

**UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION**

**Atomic Safety and Licensing Board**

**Before Administrative Judges:**

<b>ASLBP BOARD</b> 09-892-HLW-CAB04 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**

**April 25, 2011**

**STATE OF NEVADA'S NOTICE DUCES TECUM OF THE INTENTION  
TO TAKE THE ORAL DEPOSITION OF KEVIN COPPERSMITH**

PLEASE TAKE NOTICE that, pursuant to 10 C.F.R. 2.1019, the State of Nevada will take the deposition of Kevin Coppersmith, at 8:00 a.m., on Tuesday, the 28th day of June, 2011. The deposition will be conducted at the Marriott Walnut Creek, 2355 North Main Street, Walnut Creek, CA 94596 (925.934.2000). Kevin Coppersmith works at Coppersmith Consulting, Inc., which is located at 2121 North California Boulevard, #290, Walnut Creek, CA 94596 (925.974.3335). The deposition shall be upon oral examination before, and transcribed by, a duly authorized court reporter. The deposition will be transmitted to the Secretary of the United States Nuclear Regulatory Commission for entry in the electronic docket for this proceeding and may be used in evidence therein. The witness will be examined on the following matters, including such information in relation thereto as is reasonably calculated to lead to the discovery of admissible evidence:

1. NEVADA-SAFETY-164
2. NEVADA-SAFETY-165
3. NEVADA-SAFETY-166

## 4. NEVADA-SAFETY-167

Kevin Coppersmith shall produce those documents and materials at the time of his deposition, and ten days prior to his deposition, in the form and on the schedule prescribed in the attached Exhibit A which is incorporated herein for all purposes (10 C.F.R. 2.1019(i)). A copy of the transmittal letter associated with this notice to counsel for the Department of Energy is attached as Exhibit B.

Respectfully submitted,

*(signed electronically)*

Charles J. Fitzpatrick \*

Martin G. Malsch \*

John W. Lawrence \*

Egan, Fitzpatrick, Malsch & Lawrence, PLLC

12500 San Pedro Avenue, Suite 555

San Antonio, TX 78216

Tel: 210.496.5001

Fax: 210.496.5011

[cfitzpatrick@nuclearlawyer.com](mailto:cfitzpatrick@nuclearlawyer.com)

[mmalsch@nuclearlawyer.com](mailto:mmalsch@nuclearlawyer.com)

[jlawrence@nuclearlawyer.com](mailto:jlawrence@nuclearlawyer.com)

\*Special Deputy Attorneys General

Dated: April 25, 2011

## EXHIBIT A

### 10 C.F.R. Section 2.1019(i):

2.1019(i)(1) After receiving written notice of the deposition under paragraph (a) or paragraph (e) of this section, and ten days before the scheduled date of the deposition, the deponent shall submit an electronic index of all documents in his or her possession, relevant to the subject matter of the deposition, including the categories of documents set forth in paragraph (i)(2) of this section, to all parties and interested governmental participants. The index shall identify those records which have already been made available electronically. All documents that are not identical to documents already made available electronically, whether by reason of subsequent modification or by the addition of notations, shall be treated as separate documents.

(2) The following material is excluded from the initial requirements of § 2.1003 to be made available electronically, but is subject to derivative discovery under paragraph (i)(1) of this section— (i) Personal records; (ii) Travel vouchers; (iii) Speeches; (iv) Preliminary drafts; (v) Marginalia.

(3) Subject to paragraph (i)(6) of this section, any party or interested governmental participant may request from the deponent a paper copy of any or all of the documents on the index that have not already been provided electronically.

(4) Subject to paragraph (i)(6) of this section, the deponent shall bring a paper copy of all documents on the index that the deposing party or interested governmental participant requests that have not already been provided electronically to an oral deposition conducted pursuant to paragraph (a) of this section, or in the case of a deposition taken on written questions pursuant to paragraph (e) of this section, shall submit such documents with the certified deposition.

(5) Subject to paragraph (i)(6) of this section, a party or interested governmental participant may request that any or all documents on the index that have not already been provided electronically, and on which it intends to rely at hearing, be made electronically available by the deponent.

(6) The deposing party or interested governmental participant shall assume the responsibility for the obligations set forth in paragraphs (i)(1), (i)(3), (i)(4), and (i)(5) of this section when deposing someone other than a party or interested governmental participant.

