

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	Docket No. 63-001-HLW
)	
U.S. DEPARTMENT OF ENERGY)	ASLBP No. 09-892-HLW-CAB04
)	
(High-Level Waste Repository))	
)	

November 30, 2009

**NOTICE OF UPDATE OF THE COUNTY OF INYO
DELIBERATIVE PROCESS PRIVILEGE LOG**

The County of Inyo hereby files the attached supplement to its Deliberative Process Privilege Log which updates the log by adding two documents to the single document originally included in the log.

Dated: November 30, 2009

/Signed (electronically) by/

Greg James
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County Of Inyo Primary Privilege Log
Date: November 30, 2009
Deliberative Process Privilege Log

1	LSN header/accession number	iny378
2	The date the document was created	August 10, 2009
3	Title of the document	Untitled letter, dated August 10, 2009, from John Bredehoeft, PhD, principal of the Hydrodynamics Group to Greg James, Attorney for the County of Inyo
4	Description of the subject matter of the document	Preliminary review of the hydrological aspects of the U.S. Department of Energy's "Analysis of Postclosure Groundwater Impacts for a Geologic Repository for the Disposal of Spent Nuclear Fuel and High-Level Radioactive Waste at Yucca Mountain, Nye County, Nevada." ("Analysis of Postclosure Groundwater Impacts")
5	The name, job title or capacity, and the employers of the author(s) of the document	The author of the letter is John Bredehoeft, PhD, who is a principal in a firm known as The HydroDynamics Group. The HydroDynamics Group is employed by the County of Inyo to conduct hydrological studies in the Yucca Mountain area, to provide advice and analysis of the potential impacts of the proposed repository on groundwater, to assist the County in determining whether new or amended contentions concerning groundwater should be filed, to assist the County in the preparation of any such contentions, and to provide expert advice and testimony on the County's existing groundwater contentions.
6	The name, job title or capacity, and employer of all named recipients of the document and any other persons who received or were sent (e.g, forwarded an email string) a copy of the document (excluding clerical support staff).	The recipient of the August 10, 2009 letter was Greg James, Attorney for the County of Inyo. The only other persons who received a copy of the letter were Michael Berger and Robert Hanna who are also attorneys for the County of Inyo. Greg James provided a copy of the letter to Michael Berger and Michael Berger provided a copy of the document to Robert Hanna.
7	The relationship between the persons listed in response to question 5 and the persons listed in response to question 6.	John Bredehoeft, and others at The HydroDynamics Group, in their capacity as advisors to the County of Inyo provide information for the County's consideration regarding new or amended contentions and in their capacity as an expert on the County's existing groundwater contentions, provide services to the County under the direction of Greg James, Attorney for the County of Inyo.
8	The name, job title or capacity, and organizational position of the senior official who made the determination that the document meets the requirements of the deliberative process privilege.	Greg James, Attorney for the County of Inyo.
9	The specific decision, potential decision, or decision-making process to which the document relates and, if a decision has been made, the date of the decision.	The document relates to the considerations of the County of Inyo whether or not to file new or amended contentions arising from DOE's Analysis of Postclosure Groundwater Impacts. The County of Inyo has not as yet decided whether or not to file such new or amended contentions.

10	A specific explanation why the document is deliberative.	The document provides information for consideration by the County of Inyo's attorneys regarding the adequacy and the inadequacy of the Analysis of Postclosure Groundwater Impacts which is essential to the County's consideration regarding file new or amended contentions based upon the information in Analysis of Postclosure Groundwater Impacts.
11	An affirmation that the document is not a "circulated draft", see 10 C.F.R. §§ 2.1001, 2.1006(c).	This document has been reviewed and determined not to be a "circulated draft" as that term is defined in 10 C.F.R. 2.1001. The document is not a nonfinal document circulated for supervisory concurrence or signature in which the original author or others in the concurrence process have non-concurred. The document is not a draft that will become a final document.
12	A specific explanation why any factual information in the document cannot be segregated.	The single page letter provides information to the County's attorney that pertains to the County's considerations regarding new or amended contentions based upon the Analysis of Postclosure Groundwater Impacts. This document cannot be redacted because any factual information contained therein is so interwoven with the privileged information that disclosure of the factual information necessarily would result in disclosure of the privileged information. The document is part of the County's decision making process. Disclosure of its contents would reveal potential positions that County has under consideration, and comparison of the document with the County's final positions would allow reconstruction of County's deliberations.
13	Type of document (e.g., internal memorandum, e-mail, handwritten notes).	The document was transmitted as an attachment to an email from John Bredehoeft, PhD to Greg James, attorney for the County of Inyo.
14	Identification of all other privileges or protections claimed for the document.	None

