

February 2, 2009

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

<b>ASLBP BOARD</b> <b>09-876-HLW-CAB01</b> William J. Froehlich, Chairman Thomas S. Moore Richard E. Wardwell	<b>ASLBP BOARD</b> <b>09-877-HLW-CAB02</b> Michael M. Gibson, Chairman Lawrence G. McDade Nicholas G. Trikouros	<b>ASLBP BOARD</b> <b>09-878-HLW-CAB03</b> Paul S. Ryerson, Chairman Michael J. Farrar Mark O. Barnett
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In the Matter of )  
 ) Docket No. 63-001-HLW  
U.S. DEPARTMENT OF ENERGY )  
 )  
(High Level Waste Repository) )

**THE DEPARTMENT OF ENERGY'S CERTIFICATION OF  
LICENSING SUPPORT NETWORK SUPPLEMENTATION**

The July 6, 2007 Revised Second Case Management Order (RSCMO) requires each Licensing Support Network (LSN) participant, after its initial certification, to certify on or before the first of each month that it has duly supplemented its collection. RSCMO at 21. Steven E. Gomberg is the official responsible for the administration of the U.S. Department of Energy's (DOE) efforts to identify and make available supplementary documentary material via the LSN. Accordingly, appended to this filing is the certification of Steven E. Gomberg.

DOE does not have any additions, corrections, or withdrawals to its privilege logs this month.

DOE notes that the Commission's order designating the Pre-Application Presiding Officer (PAPO) provided that the "jurisdiction of the PAPO shall terminate at the time that an Atomic Safety and Licensing Board has been appointed to preside over the high-level waste repository licensing proceeding . . . ." *U.S. Dep't of Energy* (High Level Waste Repository: Pre-

Application Matters), CLI-04-20 (July 7, 2004). On January 16, 2009, the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel established three Construction Authorization Boards (CABs). See [HLW] Establishment of Atomic Safety and Licensing Boards, 74 Fed. Reg. 4477 (Jan. 26, 2009). CAB Case Management Order (CMO) #1 states that the CABs have been established to, *inter alia*, “preside over the proceeding involving the United States Department of Energy’s (DOE) application for construction authorization of a high-level waste repository at Yucca Mountain in Nye County, Nevada.” CAB CMO #1 additionally adopts the RSCMO for the proceeding before the CABs.

It thus appears that the obligation to make monthly LSN certifications before the PAPO Board has ceased and that such certifications are now required before the CABs. However, no termination order has been issued with respect to the PAPO Board. DOE accordingly is filing this certification with both the CABs and the PAPO Board, pending further direction.

Respectfully submitted,

**U.S. DEPARTMENT OF ENERGY**

By Original Signed by Michael R. Shebelskie

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NUCLEAR REGULATORY COMMISSION  
ATOMIC SAFETY AND LICENSING BOARD**

.....  
**Before Administrative Judges:**  
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<b>ASLBP BOARD 09-876-HLW-CAB01 William J. Froehlich, Chairman Thomas S. Moore Richard E. Wardwell</b>	<b>ASLBP BOARD 09-877-HLW-CAB02 Michael M. Gibson, Chairman Lawrence G. McDade Nicholas G. Trikouros</b>	<b>ASLBP BOARD 09-878-HLW-CAB03 Paul S. Ryerson, Chairman Michael J. Farrar Mark O. Barnett</b>
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**U.S. DEPARTMENT OF ENERGY** )  
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**(High Level Waste Repository)** )

**THE DEPARTMENT OF ENERGY'S CERTIFICATION OF  
LICENSING SUPPORT NETWORK SUPPLEMENTATION**

As the official responsible for administration of the U.S. Department of Energy's (DOE) duty to duly supplement its collection of electronic files of documentary material on the Licensing Support Network, I hereby certify that, pursuant to procedures established under 10 C.F.R. § 2.1009(a)(2), and the July 6, 2007 Revised Second Case Management Order, to the best of my knowledge, documentary material specified in 10 C.F.R. § 2.1003 has been identified and made available in accordance with the requirements of 10 C.F.R. § 2.1011(b)(2). This certification covers documentary material identified and made available via the Licensing Support Network subsequent to DOE's supplemental certification dated December 30, 2008.

  
Steven E. Gomburg

Dated at Washington, DC  
this 2d day of February, 2009

February 2, 2009

**UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION**

**ATOMIC SAFETY AND LICENSING BOARD**

**Before Administrative Judges:**

<b>ASLBP BOARD 09-876-HLW-CAB01 William J. Froehlich, Chairman Thomas S. Moore Richard E. Wardwell</b>	<b>ASLBP BOARD 09-877-HLW-CAB02 Michael M. Gibson, Chairman Lawrence G. McDade Nicholas G. Trikourous</b>	<b>ASLBP BOARD 09-878-HLW-CAB03 Paul S. Ryerson, Chairman Michael J. Farrar Mark O. Barnett</b>
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**THE DEPARTMENT OF ENERGY'S CERTIFICATION  
OF LICENSING SUPPORT NETWORK SUPPLEMENTATION  
CERTIFICATE OF SERVICE**

I certify that copies of the foregoing the **DEPARTMENT OF ENERGY'S CERTIFICATION OF LICENSING SUPPORT NETWORK SUPPLEMENTATION** in the above-captioned proceeding have been served on the following persons on February 2, 2009 through the Electronic Information Exchange.

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