

**From:** Moore, Thomas  
**Sent:** Monday, January 04, 2010 12:19 PM  
**To:** Julian, Emile  
**Cc:** Ryerson, Paul; Wardwell, Richard  
**Subject:** FW: ASLB Order Dated December 22, 2009

Please place this e-mail in the appropriate portion of public docket of the High Level Waste Proceeding as a limited appearance statement under 10 C.F.R. §2.315. Thank you.

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**From:** ddarling@att.net [mailto:ddarling@att.net]  
**Sent:** Thursday, December 31, 2009 11:12 PM  
**To:** Moore, Thomas  
**Subject:** ASLB Order Dated December 22, 2009

December 31, 2009

Dear Mr. Moore,

I read with interest the ASLB response to the LSN Administrator's concerns that if the DOE were to withdraw the license application, then any terms for such withdrawal would be subject to 10 CFR 2.107. However, unlike commercial nuclear licensees, the Yucca Mountain Project is also governed by the Nuclear Waste Policy Act (NWPA) which has requirements for the Congress, the Secretary of Energy, the President, the Governor of Nevada, and the Nuclear Regulatory Commission (NRC) of which the ASLB is part. The NWPA specifically requires that the NRC shall review the license application once Congress has determined that the site is suitable and a license application is submitted by the DOE.

Only during site characterization can the Secretary of Energy determine that the site is unsuitable and end the project. The NWPA does not appear to have any provision for the DOE to withdraw a license application at this part of the process. Instead, the NWPA requires the NRC to determine if the license application meets regulatory requirements for construction authorization. It would appear that only Congress can now terminate the license application. Why then does the ASLB response to the LSN administrator presume that withdrawal of the license application is even allowed much less only governed by 10 CFR 2.107?

I hope that the ASLB will take complete independent ownership of its legal duties and complies with the NWPA as well as other federal laws whose enforcement should be above political influence. This is essential to maintain the technical integrity of the NRC and the trust of the public.

Sincerely,

David Darling  
817 Colina Alta Place  
Las Vegas, NV 89138

N.B.: These comments are as a private citizen and reflect no opinions of anyone but myself as a private citizen.