

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

BEFORE THE COMMISSION

In the Matter of)	Docket No. 63-001-HLW
)	
U.S. DEPARTMENT OF ENERGY)	
)	
(High-Level Waste Repository)	
Construction Authorization Application))	

NYE COUNTY REPLY TO THE NRC STAFF APPEAL OF LBP-09-06.

Jeffrey D. VanNiel
Regulatory and Licensing Advisor
Nye County, Nevada
530 Farrington Court
Las Vegas, NV 89123
Voice: 702.896.0458
Fax: 702.896.0459
email nbrjdn@gmail.com

Robert M. Andersen
Akerman Senterfitt
801 Pennsylvania Avenue N.W., Suite 600
Washington, DC 20004
Voice 202.393.6222
Fax 202.393.5959
email robert.andersen@akerman.com

Malachy R. Murphy
18160 Cottonwood Rd. #265
Sunriver, OR 97707
Voice 541 593-1730
Fax 541 593-1730
email mrmurphy@chamberscable.com

June 1, 2009

Counsel for Nye County, Nevada

TABLE OF CONTENTS

I.	TABLE OF AUTHORITIES	Page 3
II.	INTRODUCTION AND BACKGROUND OF NYE COUNTY.	Page 4
	A. Introduction	Page 4
	B. Procedural Background	Page 5
III.	REPLY TO NRC STAFF’S ARGUMENTS IN OPPOSITION TO NYE COUNTY’S SAFETY CONTENTION #4 (Radon).	Page 7
	A. Nye County Safety #4 meets all of the Contention Admissibility requirements set forth in 10 C.F.R. § 2.309(f)(1).	Page 7
	B. Briefing on the merits of Nye County Safety # 4 need not take place during the contentions admissibility phase of the proceeding.	Page 9
IV.	CONCLUSION	Page 13
	CERTIFICATE OF SERVICE	Page 14

TABLE OF AUTHORITIES

ADMINISTRATIVE DECISIONS

Commission:

Tenn. Valley Authority, (Bellefonte Nuclear Plant, Units 3 & 4),
CLI-09-03, 69 NRC ____ (Feb. 17, 2009) (Slip op.).....10,11,12

Atomic Licensing Appeal Board Decisions:

U.S. Dep't of Energy (High-Level Waste Repository), LBP-09-06
69 NRC ____ (May 11, 2009) (slip. op.).....*passim*

STATUTES

Nuclear Waste Policy Act of 1982, Pub. L. No. 97-425, 96 Stat. 2201 (1983)
as amended, 42 U.S.C. §§ 10101, 10137(d) (2008).....4

REGULATIONS

10 C.F.R. § 2.309(c).....4

10 C.F.R. § 2.309(f)(1).....*Passim*

10 C.F.R. § 2.335.....9

10 C.F.R. § 2.714(e)(2003).....10

40 C.F.R. Part 197.....8

FEDERAL REGISTER

Notice of Acceptance for Docketing of a License Application for Authority
To Construct a Geologic Repository at a Geologic Repository Operation Area
at Yucca Mountain, NV, 73 Fed. Reg. 53,284 (Sept. 15, 2008).....5

In the Matter of U.S. Department of Energy (High-Level Waste Repository); Notice of
Hearing and Opportunity to Petition for Leave to Intervene on an Application for
Authority To Construct a Geologic Repository at a Geologic Repository Operation
Area at Yucca Mountain, 73 Fed. Reg. 63,029 (Oct. 22, 2008).....5

Yucca Mountain; Notice of Receipt and Availability of Application, 73 Fed.
Reg. 34,348 (June 17, 2008).....5

Yucca Mountain; Notice of Receipt and Availability of Application; Correction 73 Fed.
Reg. 40,883 (July 16, 2008).....5

Final Rule, Changes to Adjudicatory Process, 69 Fed. Reg. 2182 (Jan. 14, 2004).....10

