

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

Before Administrative Judges:

Thomas S. Moore, Chairman
Paul S. Ryerson
Richard E. Wardwell

In the Matter of

U.S. DEPARTMENT OF ENERGY

(High Level Waste Repository)

Docket No. 63-001-HLW

ASLBP No. 09-892-HLW-CAB04

October 7, 2009

ORDER

(Denying Motion to Compel and Motion to Correct Logs)

A. Before us is the State of Nevada's motion to compel¹ the production of 29 documents listed in the NRC Staff's July supplement to its privilege logs for which the Staff asserts the deliberative process privilege.² The State's motion claims that the Staff's assertion of the deliberative process privilege is untimely with respect to all 29 documents listed in the Staff's privilege log supplementation.³ With respect to 12 of the documents that relate to the Staff's decision concerning its adoption determination for the Department of Energy's Environmental Impact Statement, the motion concedes that the Staff documents as described in the privilege log "possess the indicia of the deliberative-process privilege."⁴ With respect to the remaining 17 documents, the State argues, in effect, that the privilege log entries for each Staff document fail to establish a prima facie case for the claimed privilege as required by the applicable Revised Second Case Management Order of the Pre-License Application Presiding Officer (PAPO)

¹ State of Nevada's Motion to Compel Production of Documents Asserted as Privileged by NRC Staff (Aug. 10, 2009) [hereinafter Nevada Motion].

² NRC Staff Certification of Licensing Support Network Supplementation (July 30, 2009).

³ Nevada Motion at 4-5, 10-11.

⁴ Id. at 4.

Board, previously adopted and made applicable by the Construction Authorization Boards (CABs) in this proceeding.⁵ The NRC Staff opposes the State's motion arguing that its assertion of the deliberative process privilege for all 29 documents in its July privilege log supplementation was timely and appropriate.⁶

The State's motion to compel is denied. As the State concedes,⁷ in addition to the RSCMO, the PAPO Board's Fourth Case Management Order adopted by the CABs is also applicable.⁸ That Order specifically addresses motions to compel and requires that each such motion "shall include an appendix A that lists, in a single spaced, two-column format, the alphanumeric LSN accession number of each bibliographic header and/or redacted version of the document for which production is sought and all the privileges asserted for the sought document by the privilege claimant."⁹ The Order states: "Any motion to compel the production of documents that fails to include an appendix A containing the listing of LSN accession numbers and claimed privileges will be denied."¹⁰ Because the State's motion to compel failed to include the required appendix A, its motion to compel is denied.

B. Also before us is the Staff's motion for leave to correct its July 30 deliberative process privilege log supplement.¹¹ The Staff's motion was filed on the heels of its answer to

⁵ Id. at 6-10. See Revised Second Case Management Order (Pre-License Application Phase Document Discovery and Dispute Resolution) (July 6, 2007) (unpublished) [hereinafter RSCMO]; CAB Case Management Order #1 (Jan. 29, 2009) at 2 (unpublished).

⁶ NRC Staff Answer to the State of Nevada's Motion to Compel Production of Documents Asserted as Privileged by NRC Staff (Aug. 17, 2009).

⁷ Tr. at 131.

⁸ Fourth Case Management Order (Concerning Electronic Filing, DDMS, Safeguards Information, and Other Items) (Oct. 5, 2007) (unpublished).

⁹ Id. at 4.

¹⁰ Id. at 5.

¹¹ NRC Staff Motion for Leave to Correct Its July 30, 2009 Deliberative Process Privilege Log Supplement (Aug. 19, 2009) [hereinafter Staff Motion].

the State's motion to compel and is opposed by the State of Nevada.¹² The motion asserts that, because it seeks to correct minor errors and clarify ambiguities in its deliberative process privilege log that were identified after receiving the State's motion to compel, good cause exists to allow the corrections.¹³ The Staff states that its motion is filed within the time period prescribed in the PAPO Board's Fifth Case Management Order¹⁴ and sets out two examples of the type of clarifications and one example of the type of minor corrections it seeks to make.¹⁵ With respect to the former, the Staff argues that the information it seeks to clarify is already apparent from the log entries and the Staff characterizes the minor mistakes it seeks to correct as typographical errors, claiming both types of corrections are permissible under the FICMO.¹⁶ Finally, in a footnote, the Staff asserts that its motion should be resolved prior to any ruling on the State's motion to compel.¹⁷

