. A Party that has a Representative or Counsel that holds an “L” or higher security clearance and has a “need to know,” may not request redaction of classified information from the Technical Support Document or docketed supporting references in order to prepare contentions because the Party already has access to that classified information. However, once a cleared Party, Representative, or Counsel has reviewed classified information, the Party, Representative, or Counsel may request, through the procedures outlined above in this Section III, that the originating agency redact small portions of the classified document(s) in order to allow the Party, Representative, or Counsel to submit a contention that does not include or reference classified information. Such a request is consistent with the provisions in 10 C.F.R. Part 2, Subpart I, and

the originating agency shall respond to the request also using the procedures outlines above in this Section III.

IV. ACCESS REQUIREMENTS FOR DOCUMENTS THAT CONTAIN CLASSIFIED INFORMATION

Only Requesters who agree to comply with this Sixth Case Management Order and the Protective Order (Appendix A), and who have executed and filed with the Originator and PAPO Board the Non-Disclosure Agreement (Appendix B), may be given access to Classified Information. Access to documents that contain Classified Information will be granted once: (i) NRC or DOE has granted the Requester an “L” or higher level security clearance or, for preexisting holders of an “L” or higher level security clearance, that clearance is active; (ii) the Requester has a “need to know” the Classified Information; and (iii) the originating agency has confirmed that the Requester is a United States citizen.

A Requester has a “need to know” if, in its request (See Part IV. below), it: (a) submits to the jurisdiction of the PAPO Board; (b) states that it will use the Classified Information solely for the purpose of participating in any Commission proceeding concerning a license application for a geologic repository at Yucca Mountain or any appeal to a federal court from such proceeding; (c) identifies the documents and the particular subject of inquiry for which the Classified Information is sought; (d) demonstrates technical or legal competency necessary to evaluate the Classified Information to which he/she seeks access; and (e) states that the Requester shall abide by this Sixth Case Management Order.

V. PROCESS FOR REQUESTS FOR ACCESS TO CLASSIFIED INFORMATION

A. Access Requests.

The following procedures shall apply to requests for access to Classified Information:

- (1) A Party seeking Classified Information shall submit to the PSO a statement describing the Classified Information to which access is desired, the level of classification applicable for that information, the reason why access to the information is requested, the names of the individuals for whom access is requested, social security number or any other information required by the PSO to confirm that the individuals have the appropriate security clearance, and a sworn statement, in the form attached to this Sixth Case Management Order as Appendix B, signed by each such person, duly notarized.
- (2) The documents required to be submitted to the PSO for access to Classified Information under this Case Management Order shall be submitted to the PSO no less than 20 calendar days prior to the proposed date for access. Material submitted to the PSO shall be via overnight mail. The Party making the submittal shall file a Notice to be served on all Parties, identifying the individuals who are seeking access.
- (3) The PSO will verify the appropriate clearance level for all individuals for whom access is requested and forward a Request for Visit or Access Approval (attach/reference appropriate VAL form) to the facilities at which access is requested.
- (4) The PSO will forward the documents described in paragraph V.A.(1), above, to the appropriate originating agency's Facility Security Officer and the originating agency's Counsel, no later than five (5) calendar days after receipt of the Request. The PSO will verify clearances to the originating agency so that it can make a determination to grant or deny access. The originating agency

shall have ten (10) calendar days after receipt of the documents to make a “need to know” determination and grant or deny the proposed access by the individual.

B. Process for Resolving Disputes Concerning Classified Information.

The Board is mindful of the Commission’s ruling in CLI-08-21 that any Board Order issued at this time regarding how to resolve disputes over classified information must not “*substantively decide* . . . the NRC’s authority to (1) review and/or overturn another federal agency’s classification determinations made on information associated with the Yucca Mountain construction authorization application; and (2) direct DOE to disclose classified information to Nevada representatives (holding an appropriate security clearance) over DOE’s objection as the originating agency” because “[t]hese issues are appropriately considered in the context of a live controversy.” (Emphasis in original). The Board believes the procedures outlined below provide a procedural framework without substantively deciding the issue.

1. If a Requester has been denied access to Classified Information, believes that a decision on whether to grant access has been unreasonably delayed, or believes that information claimed to be classified or incapable of redaction is not properly so, the Requester may file a motion consistent with 10 C.F.R. 2.323 and, where applicable, 2.705(h), and 2.709(d).