II. INTRODUCTION AND BACKGROUND OF NYE COUNTY'S POSITION

A. Introduction

Nye County, Nevada (“Nye County” or “County”) is the “unit of local government within whose jurisdiction” the geological repository is proposed to be located under the Nuclear Waste Policy Act of 1982 (“NWPA”), as amended. See, e.g., 42 U.S.C. § 10137(d)(2008); 42 U.S.C. § 10101 (31)(2008). As such, Nye County has party standing to intervene as a matter of right in the licensing proceeding. 10 CFR § 2.1001; 2.309(c)(2008). The health and safety of Nye County’s citizens, as well as their property, natural resources, and environmental rights, are all within the zone of interests expressly recognized and protected by the NWPA. Simply stated, because the proposed Yucca Mountain repository will be located in Nye County, the potential impact from its construction and operation, both negative and beneficial, will be felt first and foremost by the citizens of the County. Should a radiological release or other emergency occur at Yucca Mountain, Nye County will have to respond. Therefore, the County seeks not only to support its own contentions and proposed remedial actions, but also to participate in the hearing concerning all safety and environmental aspects of the license application, other petitioners’ contentions, and adjudication of any issues that have the potential to injure or otherwise impact the health, safety and welfare of Nye County’s citizens or Nye County’s natural resources and environment.

So long as the Yucca Mountain repository is constructed and operated in a manner that adequately protects the health and safety of the citizens of Nye County, and its natural resources and environment, the County has no objection to issuance of a license to DOE for the proposed facility. Therefore, if the specific issues raised in the contentions filed by Nye County are adequately addressed by NRC and DOE, in the timely manner specified in each contention, Nye County does not object to DOE’s license application. It should also be noted that Nye County’s contentions, although identifying deficiencies in the DOE work completed to date, specifically identified remedies that could expeditiously correct each deficiency. Unlike several other petitioners, the County does not claim that a repository at Yucca Mountain cannot be constructed and operated safely. Nye County seeks only to safeguard the health, safety, natural resources, and property rights of its citizens, who will be living in close proximity to Yucca Mountain and the proposed repository in perpetuity.

B. Procedural Background

On June 3, 2008, the Department of Energy (DOE) submitted the Yucca Mountain Repository License Application (LA) to the NRC, seeking authorization to construct a geologic repository at Yucca Mountain, Nevada, in accordance with the provisions of 10 C.F.R. Part 63. The notice of receipt of this application was published in the Federal Register on June 17, 2008.¹

On September 15, 2008, the NRC Staff determined that the application contained sufficient information and docketed the application.² On October 17, 2008, the Commission issued its “Notice of Hearing and Opportunity to Petition for Leave to Intervene.”³ The Notice of Hearing was subsequently published in the Federal Register on October 22, 2008.⁴

Numerous participants, including Nye County, filed Petitions to Intervene on December 19, 2008.⁵ DOE filed answers to the various petitions to intervene on January 15 and 16, 2009, and the NRC Staff filed its answer to all petitioners on February 9, 2009 (NRC Staff Answer). Nye County filed its Reply to the Answers of DOE and the NRC Staff on February 24, 2009.⁶ A telephonic prehearing conference was conducted on March 13, 2009, and the three Construction Authorization Boards (CABs or Boards) designated to rule on the petitions heard oral argument on contention admissibility on March 31 through April 2, 2009, in Las Vegas, Nevada. Nye

1 Yucca Mountain; Notice of Receipt and Availability of Application, 73 Fed. Reg. 34,348 (June 17, 2008); Yucca Mountain; Notice of Receipt and Availability of Application; Correction, 73 Fed. Reg. 40,883 (July 16, 2008).

2 Department of Energy; Notice of Acceptance for Docketing of a License Application for Authority to Construct a Geologic Repository at a Geologic Repository Operations Area at Yucca Mountain, 73 Fed. Reg. 53,284 (Sept. 15, 2008).

3 *U.S. Dept’ of Energy (High-Level Waste Repository)*, CLI-08-25, 68 NRC __ slip op. (Oct. 17, 2009).

4 In the Matter of U.S. Department of Energy (High-Level Waste Repository); Notice of Hearing and Opportunity To Petition for Leave to Intervene on an Application for Authority To Construct a Geologic Repository at a Geologic Repository Operations Area at Yucca Mountain, 73 Fed. Reg. 63,029 (Oct. 22, 2008).