The single apposite matter in the Staff's motion is its identification and reliance upon the FICMO, as controlling here.¹⁸ To avoid future misapprehensions as to the meaning of the pertinent provisions of that Order, we repeat them. Part B of the Order states:

- B. Due Diligence, Accuracy, and Care
Potential Parties and their attorneys and representatives must exercise due diligence and care in preparing and filing their privilege logs. As with all pleadings and discovery filings, each time a log is submitted (or supplemented or corrected) it must be accompanied by a certification by the attorney or other

¹² 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 (Aug. 26, 2009).

¹³ Staff Motion at 1.

¹⁴ Id. at 2. See Fifth Case Management Order (Supplementation, Correction, and Changing of Privilege Logs) (Nov. 1, 2007) at 6 (unpublished) [hereinafter FICMO].

¹⁵ Staff Motion at 2.

¹⁶ Id. at 2-3.

¹⁷ Id. at 3 n.3.

¹⁸ Id. at 2. See FICMO at 4, 6 (previously adopted by the CABs in CAB Case Management Order #1 (Jan. 29, 2009) at 2 (unpublished)).

representative that “to the best of the signer’s knowledge, information and belief, formed after reasonable inquiry, the information on the privilege log and the claimed privilege for the document is, inter alia, correct.” See RSCMO II.D. and Appendix A. This certification is a serious matter, and although perfection is not required, see LBP-04-20, 60 NRC 300, 313 (2004), mistakes are strongly disfavored and should be rare.¹⁹

In pertinent part, Part D.I of the Order states:

D. Rules Regarding Corrections to Logs

1. General Rule – Prompt Corrections Required: If a potential party realizes that one of its privilege logs contains materially incorrect or misleading information, then the potential party shall inform the PAPO Board and correct the logs, as follows. If the corrections to the initial privilege logs are filed within twenty days of the initial privilege log’s filing or if corrections to supplements are filed within ten days of the supplement’s filing, then a motion and leave of the PAPO Board are not required. No other corrections will be accepted unless preceded by a motion for leave to file corrections showing good cause and an affirmative ruling from the PAPO Board.²⁰

The standard for attorneys preparing privilege logs and privilege log supplements set forth in the FICMO is one of due diligence, accuracy, and care. In filing each supplement, the attorneys are to certify that, after reasonable inquiry, the information in the log entries is correct. The Order emphasizes that the attorneys’ certification is a serious matter and mistakes are strongly disfavored and should be rare. Further, the only corrections permitted are for information that is “materially incorrect” or “misleading” and corrections for such matters may be made within 10 days of the filing of a privilege log supplementation without leave of the Board but, after 10 days, leave of the Board, upon a showing of good cause, is required.

The Staff’s motion fails to comply with the requirements of the FICMO and is therefore denied. The Staff’s motion does not, by its terms, seek leave to correct information that is materially incorrect or misleading. On the contrary, the Staff’s motion, by its own admission,

¹⁹ FICMO at 4.

²⁰ Id. at 6.

only “seeks to correct minor errors and clarify ambiguities.”²¹ The Staff alleges that it wishes merely to clarify information that is “already apparent”²² from the log entries and to correct minor mistakes that it characterizes as “typographical” errors.²³ On the other hand, if the information that the Staff seeks to correct is, in fact, material or misleading, the Staff, to establish good cause, should have identified in its motion each materially incorrect or misleading privilege log entry, the proposed correction for each entry, and an explanation, in light of the Staff attorney’s certification, how each error occurred. Here, the Staff’s assertion of good cause is plainly deficient and lacking the essential elements necessary to meet the standard required by the FICMO.

