

September 3, 2009

CAB 01

William J. Froehlich, Chairman  
Thomas S. Moore  
Richard E. Wardwell  
Atomic Safety and Licensing Board Panel  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555-0001

CAB 02

Michael M. Gibson, Chairman  
Alan S. Rosenthal  
Nicholas G. Trikouros  
Atomic Safety and Licensing Board Panel  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555-0001

CAB 03

Paul S. Ryerson, Chairman  
Michael C. Farrar  
Mark O. Barnett  
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Washington, D.C. 20555-0001

CAB 04

Thomas S. Moore, Chairman  
Paul S. Ryerson  
Richard E. Wardwell  
Atomic Safety and Licensing Board Panel  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555-0001

In the Matter of  
U.S. Department of Energy (High-Level Waste Repository)  
Docket No. 63-001

Dear Administrative Judges:

On August 19, 2009, the staff of the U.S. Nuclear Regulatory Commission (Staff) filed a motion for leave to correct its July 30, 2009 privilege log supplement.<sup>1</sup> On August 26, 2009, the State of Nevada filed an answer opposing the Staff's motion.<sup>2</sup> The Staff notes that a moving party is not permitted to reply to an answer unless granted leave to do so by the presiding officer. See 10 C.F.R. § 2.323(c); see *also* Pre-License Application Presiding Officer Board "Revised Second Case Management Order (Pre-License Application Phase Document Discovery and Dispute Resolution)," dated July 6, 2007 (unpublished), at 15, as adopted by "Case Management Order #1," dated January 29, 2009 (unpublished), at 2.

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<sup>1</sup> See "NRC Staff Motion for Leave to Correct its July 30, 2009 Deliberative Process Privilege Log Supplement," dated August 19, 2009.

<sup>2</sup> See "State of Nevada's Answer in Opposition to NRC Staff's Motion for Leave to Correct its July 30, 2009 Deliberative-Process Privilege Log Supplement," dated August 26, 2009.

Nevada's description, in its answer, of the August 5, 2009 and August 18, 2009 consultations between Nevada and the Staff is, in a number of significant respects, not correct. If requested by the Boards, the Staff is prepared to address this matter at the upcoming prehearing conference scheduled for September 14-15, 2009, at the NRC's hearing facility in Las Vegas, Nevada.

Sincerely,

**/Signed (electronically) by/**

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Dated at Rockville, Maryland  
this 3rd day of September, 2009

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND 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's September 3, 2009 Letter to the Construction Authorization Boards in the above-captioned proceeding have been served on the following persons this 3<sup>rd</sup> day of September, 2009, by Electronic Information Exchange.

CAB 01

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CAB 04

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