

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

In the Matter of  
U.S. Department of Energy  
High-Level Waste Repository  
Docket No. 63-001  
ASLBP No. 09-892-HLW-CAB04  
September 15, 2009  
9:00 a.m. PST  
TRANSCRIPT OF PROCEEDINGS  
Pre-Hearing Conference  
Before the Administrative Judges

CAB04

Judge Thomas Moore, Chairman

Judge Paul S. Ryerson

Judge Richard E. Wardwell

## APPEARANCES

For the Nuclear Regulatory Commission Staff:

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Martin Malsch, Esq.

For the Nevada Counties of Churchill, Esmeralda,  
Lander and Mineral:

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For the State of California:

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For the Nevada County of White Pine:

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APPEARANCES (Continued)

For the Nevada County of Clark:

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For the Timbisha Shoshone Tribe:

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For the Nevada County of Nye:

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For the Timbisha Shoshone Yucca Mountain  
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For the Nevada Counties of Lincoln and Eureka:

Diane Curran, Esq.

**PROCEEDINGS**

1

2 >> JUDGE MOORE: Please be seated. Mr. Lawrence,  
3 the DDMS is on. Would you like us to stay so that a  
4 transcript can be made of these sessions, or would you like  
5 this to be off-the-record?

6 >> MR. LAWRENCE: We can be on the record, Your  
7 Honor.

8 >> JUDGE MOORE: Then the DDMS is on. The floor  
9 is yours.

10 >> MR. LAWRENCE: John Lawrence, State of Nevada.  
11 We are down to one issue and we're going to raise that  
12 issue to you and let the parties discuss that issue with  
13 you, but let me frame its context and pose the question and  
14 turn it over to the parties to speak on it.

15 All parties understand that Phase 1 litigation  
16 includes all contentions related to SER volumes I and III  
17 safety, miscellaneous contentions. They also understand  
18 that's NEPA or environmental contentions to the degree they  
19 are related to NEPA related volumes I and III. And they  
20 include legal contentions to the degree they are related to  
21 I and III.

22 They would not include the groundwater contention  
23 as we've previously stated. And that's how we would frame  
24 out the general aspect of what this Order would cover at the  
25 outset of the order in which we would provide you with some

1 proposed details.

2           There is a narrow specific question, and that is,  
3 whether you would permit the discovery process to include  
4 two specific pure NEPA contentions, if there is agreement to  
5 do so by the party advocating that contention, DOE and the  
6 NRC staff. To the degree any other party who like to can  
7 comment, so be it.

8           That's pure questions on two pure NEPA  
9 contentions. Can they also be processed now? Those two  
10 contentions are being proffered by Four Counties, counsel  
11 Robert List.

12           So I would like to turn the mic over to Robert  
13 and let him articulate them. And we're not necessarily  
14 looking for an answer but whether we should accommodate that  
15 inside the proposed scheduling order that you would receive,  
16 and then, maybe later you decide not to do that.

17           So that's the real question for you. You free to  
18 solve it, now or say include it.

19           >>JUDGE MOORE: Mr. List?

20           >> MR. LIST: Thank you, Your Honor. Thank you  
21 John. The two contentions that we're proposing to infer at  
22 this time are for Nevada County's NEPA 1, for Nevada  
23 County's, NEPA 2.

24           The first of those is -- deals with truck  
25 transportation and that incorporates the value of trucks on

1 Nevada highways, the public safety associated with that,  
2 the environmental impacts that are related to it. And these  
3 are on the highways, the non-leader state highways when  
4 truck transportation leaves those highways.

5 The second proposed contention deals with the  
6 emergency response capacity of the local governments  
7 including the communication interoperability among the  
8 agencies.

9 We believe that it's important to proceed during  
10 Phase 1 with these two contentions for the following  
11 reasons: First of all, the contentions are -- are ripe.  
12 They are ready to go forward.