Finally, we are also required to reject the Staff’s motion by the terms of the Commission’s regulation, 10 C.F.R. § 2.323(b). That provision mandates that the movant certify that it made a “sincere effort” to resolve the issues raised with the other parties and requires rejection of any motion that does not contain the appropriate certification. Although the Staff motion contains a purported certification, the Staff concedes that in discussing its motion with counsel for the State it refused to provide the State with its proposed log corrections.²⁴ Simply put, in the circumstances presented, the sincere effort standard of section 2.323(b) is not met when counsel for the moving party refuses to identify for opposing counsel the log corrections for which Staff counsel seeks another counsel’s assent for its proposed motion. Accordingly, Staff’s counsel’s certification is necessarily not genuine and hence invalid. The Staff’s motion must be rejected.

²¹ Staff Motion at 1.

²² Id. at 3.

²³ Id.

²⁴ Tr. at 155.

C. As should be apparent from the rulings on motions of the State and the Staff, the Board expects all parties to comply with the terms and provisions of the applicable case management orders. Counsel for each party has an independent obligation to read and follow the requirements of those orders and counsel acts at his or her peril if counsel merely follows the practice of some other party.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

Thomas S. Moore, Chairman
ADMINISTRATIVE JUDGE

Rockville, Maryland
October 7, 2009

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)
)
U.S. DEPARTMENT OF ENERGY)
)
(High-Level Waste Repository))
)

Docket No. 63-001-HLW

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing ORDER (Denying Motion to Compel and Motion to Correct Logs), dated October 7, 2009, have been served upon the following persons by Electronic Information Exchange.

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

CAB 01

William J. Froehlich, Chair
Administrative Judge
wjf1@nrc.gov

Thomas S. Moore
Administrative Judge
tsm2@nrc.gov

Richard E. Wardwell
Administrative Judge
rew@nrc.gov

CAB 02

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

Alan S. Rosenthal
Administrative Judge
alan.rosenthal@nrc.gov or rsnthl@verizon.net

Nicholas G. Trikouras
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

ASLBP (continued)

CAB 04

Thomas S. Moore, Chair
Administrative Judge
tsm2@nrc.gov

Paul S. Ryerson
Administrative Judge
psr1@nrc.gov

Richard E. Wardwell
Administrative Judge
rew@nrc.gov

Anthony C. Eitrem, Esq., Chief Counsel
ace1@nrc.gov

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

Zachary Kahn, Law Clerk
zxk1@nrc.gov

Erica LaPlante, Law Clerk
eal1@nrc.gov

Matthew Rotman, Law Clerk
matthew.rotman@nrc.gov

Katherine Tucker, Law Clerk
katie.tucker@nrc.gov

Joseph Deucher
jhd@nrc.gov

Andrew Welkie
axw5@nrc.gov

Jack Whetstine
jgw@nrc.gov

Patricia Harich
patricia.harich@nrc.gov

Sara Culler
sara.culler@nrc.gov

U.S. DEPARTMENT OF ENERGY (High Level Waste Repository) Docket No. 63-001-HLW
ORDER (Denying Motion to Compel and Motion to Correct Logs)

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. 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.dinunzio@rw.doe.gov
James Bennett McRae
ben.mcrae@hq.doe.gov
Cyrus Nezhad, Esq.
cyrus.nezhad@hq.doe.gov
Christina C. Pak, Esq.
christina.pak@hq.doe.gov

U.S. Nuclear Regulatory Commission
Office of Commission Appellate Adjudication
Mail Stop O-16C1
Washington, DC 20555-0001
OCA Mail Center
ocaamail@nrc.gov

For U.S. Department of Energy
Office of Counsel, Naval Sea Systems Command
Nuclear Propulsion Program
1333 Isaac Hull Avenue, SE, Building 197
Washington, DC 20376
Frank A. Putzu, Esq.
frank.putzu@navy.mil

U.S. Nuclear Regulatory Commission
Office of the General Counsel
Mail Stop O-15D21
Washington, DC 20555-0001
Margaret J. Bupp, Esq.
mjb5@nrc.gov
Christopher Chandler, Esq.
ccc1@nrc.gov
Michael G. Dreher, Esq.
michael.dreher@nrc.gov
Karin Francis, Paralegal
kxf4@nrc.gov
Adam Gendelman, Esq.
adam.gendelman@nrc.gov
Joseph S. Gilman, Paralegal
jsg1@nrc.gov
Daniel W. Lenehan, Esq.
dwl2@nrc.gov
Andrea L. Silvia, Esq.
alc1@nrc.gov
Mitzi A. Young, Esq.
may@nrc.gov
Marian L. Zabler, Esq.
mlz@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
Jocelyn M. Gutierrez, Esq.
jocelyn.gutierrez@ymp.gov
George W. Hellstrom, Esq.
george.hellstrom@ymp.gov
Josephine L. Sommer, Paralegal
josephine.sommer@ymp.gov