## Exhibit B

# EGAN, FITZPATRICK, MALSCH & LAWRENCE, PLLC

## Counselors at Law

www.nuclearlawyer.com  
Joseph R. Egan (1954-2008)

---

Martin G. Malsch  
1750 K Street, N.W. · Suite 350  
Washington, D.C. 20006  
Tel: 202.466.3106  
Fax: 210.496.5011

Charles J. Fitzpatrick  
1777 N.E. Loop 410 · Suite 600  
San Antonio, TX 78217  
Tel: 210.496.5001  
Fax: 210.496.5011

John W. Lawrence  
9200 Signal Avenue, N.E.  
Albuquerque, NM 87122  
Tel: 505.610.8564  
Fax: 505.797.2950

April 25, 2011

Donald P. Irwin, Esq.  
Hunton & Williams, L.L.P.  
Riverside Plaza, East Tower  
951 East Byrd Street  
Richmond, VA 23219

Re: Docket No. 63-001

Dear Mr. Irwin,

I am attaching deposition notices for Kevin Coppersmith and Michael Gross, detailing depositions to be conducted, respectively, on June 28 and June 29, 2011, at the locations and times specified in the notices. They are being filed today.

During our “meet and confer” telephone calls over the past few weeks, we have indicated to you, and wish to reiterate, our view regarding proceeding with these and other depositions we have discussed. As you know, Nevada did not oppose your motion to temporarily stay this proceeding which you filed with the NRC licensing board (CAB) or the similar motion you filed with the NRC and continues to believe that the licensing proceeding, including discovery, should not go forward until the future of the Yucca Mountain program has been finally clarified in the courts and in Congress.

However, the CAB’s February 25th Order warning that discovery rights could be forfeited for failure to proceed leaves Nevada with little choice but to begin scheduling depositions, while incurring potentially large and unnecessary expenses in the process. We do so only reluctantly because Nevada cannot risk the waiver of its valuable discovery rights.

We continue to be willing to discuss alternate dates, or alternate times, or alternate locations, if the specified ones create a conflict for the witnesses. In addition, as was the case a

EGAN, FITZPATRICK, MALSCH & LAWRENCE, PLLC  
Counselors at Law

---

April 25, 2011

Page 2

year ago when depositions were planned, we are willing to discuss the matter of documents required to be produced by the witnesses, in an effort to avoid unduly burdening them.

Sincerely,

A handwritten signature in blue ink, appearing to read 'M G Malsch', followed by a long horizontal line extending to the right.

Martin G. Malsch

cjf:sm

Enclosure

**UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION**

**Atomic Safety and Licensing Board**

<b>In the Matter of</b>	)	
	)	
<b>U.S. DEPARTMENT OF ENERGY</b>	)	<b>Docket No. 63-001-HLW</b>
	)	
<b>(High Level Waste Repository)</b>	)	

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing *State of Nevada's Notice of Deposition* has been served upon the following persons by the Electronic Information Exchange:

U.S. Nuclear Regulatory Commission  
Atomic Safety and Licensing Board Panel

**CAB 01**

[wjfl@nrc.gov](mailto:wjfl@nrc.gov)

[tsm2@nrc.gov](mailto:tsm2@nrc.gov)

[rew@nrc.gov](mailto:rew@nrc.gov)

**CAB 02**

[mmg3@nrc.gov](mailto:mmg3@nrc.gov)

[axr@nrc.gov](mailto:axr@nrc.gov)

[NGT@NRC.GOV](mailto:NGT@NRC.GOV)

**CAB 03**

[psr1@nrc.gov](mailto:psr1@nrc.gov)

[mcf@nrc.gov](mailto:mcf@nrc.gov)

[mob1@nrc.gov](mailto:mob1@nrc.gov)

[mark.barnett@nrc.gov](mailto:mark.barnett@nrc.gov)

**CAB 04**

[tsm2@nrc.gov](mailto:tsm2@nrc.gov)

[psr1@nrc.gov](mailto:psr1@nrc.gov)

[rew@nrc.gov](mailto:rew@nrc.gov)

U.S. Nuclear Regulatory Commission  
Atomic Safety and Licensing Board Panel

[ace1@nrc.gov](mailto:ace1@nrc.gov)

[djg2@nrc.gov](mailto:djg2@nrc.gov)

[lrb1@nrc.gov](mailto:lrb1@nrc.gov)