2. As provided in Part II.K (“Good Faith Consultation”) of the Revised Second Case Management Order, prior to filing any motion, the Requester must in good faith confer with the Originator. The good faith discussion shall include: (a) a disclosure by the Originator as to whether, during the proceeding, it has previously provided access to the document (or parts of the document) at issue to another Party; (b) whether the document is subject to other claims of privilege; (c) whether the Requester or Originator believes that the dispute raises a controlling issue of law; and (d) information provided by the Requester that

would allow the Originator to conclude whether the Requester can meet the access or information protection requirements for Classified Information. The certification by the Requester shall specify the results of the discussion of these issues.

3. Within seven (7) business days after such written motion has been filed, only the Originator (and no other Party) may file a response to the motion, along with any supporting affidavits or other accompanying evidence. Submission of supporting affidavits or other accompanying evidence that contain Classified Information must be submitted in camera to the PAPO Board. The response to the motion may also address whether the PAPO Board has authority to resolve the issues in question.

4. The Requester shall have no right of reply, except as permitted by the PAPO Board pursuant to 10 C.F.R. 2.323(c).

VI. INFORMATION PROTECTION REQUIREMENTS

1. Upon receiving access to Classified Information, Receivers must prevent the unauthorized dissemination of the information. Specific protection requirements for Classified Information are set forth in the Protective Order (Appendix A). The Originator will be available to provide advice and assistance in implementing any or all of the information protection requirements described herein and in Appendix A. If, after consultation with the Originator, a Receiver is unable to comply with all of those requirements or the Originator and Receiver otherwise agree that access should be had at the Originator's premises in lieu of possession, the Originator will make Classified Information available to the requestor, upon reasonable notice, for inspection at the Originator's premises.

2. If a Receiver has reason to suspect that a document containing Classified Information has been lost or misplaced, or that it has otherwise become available to unauthorized

persons, the Receiver shall promptly notify the Proceeding Security Officer and the Originator of the Classified Information, of those suspicions and the reasons for them.

3. Instructions for how to submit filings (including testimony) that contain Classified Information are as follows.

a. All pleadings, briefs, memoranda, and other papers to be submitted to and filed with the NRC containing Classified Information (“classified filings”) shall be submitted to the PSO and served on Parties who have an approved Secure Facility (and, therefore, can possess classified information). The PSO will provide, to each Party who has a Secure Facility, the classified mailing address of each other Party who has a Secure Facility, so that the Party submitting a classified filing can properly serve the classified filing on the other parties who are authorized to possess that filing.

b. The Party submitting the classified filing also must simultaneously file through the EIE an unclassified notice which will notify the other parties of the classified filing. The EIE notice must provide an unclassified description of the classified filing to give the Parties the general nature (*e.g.*, Petition, Motion to Dismiss, Answer, or transcript) and general scope (*e.g.*, “challenging TSD Section [X.X.X]”) of the filing. The EIE notice shall not include on the Certificate of Service any classified mailing addresses.

c. All classified filings submitted to the PSO and served on cleared Parties shall be placed in two sealed envelopes or other containers, by the Party submitting the document. The inner envelope or container shall be marked front and back indicating the level of classification (and category if RD or FRD) of its contents. The form attached as Appendix C to this Sixth Case Management Order shall be attached to the outside of the inner envelope or container and shall contain:

- (i) The words “Classified Information”;
- (ii) The caption of this proceeding;
- (iii) The name of the Party on whose behalf the document is being filed, and the names of Counsel of record for that Party; and
- (iv) The following statement:

"This envelope [or other container] contains classified information. It is sealed and is not to be opened nor its contents displayed or revealed except in accordance with U.S. Nuclear Regulatory Commission Case Management Order and Protective Order PAPO-00-__."

- d. An unclassified statement of the classified filing should be submitted with the Classified Information in accordance with 10 C.F.R. 2.910.
- e. An outer envelope that is addressed to the PSO at the designated address shall be marked with the words “To Be Opened by the Addressee Only.” The outer envelope must not indicate that its contents contain Classified Information.
- f. All classified filings must be reviewed, marked and appropriately packaged (including double wrapping) when being transmitted outside the facility or location where it was generated or obtained to another approved facility or location in accordance with NRC and DOE regulations, as applicable. This includes new documents generated from classified discussions or other classified documents.
- g. A Party who does not have a Secure Facility, but who has representatives who possess an appropriate security clearance, may contact the PSO to arrange to review the classified filing at an NRC or DOE Secure Facility.

