UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

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

In the Matter of	)	Docket No. 63-001-HLW
	)	
U.S. DEPARTMENT OF ENERGY	)	
	)	
(High-Level Waste Repository)	)	March 12, 2009

CORRECTION OF THE TABLE OF CONTENTS TO THE RESPONSES OF THE COUNTY OF INYO TO ANSWERS TO ITS PETITION TO INTERVENE BY THE U.S. DEPARTMENT OF ENERGY AND THE NRC STAFF

On February 24, 2009, the County of Inyo ("County") filed its Responses ("Responses") to the Answers of the U.S. Department of Energy and the NRC Staff. The County has since become aware that the Table of Contents to the Responses inadvertently did not identify the four attachments to the Responses. A corrected Table of Contents is submitted herewith.

Respectfully submitted,

(signed electronically)
Greg James
Attorney for the County of Inyo
March 12, 2009

TABLE OF CONTENTS

		Page
I.	**INTRODUCTION**	1
II.	**LSN COMPLIANCE**	2
II.	**THE COUNTY OF INYO'S RESPONSES TO ANSWERS OF THE DOE AND THE NRC STAFF**	8
CONTENTION I INY-SAFETY-1 FAILURE TO ADEQUATELY DESCRIBE AND ANALYZE THE FLOW PATH IN THE LOWER CARBONATE AQUIFER THROUGH WHICH CONTAMINATES MAY MIGRATE AND ADVERSELY IMPACT AREAS WITHIN THE COUNTY OF INYO		8
CONTENTION NO. 2 INY-NEPA-1 FAILURE TO PROVIDE A COMPLETE AND ADEQUATE DISCUSSION OF THE NATURE AND EXTENT OF THE REPOSITORY'S DIRECT AND CUMULATIVE IMPACTS ON GROUNDWATER IN THE LOWER CARBONATE AQUIFER.		35
CONTENTION NO. 3 INY-SAFETY-2 FAILURE TO ADEQUATELY DESCRIBE AND ANALYZE THE IMPACT OF THE REPOSITORY IN COMBINATION WITH A CONTINUATION OF EXISTING LEVELS OF GROUNDWATER PUMPING ON THE POTENTIAL MIGRATION OF CONTAMINATES FROM THE PROPOSED REPOSITORY		58
CONTENTION NO. 4 INY-NEPA-2 FAILURE TO ADEQUATELY DESCRIBE AND ANALYZE THE CUMULATIVE IMPACT OF THE REPOSITORY IN COMBINATION WITH A CONTINUATION OF EXISTING LEVELS OF GROUNDWATER PUMPING ON THE POTENTIAL MIGRATION OF CONTAMINATES FROM THE PROPOSED REPOSITORY		83
CONTENTION NO. 5 INY-NEPA-3 FAILURE TO PROVIDE A COMPLETE AND ADEQUATE DISCUSSION OF THE NATURE AND EXTENT OF THE REPOSITORY'S CUMULATIVE IMPACT ON GROUNDWATER IN THE VOCANIC-ALLUVIAL AQUIFER.		107

CONTENTION NO. 6 INY-NEPA-4 118
FAILURE TO PROVIDE A COMPLETE AND ADEQUATE DISCUSSION OF THE NATURE AND EXTENT OF THE REPOSITORY'S CUMULATIVE IMPACT FROM SURFACE DISCHARGE OF GROUNDWATER

CONTENTION NO. 7 INY-NEPA-5 130
FAILURE TO PROVIDE A COMPLETE AND ADEQUATE DISCUSSION OF THE NATURE AND EXTENT OF THE NECESSARY MITIGATION AND REMEDIATION MEASURES FOR RADIONUCLIDES SURFACING AT ALKALI FLAT / FRANKLIN LAKE PLAYA

CONTENTION NO. 8 INY-SAFETY-3 146
FAILURE TO ADEQUATELY DESCRIBE AND ANALYZE THE VOLCANIC FIELD IN THE GREENWATER RANGE IN AND ADJACENT TO DEATH VALLEY NATIONAL PARK

CONTENTION NO. 9 INY-NEPA-6 159
FAILURE TO ADEQUATELY DESCRIBE AND ANALYZE THE VOLCANIC FIELD IN THE GREENWATER RANGE IN AND ADJACENT TO DEATH VALLEY NATIONAL PARK THUS FAILING TO ASSESS THE POTENTIAL ENVIRONMENTAL IMPACTS RESULTING FROM IGNEOUS ACTIVITY THAT COULD DISRUPT THE RESPOSITORY

