

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

BEFORE THE COMMISSION

In the Matter of	)	Docket No. 63-001-HLW
	)	
U.S. DEPARTMENT OF ENERGY	)	ASLBP NO. 09-892-HLW-CAB04
	)	
(High-Level Waste Repository)	)	June 22, 2010

**WHITE PINE COUNTY’S RESPONSE TO STATE OF
NEVADA’S PETITION FOR RELIEF WITH RESPECT TO POSSIBLE
ISSUANCE OF A PARTIAL SAFETY EVALUATION REPORT**

On June 14, 2010, the State of Nevada petitioned the Commission (“Petition”) to order an immediate suspension of NRC Staff’s (“Staff”) work on Safety Evaluation Report (SER) Volume 3 until there is a final Commission decision on DOE’s March 3, 2009 motion to withdraw its license application. The Commission should reject Nevada’s call for immediate suspension or termination of the Staff’s SER work but should grant Nevada’s request for the Commission to direct the presiding Atomic Safety and Licensing Board (CAB-04) to issue an order on each of the ten pending legal issues raised by Nevada. In addition, White Pine County believes that all legal contentions filed in this proceeding which have been briefed and are ready for ASLB resolution should be included in any such order issued by the Commission.

Nevada assumes that Staff, following informal consultation with the Commission, will ultimately decide to issue SER Volume 3 even if DOE’s application is finally withdrawn. If correct, there is no reason for the Commission, in advance of a final ruling on DOE’s motion allowing it to withdraw its application, to issue an order directing Staff to suspend or terminate work on SER Volume 3. If Nevada’s assumption is wrong and Staff would not seek to issue SER

Volume 3 following a final ruling on DOE's motion, then the relief requested by Nevada is not needed. In any case, it appears Nevada's petition is untimely.

White Pine County is particularly concerned that the preferred relief requested by Nevada would require the Commission to support Nevada's attempt to suppress Staff's evaluation of the safety of the Yucca Mountain project from public review. White Pine County and its residents depend upon NRC to protect public health and safety in a manner which relies upon adjudication of technical and legal information, not politics. If the public perceives that the Commission has become subject to the same political decision-making driving the DOE's efforts to terminate the Yucca Mountain project, White Pine County residents will lose confidence in the ability of NRC to protect public health and safety. Nevada's call for immediate suspension or termination of the Staff's SER work should be rejected by the Commission.

However

, the County believes that Nevada's assertion that the outcome of its legal contentions should be considered by Staff as it completes SER Volume 3 has merit. In fact, White Pine County believes that Staff should consider all legal contentions filed in this proceeding which have been briefed and are therefore ready for resolution as SER Volume 3 is completed. Accordingly, White Pine County agrees with Nevada's request for the Commission to direct the presiding Atomic Safety and Licensing Board (CAB-04) to prepare a brief opinion on each of the ten pending legal issues raised by Nevada. In addition, White Pine County believes that all legal contentions (including Nevada's) filed in this proceeding which have been briefed and are ready for ASLB resolution should be included in any such order issued by the Commission.

Respectfully submitted,

Signed electronically by

Richard W. Sears

Nevada Bar No. 5489

District Attorney

White Pine County, Nevada

801 Clark Street

Ely, Nevada 89301

Telephone: (775) 289-8828

Fax: (775) 289-1451

E-mail: rwsears@wpcda.org

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
BEFORE THE PRE-LICENSE APPLICATION PRESIDING BOARD

In the Matter of	)	
	)	
U.S. DEPARTMENT OF ENERGY	)	Docket No. 63-001
	)	
	)	ASLBP No. 09-892-HLW-CAB-04
(High-Level Waste Repository:	)	
Pre-Application Matters)	)	
	)	
	)	
_____	)	June 22, 2010

CERTIFICATE OF SERVICE

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

CAB 04
Thomas S. Moore, Chair
Administrative Judge
E-mail: tsm2@nrc.gov
Paul S. Ryerson
Administrative Judge
E-mail: psr1@nrc.gov
Richard E. Wardwell
Administrative Judge
E-mail: rew@nrc.gov

Anthony C. Eitrem, Esq., Chief Counsel
Email: ace1@nrc.gov
Daniel J. Graser, LSN Administrator
Email: djg2@nrc.gov
Lauren Bregman
Email: lrb1@nrc.gov
Sara Culler

Email: sara.culler@nrc.gov
Joseph Deucher
Email: jhd@nrc.gov
Patricia Harich
Email: patricia.harich@nrc.gov
Zachary Kahn
Email: zxk1@nrc.gov
Erica LaPlante
Email: eal1@nrc.gov
Matthew Rotman
Email: matthew.rotman@nrc.gov
Andrew Welkie
Email: axw5@nrc.gov
Jack Whetstone
Email: jgw@nrc.gov

U.S. Nuclear Regulatory Commission
Office of the Secretary of the Commission
Mail Stop - O-16 C1
Washington, DC 20555-0001
Hearing Docket
Email: hearingdocket@nrc.gov
Andrew L. Bates

Email: alb@nrc.gov

Adria T. Byrdsong

Email: atb1@nrc.gov

Emile L. Julian, Esq.