U.S. DEPARTMENT OF ENERGY (High Level Waste Repository) Docket No. 63-001-HLW
ORDER (Denying Motion to Compel and Motion to Correct Logs)

For U.S. Department of Energy
USA-Repository Services LLC
Yucca Mountain Project Licensing Group
1160 N. Town Center Drive, Suite 240
Las Vegas, NV 89144
Stephen J. Cereghino, Licensing/Nucl Safety
stephen_cereghino@ymp.gov
Jeffrey Kriner, Regulatory Programs
jeffrey_kriner@ymp.gov

For U.S. Department of Energy
USA-Repository Services LLC
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

For U.S. Department of Energy
Talisman International, LLC
1000 Potomac St., NW, Suite 300
Washington, DC 20007
Patricia Larimore, Senior Paralegal
plarimore@talisman-intl.com

Counsel for 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, Esq.
lcshedrik@morganlewis.com
Jay M. Gutierrez, Esq.
jgutierrez@morganlewis.com
Charles B. Moldenhauer, Esq.
cmoldenhauer@morganlewis.com
Brian P. Oldham, Esq.
boldham@morganlewis.com
Thomas D. Poindexter, Esq.
tpoindexter@morganlewis.com
Alex S. Polonsky, Esq.
apolonsky@morganlewis.com
Thomas A. Schmutz, Esq.
tschmutz@morganlewis.com
Donald J. Silverman, Esq.
dsilverman@morganlewis.com
Shannon Staton, Legal Secretary
ssstaton@morganlewis.com
Annette M. White, Esq.
Annette.white@morganlewis.com
Paul J. Zaffuts, Esq.
pzaffuts@morganlewis.com

Counsel for U.S. Department of Energy
Hunton & Williams LLP
Riverfront Plaza, East Tower
951 East Byrd Street
Richmond, VA 23219
Kelly L. Faglioni, Esq.
kfaglioni@hunton.com
Donald P. Irwin, Esq.
dirwin@hunton.com
Stephanie Meharg, Paralegal
smeharg@hunton.com
Michael R. Shebelskie, Esq.
mshebelskie@hunton.com
Belinda A. Wright, Sr. Professional Assistant
bwright@hunton.com

U.S. DEPARTMENT OF ENERGY (High Level Waste Repository) Docket No. 63-001-HLW
ORDER (Denying Motion to Compel and Motion to Correct Logs)

Counsel for State of Nevada
Egan, Fitzpatrick, Malsch & Lawrence, PLLC
1750 K Street, NW, Suite 350
Washington, DC 20006
Martin G. Malsch, Esq.
mmalsch@nuclearlawyer.com
Susan Montesi:
smontesi@nuclearlawyer.com

Counsel for State of Nevada
Egan, Fitzpatrick, Malsch & Lawrence, PLLC
12500 San Pedro Avenue, Suite 555
San Antonio, TX 78216
Laurie Borski, Paralegal
lborski@nuclearlawyer.com
Charles J. Fitzpatrick, Esq.
cfitzpatrick@nuclearlawyer.com
John W. Lawrence, Esq.
jlawrence@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
szeeee@nuc.state.nv.us

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
1100 S. Tenth Street
Las Vegas, NV 89017
Annie Bailey, Legal Assistant
baileys@lcturbonet.com
Eric Hinckley, Law Clerk
erichinckley@yahoo.com
Bret Whipple, Esq.
bretwhipple@nomademail.com

Lincoln County District Attorney
P. O. Box 60
Pioche, NV 89403
Gregory Barlow, Esq.
lcd@lcturbonet.com

Lincoln County Nuclear Oversight Program
P.O. Box 1068
Caliente, NV 89008
Connie Simkins, Coordinator
jcciac@co.lincoln.nv.us

