

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARDS

Before Administrative Judges:

BOARD CAB-01  
ASLBP No. 09-876-HLW  
William J. Froehlich, Chairman  
Thomas S. Moore  
Richard E. Wardwell

BOARD CAB-02  
ASLBP No. 09-877-HLW  
Michael M. Gibson, Chairman  
Alan S. Rosenthal  
Nicholas G. Trikourous

BOARD CAB-03  
ASLBP No. 09-878-HLW  
Paul S. Ryerson, Chairman  
Michael C. Farrar  
Mark O. Barnett

In the Matter of

U.S. DEPARTMENT OF ENERGY

(High Level Waste Repository)

Docket No. 63-001-HLW

April 22, 2009

ORDER

(Accepting Joint Representation of Timbisha Shoshone Tribe)

At oral argument on April 1, 2009, counsel for the Timbisha Shoshone Tribe (TIM) and the Timbisha Yucca Mountain Oversight Non-Profit Corporation (TOP) agreed to confer regarding possible joint representation of the Timbisha Shoshone Tribe (Tribe).<sup>1</sup> On April 20, 2009, TIM and TOP filed a Joint Statement Regarding Participation as a Single Entity, accompanied by a Letter of Understanding setting forth their agreement to work together as a single participant in this proceeding.

The Construction Authorization Boards appreciate the efforts put forth by TIM and TOP to reach this agreement. We hereby recognize the Joint Timbisha Shoshone Tribal Group (JTS) as an entity requesting intervention in this proceeding. We also deem that JTS's contentions include all the contentions proffered by TIM and TOP in their respective petitions to intervene. At this time, however, we do not rule on whether JTS is entitled to party status. The issues of standing, contention admissibility, and LSN compliance will be addressed in the Boards' forthcoming First Prehearing Conference Order. We wish to make clear, however, that TIM and TOP should proceed henceforth together as a single petitioner known as JTS. Therefore, in

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<sup>1</sup> When asked at oral argument, none of the parties or potential parties raised any objection to TIM and TOP filing a supplemental brief addressing representation of the Tribe. See Tr. at 518.

preparing any new or amended contentions on the Commission's Final Rule published on March 13, 2009,<sup>2</sup> which will be deemed timely if filed within sixty days after the Final Rule was published,<sup>3</sup> or in preparing any new contentions with respect to DOE's February 19, 2009 updates and supplements to its application, which will be deemed timely if filed within 30 days after the Boards' issuance of our First Prehearing Conference Order,<sup>4</sup> JTS should identify such contentions as proffered on behalf of JTS. In addition, any new or amended contentions should conform in all respects to the APAPO Order dated June 20, 2008.<sup>5</sup>

Lastly, we do not require counsel for TOP and TIM to re-submit their notices of appearance or to file a new petition on behalf of JTS.

It is so ORDERED.

FOR THE ATOMIC SAFETY  
AND LICENSING BOARDS

*/RA/*

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William J. Froehlich, Chairman, CAB-01  
ADMINISTRATIVE JUDGE

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Michael M. Gibson, Chairman, CAB-02  
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Paul S. Ryerson, Chairman, CAB-03  
ADMINISTRATIVE JUDGE

Rockville, Maryland  
April 22, 2009

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<sup>2</sup> 74 Fed. Reg. 10,811 (Mar. 13, 2009).

<sup>3</sup> 73 Fed. Reg. 63,032 (Oct. 22, 2008).

<sup>4</sup> See Licensing Board Order (Clarifying CAB Case Management Order #1) (March 13, 2009) at 2 (unpublished).

<sup>5</sup> See U.S. Dep't of Energy (High-Level Waste Repository: Pre-Application Matters, Advisory PAPO Board), LBP-08-10, 67 NRC 450 (June 20, 2008).

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing ORDER (Accepting Joint Representation of Timbisha Shoshone Tribe), dated April 22, 2009, have been served upon the following persons by Electronic Information Exchange.

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[ Original Signed by Linda D. Lewis ]  
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Dated at Rockville, Maryland  
this 22<sup>nd</sup> day of April 2009