Email: elj@nrc.gov

Evangeline S. Ngbea

Email: esn@nrc.gov

Rebecca L. Giitter

Email: rll@nrc.gov

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

U.S. Nuclear Regulatory Commission
Office of the General Counsel
Mail Stop - O-15 D21
Washington, DC 20555-0001
Mitzi A. Young, Esq.
Email: may@nrc.gov
Marian L. Zobler, Esq.
Email: mlz@nrc.gov
Andrea L. Silvia, Esq.
Email: alc1@nrc.gov
Daniel Lenehan, Esq.
Email: dwl2@nrc.gov
Margaret J. Bupp, Esq.
Email: mjb5@nrc.gov
Adam S. Gendelman
Email: Adam.Gendelman@nrc.gov
Joseph S. Gilman, Paralegal
Email: jsg1@nrc.gov
Karin Francis, Paralegal
Email: kfx4@nrc.gov
OGCMailCenter
Email: OGCMailCenter@nrc.gov

Hunton & Williams LLP
Counsel for the U.S. Department of Energy
Riverfront Plaza, East Tower
951 East Byrd Street
Richmond, VA 23219
Kelly L. Faglioni, Esq.

Email: kfaglioni@hunton.com

Donald P. Irwin, Esq.

Email: dirwin@hunton.com

Michael R. Shebelskie, Esq.

Email: mshebelskie@hunton.com

Pat Slayton

Email: pslayton@hunton.com

U.S. Department Of Energy
Office of General Counsel
1551 Hillshire Drive
Las Vegas, NV 89134-6321
George W. Hellstrom
Email: george.hellstrom@ymp.gov

U.S. Department of Energy
Office of General Counsel
1000 Independence Avenue, S.W.
Washington, DC 20585
Martha S. Crosland, Esq.
Email: martha.crosland@hq.doe.gov
Nicholas P. DiNunzio, Esq.
Email: nick.dinunziok@rw.doe.gov
James Bennett McRae
Email: ben.mcrae@hq.doe.gov
Mary B. Neumayr, Esq.
Email: mary.neumayr@hq.doe.gov
Christina C. Pak, Esq.
Email: christina.pak@hq.doe.gov

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

Yucca Mountain Project, Licensing Group,
DOE/BSC
1251 Center Crossing Road, M/S 423
Las Vegas, NV 89144
Jeffrey Kriner, Regulatory Programs
Email: jeffrey.kriner@ymp.gov

Stephen J. Cereghino, Licensing/Nucl Safety
Email: stephen_cereghino@ymp.gov

Yucca Mountain Project, Licensing Group,
DOE/BSC
6000 Executive Blvd., Suite 608
North Bethesda, MD 20852
Edward Borella, Sr Staff,
Licensing/Nuclear Safety
Email: edward_borella@ymp.gov
Danny R. Howard, Sr. Licensing Engineer
Email: danny_howard@ymp.gov

U.S. Department of Energy
Office of Civilian Radioactive Waste Mgmt
Office of Repository Development
1551 Hillshire Drive
Las Vegas, NV 89134-6321
Timothy C. Gunter
Email: timothy_gunter@ymp.gov

U.S. Department of Energy
1000 Independence Avenue, S.W.
Washington, DC 20585
Eric Knox, Associate Director, Systems
Operations and External Relations,
OCRWM
Email: eric.knox@hq.doe.gov
Dong Kim, LSN Project Manager, OCRWM
Email: dong.kim@rw.doe.gov

Morgan, Lewis, Bockius LLP
1111 Pennsylvania Ave., NW
Washington, DC 20004
Lewis Csedrik, Esq.
Email: lcshedrik@morganlewis.com
Jay Gutierrez, Esq.
Email: jgutierrez@morganlewis.com
Charles B. Moldenhauer, Associate
Email: cmoldenhauer@morganlewis.com
Brian P. Oldham, Esq.
Email: boldham@morganlewis.com
Thomas Poindexter, Esq.
Email: tpoindexter@morganlewis.com
Alex S. Polonsky, Esq.
Email: apolonsky@morganlewis.com

Thomas A. Schmutz, Esq.
Email: tschmutz@morganlewis.com

Donald Silverman, Esq.
Email: dsilverman@morganlewis.com
Annette M. White, Associate
Email: c@morganlewis.com
Paul J. Zaffuts, Esq.
Email: pzaffuts@morganlewis.com
Clifford W. Cooper, Paralegal
Email: ccooper@morganlewis.com
Shannon Staton, Legal Secretary
Email: sstaton@morganlewis.com

