

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 Lawrence G. McDade Nicholas G. Trikourous	ASLBP BOARD 09-878-HLW-CAB03 Paul S. Ryerson, Chairman Michael C. 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)
Construction Authorization Application))

**NYE COUNTY’S ANSWER TO NRC STAFF’S MOTION FOR
MODIFICATION AND CLARIFICATION.**

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March 23, 2009

Counsel for Nye County, Nevada

Pursuant to 10 C.F.R. § 2.323 (c), Nye County, Nevada (“Nye County” or “County”) files this Answer to the March 20, 2009 NRC Staff Motion for Modification and Clarification of Order (“Motion”), which was filed in response to the Construction Authorization Boards’ (“CABS”) March 18, 2009 Order (Terms, Logistics, and Questions for Oral Argument) (“Order”). Nye County supports the NRC Staff’s requests for modification and clarification of the Order and also requests that it be permitted to have two counsel address the presiding CAB each day.¹ Motion at 3. Nye County submits this Answer to expand upon its request that it be allowed to have two counsel address the presiding CAB each day.²

Nye County respectfully requests that the Order be modified to permit two of Nye County’s counsel to present argument on any day of the hearing. Nye County’s individual counsel have prepared different portions of the County’s intervention petition, as well as different portions of the County’s Reply to the Answers filed on behalf of the Department of Energy and the NRC Staff to the County’s Petition to intervene and contentions. Consequently, more than one counsel on any day may be needed to properly address the subject matters identified in the Order as allocated over the three-day oral arguments, as well as “specific questions about [Nye County’s] contentions....” Order at 3. In no event does the County intend to have more than one attorney respond to a single topic.

Nye County appreciates the CABS’ efforts to structure oral arguments, so that all parties and potential parties can participate meaningfully in the discussion. Nye County assures the CABS that permitting two counsel to present argument each day will assist in the efficient and meaningful conduct of oral arguments.

¹ Nye County does not oppose the requests made by other participants in this proceeding to be allowed an additional counsel to address the presiding CAB each day of oral argument. Motion at 3.

² Nye County submits this request in response to the NRC Staff’s Motion and, in the interest of procedural efficiency, does not believe that a separate motion is required to make this request.

For the reasons discussed above, Nye County respectfully requests that the Order be modified to permit two of Nye County's counsel to present argument on any day of the hearing.

Respectfully Submitted

(Electronically Signed By)

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARDS

In the Matter of)
)
U.S. DEPARTMENT OF ENERGY)) Docket No. 63-001-HLW
) ASLBP Nos. 09-876-HLW-CAB01
) 09-877-HLW-CAB02
(High-Level Waste Repository)) 09-878-HLW-CAB03
)

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing, Answer to NRC Staffs Motion for Modification and Clarification, dated, this 23th day of March, have been served upon the following persons by Electronic Information Exchange.

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