13 Secondly, they each involve a core issue of utmost  
14 statewide significance in the State of Nevada for the  
15 residents of Nevada.

16 The transportation to the repository affects  
17 virtually all the counties in Nevada. And in the event  
18 we're successful in demonstrating that the -- that the  
19 Environmental Impact Statement, the scope of the Environment  
20 Impact Statement should have encompassed these issues in  
21 which it did not, then, there is a significant amount of  
22 planning and necessity to determine litigation.

23 There is a long design period for example,  
24 relating to highway construction. There is a long period  
25 required for both the design and the construction actually.

1           All of these are special rate to the residents in  
2 the State of Nevada. Not to diminish the significance of  
3 the safety aspects of the repository itself, but we believe  
4 that all of the counties will benefit by the determination  
5 of these two core issues at an early stage. There are very  
6 few witnesses involved in this, probably fewer than ten  
7 witnesses and we would do this concurrently with the other  
8 deposition period starting in February and so as do not to  
9 inconvenience the parties.

10           It could be prepared for hearing at a relatively  
11 early date. We would say in the Spring, this could be ripe  
12 for hearing it out. We have conferred with other parties  
13 and I invite the judges to seek the individual comments from  
14 them.

15           As I understand it, in summary, most of the local  
16 Governments do support this. The State of Nevada does not  
17 oppose it. The DOE is -- has it under consideration as to  
18 whether they would oppose it or not. NRC staff as I  
19 understand it does not oppose it.

20           And certainly Nye County, White Pine County,  
21 Lincoln County, have all expressed their support for  
22 including these two important core matters in Phase 1.

23           I'd be happy to answer questions as the Court may  
24 wish.

25           >> JUDGE MOORE: Mr. List, you mentioned that you

1 thought there would be fewer than ten witnesses involved.  
2 Is that from your standpoint as the proponent of the  
3 contentions, or that is recognizing that there may be  
4 witnesses on the DOE side?

5 >> MR. LIST: There may be witnesses on the DOE  
6 side but without knowing, we're speculating a little bit  
7 here. We suspect that DOE made a determination perhaps on  
8 the advice of counsel that the scope of the Environmental  
9 Impact Statement did not need to encompass these off-site  
10 traffic impacts.

11 I'm not quite sure who their witnesses might be in  
12 the event that that evolves in that fashion but we certainly  
13 at this point do not envision any deposition of witnesses  
14 from the DOE, although that could change.

15 >> JUDGE MOORE: Without me taking the time  
16 additional to pull them up on my computer screen and read  
17 those contentions, from your description and I would  
18 preference what I'm saying now because I cannot recall the  
19 contentions, but are they essentially contentions of  
20 omission that DOE did not address at all, transportation  
21 impacts on truck traffic on Nevada roads?

22 >> MR. LIST: Yes, with one minor exception. They  
23 did discuss it on Nevada highways virtually at the gate, on  
24 the state highway right at the gate in Nye County that will  
25 enter into the repository. But beyond that, it's a matter

1 of omission.

2 >> JUDGE MOORE: And the same general label would  
3 be applicable to the emergency response capability  
4 contentions?

5 >> MR. LIST: Yes, Judge Moore, that's correct.

6 >> JUDGE WARDWELL: And just for clarification,  
7 it's not -- it's not an issue of whether or not they  
8 considered it. You're saying it's completely missing and  
9 Nevada and DOE agrees that this analysis is completely  
10 missing? There's a difference between the relative degree of  
11 consideration and your contention may very well say, they  
12 haven't adequately, considered this.

13 That's different than a pure intention of  
14 omission. And that's why I'm inquiring about. Is it truly  
15 completely missing and that position would be supported by  
16 the reply that DOE made to your contention?

17 MR. LIST: I believe that's the case. We believe  
18 there were some preliminary reports. The record does  
19 contain some initial studies of transportation.

20 They have -- the record includes designation of  
21 representative routes through Nevada. So it's touched upon  
22 at various points, but simply does not address in  
23 particular, for example, the impact of overweight trucks.