County of Inyo Deliberative Process Log--November 30, 2009

1	LSN header/accession number	iny385
2	The date the document was created	August 24, 2009
3	Title of the document	Memorandum dated August 24, 2009, from John Bredehoeft, PhD, principal of the Hydrodynamics Group to Greg James, Attorney for the County of Inyo
4	Description of the subject matter of the document	Comments on the hydrological aspects of the U.S. Department of Energy's "Analysis of Postclosure Groundwater Impacts for a Geologic Repository for the Disposal of Spent Nuclear Fuel and High-Level Radioactive Waste at Yucca Mountain, Nye County, Nevada." ("Analysis of Postclosure Groundwater Impacts")
5	The name, job title or capacity, and the employers of the author(s) of the document	The author of the letter is John Bredehoeft, PhD, who is a principal in a firm known as The HydroDynamics Group. The HydroDynamics Group is employed by the County of Inyo to conduct hydrological studies in the Yucca Mountain area, to provide advice and analysis of the potential impacts of the proposed repository on groundwater, to assist the County in determining whether new or amended contentions concerning groundwater should be filed, to assist the County in the preparation of any such contentions, and to provide expert advice and testimony on the County's existing groundwater contentions.
6	The name, job title or capacity, and employer of all named recipients of the document and any other persons who received or were sent (e.g, forwarded an email string) a copy of the document (excluding clerical support staff).	The recipient of the August 24, 2009 letter was Greg James, Attorney for the County of Inyo. The only other persons who received a copy of the letter were Michael Berger and Robert Hanna who are also attorneys for the County of Inyo. Greg James provided a copy of the letter to Michael Berger and Michael Berger provided a copy of the document to Robert Hanna.
7	The relationship between the persons listed in response to question 5 and the persons listed in response to question 6.	John Bredehoeft, and others at The HydroDynamics Group, in their capacity as advisors to the County of Inyo provide information for the County's consideration regarding new or amended contentions and in their capacity as an expert on the County's existing groundwater contentions, provide services to the County under the direction of Greg James, Attorney for the County of Inyo.
8	The name, job title or capacity, and organizational position of the senior official who made the determination that the document meets the requirements of the deliberative process privilege.	Greg James, Attorney for the County of Inyo.
9	The specific decision, potential decision, or decision-making process to which the document relates and, if a decision has been made, the date of the decision.	The document relates to the considerations of the County of Inyo whether or not to file new or amended contentions arising from DOE's Analysis of Postclosure Groundwater Impacts. The County of Inyo has not as yet decided whether or not to file such new or amended contentions.
10	A specific explanation why the document is deliberative.	The document provides information for consideration by the County of Inyo's attorneys regarding the adequacy and the inadequacy of the Analysis of Postclosure Groundwater Impacts which is essential to the County's consideration regarding file new or amended contentions based upon the information in Analysis of Postclosure Groundwater Impacts.

11	An affirmation that the document is not a "circulated draft", see 10 C.F.R. §§ 2.1001, 2.1006(c).	This document has been reviewed and determined not to be a "circulated draft" as that term is defined in 10 C.F.R. 2.1001. The document is not a nonfinal document circulated for supervisory concurrence or signature in which the original author or others in the concurrence process have non-concurred. The document is not a draft that will become a final document.
12	A specific explanation why any factual information in the document cannot be segregated.	The three-page memorandum provides information to the County's attorney that pertains to the County's considerations regarding new or amended contentions based upon the Analysis of Postclosure Groundwater Impacts. This document cannot be redacted because any factual information contained therein is so interwoven with the privileged information that disclosure of the factual information necessarily would result in disclosure of the privileged information. The document is part of the County's decision making process. Disclosure of its contents would reveal potential positions that County has under consideration, and comparison of the document with the County's final positions would allow reconstruction of County's deliberations.
13	Type of document (e.g., internal memorandum, e-mail, handwritten notes).	The document was transmitted as an attachment to an email from John Bredehoeft, PhD to Greg James, attorney for the County of Inyo.
14	Identification of all other privileges or protections claimed for the document.	None