VII. MISCELLANEOUS

A. Reservation of Rights.

Nothing in this Sixth Case Management Order, or any appendices attached hereto, shall preclude:

1. Any Party from objecting to the introduction or use of Classified Information in this proceeding;
2. Any Originator from arguing that the PAPO Board does not have the authority to override the Originator's determination that a requestor lacks the appropriate security clearance, lacks a need to know, or that a document contains Classified Information; and
3. The federal agency that originated the Classified Information contained in a document from finding in the course of this proceeding that all or part of previously-designated Classified Information need no longer be protected.

B. Returning Classified Information At the End of the Proceeding.

All Classified Information to which a Party and its Representatives obtain access is now and will forever remain the property of the United States Government. Upon the final conclusion of this proceeding, including any appeals, each Party shall assemble and transmit to the Originator's Facility Security Officer all copies of documents containing Classified Information it has obtained under this Case Management Order, including any produced in response to any and all discovery requests, as well as any notes, memoranda, computer disks, or tapes, or work product based on or otherwise containing or analyzing said information. If the NRC is not the Originator, then the NRC shall return all documents NRC was entitled to receive solely by virtue of an Order in this proceeding containing Classified Information to the Originator, including any Classified Information expunged from the record of the proceeding in accordance with 10 C.F.R. 2.913. Due to the onerous destruction requirements for Classified

Information, a Party may not destroy the documents in its possession, but must deliver the documents to the Originator.

Each Receiver shall also send to the Originator within fifteen (15) days of the end of this proceeding, including any appeals, an affidavit stating that, to the best of the Receiver's knowledge, all Classified Information has been delivered to the Originator in accordance with this Sixth Case Management Order.

C. Receiver No Longer Uses or is Qualified to Access Classified Information.

If a Receiver of Classified Information pursuant to this Sixth Case Management Order no longer uses such information or no longer qualifies as a Receiver or Party, or if an individual serving as counsel, consultant, other representative, or assistant no longer qualifies as such, then within fifteen (15) days, such Receiver or individual shall send the documents containing Classified Information (including all notes of such information) to the Originator in accordance with this Sixth Case Management Order and submit an affidavit that the Classified Information has been delivered.

It is so ORDERED.

The Pre-license Application
Presiding Officer Board*

/RA/

Thomas S. Moore, Chairman
ADMINISTRATIVE JUDGE

/RA/

Alan S. Rosenthal
ADMINISTRATIVE JUDGE

Rockville, Maryland
November ____, 2008

Appendix A to Sixth Case Management Order

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

Before Administrative Judges:

**Thomas S. Moore, Chairman
Alex S. Karlin
Alan S. Rosenthal**

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))	November ____, 2008
)	

PROTECTIVE ORDER

(Regarding Classified Information)

- (1) Except where otherwise expressly defined in this Protective Order, all terms used herein shall have the same meaning and definition as in the Sixth Case Management Order, to which this Protective Order is attached as Appendix A.
- (2) No Party, Representative of a Party, or Counsel can have access to Classified Information in this proceeding unless such Party, Representative, or Counsel has the appropriate security clearance, has a need to know the Classified Information, and is a United States Citizen.
- (3) Access under this Protective Order to Classified Information, including but not limited to any classified notes, memoranda, or work product based thereon, shall only be had and used for purposes of this proceeding, including any appeals therefrom.
- (4) Prior to the deposition of any witness who may be shown or asked about Classified Information in a deposition, deposing Counsel shall provide written notice to the originating agency's Counsel (and to Counsel of record for all other Parties) no later than 20 calendar days prior to the date of the deposition via overnight mail. The Party seeking to conduct a deposition shall comply with the requirements of Section V.A.(2), (3), and (4) of the Sixth Case Management Order.
 - (a) The Party responsible for the Secure Facility where the classified deposition will take place must ensure—through written confirmation from the PSO or a written Visitor Access Form completed by a the Security Officer for the Party, or a combination of both—that all individuals attending the deposition have been authorized to have access and are United States Citizens, including the court

reporter. Any equipment the court reporter uses in recording, transcribing and otherwise preparing a transcript of the deposition testimony must be approved for use in handling Classified Information. Anyone who does not have the appropriate clearance or need to know must be excluded. For any person who has not previously been given access to the Classified Information that will be addressed in the deposition pursuant to the terms of this Protective Order, the Party with whom that person is affiliated must submit the information required by Section V.A.(1) of the Sixth Case Management Order to the PSO, and the PSO will verify clearances to the originating agency. The originating agency's Counsel shall notify Counsel of record to the requesting Party of any objection by the Government or its designees to the proposed access by said individuals within 10 calendar days of receipt of the notice.