24 There was one study that's in the LSN that  
25 considers heavy haul trucks. But then, the project was

1 modified or the design was modified just to include  
2 overweight trucks and there was no similar study done for  
3 those. I mean, the element of the Environment Impact  
4 Statement therefore, does not include -- does not include an  
5 analysis of that impact of those vehicles.

6 We also believe that there's a -- so while it is  
7 touched upon in various ways, the element, the Environmental  
8 Impact Statement does not discuss litigation which NEPA  
9 requires of the impacts on the human environment, physical  
10 environment, or the public safety or the litigation in any  
11 fashion.

12 >> JUDGE WARDWELL: Thank you. I got another  
13 question. What distinguishes these two transportation  
14 contentions from the other transportation contentions or the  
15 other transportation contentions or the other pure NEPA  
16 contentions, if we dare use that phrase anymore? Why do  
17 yours stand out any different than the other petitioners'  
18 submittals?

19 >> MR. LIST: There are other petitioner  
20 contentions that touch on these same topics.

21 I have gone through -- we have gone through and --

22 >> Judge Wardwell: Let me interrupt quickly.  
23 Even if it doesn't touch upon it, there are other  
24 transportation contentions that are out there. And I'm sure  
25 they could create the same arguments you've just created

1 for their contentions ought to be looked at in this  
2 intervening period.

3 What distinguishes yours from theirs?

4 >> MR. LIST: I think the fact that they are so  
5 fundamentally significant from a statewide standpoint.

6 They are core matters that are pacing items for  
7 this entire project. If this Environmental Impact Statement  
8 has to be supplemented, we know that there's at least a  
9 year required to do that and that should be determined  
10 early. And particularly because of the consequential  
11 planning that goes into the resulting construction design  
12 transportation and the design of -- for example,  
13 interoperability facilities that all of the Governments  
14 would have to install, they would all have to be designed.

15 So there is a long lead time on these particular  
16 contentions in terms of the litigation.

17 >> JUDGE WARDWELL: Well, isn't that true with  
18 all of the NEPA contentions?

19 >> MR. LIST: I don't think to all this extent, no.

20 >> JUDGE WARDWELL: And so it's your opinion the  
21 other parties would think theirs aren't significant and  
22 aren't pacing?

23 >> MR. LIST: Well, I think they can each answer  
24 for themselves. Certainly, we don't mean to denigrate the  
25 significance of the other contentions. We would simply say

1 that these are -- these are shared contentions from the  
2 standpoint of impacts on every community in the State of  
3 Nevada. And they deserve -- they deserve a highlighting and  
4 a prioritization.

5 >> JUDGE WARDWELL: Thank you.

6 >> MR. SCHMUTZ: Might I say something? We -- I  
7 haven't even looked at these contentions. The proposition  
8 was made to me. I said we would take them under  
9 advisement. That's where we are. The agreement is we  
10 have a veto over whether this is going to occur or not.

11 The question -- and we haven't decided at all  
12 whether we would agree to this or not, whether we oppose it.  
13 And if we oppose it, my sense is that what we have agreed to  
14 with Mr. List is that if we would say no, it doesn't  
15 happen. And we have not come even close to that decision,  
16 number one, and for many of the same reasons you just  
17 raised.

18 Number two, the question proposed to the Board was  
19 simply, if this is a non-startup, I don't want to waste my  
20 time even looking at it.

21 If the Board says, look, we have a schedule, we  
22 don't understand why we're looking at these two, it doesn't  
23 make much sense to us, so no, let's keep this record clean  
24 look let's look at SER I and III and related issues.  
25 That's the end of it. And it was just to make sure if it's

1 a threshold issue that the Board says, no on, I don't want  
2 to waste my time figuring out what the problems are with  
3 this. One last thing --

4 >>JUDGE MOORE: Mr. Schmutz, because we're on the  
5 DDMS, I want to get your name on the record.