5 Nye County Petition to Intervene and Contentions.

6 Nye County Response to the Answers of NRC Staff and the Department of Energy.

County counsel fully participated in those oral arguments and presented the County's position on why its contentions should be admitted.

On May 11, 2009, the Boards granted ten petitions to intervene and admitted 301 of 318 proffered contentions. May 11 Order at 1, 8-10. The Boards reached their decisions based upon a consideration of over 12,000 pages in filings by the DOE, NRC Staff and various petitioners in the proceeding, and noted the time constraints imposed on their decision.⁷ The Boards addressed proffered contentions globally in terms of overarching issues. *See* May 11 Order at 21-62. The overarching issues discussed include pleading requirements for NEPA contentions (*Id.* at 21), HLW transport under NEPA (*Id.* at 36), and the treatment of contentions that presented legal issues (*Id.* at 61 and 102). Each of the three Boards adopted as its own the discussion of legal standards that govern Board decisions, as well as the conclusions reached on overarching issues, but each Board independently ruled upon the petitions and contentions it was assigned. *See*, May 11 Order at 2-3.

On May 21, 2009 the NRC Staff brought the instant appeal.

⁷ *U.S. Dep't of Energy (High-Level Waste Repository)*, LBP-09-06, 69 NRC ____ slip op. (May 11, 2009)(May 11 Order).

III. REPLY TO NRC STAFF ARGUMENTS IN OPPOSITION TO ADMISSIBILITY OF NYE COUNTY'S SAFETY CONTENTION # 4 (Radon)

The NRC Staff's appeal raises two separate alleged deficiencies in the Boards' May 11 Order, as that Order pertains to the admissibility of Nye County's Safety Contention # 4 ("Nye Safety # 4"). First, the NRC Staff asserts that the CABs admitted Nye Safety # 4⁸ even though that contention did not meet all of the contention admissibility requirements of 10 C.F.R. § 2.309(f)(1). NRC Staff Brief at 7. Additionally, the NRC Staff argues that the CABs erred in admitting Nye Safety # 4 because the legal issue to be briefed on the merits after admission is one of the six contention admissibility criterion – in this case what authority, if any, the NRC has to regulate the significant radon and daughter emission plume that is caused by DOE's active ventilation of that repository. NRC Staff Brief at 10. Neither of the NRC Staff's arguments is correct, and Nye Safety # 4 should be scheduled for further briefing on the merits of the contention.

A. Nye County Safety #4 met all of the Contention Admissibility requirements set forth in 10 C.F.R. § 2.309(f)(1).

The NRC Staff contends that the Boards erroneously admitted Nye Safety # 4 even though it did not meet all of the contention admissibility requirements of Section 2.309(f)(1). NRC Staff Brief at 7; 10 C.F.R. § 2.309(f)(1)(i)-(vi)(2009). While discussing the contention admissibility requirements, the NRC Staff stated that:

With respect to certain contentions designated by the CABs as "legal contentions," the Boards state that each admitted contention satisfies all of the Commission's admissibility standards. LBP-09-06, slip op at 102. But the Boards also stated that "[n]ot all the contention admissibility requirements of 10 C.F.R. § 2.309(f)(1) necessarily apply to legal issue contentions." *Id.* at 61. *As an example, the Boards point to Section 2.309(f)(1)(v), noting that "a purely legal issue contention obviously need not allege 'facts.'"* *Id.* However, there is no exception to the admissibility requirements in 10 C.F.R. § 2.309(f)(1)(v) for legal contentions. Further, section 2.309(f)(1)(v) requires a petitioner to "[p]rovide a concise statement of the alleged facts or expert opinions which support the requestor's/petitioner's position on the issue and on which the

⁸ All mining operations cause the release of naturally occurring Radon from the rocks disturbed by mining. DOE's Supplemental Environmental Impact Statement for the repository shows radiation doses much higher from the natural radon than from the handling of used fuel and high level waste. The SEIS reflects that the estimated annual radiation dose caused by repository construction and operations (*7.6 millirem*) will be as a result of naturally occurring radon and its decay products being emitted as a result of repository construction and normal operations.

petitioner intends to rely at hearing” Merely because a contention raises a legal issue does not excuse a petitioner from having to allege the facts that show *why* resolution of a legal question implicates the Commission’s licensing decision that is the subject of the proceeding. See 10 C.F.R. § 2.309(f)(1)(iv).