- (b) It is possible that deponents may give answers during an unclassified deposition that disclose Classified Information. Counsel may not, however, initiate such disclosure by asking questions or using documents containing Classified Information without proper authorization in accordance with this Protective Order. If a deponent gives answers that disclose Classified Information, Counsel shall not ask follow-up questions of the deponent that contain Classified Information that was previously disclosed by the deponent until authorized in accordance with this Protective Order.
 - (c) Transcripts of deposition testimony that may contain classified information must be reviewed by the PSO or PSO designee and identified and marked as containing Classified Information, if applicable. All portions of transcripts of deposition testimony that contain Classified Information shall be bound separately and labeled "Classified Information," and if filed with the NRC, shall be filed in accordance with this Protective Order. Counsel for the Party on whose behalf Classified Information may be presented, quoted, or referred to shall make arrangements to ensure that the portions of the transcripts of deposition testimony containing Classified Information are properly identified and marked.
- (5) A Party and its Representatives shall disclose the substance or contents of any Classified Information only to persons who have an "L" or higher security clearance and who are granted access (which includes an authorized need to know determination) pursuant to this Protective Order.
 - (6) All documents selected for copying during a site visit to access Classified Information, or generated by a Party or its Representatives, during such a visit, whether marked or unmarked, will be screened and appropriately marked by the Facility Security Officer, or a classifying official authorized by the originating agency, prior to leaving the classified space. Documents that are screened and determined to contain no Classified Information will be appropriately marked and turned over to the requesting Party. Documents that are determined to contain Classified Information will be appropriately classified and marked and will be released to the requesting Party within ten days only if the Party has an approved classified storage facility as described in paragraphs (8) and (10) of this Protective Order.
 - (7) Except as provided in paragraphs (8), (10), and (12), Classified Information shall at all times be kept secure at a Government location which has a facility for storage of

the appropriate level and category of classified material. Depositions conducted in accordance with Paragraph (4) shall only occur in a secure facility under this paragraph.

- (8) Documents containing Classified Information may be transferred from the possession of the originating agency provided that the information is properly controlled and protected pursuant to standards set out in the National Industrial Security Program (“NISPOM”) DOD 5220.22-M for National Security Information and DOE M 470.4-4, *Information Security*, for Restricted and Formerly Restricted Data:
 - (a) A Party and its Representatives shall maintain all documents that contain Classified Information, including any notes, excerpts, or materials based thereon and all copies thereof, in a facility that has an appropriate clearance granted by the NRC and/or DOE for storage of such Classified Information in accordance with the provisions of this Protective Order.
 - (b) A Party shall provide a specific plan for approval by the NRC and/or DOE which demonstrates compliance with applicable regulations, and must obtain written approval from the originating agency prior to transfer of such documents from the originating agency’s possession. The plan submitted by a Party shall comply with the provisions of subparagraphs (10)(a) and (b) of this Protective Order.
 - (c) All documents containing Classified Information, including any notes or materials based thereon, that are released to a Party shall be maintained separately from other documents and items by that Party, and access to such documents shall be permitted only to those persons granted access pursuant to Section V.A. of the Sixth Case Management Order.
- (9) Persons permitted to inspect documents containing Classified Information pursuant to this Protective Order may make written notes of the documents and their contents. However, notes, excerpts, photographs, or logs taken from any documents containing Classified Information shall be reviewed for classification and marked with the appropriate classification markings by a DOE or NRC approved derivative classifier and shall not be disseminated or disclosed in any manner or form to any person not authorized to review or inspect the same, and shall be subject to the provisions of this Protective Order. Such notes, excerpts, photographs, or logs will be maintained under appropriate security conditions as set forth in this Protective Order. No person permitted to inspect documents containing Classified Information shall copy or reproduce any parts of said documents or their contents in any manner or form, except as provided in this Protective Order. No Party waives any privilege applicable to notes, including work product, or other materials they generate by giving them to the PSO, NRC, or DOE for classification review. Those reviewing a Party’s documents for classification may only discuss the contents of privileged documents with Counsel or Representative of the generating Party.
- (10) Documents containing Classified Information, including any notes, memoranda, or similar work product relating thereto, may be transferred from the premises described in paragraphs (7) or (8) only as follows:

- (a) Not less than 30 days prior to the proposed transfer, Counsel for the Party proposing to transfer the information shall provide the PSO, and the originating agency's Facility Security Officer, through respective originating agency's Counsel, with a written notice:
 - i. Naming the proposed document custodian, who shall have the necessary security clearance and whose responsibility it shall be to ensure that all documents are stored and maintained consistent with this Protective Order;
 - ii. Identifying the documents to be transferred;
 - iii. Listing the facility to which it is proposed that such documents be transferred; and
 - iv. Specifying and providing evidence of all clearances or approvals that the facility has received for storage of documents containing Classified Information or related analyses, notes, or excerpts.
 - v. The 30 days notice may be reduced by the FSO for good cause.
- (b) Unless the originating agency advises Counsel of record for the Party requesting the transfer that the originating agency objects to the proposed transfer of Classified Information within 10 calendar days after the submission of the written notice to which reference is made in subparagraph (10) (a) above, the transfer may occur as described in the notice, provided, however, that documents containing Classified Information including any notes, memoranda, or work product based thereon, shall at all times thereafter be maintained by the custodian at the location referenced in the subparagraph (10) (a)(iii) above, and shall be kept secure and maintained separately from other documents and things regularly maintained by the proposed document custodian, and access to such document shall be permitted only to those persons approved for access pursuant to Section V.A. of the Sixth Case Management Order.
- (11) Classified Information shall not be discussed in any area in which persons not authorized to possess such information may overhear such discussions or in the vicinity of any electronic devices capable of hearing or recording those conversations (i.e., cell phones, cameras, tape recorders, other recording devices, etc.). Classified Information shall not be discussed or transmitted over any standard commercial telephone instruments or non-secure communication systems. Classified Information shall not be discussed, transmitted, or processed in any manner on any computer, word processing system, copy machine, or fax that has not been specifically approved by DOE or NRC.
- (12) Whenever Classified Information is or may be presented, quoted, or referred to in any hearing in this proceeding, including any appeals, and subject to the provisions of paragraph (2) above, Counsel for the Party on whose behalf the Classified Information is or may be presented, quoted, or referred shall make arrangements or, when appropriate, request the NRC to make arrangements, to ensure that only persons qualified under this Protective Order have access to such information, are

present during such presentation, quotation, or reference, and that all portions of transcripts containing such information are bound separately, labeled "Classified Information" and filed in accordance with the provisions of paragraph (12) above. Specific arrangements for handling Classified Information at the hearing will be resolved as a pre-hearing matter held in camera.

- (13) Nothing in this Order shall relieve any person from safeguarding NSI, RD, or FRD in accordance with applicable provisions of the laws of the United States and rules, regulations or orders of any government agency.
- (14) A Party's improper or unauthorized production or disclosure of a classified document during the course of this proceeding, or failure to protect the document in accordance with this Order, shall not constitute a waiver of the classified nature of the document. This includes an improper or unauthorized release by the originating agency.
- (15) A copy of this Protective Order shall issue forthwith to Counsel for the Parties to this proceeding who shall advise their respective clients of the contents of this Protective Order, as well as furnish their respective clients with a copy of this Protective Order. Counsel for any Parties who subsequently intervene in these proceedings and who seek access to Classified Information are also required to furnish a copy of this Protective Order to their clients and to advise them of the contents.
- (16) Nothing contained in this Protective Order shall be construed as a waiver of any rights or regulations of an originating agency.

IT IS SO ORDERED

FOR THE PRE-LICENSE
APPLICATION PRESIDING BOARD

/RA/

Thomas S. Moore, Chairman
ADMINISTRATIVE JUDGE

Dated at Rockville, Maryland

this _____ day of November, 2008

Appendix B to Sixth Case Management Order

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

Before Administrative Judges:

**Thomas S. Moore, Chairman
Alex S. Karlin
Alan S. Rosenthal**

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))	November ____, 2008
)	

**NON-DISCLOSURE AGREEMENT
(Regarding Classified Information)**

Under penalty of perjury, I hereby declare my understanding that access to Classified Information is provided to me pursuant to the terms and restrictions of the Protective Order governing Classified Information, dated [DATE], that I have been given a copy of and have read that Protective Order; and that I agree to be bound by it as well as the terms of the Sixth Case Management Order, dated [DATE].

I understand that direct or indirect unauthorized disclosure, retention, or negligent handling of Classified Information reasonably could, at a minimum, be expected to cause damage to the national security of the United States or be used to advantage a foreign nation. I will never divulge Classified Information disclosed to me to anyone who is not authorized to receive it, in conformity with the Sixth Case Management Order or the Protective Order governing Classified Information.