6 MR. SCHMUTZ: Oh, I'm sorry. This is Tom Schmutz  
7 from the Department of Energy just giving that long winded  
8 talk.

9 One last thing: Seated to my right is Martha  
10 Crossand, counsel with the Office of General Counsel and I  
11 did shift on this first because she's my boss. But I just  
12 wanted the Board to be introduced to her.

13 >> JUDGE MOORE: Thank you. I recognize that  
14 your familiarity with these contentions without going back  
15 and looking at them -- so we're on a level playing field.

16 Do they strike you as potential models of the NEPA  
17 contentions that could be used to resolve the outstanding  
18 questions that are novel and unique on how NEPA issues are  
19 to be dealt with in the administrative adjudicatory process?  
20 Is there anything about them that would allow them to be  
21 good pacing horses in that regard?

22 >> MR. SCHMUTZ: The only thing from what I have  
23 heard this morning and it frankly troubles me, is that they  
24 raised the issue of representative of routes. That issue is  
25 a far reaching one, one that if we were to be briefed,

1 involves a lot of parties and we are hoping their  
2 transportation contentions are going to be in Phase 2.

3           If we conclude that they do involve representative  
4 routes and in due course, we would have to move to dismiss  
5 them -- summary judgment or otherwise -- move to dismiss  
6 them because we believe representative routes -- the  
7 contention is you use representative routes to determine  
8 impacts rather than the actual routes.

9           The reason you do that of course is because the  
10 routes is 15 years from now before we are ever going to  
11 have any actual routes. We don't know what the routes are  
12 but try to look as a surrogate to look at representative  
13 routes.

14           A lot of parties have challenged the  
15 representative routes. That is not an issue we want to take  
16 up at this time. So we will veto this if we think we in  
17 good conscious have to raise the representative routes. We  
18 will say this one can't be hurt. That is a big problem for  
19 us and the parties.

20           >>JUDGE MOORE: Putting aside for the moment, the  
21 question of representative routes, just the whole issue of  
22 how NEPA contentions are going to be dealt with in this  
23 unique proceeding under the Nuclear Waste Policy Act which  
24 makes it -- because what we're looking at is the Staff's  
25 adoption and the Staff's decision in whether it was

1 appropriate and whenever -- and I'm sorry, I can't recall  
2 the language of either the regulations or --

3 >> MR. SCHMUTZ: Rule to Adopt --

4 >> JUDGE MOORE: Yeah, and whether that as a  
5 practical matter changes how in the administrative  
6 adjudication of issues, they are dealt with as opposed to  
7 the normal way in which NEPA contentions are dealt with at  
8 NRC, licensing litigation.

9 >> MR. SCHMUTZ: Good question. If they are  
10 contention omissions, I think they are not good examples.  
11 We would prefer if we're going to have a test case, that  
12 there be a factual controversy where both parties have not  
13 just a legal issue. You seem to raise a legal issue more  
14 than anything.

15 >> JUDGE RYERSON: Without regard to these two  
16 possible contentions, there must be some NEPA contentions in  
17 this first phase, are there not?

18 >> MR. SCHMUTZ: Absolutely Your Honor that are  
19 heavily factually disputed volcanic -- White Pine has -- I  
20 believe it's White Pine has some volcanic contentions which  
21 are very detailed which raise a great deal of factual issues  
22 in our view and which will be the subject of expert  
23 testimony both on their part and ours during the first  
24 phase.

25 >> JUDGE MOORE: What other parties would like to

1 be heard on this matter?

2 MR BAUSER: Mike Bauser, NEI. With respect to --

3 >>JUDGE MOORE: Okay, go ahead Mr. Bauser.

