

**UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION  
ATOMIC SAFETY AND LICENSING BOARD**

**09-892-HLW-CAB04  
Thomas S. Moore, Chairman  
Paul S. Ryerson  
Richard E. Wardwell**

|   |   |                   |
|---|---|-------------------|
| In the Matter of:                       | ) | August 24, 2009   |
| U.S. Department of Energy               | ) |                   |
| (High Level Waste Repository            | ) | Docket No. 63-001 |
| Construction Authorization Application) | ) |                   |
|   | ) |                   |

**DEPARTMENT OF ENERGY’S RESPONSE TO NOTICE OF STATE OF NEVADA REGARDING DOE’S JOINT RESPONSE TO JULY 21, 2009 ORDER**

On August 17, 2009 the State of Nevada served a Notice regarding the “Joint Response to the July 21, 2009 Order” (Joint Response). In its Notice, Nevada suggests that the Department of Energy (DOE) intentionally misrepresented that Nevada joined in the Joint Response. That suggestion is inaccurate and without basis. The Joint Response nowhere claims that Nevada joins in the Joint Response. In fact, the Joint Response clearly states “[t]he State of Nevada disagrees with the SER Volume designation for about 25 contentions, as indicated in Spreadsheet 1, and will be filing its own differing views in accordance with the Board’s July 21st Order.” The Joint Response also notes Nevada’s disagreement with the designation of contentions as “legal issues.” *See* Joint Response, n. 1.

DOE used the term Joint Response because, as directed by the Board, DOE conferred with all the parties in preparing the response, and the Joint Response sets forth

the parties' respective positions as stated during that consultation, noting areas where the parties agreed as well as the areas where Nevada and other parties had disagreements.

In short, the Joint Response was an effort to apprise the Board, in one document, of the positions of the parties including areas of disagreement. There was no intent to misrepresent Nevada's position or any other party's position on the questions posed by the Board.

Respectfully submitted,

*Signed (electronically) by Donald J. Silverman*  
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Dated in Washington, DC  
this 24th day of August 2009

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**UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION**

**ATOMIC SAFETY AND LICENSING BOARD**

**Before Administrative Judges:**

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**CERTIFICATE OF SERVICE**

I hereby certify that copies of the “DEPARTMENT OF ENERGY’S RESPONSE TO NOTICE OF STATE OF NEVADA REGARDING DOE’S JOINT RESPONSE TO JULY 21, 2009 ORDER” have been served on the following persons on this 24th day of August 2009 through the Nuclear Regulatory Commission’s Electronic Information Exchange.

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