I acknowledge that a violation of this Agreement, the Sixth Case Management Order, or the Protective Order governing Classified Information, which incorporates the terms of these

Orders, constitutes a violation of an order of the U.S. Nuclear Regulatory Commission and may result in the imposition of sanctions as the Pre-Licensing Application Presiding Officer (PAPO) Board, a subsequent Presiding Officer in this proceeding, or the Commission may deem to be appropriate. Such sanctions may include, but are not limited to, refusal to consider a filing by the offending receiver; denial of the right to receive documents under this or any other protective order in this proceeding; denial of the right to cross-examine or present evidence; refusal to allow the counsel, consultant, or other representative of a receiver to participate in this proceeding; dismissal of one or more of a receiver's contentions; or dismissal of the participant from the proceeding. Sanctions may also include, and are not limited to, referral of the violation to appropriate bar associations and/or other disciplinary authorities.

I also acknowledge that any unauthorized disclosure of Classified Information may constitute violations of United States criminal law, including, but not limited to, the provisions of Title 18, United States Code, Sections 793, 794, and 798; and Title 42, United States Code, Section 2274. In addition, anyone who violates the terms of this Protective Order may be charged with contempt and may be subject to civil and/or criminal penalties. Persons are further advised that any breach of this Protective Order may result in the termination of their access to Classified Information as well as access by the Party with whom they are affiliated.

WHEREFORE, I do solemnly agree to protect such Classified Information as may be disclosed to me in this Yucca Mountain licensing proceeding, in accordance with the terms of this Agreement.

Name (printed): _____

Title: _____

Representing: _____

Signature: _____

Date: _____

Subscribed and sworn or affirmed before me this ____ day of _____, 200__.

NOTARY PUBLIC

My commission expires on: _____

Appendix C to Sixth Case Management Order

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

Before Administrative Judges:

**Thomas S. Moore, Chairman
Alex S. Karlin
Alan S. Rosenthal**

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))	November ____, 2008
)	

THIS ENVELOPE (OR OTHER CONTAINER) CONTAINS CLASSIFIED INFORMATION. IT IS SEALED AND IS NOT TO BE OPENED EXCEPT BY AUTHORIZED INDIVIDUALS IN A SECURE FACILITY APPROVED BY THE U.S. NUCLEAR REGULATORY COMMISSION OR THE U.S. DEPARTMENT OF ENERGY. ITS CONTENTS MAY NOT BE DISPLAYED OR REVEALED EXCEPT BY NRC ORDER.

The information contained in this envelope or other container has been filed by the Party identified below:

Party: _____

Counsel: _____

Date: _____

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD**

**Before Administrative Judges:
Thomas S. Moore, Chairman
Alex S. Karlin
Alan S. Rosenthal**

_____)	Docket No. PAPO-00
U.S. DEPARTMENT OF ENERGY)	ASLBP No. 04-829-01-PAPO
(High-Level Waste Repository:)	November 5, 2008
Pre-Application Matters) _____	

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing transmittal letter and joint proposed **6TH CASE MANAGEMENT ORDER (GOVERNING CLASSIFIED INFORMATION)** have been served upon the following persons on November 5, 2008 through the Electronic Information Exchange.

**U.S. Nuclear Regulatory Commission
Atomic Safety and Licensing Board Panel**
Mail Stop-T-3 F23
Washington, D.C. 20555-0001
**Thomas S. Moore, Chair
Administrative Judge**
E-mail: tsm2@nrc.gov and PAPO@nrc.gov

**G. Paul Bollwerk, III
Administrative Judge**
E-mail: gpb@nrc.gov and PAPO@nrc.gov

**Alex S. Karlin
Administrative Judge**
E-mail: ask2@nrc.gov and PAPO@nrc.gov

**U.S. Nuclear Regulatory Commission
Office of the Secretary of the Commission**
Mail Stop O-16C1
Washington, D.C. 20555-0001
Hearing Docket
E-mail: hearingdocket@nrc.gov
Emile L. Julian, Esq.
E-mail: elj@nrc.gov
Andrew L. Bates
E-mail: alb@nrc.gov
Rebecca L. Gütter
E-mail: rll@nrc.gov
Evangeline S. Ngbea
E-mail: esn@nrc.gov

Alan S. Rosenthal
Administrative Judge
E-mail: axr@nrc.gov; rsnthl@verizon.net; and
PAPO@nrc.gov