4 >>MR. BAUSER: With respect to one of the  
5 fundamental issues that came up yesterday and that you  
6 alluded to today, that is to say, whether or not  
7 environmental matters are handled as they typically are  
8 within the context of garden variety everyday NRC  
9 proceedings, or whether the Nuclear Waste Policy Act changes  
10 that, I would suggest that -- I think NEI agrees with a --  
11 an approach that you suggested yesterday which is that maybe  
12 that issue cannot be addressed in the abstract because for  
13 example, while NEPA issues are normally considered within  
14 the context that you described in detail, as in effect  
15 supplementing an Environmental Impact Statement on the basis  
16 of hearings; even in that context, you have circumstances  
17 where formal supplementation of an NRC EIS is required as a  
18 result of the hearing.

19 For example, one case that I've alluded to a  
20 couple of times because I was involved in it was where a  
21 supplementation of an NRC EIS was required in a case where  
22 it had been found there was an inadequate consideration of  
23 alternative sites in which case a form of supplementation  
24 process was used.

25 So, again, to close the loop, I'm suggesting that

1 maybe this question can't be handled and maybe shouldn't  
2 be handled in the abstract.

3 >> JUDGE MOORE: Mr. Robbins for Clark County,  
4 you wish to be heard?

5 >> MR ROBBINS: Yes, thank you, Your Honor. Clark  
6 County has one and possible two contentions that we think  
7 could be grouped with the two, one or both of the Four  
8 Counties' contentions that are the subject of this  
9 proposal.

10 While we have told the Four Counties that we  
11 have under consideration our position on that and whether we  
12 can find a way to at least not object to their proposal, we  
13 do have concerns and feel obliged to alert the Board to  
14 that.

15 One of the major concerns we have is if those two  
16 contentions go forward, how, if at all, can we not go  
17 forward which is our preference at the moment and not be  
18 prejudiced, particularly if these contentions are going to  
19 go to hearing perhaps as early as next Spring.

20 And so even though right now, we're talking about  
21 a discovery case management order, it's discovery with a  
22 view towards potential early hearing on these issues. We  
23 don't know the answer to that question.

24 We don't know if we're necessarily joined at the  
25 hip and if they go forward, we must go forward too, which we

1 at the moment prefer not to do.

2 The flip side is, how can we be separated and not  
3 be prejudiced if those contentions go forward and ours  
4 don't? We're not -- it's not clear to us how that can  
5 happen.

6 >>JUDGE MOORE: Mr. Robbins, you may not be able  
7 to answer this, but is it your impression that if  
8 contentions were being grouped for hearing after all  
9 discovery, that these two Four Counties NEPA 1 and Four  
10 Counties NEPA 2 would not be either in the same group or  
11 would be with -- grouped with other contentions?

12 >> MR. ROBBINS: We think, Your Honor, that at  
13 least one of our contentions, Clark NEPA 1 which deals with  
14 what we consider inadequate consideration of the impacts and  
15 needs regarding emergency response by local entities such as  
16 Clark County, that that would likely be grouped with one of  
17 the two Four Counties' contentions that is the subject of  
18 their proposal. And it may be that we also have a  
19 transportation NEPA contention.

20 Our deals more with the failure to consider  
21 various well corridors whereas I understand from the  
22 description that the Four Counties contentions being  
23 discussed deal more with highway and trucking  
24 considerations. So it's less clear to me at the moment  
25 whether that one would be grouped -- you know -- with their

1 trucking one or not. But it seems reasonably clear to us  
2 and certainly not clear the other way that our emergency  
3 response would likely be a certainly strong candidate to be  
4 grouped with their emergency response contention.

5 >>JUDGE MOORE: Do any of the other parties have  
6 contentions that would be natural to group with Four  
7 Counties' NEPA 1 recognizing that this is not binding on  
8 anyone but because you all know your own contentions, that  
9 if we're grouping contentions for hearing, that would be  
10 natural to group with these.

11 State of California?

12 >> MR. SULLIVAN: Tim Sullivan for the State of  
13 California: As to Nye County NEPA 2 which is the emergency  
14 response contention, California has two emergency response  
15 contentions that are -- we think that are very similar.