County of Inyo Deliberative Process Log--November 30, 2009

1	LSN header/accession number	iny386
2	The date the document was created	September 15, 2009
3	Title of the document	Memorandum dated August 24, 2009, from Bob Harrington, PhD, Director of the Inyo County Water Department to Greg James, Attorney for the County of Inyo, Alisa Lembke, Inyo County Yucca Mountain Assessment Office and Mike Conklin, Inyo County Planning Department
4	Description of the subject matter of the document	Review of the hydrological aspects of the U.S. Department of Energy's "Analysis of Postclosure Groundwater Impacts for a Geologic Repository for the Disposal of Spent Nuclear Fuel and High-Level Radioactive Waste at Yucca Mountain, Nye County, Nevada." ("Analysis of Postclosure Groundwater Impacts")
5	The name, job title or capacity, and the employers of the author(s) of the document	The author of the letter is Bob Harrington, PhD, Director of the Inyo County Water Department. The Inyo County Water Department reviews hydrological studies in the Yucca Mountain area, provides advice and analysis of the potential impacts of the proposed repository on groundwater, assists the County in determining whether new or amended contentions concerning groundwater should be filed, and assists the County in the preparation of any such contentions.
6	The name, job title or capacity, and employer of all named recipients of the document and any other persons who received or were sent (e.g, forwarded an email string) a copy of the document (excluding clerical support staff).	The recipients of the September 15, 2009 letter were Greg James, Attorney for the County of Inyo, Alisa Lembke, Project Analyst in the County of Inyo's Yucca Mountain Assessment Office and Mike Conklin, Director of the Inyo County Planning Department (the County's Yucca Mountain Assessment Office is a part of the County's Planning Department). The only other persons who received a copy of the letter were Michael Berger and Robert Hanna who are also attorneys for the County of Inyo. Greg James provided a copy of the letter to Michael Berger and Michael Berger provided a copy of the document to Robert Hanna.
7	The relationship between the persons listed in response to question 5 and the persons listed in response to question 6.	Bob Harrington, in his capacity as an advisor to the County of Inyo provides information for the County's consideration regarding new or amended contentions and provide related services to the County under the direction of Greg James, Attorney for the County of Inyo.
8	The name, job title or capacity, and organizational position of the senior official who made the determination that the document meets the requirements of the deliberative process privilege.	Greg James, Attorney for the County of Inyo.
9	The specific decision, potential decision, or decision-making process to which the document relates and, if a decision has been made, the date of the decision.	The document relates to the considerations of the County of Inyo whether or not to file new or amended contentions arising from DOE's Analysis of Postclosure Groundwater Impacts. The County of Inyo has not as yet decided whether or not to file such new or amended contentions.
10	A specific explanation why the document is deliberative.	The document provides information for consideration by the County of Inyo's attorneys regarding the adequacy and the inadequacy of the Analysis of Postclosure Groundwater Impacts which is essential to the County's consideration regarding file new or amended contentions based upon the information in Analysis of Postclosure Groundwater Impacts.

11	An affirmation that the document is not a "circulated draft", see 10 C.F.R. §§ 2.1001, 2.1006(c).	This document has been reviewed and determined not to be a "circulated draft" as that term is defined in 10 C.F.R. 2.1001. The document is not a nonfinal document circulated for supervisory concurrence or signature in which the original author or others in the concurrence process have non-concurred. <u>The document is not a draft that will become a final document.</u>
12	A specific explanation why any factual information in the document cannot be segregated.	The three-page memorandum provides information to the County's attorney that pertains to the County's considerations regarding new or amended contentions based upon the Analysis of Postclosure Groundwater Impacts. This document cannot be redacted because any factual information contained therein is so interwoven with the privileged information that disclosure of the factual information necessarily would result in disclosure of the privileged information. The document is part of the County's decision making process. Disclosure of its contents would reveal potential positions that County has under consideration, and comparison of the document with the County's final positions would allow reconstruction of County's deliberations.
13	Type of document (e.g., internal memorandum, e-mail, handwritten notes).	The document was transmitted as an attachment to an email from Bob Harrington to Greg James, attorney for the County of Inyo, Alisa Lembke, Inyo County Yucca Mountain Assessment Office and Mike Conklin, Inyo County Planning Department.
14	Identification of all other privileges or protections claimed for the document.	None

**CERTIFICATE OF COUNSEL
PURSUANT TO 10 C.F.R. § 2.705(g)**

I hereby certify that that, to the best of my knowledge, information, and belief, formed after reasonable inquiry, that the information on the County of Inyo Deliberative Process Privilege Log dated November 30, 2009, and the claimed privilege for each document is, inter alia, correct and consistent with the requirements of the Revised Second Case Management Order dated July 6, 2007.

Dated: November 30, 2009

/Signed (electronically) by/

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**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	Docket No.	63-001-HLW
)		
U.S. DEPARTMENT OF ENERGY)	ASLBP No.	09-892-HLW-CAB04
)		
(High-Level Waste Repository))		
)		

CERTIFICATE OF SERVICE

I hereby certify that copies of the **COUNTY OF INYO'S NOTICE OF UPDATE OF ITS DELIBERATIVE PROCESS PRIVILEGE LOG AND UPDATED DELIBERATIVE PROCESS PRIVILEGE LOG** in the above-captioned proceeding have been served on the following persons this 30th day of November, 2009, by Electronic Information Exchange.

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Dated: November 30, 2009

/Signed (electronically) by/

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