CONTENTION NO. 10 INY-NEPA-7 173
FAILURE TO ADDRESS SOCIO-ECONOMIC IMPACTS IN THE COUNTY OF INYO

CONTENTION 11 INY-(JOINT) SAFETY-4 179
(NYE–(JOINT) SAFETY-5
FAILURE TO INCLUDE THE REQUIREMENTS OF THE NATIONAL INCIDENT MANAGEMENT SYSTEM (NIMS), DATED MARCH 1, 2004, AND RELATED DOCUMENTATION IN SECTION 5.7 EMERGENCY PLANNING OF THE YUCCA MOUNTAIN REPOSITORY SAFETY ANALYSIS REPORT (SAR)

CONTENTION No. 12 INY-JOINT SAFETY-4 185
NYE–JOINT SAFETY-6 (Aircraft Overflights)
THE LA LACKS ANY JUSTIFICATION OR BASIS FOR EXCLUDING POTENTIAL AIRCRAFT CRASHES AS A CATEGORY 2 EVENT SEQUENCE

IV. CONCLUSION 196

SUPPORTING ATTACHMENTS

Attachment 1: Supplemental Affidavit of Eugene I. Smith and Attachments

Attachment 2: Figure 3-11 from the Final SEIS (Page 3-43). "Cross Section from Northern Yucca Mountain to Northern Amargosa Desert, Showing Generalized Geology and the Water Table."

Attachment 3: Figure S-11 from the Summary of the SEIS (Page S-43). "Map of the Saturated Groundwater Flow System

Attachment 4: Exhibit A To Contention No. 12: Iny-Joint Safety-4, Nye–Joint Safety-6 (Aircraft Overflights). "FAA Order Jo 7400.2g "Procedures for Handling Airspace Matters (April 10, 2008)"

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

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

In the Matter of	)	Docket No. 63-001-HLW
	)	
U.S. DEPARTMENT OF ENERGY	)	
	)	
(High-Level Waste Repository)	)	March 12, 2009

CERTIFICATE OF SERVICE

I hereby certify that the foregoing "Correction of the Table Of Contents to the Responses of the County Of Inyo to Answers to its Petition to Intervene by the U.S. Department of Energy and the NRC Staff" has been served via the Nuclear Regulatory Commission's Electronic Information Exchange ("EIE") upon those on the Service List maintained by the EIE for the above-captioned proceeding as listed below.

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

CAB 01
William J. Froehlich, Chair
Administrative Judge
Wjf1@nrc.gov

Thomas S. Moore
Administrative Judge
Tsm2@nrc.gov

CAB 2
Michael M. Gibson, Chair
Administrative Judge
Mmg3@nrc.gov

Alan S. Rosenthal
Administrative Judge
Als@nrc.gov

Richard E. Wardwell
Administrative Judge
rew@nrc.gov
CAB 03
Paul S. Ryerson, Chair
Administrative Judge
Psrl@nrc.gov

Michael C. Farrar
Administrative Judge
mcf@nrc.gov

Mark O. Barnett
Administrative Judge
Mobl@nrc.gov or mark.bamett@nrc.gov

Nicholas G. Trikouros
Administrative Judge
ngt@nrc.gov

ASLBP (continued)

Anthony C. Eitreim, Esq., Chief Counsel
ace1@nrc.gov
Daniel J. Graser, LSN Administrator
djg2@nrc.gov
Zachary Kahn, Law Clerk
zxk1@nrc.gov
Erica LaPlante, Law Clerk
eal1@nrc.gov
Matthew Rotman, Law Clerk
matthew.rotman@nrc.gov
Lauren Bregman, Law Clerk
lrb1@nrc.gov
Joseph Deucher
jhd@nrc.gov
Andrew Welkie
axw5@nrc.gov
Jack Whetstine
jgw@nrc.gov
Patricia Harich
patricia.harich@nrc.gov
Sara Culler
sara.culler@nrc.