16 On Nye County's first contention which deals with  
17 truck impacts, the specific contention is -- I guess it's  
18 different on a general level but there are issues embedded  
19 within it such as routing, decisionmaking, the capabilities  
20 of the generator sites, and any requirements and impacts  
21 related to heavy haul truck shipments.

22 Those are issues and contentions we have. So I'm  
23 not sure if they would be formerly grouped, but certainly  
24 litigation of those issues would implicate issues that we  
25 would implicate as part of our contentions.

1 >> JUDGE MOORE: Any other party have contentions  
2 that they feel would be natural allies to be heard with  
3 these contentions?

4 >> MR. LAWRENCE: John Lawrence, State of Nevada.

5 >> JUDGE MOORE: Yes, Mr. Lawrence?

6 >> MR. LAWRENCE: Nevada NEPA 07 may possibly be  
7 grouped within our opinion, with Four Counties NEPA 1, truck  
8 transportation issue. We don't have any first responder  
9 emergency plan issues.

10 >>> JUDGE MOORE: Would anyone else like to be  
11 heard on this? NRC staff?

12 >>> MS. BUPP: Thank you, Your Honor. While Mr.  
13 Lawrence was correct that the NRC staff does support his  
14 proposition that just these two, 4NC -- 4 Nevada County  
15 contentions move forward, if the scope were to be expanded  
16 to include some of these related contentions, the Staff is  
17 not sure it can continue to support the proposition.

18 >> JUDGE MOORE: Your last word, please?

19 MS. BUPP: The staff isn't sure that it would be  
20 able to continue to support the proposition of moving  
21 forward with --

22 >> JUDGE MOORE: That was a negative, would not?

23 >> MS. BUPP: Yes, would not.

24 >> JUDGE MOORE: Thank you.

25 >> JUDGE WARDWELL: If I may ask --

1 >> JUDGE MOORE: State of California.

2 >> MR. SULLIVAN: Yes, if I could just add, just  
3 a brief description of our position. I think we're in  
4 somewhat of the same position as Clark County but we're  
5 evaluating it, but concerned about the impacts it would have  
6 on us.

7 In theory, it doesn't matter if somebody else  
8 gets to litigate their contentions but we think that the  
9 purity of the contentions belong in Phase 2 and we're  
10 concerned about getting dragged into Phase 1 because we have  
11 to participate in legal briefing or we need to participate  
12 in depositions.

13 If there is a window that comes up related to the  
14 Four Counties 'contentions, will we be able to depose that  
15 person two years from now? Will someone make a collateral  
16 estoppel argument against us should the Four Counties not  
17 prevail in that contention. So we're concerned about the  
18 practical effect it will have on us and whether or not we  
19 can stay out of it.

20 >>JUDGE MOORE: Thank you.

21 >> MS. CURRAN: Judge Moore, this is Diane Curran.

22 >> JUDGE MOORE: Yes, Ms. Curran.

23 >>MS. CURRAN: I would just like to comment that  
24 Eureka County has like Clark County would like to  
25 accommodate the Four Counties if possible but we're also

1 concerned about the prejudicial effect of going ahead with  
2 just a couple of contentions that may have implications or  
3 other contentions that are litigated later on.

4 >> JUDGE MOORE: Thank you.

5 >> JUDGE WARDWELL: Yes. Mrs Bupp, is there a  
6 reason why you support these two or is it that you just  
7 don't oppose that they move forward? Is there true support  
8 for it or you just saying you don't have any objection to  
9 moving forward on these two?

10 >> MS. BUPP: Well, all of the parties have agreed  
11 that the purity of the contentions would be saved until the  
12 second phase of litigation. And from that -- from a  
13 resource standpoint, we were very pleased with that. We  
14 want to accommodate the four Nevada counties because they  
15 asked, and because of the limited scope of these  
16 contentions, it adds a small amount of work to the discovery  
17 relative to what's already going on with dealing with SER  
18 Volumes I and III.