Carter Ledyard & Milburn, LLP
Counsel for Lincoln County
1401 Eye Street, N.W., Suite 300
Washington, DC 20005
Barry S. Neuman, Esq.
Email: neuman@clm.com

Churchill, Esmeralda, Eureka, Mineral
and Lander Counties
1705 Wildcat Lane
Ogden, UT 84403
Loreen Pitchford, LSN Coordinator
for Lander County
Email: lpitchford@comcast.net

Robert List
Armstrong Teasdale LLP
1975 Village Center Circle, Suite 140
Las Vegas, NV 89134-62237
Email: rlist@armstrongteasdale.com

City of Las Vegas
400 Stewart Ave.
Las Vegas, NV 89101
Margaret Plaster, Management Analyst
Email: mplaster@LasVegasNevada.gov

Clark County Nuclear Waste Division
500 S. Grand Central Parkway
Las Vegas, NV 89155
Irene Navis
Email: iln@co.clark.nv.us

Engelbrecht von Tiesenhausen
Email: evt@co.clark.nv.us
Philip Klevorick
Email: klevorick@co.clark.nv.us

Nuclear Waste Project Office
1761 East College Parkway, Suite 118
Carson City, NV 89706
Bruce Breslow
Email: breslow@nuc.state.nv.us
Steve Frishman, Tech. Policy Coordinator
Email: steve.frishman@gmail.com

Eureka County and Lander County
Harmon, Curran, Speilberg & Eisenberg
1726 M. Street N.W., Suite 600
Washington, DC 20036
Diane Curran, Esq.
Email: dcurran@harmoncurran.com

Nevada Nuclear Waste Task Force
P.O. Box 26177
Las Vegas, NV 89126
Judy Treichel, Executive Director
Email: judynwtf@aol.com

Talisman International, LLC
1000 Potomac St., N.W., Suite 300
Washington, D.C. 20007
Patricia Larimore
Email: plarimore@talisman-intl.com

Nuclear Energy Institute
1776 I Street, NW, Suite 400
Washington, DC 20006-3708
Michael A. Bauser, Esq.
Associate General Counsel
Email: mab@nei.org
Anne W. Cottingham, Esq.
Email: awc@nei.org
Ellen C. Ginsberg, Esq.
Email: ecg@nei.org
Rod McCullum
Email: rxm@nei.org
Steven P. Kraft
Email: spk@nei.org

Jay E. Silberg
Email: jay.silberg@pillsburylaw.com
Timothy J.V. Walsh
Email: timothy.walsh@pillsburylaw.com

White Pine County
City of Caliente
Lincoln County
P.O. Box 126
Caliente, NV 89008
Jason Pitts
Email: jayson@idtservices.com

Nuclear Information and Resource Service
6930 Carroll Avenue, Suite 340
Takoma Park, MD 20912
Michael Mariotte, Executive Director
Email: nirsnet@nirs.org

Radioactive Waste Watchdog
Beyond Nuclear
6930 Carroll Avenue, Suite 400
Takoma Park, MD 20912
Kevin Kamps
Email: kevin@beyondnuclear.org

Abigail Johnson
612 West Telegraph Street
Carson City, NV 89703
Email: abbyj@gbis.com

National Congress of American Indians
1301 Connecticut Ave. NW - Second floor
Washington, DC 20036
Robert I. Holden, Director
Nuclear Waste Program
Email: robert_holden@ncai.org
Churchill County (NV)
155 North Taylor Street, Suite 182
Fallon, NV 89406
Alan Kalt
Email: comptroller@churchillcounty.org

Inyo County Water Department
Yucca Mtn Nuclear Waste
Repository Assessment Office

163 May St.
Bishop, CA 93514
Matt Gaffney, Project Associate
Email: mgaffney@inyoyucca.org

Mr. Pat Cecil
Inyo County Planning Director
P.O. Box L
Independence, CA 93526
Email: pcecil@inyocounty.us

Robert S. Hanna
233 E. Carrillo St., Suite B
Santa Barbara, CA 93101
Email: rhanna@bsglaw.net

Michael C. Berger
233 E. Carrillo St., Suite B
Santa Barbara, CA 93101
Email: mberger@bsglaw.net

Environmental Protection Agency
Ray Clark
Email: clark.ray@epa.gov

Nuclear Waste Technical Review Board
Joyce Dory
Email: dory@nwtrb.gov

Intertech Services Corporation
(for Lincoln County)
P.O. Box 2008
Carson City, NV 89702-2008
Dr. Mike Baughman
Email: bigboff@aol.com