U.S. Nuclear Regulatory Commission
Office of the Secretary of the Commission
Mail Stop O-16C1
Washington, DC 20555-0001
Hearing Docket

hearingdocket@nrc.gov

U.S. Department of Energy
Office of General Counsel
1000 Independence Avenue S.W.
Washington, DC 20585
Martha S. Crosland, Esq.
martha.crosland@hq.doe.gov
Nicholas P. DiNunzio, Esq.
nick.dinunzio@rw.doe.gov
James Bennett McRae
ben.mcrae@hq.doe.gov
Mary B. Neumayr, Esq.
mary.neumayr@hq.doe.gov
Christina C. Pak, Esq.
christina.pak@hq.doe.gov

U.S. Nuclear Regulatory Commission
Office of Commission Appellate Adjudication
Mail Stop O-16C1
Washington, DC 20555-0001
OCAA Mail Center
ocaamail@nrc.gov

For the U.S. Department of Energy
Office of Counsel, Naval Sea Systems Command
Nuclear Propulsion Program
1333 Isaac Hull Avenue, SE
Washington Navy Yard, Building 197
Washington, DC 20376
Frank A. Putzu, Esq.
frank.putzu@navy.mil

U.S. Nuclear Regulatory Commission
Office of the General Counsel
Mail Stop O-15D21
Washington, DC 20555-0001
Marian L. Zobler, Esq.
mlz@nrc.gov
Mitzi A. Young, Esq.
may@nrc.gov
Margaret J. Bupp, Esq.
mjb5@nrc.gov
Karin Francis, Paralegal
kfx4@nrc.gov

Daniel H. Fruchter, Esq.
daniel.fruchter@nrc.gov

Joseph S. Gilman, Paralegal
jsg1@nrc.gov
Daniel W. Lenehan, Esq.
dwl2@nrc.gov
Kevin Roach, Esq.
kevin.roach@nrc.gov
Andrea L. Silvia, Esq.
alc1@nrc.gov
OGC Mail Center
OGCMailCenter@nrc.gov

U.S. Department of Energy
Office of General Counsel
1551 Hillshire Drive
Las Vegas, NV 89134-6321
George W. Hellstrom, Esq.
george.hellstrom@ymp.gov
Jocelyn M. Gutierrez, Esq.
jocelyn.gutierrez@ymp.gov
Josephine L. Sommer, Paralegal
josephine.sommer@ymp.gov

For the U.S. Department of Energy
Bechtel-SAIC
Yucca Mountain Project Licensing Group
1251 Center Crossing Road, M/S 423
Las Vegas, NV 89144
Jeffrey Kriner, Regulatory Programs
jeffrey_kriner@ymp.gov
Stephen J. Cereghino, Licensing/Nucl Safety
stephen_cereghino@ymp.gov

For the U.S. Department of Energy
Bechtel-SAIC
Yucca Mountain Project Licensing Group
6000 Executive Boulevard, Suite 608
North Bethesda, MD 20852
Edward Borella, Sr Staff, Licensing/Nuclear Safety
edward_borella@ymp.gov
Danny R. Howard, Sr. Licensing Engineer
danny_howard@ymp.gov

For the U.S. Department of Energy
Talisman International, LLC
1000 Potomac St., NW, Suite 300
Washington, DC 20007
Patricia Larimore, Senior Paralegal
plarimore@talisman-intl.com

Counsel for the U.S. Department of Energy
Morgan, Lewis & Bockius LLP
1111 Pennsylvania Ave., NW
Washington, DC 20004
Clifford W. Cooper, Paralegal
ccooper@morganlewis.com
Lewis M. Csedrik, Associate
lcsedrik@morganlewis.com
Jay M. Gutierrez, Esq.
jgutierrez@morganlewis.com
Charles B. Moldenhauer, Associate
cmoldenhauer@morganlewis.com
Brian P. Oldham, Associate
boldham@morganlewis.com
Thomas D. Poindexter, Esq.
tpoindexter@morganlewis.com
Alex S. Polonsky, Esq.
apolonsky@morganlewis.com
Thomas A. Schmutz, Esq.
tschmutz@morganlewis.com
Donald J. Silverman, Esq.
dsilverman@morganlewis.com
Shannon Staton, Legal Secretary
sstaton@morganlewis.com
Annette M. White, Associate
Annette.white@morganlewis.com
Paul J. Zaffuts, Esq.
pzaffuts@morganlewis.com

Counsel for the U.S. Department of Energy
Hunton & Williams LLP
Riverfront Plaza, East Tower
951 East Byrd Street
Richmond, VA 23219
Kelly L. Faglioni, Esq.
kfaglioni@hunton.com

Donald P. Irwin, Esq.
dirwin@hunton.com

Michael R. Shebelskie, Esq.
mshebelskie@hunton.com
Patricia Slayton, Senior Paralegal
pslayton@hunton.com

Counsel for the State of Nevada
Egan, Fitzpatrick & Malsch, PLLC
1750 K Street, NW, Suite 350
Washington, DC 20006
Martin G. Malsch, Esq.
mmalsch@nuclearlawyer.com
Susan Montesi:
smontesi@nuclearlawyer.com

