UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

ASLBP BOARD 09-876-HLW-CAB01 William J. Froehlich, Chairman Thomas S. Moore Richard E. Wardwell	ASLBP BOARD 09-877-HLW-CAB02 Michael M. Gibson, Chairman Alan S. Rosenthal Nicholas G. Trikouros	ASLBP BOARD 09-878-HLW-CAB03 Paul S. Ryerson, Chairman Michael C. Farrar Mark O. Barnett

In the Matter of:	)	March 10, 2009
	)	
U.S. Department of Energy	)	
	)	Docket No. 63-001
(High Level Waste Repository	)	
Construction Authorization Application)	)	
	)	

U.S. DEPARTMENT OF ENERGY STATEMENT OF ADDITIONAL
ISSUES FOR MARCH 12, 2009 PREHEARING TELECONFERENCE

Pursuant to the Atomic Safety and Licensing Board's March 4, 2009 "Memorandum and Order (Agenda for Telephone First Prehearing Conference)," the U.S. Department of Energy (DOE) hereby requests that the telephone conference participants be afforded the opportunity to provide recommendations for the Board's consideration on how to structure the March 31 and April 1 and 2, 2009 Prehearing Conference in the most effective and expeditious manner to assist the Board in determining the admissibility of the large number of contentions submitted in this proceeding.

DOE and several other participants have identified in their pleadings certain broad legal issues common to many of the contentions or responses to contentions. (*See, e.g.*, DOE's Answer to Nevada at pp. 1-4, 28-73, Nevada's Reply to DOE at pp. 1-2, 39-71, and California's

Reply to DOE at pp. 18-56.) DOE believes that an effective and efficient way to conduct the Prehearing Conference would be to allow argument on those broad legal issues common to a number of contentions or responses to contentions, followed by argument on individual contentions as determined necessary by the Board DOE believes that Board resolution of those broad legal issues (which DOE would be pleased to identify with more specificity during the March 12 teleconference or in writing shortly thereafter) would significantly enhance the Board's ability to determine the admissibility of individual contentions and maintain the schedule in this proceeding.

Respectfully submitted,

Signed electronically by Donald J. Silverman

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Dated in Washington, DC
this 10th day of March 2009

DB1/62672066.1

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CERTIFICATE OF SERVICE

I hereby certify that copies of the "**U.S. DEPARTMENT OF ENERGY STATEMENT OF ADDITIONAL ISSUES FOR MARCH 12, 2009 PREHEARING TELECONFERENCE**," have been served on the following persons this 10th day of March 2009 through the Nuclear Regulatory Commission's Electronic Information Exchange.

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