NRC Brief at 8 (emphasis added). Although mentioning it, the NRC Staff’s argument ignored a critical aspect of the CABs’ decision in order to reach this conclusion. The May 11 Order notes that every admitted contention satisfied each of the six (6) admissibility requirements of Section 2.309(f)(1). May 11 Order at 102. Moreover, the CABs specifically stated that their contention admissibility ruling was based upon their rejection of the specific arguments raised in opposition to each such contention by the NRC Staff and DOE:

The Boards’ decisions to admit a large proportion of proffered contentions is driven by our resolution of the overarching issues that formed the major portions of the DOE and NRC Staff opposition to the proffered contentions. It also involved the Boards’ determination that in many respects the opposition to contentions was based on an attempt to address the underlying factual merits, a step that comes at a later stage in the proceeding. ***Implicit in each Board’s rulings on contentions, as well, is the rejection of the specific arguments raised in opposition to that contention.***

The contentions proffered by petitioners that have demonstrated standing, and that satisfy the foregoing admissibility standards, are set forth in Attachment A, which identifies the rulings made by each of the three CABs. ***Each contention listed in Attachment A satisfies the six requirements of 10 C.F.R. § 2.309(f)(1)(i)-(vi), does not improperly challenge a rule or regulation of the Commission in violation of 10 C.F.R. § 2.335, and otherwise complies with the admissibility standards discussed above.*** The contentions listed in Attachment A are admissible.

May 11 Order at 102 (footnotes omitted, emphasis added).

The NRC staff opposed the admissibility of Nye Safety # 4 below, arguing that it did not satisfy the admissibility requirements of Section 2.309(f)(1).⁹ NRC Staff Answer at 1038-1040. Nye County responded to each of these arguments in its Reply Brief, asserting why Nye County had met the admissibility standards of that Section. CAB #1 reviewed the NRC Staff’s arguments as well as Nye County’s Petition to Intervene and its Reply Brief, and found that Nye

⁹ The NRC Staff argued that Nye Safety # 4 was not material, does not provide alleged facts or expert opinions, and does not demonstrate that a genuine dispute exists with the applicant. NRC Staff Answer at 1038. The Staff also argued that the NRC does not have jurisdiction to regulate naturally occurring radon and that the wording of 40 C.F.R. Part 197 (and the conforming wording of 10 CFR Part 63) does not apply to the radon released during repository storage activities because the definition of radioactive material in those regulations and the AEA does not include naturally occurring radon. NRC Staff Answer at 1039-1040.

County had satisfied each of the six admissibility requirements of Section 2.309(f)(1)(i)-(vi). *Id.*; 10 C.F.R. § 2.309(f)(1)(i)-(vi)(2009).

The NRC Staff's reliance upon the CAB's statements that legal contentions need not allege facts to be admissible¹⁰ in order to deny admissibility of Nye County Safety #4 misses the point, because Nye Safety # 4 was supported by a discussion of the facts and circumstances concerning that contention. *See*, Nye County Petition to Intervene and Contentions at 44-55, and Nye County Response to the Answers of NRC Staff and the Department of Energy at 26-40. On appeal the NRC Staff does not articulate any alleged factual deficiency of Nye Safety # 4 that would justify reversal of the CABs' decision below. Instead, the NRC Staff generically argues that the CAB statement somehow justifies reversal of the CABs admission of Nye Safety # 4. NRC Staff Brief at 7-8.

The NRC Staff's generic attack, without any discussion specific to alleged deficiencies' within Nye County Safety #4, is insufficient to overcome the CABs' previously stated finding that "[e]ach contention listed in Attachment A satisfies the six requirements of 10 C.F.R. § 2.309(f)(1)(i)-(vi), does not improperly challenge a rule or regulation of the Commission in violation of 10 C.F.R. § 2.335, and otherwise complies with the admissibility standards discussed above." May 11 Order at 102. Accordingly, the NRC Staff's appeal seeking to reverse the Boards' decision admitting Nye County Safety # 4 must fail, and the contention should be set for further briefing on the merits.