Nevada Agency for Nuclear Projects
Nuclear Waste Project Office
1761 East College Parkway, Suite 118
Carson City, NV 89706
Steve Frishman, Tech. Policy Coordinator
steve.frishman@gmail.com
Susan Lynch, Administrator of Technical Prgms
szeee@nuc.state.nv.us

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

Counsel for Lincoln County, Nevada
1100 S. Tenth Street
Las Vegas, NV 89017
Bret Whipple, Esq.
baileys@lcturbonet.com

For Lincoln County, Nevada
Intertech Services Corporation
PO Box 2008
Carson City, NV 89702
Mike Baughman, Consultant
BIGBOFF@aol.com

Counsel for the State of Nevada
Egan, Fitzpatrick & Malsch, PLLC
12500 San Pedro Avenue, Suite 555
San Antonio, TX 78216
Charles J. Fitzpatrick, Esq.
cfitzpatrick@nuclearlawyer.com
John W. Lawrence, Esq.
jlawrence@nuclearlawyer.com
Laurie Borski, Paralegal
lborski@nuclearlawyer.com

Bureau of Government Affairs
Nevada Attorney General
100 N. Carson Street
Carson City, NV 89701
Marta Adams, Chief Deputy Attorney General
madams@ag.nv.gov

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

Lincoln County Nuclear Oversight Program
P.O. Box 1068
Caliente, NV 89008
Connie Simkins, Coordinator
jcciac@co.lincoln.nv.us

Counsel for Nye County, Nevada
Ackerman Senterfitt
801 Pennsylvania Avenue, NW, #600
Washington, DC 20004
Robert Andersen, Esq.
robert.andersen@akerman.com

Nye County Regulatory/Licensing Advisor
18160 Cottonwood Rd. #265
Sunriver, OR 97707
Malachy Murphy, Esq.
mrmurphy@chamberscable.com

Clark County, Nevada
500 S. Grand Central Parkway
Las Vegas, NV 98155
Elizabeth A. Vibert, Deputy District Attorney
VibertE@co.clark.nv.us
Phil Klevorick, Sr. Mgmt Analyst
klevorick@co.clark.nv.us

Counsel for Clark County, Nevada
Jennings, Strouss & Salmon
1700 Pennsylvania Avenue, NW, Suite 500
Washington, DC 20006-4725
Elene Belte, Legal Secretary
ebelete@jsslaw.com
Alan I. Robbins, Esq.
arobbins@jsslaw.com
Debra D. Roby, Esq.
droby@jsslaw.com
Counsel for Nye County, Nevada
530 Farrington Court
Las Vegas, NV 89123
Jeffrey VanNiel, Esq.
nbrjdvn@gmail.com

Nye County Nuclear Waste Repository Project
Office (NWRPO)
1210 E. Basin Road, #6
Pahrump, NV 89060
Sherry Dudley, Admin. Technical Coordinator
sdudley@co.nye.nv.us
Zoie Choate, Secretary
zchoate@co.nye.nv.us

Counsel for Clark County, Nevada
Jennings, Strouss & Salmon
8330 W. Sahara Avenue, #290
Las Vegas, NV 89117
Bryce Loveland, Esq.
bloveland@jsslaw.com

Eureka County, Nevada
Office of the District Attorney
701 S. Main Street, Box 190
Eureka, NV 89316-0190
Theodore Beutel, District Attorney
tbeutel.ecda@eurekanv.org

Counsel for Eureka County, Nevada
Harmon, Curran, Speilberg & Eisenberg, LLP 1726 M. Street N.W., Suite 600
Washington, DC 20036
Diane Curran, Esq.
dcurran@harmoncurran.com
Matthew Fraser, Law Clerk
mfraser@harmoncurran.com

Nuclear Waste Advisory for Eureka County, Nevada
1983 Maison Way
Carson City, NV 89703
Abigail Johnson, Consultant
eurekanrc@gmail.com

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

White Pine County, Nevada
Office of the District Attorney
801 Clark Street, #3
Ely, NV 89301
Richard Sears, District Attorney
rwsears@wpcde.org

For White Pine County, Nevada
Intertech Services Corporation
PO Box 2008
Carson City, NV 89702
Mike Baughman, Consultant
BIGBOFF@aol.com

Eureka County Public Works
PO Box 714
Eureka, NV 89316
Ronald Damele, Director
rdamele@eurekanv.org