Anthony C. Eitreim, Esq.
Chief Counsel
E-mail: acel@nrc.gov and PAPO@nrc.gov

James M. Cutchin
E-mail: jmc3@nrc.gov and PAPO@nrc.gov
Lauren Bregman
E-mail: lrb1@nrc.gov
Emily Krause
E-mail: eik1@nrc.gov
Zachary Kahn
E-mail: zxk1@nrc.gov

Daniel J. Graser
LSN Administrator
E-mail: djg2@nrc.gov
ASLBP HLW Adjudication
E-mail:
ASLBP_HLW_Adjudication@nrc.gov

U.S. Nuclear Regulatory Commission
Office of Public Affairs
Mail Stop O-2A13
Washington, D.C. 20555-0001
David McIntyre
E-mail: dtm@nrc.gov

U.S. Department of Energy
Office of General Counsel
1000 Independence Avenue S.W.
Washington, D.C. 20585
Martha S. Crosland, Esq.
E-mail: Martha.Crosland@hq.doe.gov
Angela M. Kordyak
E-mail: Angela.Kordyak@hq.doe.gov
Mary B. Neumayr, Esq.
E-mail: Mary.Neumayr@hq.doe.gov
Nicholas DiNunzio
E-mail: nicholas.dinunzio@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

U.S. Department of Energy
Office of Civilian Radioactive Waste Mgmt.
Office of Respository Development
1551 Hillshire Drive
Las Vegas, NV 89-134-6321
Timothy Gunter
E-mail: timothy.gunter@ymp.gov

U.S. Department of Energy
1000 Independence Avenue, S.W.
Washington, D.C. 20585
Eric Knox, Associate Director, Systems
Operations and External Relations,
OCRWM
E-mail: eric.knox@hq.doe.gov
Dong Kim, LSN Project Manager, OCRWM
E-mail: dong.kim@hq.doe.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

Nuclear Waste Project Office
1761 East College Parkway, Suite 118
Carson City, NV 89706
Steve Frishman, Tech. Policy Coordinator
E-mail: steve.frishman@gmail.com

Charles J. Fitzpatrick, Esq.
E-mail: cfitzpatrick@nuclearlawyer.com
Laurie Borski, Paralegal
E-mail: lborski@nuclearlawyer.com
Martin G. Malsch, Esq.
E-mail: mmalsch@nuclearlawyer.com
Susan Montesi
E-mail: smontesi@nuclearlawyer.com
John W. Lawrence
E-mail: jlawrence@nuclearlawyer.com

Office of Administrative Services
City of Las Vegas, Nevada
400 Stewart Ave.
Las Vegas, NV 89101
Margaret Plaster
Management Analyst
E-mail: mplaster@LasVegasNevada.gov
Liane Lee
E-mail: lilee@LasVegasNevada.gov

U.S. Nuclear Regulatory Commission
Office of the General Counsel
Mail Stop O-15D21
Washington, DC 20555-0001

Daniel W. Lenehan, Esq.

E-mail: dwl2@nrc.gov

Andrea L. Silvia, Esq.

E-mail: alc1@nrc.gov

Mitzi A. Young, Esq.

E-mail: may@nrc.gov

Marian L. Zobler, Esq.

E-mail: mlz@nrc.gov

Margaret Bupp

E-mail: mjb5@nrc.gov

Andrea Cermeno

E-mail: dac4@nrc.gov

Joseph Deucher

E-mail: jhd@nrc.gov

Karin Francis

E-mail: kxf4@nrc.gov

William J. Froehlich

E-mail: wjfl@nrc.gov

Erica LaPlante

E-mail: eal1@nrc.gov

Linda Lewis

E-mail: linda.lewis@nrc.gov

Nina Bafundo

E-mail: neb1@nrc.gov

Paul Ryerson

E-mail: psr1@nrc.gov

Tom Ryan

E-mail: tpr@nrc.gov

David Stanley

E-mail: dxs5@nrc.gov

Andrew Welkie

E-mail: axw5@nrc.gov

Marian L. Zobler

E-mail: mlz@nrc.gov

E. Roy Hawkens

E-mail: erh@nrc.gov

Andrea Cermeno

E-mail: dac4@nrc.gov

Hunton & Williams, LLP
Counsel for the U.S. Department of Energy
Riverfront Plaza, East Tower
951 East Byrd Street
Richmond, VA 23219

W. Jeffrey Edwards, Esq.

E-mail: jedwards@hunton.com

Kelly L. Faglioni, Esq.

E-mail: kfaglioni@hunton.com

Donald P. Irwin, Esq.

E-mail: dirwin@hunton.com

Stephanie Meharg

E-mail: smeharg@hunton.com

Edward P. Noonan, Esq.