B. Briefing on the merits of Nye County Safety # 4 need not take place during the contentions admissibility phase of the proceeding.

The NRC Staff's second reason for discarding Nye County Safety # 4 is based upon the following portion of the CABs' May 11 Order:

NYE-SAFETY-004 alleges that DOE has inadequately considered the radiation doses to members of the public from naturally occurring radon and its decay products emitted as a result of repository construction and normal operations. The threshold legal issue of what authority, if any, the NRC has to regulate radon and its daughters will require further briefing.

May 11 Order at 126. The NRC Staff asserts that the CABs' statement demonstrates error, as "[t]he "threshold legal question" that the Board believes requires further briefing *is* whether the contention is within the scope of this proceeding. 10 C.F.R. § 2.309(f)(1)(iii). By admitting the

¹⁰ NRC Staff Appeal at 7, citing the May 11 Order at 61.

contention, the Board effectively resolved the very question that it believes requires further briefing.” NRC Staff Brief at 9 (emphasis in original). The NRC Staff 's argument is erroneous on its face; the May 11 Order, by its very terms, resolved nothing about Nye Safety # 4 except to set that contention for further briefing on the merits. *See*, May 11 Order at 62 (“Briefing schedules for legal issue contentions will be set forth in a subsequent order.”). NRC Staff’s argument, taken to its logical conclusion, would render all “legal” contentions inadmissible.

Staff seeks to convert the contention admissibility process into one where the participants are compelled to brief and the CABs would be required to render a decision *on the merits* for all contentions that have been either pled by the petitioner or determined by the CAB to be a legal contention. As the CABs noted in their May 11 Order, such a result is contrary to the Commission’s rules:

the Commission’s rules formerly made clear, “[i]f . . . the presiding officer determines that any of the admitted contentions constitute pure issues of law, those contentions must be decided on the basis of briefs or oral argument according to a schedule determined by the . . . presiding officer” [10 C.F.R. § 2.714(e) (2003). In 2004, the Commission codified the requirements of former section 2.714, together with rules regarding contentions set forth in Commission cases, in section 2.309. *See* 69 Fed. Reg. 2182.] Although this explanation was dropped from the regulations in 2004, the reason was merely to simplify the rules, not to change them. [See 69 Fed. Reg. at 2182 (Commission amending regulations to make them more ‘effective and efficient’).]”

May 11 Order at 62 (footnote citations inserted into text). Thus, the NRC's contention pleading requirements were not intended to compel a petitioner to fully brief the merits of a contention during the contention phase of the proceeding. As with other, non-legal contentions, briefing on the merits and oral arguments concerning legal contentions were to occur *after* admission of the contentions. *Id.* The NRC Staff is, in essence, seeking to have the Commission reverse this policy. The CAB Order, in essence, simply acknowledged that the admitted legal contentions raise important, and as yet unresolved, legal issues, some of which are of first impression. Those issues require further briefing before a final decision is rendered. Such action is clearly within the CABs’ authority.

NRC Staff’s reliance upon *Tenn. Valley Authority*, (Bellefonte Nuclear Plant, Units 3 & 4), CLI-09-03, 69 NRC ____ (Feb. 17, 2009) (Slip op.)(“*Bellefonte*”) to reverse the CABS’ decision concerning Nye Safety # 4 in this case is misplaced. *Bellefonte* provides no basis to support reversal of the admission of Nye Safety # 4.

In *Bellefonte*, the intervenors based their contention solely upon Part 61 of the NRC regulations, and the Board denied the proposed contention on that specific basis. The Board then:

...concluded, without elaboration, that the Intervenor's safety contention was nonetheless sufficiently supported "to warrant further inquiry into the safety-related matter of whether the TVA FSAR [Final Safety Analysis Report] has failed to include necessary information concerning TVA plans for on-site management of Class B and C waste. In support, the Board simply cited a multifaceted discussion of a similar contention in the *North Anna* decision, *supra*. The *North Anna* Board had rejected the same Part 61 argument, but had admitted the intervenors' low-level waste contention on other grounds. We cannot tell from the *Bellefonte* decision which of the remaining grounds the *Bellefonte* Board was relying upon.