[sara.culler@nrc.gov](mailto:sara.culler@nrc.gov)

[jhd@nrc.gov](mailto:jhd@nrc.gov)

[patricia.harich@nrc.gov](mailto:patricia.harich@nrc.gov)

[zxk1@nrc.gov](mailto:zxk1@nrc.gov)

[eal1@nrc.gov](mailto:eal1@nrc.gov)

[matthew.rotman@nrc.gov](mailto:matthew.rotman@nrc.gov)

[axw5@nrc.gov](mailto:axw5@nrc.gov)

[jgw@nrc.gov](mailto:jgw@nrc.gov)

U.S. Nuclear Regulatory Commission  
Office of the Secretary of the Commission

[hearingdocket@nrc.gov](mailto:hearingdocket@nrc.gov)

[alb@nrc.gov](mailto:alb@nrc.gov)

[atb1@nrc.gov](mailto:atb1@nrc.gov)

[elj@nrc.gov](mailto:elj@nrc.gov)

[esn@nrc.gov](mailto:esn@nrc.gov)

[rll@nrc.gov](mailto:rll@nrc.gov)

U.S. Nuclear Regulatory Commission  
Office of Comm Appellate Adjudication

[ocaamail@nrc.gov](mailto:ocaamail@nrc.gov)

U.S. Nuclear Regulatory Commission  
Office of the General Counsel

[may@nrc.gov](mailto:may@nrc.gov)

[mlz@nrc.gov](mailto:mlz@nrc.gov)

[alc1@nrc.gov](mailto:alc1@nrc.gov)

[dwl2@nrc.gov](mailto:dwl2@nrc.gov)

[Adam.Gendelman@nrc.gov](mailto:Adam.Gendelman@nrc.gov)

[jsg1@nrc.gov](mailto:jsg1@nrc.gov)

[kfx4@nrc.gov](mailto:kfx4@nrc.gov)

[Michael.dreher@nrc.gov](mailto:Michael.dreher@nrc.gov)

[Jessica.Bielecki@nrc.gov](mailto:Jessica.Bielecki@nrc.gov)

[Elva.BowdenBerry@nrc.gov](mailto:Elva.BowdenBerry@nrc.gov)

[OGCMailCenter@nrc.gov](mailto:OGCMailCenter@nrc.gov)

[Michelle.Albert@nrc.gov](mailto:Michelle.Albert@nrc.gov)

[Christopher.Hair@nrc.gov](mailto:Christopher.Hair@nrc.gov)

Hunton & Williams LLP  
[kfaglioni@hunton.com](mailto:kfaglioni@hunton.com)  
[dirwin@hunton.com](mailto:dirwin@hunton.com)  
[mshebelskie@hunton.com](mailto:mshebelskie@hunton.com)  
[pslayton@hunton.com](mailto:pslayton@hunton.com)

U.S. Department Of Energy  
 Office of General Counsel  
[george.hellstrom@ymp.gov](mailto:george.hellstrom@ymp.gov)  
[martha.crosland@hq.doe.gov](mailto:martha.crosland@hq.doe.gov)  
[nick.dinunziok@rw.doe.gov](mailto:nick.dinunziok@rw.doe.gov)  
[ben.mcrae@hq.doe.gov](mailto:ben.mcrae@hq.doe.gov)  
[christina.pak@hq.doe.gov](mailto:christina.pak@hq.doe.gov)  
[sean.lev@hq.doe.gov](mailto:sean.lev@hq.doe.gov)

U.S. Department of Energy  
 Office of Counsel  
 Naval Sea Systems Command  
[frank.putzu@navy.mil](mailto:frank.putzu@navy.mil)

U.S. Department of Energy  
 USA Repository Services LLC  
 Yucca Mountain Project Licensing Group  
[jeffrey\\_kriner@ymp.gov](mailto:jeffrey_kriner@ymp.gov)  
[stephen\\_cereghino@ymp.gov](mailto:stephen_cereghino@ymp.gov)

U.S. Department of Energy  
 USA Repository Services LLC  
 Yucca Mountain Project Licensing Group  
[edward\\_borella@ymp.gov](mailto:edward_borella@ymp.gov)

U.S. Department of Energy  
 Office of Civilian Radioactive Waste Mgmt  
 Office of Repository Development  
[timothy\\_gunter@ymp.gov](mailto:timothy_gunter@ymp.gov)