For Eureka County, Nevada
NWOP Consulting, Inc.
705 Wildcat Lane
Ogden, UT 84403
Loreen Pitchford, Consultant
lpitchford@comcast.net

Esmeralda County Repository Oversight
Program- Yucca Mountain Project
PO Box 490
Goldfield, NV 89013
Edwin Mueller, Director
muellered@msn.com

White Pine County Nuclear
Waste Project Office
959 Campton Street
Ely, NV 89301
Mike Simon, Director
wpnucwst1@mwpower.net

Counsel for Caliente Hot Springs Resort
LLC John H. Huston, Attorney at Law
6772 Running Colors Avenue
Las Vegas, NV 89131
John H. Huston, Esq.
johnhhuston@gmail.com

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
susan.durbin@doj.ca.gov
Michele Mercado, Analyst
michele.Mercado@doj.ca.gov

California Department of Justice
300 S. Spring Street, Suite 1702
Los Angeles, CA 90013
Brian Hembacher, Deputy Attorney General
brian.hembacher@doj.ca.gov

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
timothy.Sullivan@doj.ca.gov

California Energy Commission
1516 Ninth Street
Sacramento, CA 95814
Kevin, W. Bell, Senior Staff Counsel
kwbell@energy.state.ca.us

Nuclear Energy Institute
Office of the General Counsel
1776 I Street, NW Suite 400
Washington, DC 20006-3708
Ellen C. Ginsberg, General Counsel
ecg@nei.org
Michael A. Bauser, Deputy General Counsel
mab@nei.org
Anne W. Cottingham, Esq.
awc@nei.org

Counsel for the Nuclear Energy Institute
Pillsbury Winthrop Shaw Pittman LLP
2300 N Street, N.W.
Washington, DC 20037-1122
Jay E. Silberg, Esq.
jay.silberg@pillsburylaw.com
Timothy J.V. Walsh, Esq.
timothy.walsh@pillsburylaw.com
Maria D. Webb, Senior Energy Legal Analyst
maria.webb@pillsburylaw.com

Counsel for the Nuclear Energy Institute
Winston & Strawn LLP
1700 K Street, N.W.
Washington, DC 20006-3817
David A. Repka, Esq.
drepka@winston.com
William A. Horin, Esq.
whorin@winston.com
Rachel Miras-Wilson
rwilson@winston.com
Carlos L. Sisco, Senior Paralegal
csisco@winston.com

Native Community Action Council
P.O. Box 140
Baker, NV 89311
Ian Zabarte, Member of Board of Directors
mrizabarte@gmail.com

Timbisha Shoshone Yucca Mountain Oversight
Program Non-Profit Corporation
3560 Savoy Boulevard
Pahrump, NV 89601
Joe Kennedy, Executive Director
joekennedy08@live.com
Tameka Vazquez, Bookkeeper
purpose_driven12@yahoo.com

Counsel for Timbisha Shoshone Tribe
Fredericks, Peebles, & Morgan LLP
1001 Second St.
Sacramento, CA 95814
Darcie L. Houck, Esq.
dhouch@ndlaw.com
John M. Peebles, Esq.
jpeebles@ndlaw.com

Counsel for the Native Community Action Council
Alexander, Berkey, Williams & Weathers LLP
2030 Addison Street, Suite 410
Berkeley, CA 94704
Curtis G. Berkey, Esq.
cberkey@abwwlaw.com

Counsel for Timbisha Shoshone Yucca Mountain
Oversight Program Non-Profit Corporation
Godfrey & Kahn, S.C.
One East Main Street, Suite 500
P. O. Box 2719
Madison, WI 53701-2719
Steven A. Heinzen, Esq.
sheinzen@gklaw.com
Douglas M. Poland, Esq.
dpoland@gklaw.com
Jacqueline Schwartz, Paralegal
jschwartz@gklaw.com
Julie Dobie, Legal Secretary
jdobie@gklaw.com

Beyond Nuclear
6930 Carroll Avenue, Suite 400
Takoma Park, MD 20912
Kevin Kamps
kevin@beyondnuclear.org

Counsel for Timbisha Shoshone Yucca Mountain
Oversight Program Non-Profit Corporation
Godfrey & Kahn, S.C.
780 N. Water Street
Milwaukee, WI 53202
Arthur J. Harrington, Esq.
aharrington@gklaw.com

Dated: March 12, 2009

Respectfully submitted,

[Signed electronically]

Greg James
Attorney for the County of Inyo
710 Autumn Leaves Circle
Bishop, California 93514
Tel: 760-873-6838
Fax: 760-873-7095
Email: gljames@earthlink.net