For Lincoln County, Nevada
Intertech Services Corporation
PO Box 2008
Carson City, NV 89702
Mike Baughman, Consultant
bigboff@aol.com

Counsel for Nye County, Nevada
Ackerman Senterfitt
801 Pennsylvania Avenue, NW, #600
Washington, DC 20004
Robert Andersen, Esq.
robert.andersen@akerman.com

Counsel for Nye County, Nevada
530 Farrington Court
Las Vegas, NV 89123
Jeffrey VanNiel, Esq.
nbrjdv@gmail.com

U.S. DEPARTMENT OF ENERGY (High Level Waste Repository) Docket No. 63-001-HLW
ORDER (Denying Motion to Compel and Motion to Correct Logs)

Nye County Regulatory/Licensing Advisor
18160 Cottonwood Rd. #265
Sunriver, OR 97707
Malachy Murphy, Esq.
mmurphy@chamberscable.com

Nye County Nuclear Waste Repository Project
Office (NWRPO)
1210 E. Basin Road, #6
Pahrump, NV 89060
Zoie Choate, Secretary
zchoate@co.nye.nv.us
Sherry Dudley, Admin. Technical Coordinator
sdudley@co.nye.nv.us

Clark County, Nevada
500 S. Grand Central Parkway
Las Vegas, NV 98155
Phil Klevorick, Sr. Mgmt Analyst
klevorick@co.clark.nv.us
Elizabeth A. Vibert, Deputy District Attorney
Elizabeth.Vibert@ccdανv.com

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 Belte, Legal Secretary
ebelete@jsslaw.com
Alan I. Robbins, Esq.
arobbins@jsslaw.com
Debra D. Roby, Esq.
droby@jsslaw.com

Eureka County, Nevada
Office of the District Attorney
701 S. Main Street, Box 190
Eureka, NV 89316-0190
Theodore Beutel, District Attorney
tbeutel.ecda@eurekanv.org

Counsel for Eureka County, Nevada
Harmon, Curran, Spielberg & 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

Eureka County Public Works
PO Box 714
Eureka, NV 89316
Ronald Damele, Director
rdamele@eurekanv.org

Nuclear Waste Advisory for Eureka
County, Nevada
1983 Maison Way
Carson City, NV 89703
Abigail Johnson, Consultant
eurekanrc@gmail.com

For Eureka County, Nevada
NWOP Consulting, Inc.
1705 Wildcat Lane
Ogden, UT 84403
Loreen Pitchford, Consultant
lpitchford@comcast.net

U.S. DEPARTMENT OF ENERGY (High Level Waste Repository) Docket No. 63-001-HLW
ORDER (Denying Motion to Compel and Motion to Correct Logs)

Counsel for Churchill, Esmeralda, Lander,
and Mineral Counties, Nevada
Armstrong Teasdale, LLP
1975 Village Center Circle, Suite 140
Las Vegas, NV 89134-6237
Jennifer A. Gores, Esq.
jgores@armstrongteasdale.com
Robert F. List, Esq.
rlist@armstrongteasdale.com

Esmeralda County Repository Oversight Program-
Yucca Mountain Project
PO Box 490
Goldfield, NV 89013
Edwin Mueller, Director
muellered@msn.com

Mineral County Nuclear Projects Office
P.O. Box 1600
Hawthorne, NV 89415
Linda Mathias, Director
yuccainfo@mineralcountynv.org

For City of Caliente, Lincoln County, and
White Pine County, Nevada
P.O. Box 126
Caliente, NV 89008
Jason Pitts, LSN Administrator
jayson@idtservices.com

White Pine County, Nevada
Office of the District Attorney
801 Clark Street, #3
Ely, NV 89301
Richard Sears, District Attorney
rwsears@wpcda.org

White Pine County Nuclear Waste Project Office
959 Campton Street
Ely, NV 89301
Mike Simon, Director
wpnucwst1@mwpower.net

For White Pine County, Nevada
Intertech Services Corporation
PO Box 2008
Carson City, NV 89702
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.
johnhhuston@gmail.com