19 However, with all the other issues the parties  
20 have raised about the related contentions, if we did have to  
21 move and expand the scope, that is actually adding a lot of  
22 resource burden to the first phase of the litigation.

23 JUDGE MOORE: Thank you. The Board would like to  
24 recess for ten minutes so that we can discuss this.

25 And we will stand adjourned -- it is now 11:15 to

1 11:25 and we will reconvene and have something to tell you.  
2 Thank you.

3 (Whereupon, a short recess was taken)

4 JUDGE MOORE: Please be seated. The Board has  
5 considered the question imposed by Mr. Lawrence and  
6 determined that the parties should proceed with the Safety  
7 NEPA miscellaneous and legal contentions associated with  
8 Volumes I and III of the SER in the first phase covered by  
9 this proposed case management Order.

10 Are there any other questions that you have for us  
11 at this point? And secondly, can you give us some idea of  
12 when you would like us to come back into session if at all  
13 or matters along that line? Mr. Lawrence?

14 >> MR. LAWRENCE: Thank you. John Lawrence, State  
15 of Nevada. We have no further questions for you at this  
16 point and time. As I indicated at the outset this morning,  
17 we're going to finalize a draft outline to circulate amongst  
18 our counsel and I hope to have that done within a half hour  
19 to an hour. And I will circulate that by email to counsel  
20 that are here in this room.

21 They will use that simply as a guidance to talk  
22 over with their clients and be aware of what we generally  
23 agreed on. From that, I will be drafting a draft case  
24 management order that I will circulate by Friday, close of  
25 business, again to counsel in this room for their review and

1 comment. That would be the pleading that would eventually  
2 be filed with you in accordance with you request on  
3 Wednesday, the 23rd of September for your consideration from  
4 there on.

5 But we have no further questions, therefore, at  
6 least from my perspective but I think I speak collectively,  
7 we have no further need for you to come back in session at  
8 1:00 or 5:00. I think we are effectively done.

9 >> JUDGE MOORE: Do you wish to continue to use  
10 the facility for remainder of the day?

11 >> MR. LAWRENCE: I don't believe we need to use  
12 this room for me to finalize what I need do and to ship it  
13 out. Some of the parties would like to meet collectively to  
14 discuss legal contentions or perhaps other issues and they  
15 may wan to use the conference room or perhaps even this  
16 facility, I don't know. But I think they would like to  
17 potentially use the conference room facility.

18 >> JUDGE MOORE: Okay, one moment please. The  
19 facility is available to you until 5 o'clock if that's all  
20 right.

21 And if you don't have any further questions for  
22 us, then, we will go ahead and adjourn the case management  
23 conference. If you need to reach us, notify the staff and  
24 they will give us a call and we will be here for you.

25 I would like to thank all of you for your

1 participation. I think it is it has been most helpful and  
2 productive and I would hope that the spirit of cooperation  
3 which has been well exhibited over the past day and a half  
4 will continue in years to come because this is a marathon  
5 that we are all running and there will be a need for a lot  
6 of water stops along the way.

7           And again, I thank you. And if there are no other  
8 matters that you wish to put before us, we stand adjourned  
9 until further notice. Thank you again.

10                   (Whereupon the proceedings were concluded)

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## CERTIFICATE OF REPORTER

1  
2 This is to certify that the attached proceedings  
3 before the United States Nuclear Regulatory Commission in  
4 the matter of U. S. Department of Energy High-Level Waste  
5 Repository, Docket No. 63-01, ASLBP No. 09-892-HLW CAB04 on  
6 September 15th, 2009, Las Vegas, Nevada, was held as herein  
7 appears and that this is the Original Transcript transcribed  
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9 Nuclear Regulatory Commission taken by Caption Reporters  
10 Inc., and that the transcript is a true and accurate record  
11 of the foregoing proceedings.

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14 Lorraine Carter, RPR  
15 Official Court Reporter  
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