E-mail: enoonan@hunton.com

Audrey B. Rusteau

E-mail: arusteau@hunton.com

Michael R. Shebelskie, Esq.

E-mail: mshebelskie@hunton.com

Pat Slayton

E-mail: pslayton@hunton.com

Belinda A. Wright

E-mail: bwright@hunton.com

OGCMailCenter
E-mail: OGCMailCenter@nrc.gov
OCAAMAIL
E-mail: OCAAMAIL@nrc.gov

Lorraine Carter
E-mail: lcarter@captionreporters.com
Barbara Durham
E-mail: dvdurbarbara@netscape.com

Armstrong Teasdale, LLP
Counsel for Churchill County, Lander County, Mineral County, and Esmeralda County
1975 Village Center Circle, Suite 140
Las Vegas, NV 89134-6237
Robert F. List, Esq.
E-mail: rlist@armstrongteasdale.com
Jennifer Gores
E-mail: jgores@armstrongteasdale.com

Inyo County, California
Alisa Lembke
E-mail: alembke@inyocounty.us

Eureka County, and Lander County, NV
Harmon, Curran, Speilberg & Eisenberg
1726 M Street N.W., Suite 600
Washington, D.C. 20036
Diane Curran
E-mail: dcurran@harmoncurran.com

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

Carter Ledyard & Milburn, LLP
Counsel for Lincoln County
2 Wall Street
New York, New York 10005
Ethan I. Strell, Esq.
E-mail: strell@clm.com

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

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
Ellen C. Ginsberg, Esq.
E-mail: ecg@nei.org
Anne W. Cottingham
E-mail: awc@nei.org

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
Susan Rives
E-mail: susan_rives@ymp.gov

Pillsbury Winthrop Shaw Pittman, LLP
Counsel for Nuclear Energy Institute, Inc.
2300 N Street, N.W.
Washington, D.C. 20037-1122
Jay E. Silberg Esq.
jay.silbergpillsburylaw.com
Timothy J. Walsh, Esq.
timothy.walsh@pillsburylaw.com
Maria Webb
E-mail: maria.webb@pillsburylaw.com

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

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

Talisman International, LLC
1000 Potomac St., NW
Suite 200 Washington, DC 20007
Patricia Larimore, Senior Paralegal
E-mail: plarimore@talisman-intl.com

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

California Department of Justice

1300 I Street
P.O. Box 944255
Sacramento, CA 94244-2550

Susan Durbin

Deputy Attorney General

susan.durbin@doj.ca.gov

Michele Mercado

michele.mercado@doj.ca.gov

Fredericks & Peebles, LLP

Counsel for Timbisha Shoshone Tribe

1001 Second Street
Sacramento, CA 95814

Darcie L. Houck, Esq.

dhouck@ndnlaw.com

John M. Peebles

jpeebles@ndnlaw.com

Barbara Durham

Tribal Historic Preservation Officer

E-mail: dvdurbarbara@netscape.com

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

18160 Cottonwood Road. # 265
Sunriver, OR 97707

Malachy Murphy, Esq.

E-mail: mrmmurphy@chamberscable.com

and

Jeffrey D. VanNiel

530 Farrington Court
Las Vegas, NV 89133

E-mail: nbrjdv@gmail.com

Zoie Choate, Secretary

E-mail: zchoate@co.nye.nv.us

**Sherry Dudley, Administrative Technical
Coordinator**

E-mail: sdudley@co.nye.nv.us

Daniel Maerten

E-mail: Daniel.Maerten@caci.com

White Pine County

City of Caliente

Lincoln County

P.O. Box 126

Caliente, NV 89008

Jason Pitts

E-mail: jayson@idtservices.com

State of Nevada

100 N. Carson Street
Carson City, NV 89710

Marta Adams

E-mail: maadams@ag.state.nv.us

California Department of Justice

1515 Clay Street, 20th Floor
P.O. Box 70550

Oakland, CA 94612-0550

Timothy E. Sullivan

Deputy Attorney General

E-mail: timothy.sullivan@doj.ca.gov

California Department of Justice

300 S. Spring Street
Los Angeles, CA 90013

Brian Hembacher

Deputy Attorney General

E-mail: brian.hembacher@doj.ca.gov

Merrill Hirsh

E-mail: mhirsh@rdlaw.com

David A. Repka

E-mail: drepka@winston.com

Carlos L. Sisco

E-mail: csisco@winston.com

Signed (electronically) by Alex Polonsky
Alex Polonsky