***3** Although the *Bellefonte* Board was free to view Intervenor's support for Contention FSAR-D in the light most favorable to Intervenor, the Board was not free to ignore the contention admissibility requirements of 10 C.F.R. § 2.309(f)(1). Because Intervenor failed even to raise any of the grounds on which the *Bellefonte* Board relied in admitting the contention, Intervenor's performance failed to satisfy the admissibility requirements. The Board should therefore have found Contention FSAR-D inadmissible, and its failure to do so constitutes reversible error.

Bellefonte, at 2 (citations omitted). Thus, in *Bellefonte*, the intervenor had failed to raise any of the grounds upon which the *Bellefonte* Board relied while admitting the contention. In effect, the Board manufactured a rationale as the basis of its admission of the contention in question. Therefore, the NRC was completely correct in reversing the Board's admission decision, but upon grounds that are not controlling here.

In the instant case, Nye County provided significant explanation of the basis for inclusion of Nye Safety # 4 in not only its Petition to Intervene but also its Reply to the NRC Staff's Answer and that of DOE. Nye County properly referred to the documents in the LSN, and articulated the factual basis in the record that supported its contention as required by 10 C.F.R. § 2.309(f)(1). The CABs here have created no rationale for Nye County. To the contrary, the Boards reviewed the appropriate pleadings and concluded that Nye County had raised and properly supported a contention. The Boards apparently determined that there was no dispute regarding any of the material facts documented by Nye County and determined it was appropriate to treat the contention as a legal one. No party has filed an appeal that this specific

action by the CAB was improper. The *Bellefonte* decision offers no support for the NRC Staff in this case.

IV. CONCLUSION

The appeal filed by NRC Staff to Nye County Safety #4 is generic, lacks merit, and should not be accepted by the Commission as a basis for finding the contention inadmissible. The County's detailed petition to intervene and its replies to the DOE and NRC Staff responses demonstrate that Nye County Safety Contention # 4 is material to the proceedings and definitely is in dispute.

For all of the foregoing reasons, Nye County asks that the NRC Staff appeal of the admissibility of Nye County Safety Contention #4 be denied, and that the CABs' decision to admit Nye County Safety Contention # 4 be affirmed.

Respectfully Submitted,

(Electronically Signed By)

Jeffrey D. VanNiel
Nye County Regulatory & Licensing Advisor
530 Farrington Court
Las Vegas, NV 89123
832.541.4888 Cell
702.896.0459 Fax
nbrjdv@gmail.com

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

BEFORE THE COMMISSION

In the Matter of)	Docket No. 63-001-HLW
)	
U.S. DEPARTMENT OF ENERGY)	
)	
(High-Level Waste Repository)	
Construction Authorization Application))	

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing, Nye County Corrected Reply Brief dated, this 1st day of June, have been served upon the following persons by Electronic Information Exchange.

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

ASLPB (continued)

Anthony C. Eitreim, Esp., Chief Counsel
ace1@nrc.gov

CAB 01

William J. Froehlich, Chair
Administrative Judge
wjf@nrc.gov

Daniel J. Graser, LSN Administrator
djg2@nrc.gov

Thomas S. Moore
Administrative Judge
tsm2@nrc.gov

Lauren Bregman
lrb1@nrc.gov
Sara Culler
sara.culler@nrc.gov

Richard E. Wardwell
Administrative Judge
rew@nrc.gov

Joseph Deucher
jhd@nrc.gov
Zachary Kahn
zxk1@nrc.gov

CAB 02

Michael M. Gibson, Chair
Administrative Judge
mmg3@nrc.gov

Erica LaPlante
eal1@nrc.gov
Matthew Rotman
matthew.rotmas@nrc.gov

Lawrence G. McDade
Administrative Judge
lgm1@nrc.gov

Andrew Welkie
axw5@nrc.gov
Jack Whentstine
jgw@nrc.gov

Nicholas G. Trikouros
Administrative Judge
ngt@nrc.gov

CAB 03

Paul S. Ryerson, Chair
Administrative Judge
psr1@nrc.gov

Michael C. Farrar
Administrative Judge
mcf@nrc.gov

Mark O. Barnett
Administrative Judge
mob1@nrc.gov or mark.barnett@nrc.gov

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. 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
Nina E. Bafundo, Esq.
neb1@nrc.gov
Margaret J. Bupp
mjb5@nrc.gov
Karin Francis, Paralegal
Kfx4@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
Adam Gendelman
Adam.Gendelman@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