Nye County Department of Natural
Resources & Federal Facilities
2101 E. Calvada Blvd., Suite 100
Pahrump, NV 89048
David Swanson
Email: dswanson@nyecounty.net

Lincoln County Nuclear Oversight Prgm
100 Depot Ave., Suite 15; P.O. Box 1068
Caliente, NV 89008-1068

Lea Rasura-Alfano, Coordinator
Email: jcciac@co.lincoln.nv.us

Nye County Regulatory/Licensing Adv.
18160 Cottonwood Rd. #265
Sunriver, OR 97707
Malachy Murphy
Email: mrmurphy@chamberscable.com

Mineral County Board of Commissioners
P.O. Box 1600
Hawthorne, NV 89415
Linda Mathias, Administrator
Office of Nuclear Projects
Email: yuccainfo@mineralcountynv.org

State of Nevada
100 N. Carson Street
Carson City, NV 89710
Marta Adams
Email: madams@ag.state.nv.us

White Pine County (NV) Nuclear
Waste Project Office
959 Campton Street
Ely, NV 89301
Mike Simon, Director
(Melanie Martinez, Senior Mgmt. Assist.)
Email: wpnucwst1@mwpower.net

Fredericks & Peebles, L.L.P.
1001 Second Street
Sacramento, CA 95814
916-441-2700
FAX 916-441-2067
Darcie L. Houck
Email: dhouck@ndnlaw.com

John M. Peebles
Email: jpeebles@ndnlaw.com
Joe Kennedy, Chairman
Email: chairman@timbisha.org
Barbara Durham
Tribal Historic Preservation Officer
Email: dvdurbarbara@netscape.com

Susan Durbin

Deputy Attorney General
California Department of Justice
1300 I St.
P.O. Box 944255
Sacramento, CA, 94244-2550
Email: susan.durbin@doj.ca.gov

Brian Hembacher
Deputy Attorney General
California Department of Justice
300 S. Spring St
Los Angeles, CA 90013
Email: brian.hembacher@doj.ca.gov

Timothy E. Sullivan
Deputy Attorney General
California Department of Justice
1515 Clay St., 20th Flr.
P.O. Box 70550
Oakland, CA 94612-0550
Email: timothy.sullivan@doj.ca.gov

Brian Wolfman
Public Citizen Litigation Group
1600 20th Street, N.W.
Washington, D.C. 20009

Kevin W. Bell
Senior Staff Counsel
California Energy Commission
1516 9th Street
Sacramento, CA 95814
Email: kwbell@energy.state.ca.us
Jeffrey D. VanNiel
530 Farrington Court
Las Vegas, NV 89123
Email: nbridvnr@gmail.com

Ethan I. Strell
Carter Ledyard & Milburn LLP
2 Wall Street
New York, NY 10005
Email: strell@clm.com

Jennings, Strouss & Salmon, PLC

1700 Pennsylvania Avenue, N.W., Suite 500
Washington DC 20006-4725
Alan I. Robbins
Email: arobbins@jsslw.com
Debra D. Roby
Email: droby@jsslw.com

Steven A. Heinzen
Godfrey & Kahn, S.C.
One East Main Street, Suite 500
P.O. Box 2719
Madison, WI 53701-2719
Email: sheinzen@gklaw.com

Douglas M. Poland
Godfrey & Kahn, S.C.
One East Main Street, Suite 500
P.O. Box 2719
Madison, WI 53701-2719
Email: dpoland@gklaw.com

Arthur J. Harrington
Godfrey & Kahn, S.C.
780 N. Water Street
Milwaukee, WI 53202
Email: aharring@gklaw.com

Gregory Barlow
P.O. Box 60
Pioche, NV 89043
Email: lcdalcturbonet.com

Connie Simkins
P.O. Box 1068
Caliente, NV 89008
Email: jcciac@co.lincoln.nv.us

Bret O. Whipple
1100 South Tenth Street
Las Vegas, NV 89104
Email: bretwhipple@nomademail.com

Richard Sears
801 Clark Street, Suite 3
Ely, NV 89301
Email: rwsears@wpcda.org

Alexander, Berkey, Williams & Weathers
2030 Addison Street, Suite 410
Berkeley, CA 94704
Curtis G. Berkey
Email: cberkey@abwwlaw.com
Scott W. Williams
Email: swilliams@abwwlaw.com
Rovianne A. Leigh
Email: rleigh@abwwlaw.com

Signed (electronically) by,
Richard W. Sears
Nevada Bar No. 5489
District Attorney
White Pine County, Nevada
801 Clark Street
Ely, Nevada 89301
Telephone: (775)289-8828
Fax: (775)289-1451
E-mail: rwsears@wpcda.org