Counsel for Inyo County, California
Berger, Silverman & Gephart
233 E. Carrillo Street, Suite B
Santa Barbara, CA 93101
Michael Berger, Esq.
mberger@bsglaw.net
Robert Hanna, Esq.
rshanna@bsglaw.net

Counsel for Inyo County, California
Greg James, Attorney at Law
710 Autumn Leaves Circle
Bishop, CA 93514
E-Mail: gjames@earthlink.net

Inyo County Yucca Mountain Repository
Assessment Office
P. O. Box 367
Independence, CA 93526-0367
Alisa M. Lembke, Project Analyst
alembke@inyocounty.us

U.S. DEPARTMENT OF ENERGY (High Level Waste Repository) Docket No. 63-001-HLW
ORDER (Denying Motion to Compel and Motion to Correct Logs)

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
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 Department of Justice
300 S. Spring Street, Suite 1702
Los Angeles, CA 90013
Brian Hembacher, Deputy Attorney General
brian.hembacher@doj.ca.gov

California Energy Commission
1516 Ninth Street
Sacramento, CA 95814
Kevin, W. Bell, Senior Staff Counsel
kwbell@energy.state.ca.us

Nuclear Energy Institute
Office of the General Counsel
1776 I Street, NW Suite 400
Washington, DC 20006-3708
Michael A. Bauser, Esq.
mab@nei.org
Anne W. Cottingham, Esq.
awc@nei.org
Ellen C. Ginsberg, Esq.
ecg@nei.org

Counsel for 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 Nuclear Energy Institute
Winston & Strawn LLP
1700 K Street, N.W.
Washington, DC 20006-3817
William A. Horin, Esq.
whorin@winston.com
Rachel Miras-Wilson, Esq.
rwilson@winston.com
David A. Repka, Esq.
drepka@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

Counsel for Native Community Action Council
Alexander, Berkey, Williams & Weathers LLP
2030 Addison Street, Suite 410
Berkeley, CA 94704
Curtis G. Berkey, Esq.
cberkey@abwwlaw.com
Rovianne A. Leigh, Esq.
rleigh@abwwlaw.com
Scott W. Williams, Esq.
swilliams@abwwlaw.com

U.S. DEPARTMENT OF ENERGY (High Level Waste Repository) Docket No. 63-001-HLW
ORDER (Denying Motion to Compel and Motion to Correct Logs)

For Joint Timbisha Shoshone Tribal Group
3560 Savoy Boulevard
Pahrump, NV 89601
Joe Kennedy, Executive Director
joekennedy08@live.com
Tameka Vazquez, Bookkeeper
purpose_driven12@yahoo.com

Counsel for Joint Timbisha Shoshone Tribal Group
Fredericks, Peebles, & Morgan LLP
1001 Second St.
Sacramento, CA 95814
Felicia M. Brooks, Data Administrator
fbrooks@ndnlaw.com
Ross D. Colburn, Law Clerk
rcolburn@ndnlaw.com
Sally Eredia, Legal Secretary
seredia@ndnlaw.com
Darcie L. Houck, Esq.
dhouck@ndnlaw.com
Brian Niegemann, Office Manager
bniegemann@ndnlaw.com
John M. Peebles, Esq.
jpeebles@ndnlaw.com
Robert Rhoan, Esq.
rrhoan@ndnlaw.com

Counsel for Joint Timbisha Shoshone Tribal Group
Godfrey & Kahn, S.C.
One East Main Street, Suite 500
P. O. Box 2719
Madison, WI 53701-2719
Julie Dobie, Legal Secretary
jdobie@gklaw.com
Steven A. Heinzen, Esq.
sheinzen@gklaw.com
Douglas M. Poland, Esq.
dpoland@gklaw.com
Hannah L. Renfro, Esq.
hrenfro@gklaw.com
Jacqueline Schwartz, Paralegal
jschwartz@gklaw.com

Counsel for Joint Timbisha Shoshone Tribal Group
Godfrey & Kahn, S.C.
780 N. Water Street
Milwaukee, WI 53202
Arthur J. Harrington, Esq.
aharrington@gklaw.com

[Original Signed by R. Giitter]
Office of the Secretary of the Commission

Dated at Rockville, Maryland
this 7th day of October 2009