For the 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
Jeffery.kriner@ymp.gov
Stephen J. Cereghino, Licensing/Nucl Safety
stephen_cereghino@ymp.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

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.dinuzio@rw.doe.gov
James Bennett McRae
ben.mcrae@hq.doe.gov
Mary B. Neumayr, Esq.
mary.neumayr@hq.doe.gov
Christina C. Pak, Esp.
christina.pak@hq.doe.gov

For the Department of Energy
Talisman International, LLC
1000 Potomac St., NW, Suite 300
Washington, DC 20007

Patricia Larimore, Senior Paralegal
plarimore@talisman-intl.com

For the 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 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

Counsel for the State of Nevada
Egan, Fitzpatrick & Malsch, PLLC
2001 K Street, NW, Suite 400
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 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. Guierrez, Esq.
jquierrez@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.
aplonsky@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 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
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
P.O. Box 2008
Carson City, NV 89702

Mike Baughman, Consultant
BIGBOFF@aol.com

Counsel for Nye County, Nevada
Ackerman Senterfitt
801 Pennsylvania Avenue, NV #600
Washington, DC 20004

Robert Andersen, Esq.
Robert.anderson@akerman.com

Nye County Regulatory/Licensing Advisor
18160 Cottonwood Rd. #265
Sunriver, OR 97707

Malachy Murphy, Esq.
mmurphy@charberscable.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 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
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

Counsel for Clark County, Nevada
Jennings, Strouss & Salmon
1700 Pennsylvania Avenue, NW, Suite 500
Washington, DC 20006-4725

Elene Betle, Legal Secretary
ebelete@jsslw.com
Alan I. Robbins, Esq.
arobbins@jsslw.com
Debra D. Roby, Esq.
droby@jsslw.com

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 Maidson 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

Eureka County, Nevada
Office of the District Attorney
701 S. Main Street, Box 190
Eureka, NV 89316-0190

Theodore Buetel, District Attorney
tbuetel.ecda@eurekanv.org

Eureka County Public Works
PO Box 714
Eureka, NV 89316

Ronald Damele, Director
rdamele@eurekanv.org

For Eureka County, Nevada
NWOP Consulting, Inc.
1705 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
959 Campton Street
Ely, NV 89301

Mike Simon, Director
wpnucwst1@mwpower.net

Michael C. Berger
Attorney for the County of Inyo
233 East Carrillo Street Suite B
Santa Barbara, California 93101
mberger@bsglaw.net

Counsel for Inyo County, California
Greg James, Attorney at Law
710 Autumn Leaves Circle
Bishop, CA 93514

Mike Baughman, Consultant
BIGBOFF@aol.com

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.
johnhuston@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
brain.hembacher@doj.ca.gov

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

Greg James, Esq.
E-Mail: gljames@earthlink.net

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

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

Beyond Nuclear
6930 Carroll Avenue, Suite 400
Takoma Park, MD 20912

Kevin Kamps
kevin@beyondnuclear.org

June 1, 2009

Counsel for Timbisha Shoshone Tribe
Fredericks, Peebles, & Morgan LLP
1001 Second St.
Sacramento, CA 95814

Darcie L. Houch, Esq.
dhouch@ndlaw.com
John M. Peebles, Esq.
jpeebles@ndlaw.com

Timbisha Shoshone Yucca Mountain Oversight Program
Non-Profit Corporation
3560 Savoy Boulevard
Pahrump, NV 89061

Joe Kennedy, Member of Board of Directors
Executive Director
joekennedy08@live.com
Tameka Vazquez, Bookkeeper
purpose_driven12@yahoo.com

(Electronically Signed By)

Jeffrey D. VanNiel
Nye County Regulatory & Licensing Advisor
530 Farrington Court
Las Vegas, NV 89123
832.541.4888 Cell
702.896.0459 Fax
nbrjdv@gmail.com