U.S. Department of Energy  
 OCRWM  
[eric.knox@hq.doe.gov](mailto:eric.knox@hq.doe.gov)  
[dong.kim@rw.doe.gov](mailto:dong.kim@rw.doe.gov)

Morgan, Lewis, Bockius LLP  
[lcsedrik@morganlewis.com](mailto:lcsedrik@morganlewis.com)  
[jguiterrez@morganlewis.com](mailto:jguiterrez@morganlewis.com)  
[cmoldenhauer@morganlewis.com](mailto:cmoldenhauer@morganlewis.com)  
[boldham@morganlewis.com](mailto:boldham@morganlewis.com)  
[tpoindexter@morganlewis.com](mailto:tpoindexter@morganlewis.com)

[apolonsky@morganlewis.com](mailto:apolonsky@morganlewis.com)  
[tschmutz@morganlewis.com](mailto:tschmutz@morganlewis.com)  
[dsilverman@morganlewis.com](mailto:dsilverman@morganlewis.com)  
[c@morganlewis.com](mailto:c@morganlewis.com)  
[pzaffuts@morganlewis.com](mailto:pzaffuts@morganlewis.com)  
[ccooper@morganlewis.com](mailto:ccooper@morganlewis.com)  
[sstaton@morganlewis.com](mailto:sstaton@morganlewis.com)  
[rkuyler@morganlewis.com](mailto:rkuyler@morganlewis.com)

Carter Ledyard & Milburn, LLP  
 Counsel for Lincoln County  
[neuman@clm.com](mailto:neuman@clm.com)

Churchill, Esmeralda, Eureka, Mineral  
 and Lander Counties  
[lpitchford@comcast.net](mailto:lpitchford@comcast.net)

Armstrong Teasdale LLP  
[rlist@armstrongteasdale.com](mailto:rlist@armstrongteasdale.com)

City of Las Vegas  
[mplaster@LasVegasNevada.gov](mailto:mplaster@LasVegasNevada.gov)

Clark County Nuclear Waste Division  
[iln@co.clark.nv.us](mailto:iln@co.clark.nv.us)  
[evt@co.clark.nv.us](mailto:evt@co.clark.nv.us)  
[klevorick@co.clark.nv.us](mailto:klevorick@co.clark.nv.us)

Nuclear Waste Project Office  
[breslow@nuc.state.nv.us](mailto:breslow@nuc.state.nv.us)  
[steve.fr@hotmail.com](mailto:steve.fr@hotmail.com)

Eureka County and Lander County  
 Harmon, Curran, Speilberg & Eisenberg  
[dcurran@harmoncurran.com](mailto:dcurran@harmoncurran.com)

Nevada Nuclear Waste Task Force  
[judynwtf@aol.com](mailto:judynwtf@aol.com)

Talisman International, LLC  
[plarimore@talisman-intl.com](mailto:plarimore@talisman-intl.com)

Nuclear Energy Institute  
[mab@nei.org](mailto:mab@nei.org)  
[awc@nei.org](mailto:awc@nei.org)  
[ecg@nei.org](mailto:ecg@nei.org)  
[rxm@nei.org](mailto:rxm@nei.org)



[spk@nei.org](mailto:spk@nei.org)  
[jay.silberg@pillsburylaw.com](mailto:jay.silberg@pillsburylaw.com)  
[timothy.walsh@pillsburylaw.com](mailto:timothy.walsh@pillsburylaw.com)

White Pine County  
 City of Caliente  
 Lincoln County  
[jayson@idtservices.com](mailto:jayson@idtservices.com)

Nuclear Information and Resource Service  
[nirsnet@nirs.org](mailto:nirsnet@nirs.org)

Beyond Nuclear  
[kevin@beyondnuclear.org](mailto:kevin@beyondnuclear.org)

Abigail Johnson  
[abbyj@gbis.com](mailto:abbyj@gbis.com)

National Congress of American Indians  
[robert\\_holden@ncai.org](mailto:robert_holden@ncai.org)

Churchill County (NV)  
[comptroller@churchillcounty.org](mailto:comptroller@churchillcounty.org)

Inyo County Water Department  
[mgaffney@inyoyucca.org](mailto:mgaffney@inyoyucca.org)

Inyo County Planning Director  
[pcecil@inyocounty.us](mailto:pcecil@inyocounty.us)

