

July 10, 2009

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of	)	Docket No. 63-001
	)	
U.S. DEPARTMENT OF ENERGY	)	ASLBP Nos. 09-876-HLW-CAB-01
	)	09-877-HLW-CAB-02
(High-Level Waste Repository)	)	09-878-HLW-CAB-03
	)	09-892-HLW-CAB-04
	)	

NRC STAFF ANSWER TO THE  
CAB'S JULY 2, 2009 ORDER CONCERNING SCHEDULING

On July 2, 2009, Construction Authorization Board 04 ("the Board") issued an order concerning scheduling in the above-captioned proceeding. Specifically, the Board sought responses from the NRC staff ("Staff") to two questions: (1) whether the Staff will be able to issue the entire SER in accordance with the schedule in 10 C.F.R. Part 2, Appendix D; and (2) if not, whether the SER will be issued serially, and, if so, the Staff's best estimate of the dates on which each portion will be issued. Currently, only budget information for fiscal year (FY) 2009 presently is known,<sup>1</sup> and, therefore, it is difficult to estimate schedules for future fiscal years. However, counsel for the Staff, following consultation with management from the NRC's Office of Nuclear Material Safety and Safeguards, can provide the following good faith estimate of the Staff's schedule for completion of the SER.

Based upon the FY 2009 budget of \$49 million, the Staff will not be able to issue the SER in accordance with the Appendix D schedule. At present, the Staff intends to issue the SER serially. The first two volumes of the SER will be issued on the following timeline: Volume

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<sup>1</sup> The President has recommended to Congress a budget of \$56 million for the NRC's high level waste program in FY 2010. However, this budget recommendation has not yet been approved by Congress.

1 (Review of General Information) in March 2010 and Volume 3 (Review of Repository Safety After Permanent Closure) in September 2010. The completion dates for the remaining three volumes: Volume 2 (Review of Repository Safety Before Permanent Closure); Volume 4 (Review of Administrative and Programmatic Requirements); and Volume 5 (License Specifications and Conditions), cannot be estimated with a reasonable degree of certainty at this time. The schedule for completion of the SER may be affected by future fiscal year budgets, by unanticipated emergent work associated with the review of the repository license application such as the DOE providing new information associated with the license application or final environmental impact statement, or if the DOE does not meet expectations regarding its responses to requests for additional information. The Staff will advise the Board of any significant changes to the SER completion schedule.

Based upon a good faith investigation, the above information is true to the best of counsel for the Staff's knowledge, information and belief.

Respectfully submitted,

**/Signed (electronically) by/**

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Dated at Rockville, Maryland  
This 10<sup>th</sup> day of July, 2009

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC AND SAFETY LICENSING BOARDS

In the Matter of	)	
	)	Docket No. 63-001-HLW
U.S. DEPARTMENT OF ENERGY	)	
	)	ASLBP Nos. 09-876-HLW-CAB01
(High-Level Waste Repository)	)	09-877-HLW-CAB02
	)	09-878-HLW-CAB03
	)	09-892-HLW-CAB04

CERTIFICATE OF SERVICE

I hereby certify that copies of the "NRC STAFF ANSWER TO THE CAB'S JULY 2, 2009 ORDER CONCERNING SCHEDULING" in the above-captioned proceeding have been served on the following persons this 10<sup>th</sup> of July, 2009, by Electronic Information Exchange.

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