Robert S. Hanna  
[rshanna@bsglaw.net](mailto:rshanna@bsglaw.net)

Michael C. Berger  
[mberger@bsglaw.net](mailto:mberger@bsglaw.net)

Environmental Protection Agency  
[clark.ray@epa.gov](mailto:clark.ray@epa.gov)

Nuclear Waste Technical Review Board  
[dory@nwtrb.gov](mailto:dory@nwtrb.gov)

Intertech Services Corporation  
[bigboff@aol.com](mailto:bigboff@aol.com)

Nye County Department of Natural  
 Resources & Federal Facilities  
[dswanson@nyecounty.net](mailto:dswanson@nyecounty.net)

Lincoln County Nuclear Oversight Prgm  
[jcciac@co.lincoln.nv.us](mailto:jcciac@co.lincoln.nv.us)  
 Nye County Regulatory/Licensing Adv.  
[mrmurphy@chamberscable.com](mailto:mrmurphy@chamberscable.com)

Nye County Nuclear Waste Repository Project  
 Office (NWRPO)  
[zchoate@co.nye.nv.us](mailto:zchoate@co.nye.nv.us)  
[sdudley@co.nye.nv.us](mailto:sdudley@co.nye.nv.us)

Mineral County Board of Commissioners  
[yuccainfo@mineralcountynv.org](mailto:yuccainfo@mineralcountynv.org)

State of Nevada  
[madams@ag.state.nv.us](mailto:madams@ag.state.nv.us)

White Pine County (NV) Nuclear  
 Waste Project Office  
[wpnucwst1@mwpower.net](mailto:wpnucwst1@mwpower.net)

Fredericks & Peebles, L.L.P.  
[dhouck@ndnlaw.com](mailto:dhouck@ndnlaw.com)  
[jpeebles@ndnlaw.com](mailto:jpeebles@ndnlaw.com)  
[chairman@timbisha.org](mailto:chairman@timbisha.org)  
[dvdurbarbara@netscape.com](mailto:dvdurbarbara@netscape.com)  
[sthinelk@ndnlaw.com](mailto:sthinelk@ndnlaw.com)

California Department of Justice  
[susan.durbin@doj.ca.gov](mailto:susan.durbin@doj.ca.gov)  
[brian.hembacher@doj.ca.gov](mailto:brian.hembacher@doj.ca.gov)  
[timothy.sullivan@doj.ca.gov](mailto:timothy.sullivan@doj.ca.gov)

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

California Energy Commission  
[kwbell@energy.state.ca.us](mailto:kwbell@energy.state.ca.us)

Robert M. Andersen  
[robert.andersen@akerman.com](mailto:robert.andersen@akerman.com)

Carter Ledyard & Milburn LLP  
[strell@clm.com](mailto:strell@clm.com)

Jennings, Strouss & Salmon, PLC  
[arobbins@jsslaw.com](mailto:arobbins@jsslaw.com)  
[droby@jsslaw.com](mailto:droby@jsslaw.com)

Godfrey & Kahn, S.C.  
[sheinzen@gklaw.com](mailto:sheinzen@gklaw.com)  
[dpoland@gklaw.com](mailto:dpoland@gklaw.com)  
[aharring@gklaw.com](mailto:aharring@gklaw.com)

Gregory Barlow  
[lcda@lcturbonet.com](mailto:lcda@lcturbonet.com)

Connie Simkins  
[jcciac@co.lincoln.nv.us](mailto:jcciac@co.lincoln.nv.us)

Bret O. Whipple  
[bretwhipple@nomademail.com](mailto:bretwhipple@nomademail.com)

Richard Sears  
[rwsears@wpcda.org](mailto:rwsears@wpcda.org)

Alexander, Berkey, Williams & Weathers  
[cberkey@abwwlaw.com](mailto:cberkey@abwwlaw.com)  
[swilliams@abwwlaw.com](mailto:swilliams@abwwlaw.com)  
[rleigh@abwwlaw.com](mailto:rleigh@abwwlaw.com)

Davidson & Lindemann, P.A.  
[kwoodington@dml-law.com](mailto:kwoodington@dml-law.com)

Attorney General, State of Washington  
[leeol@atg.wa.gov](mailto:leeol@atg.wa.gov)  
[michaeld@atg.wa.gov](mailto:michaeld@atg.wa.gov)  
[andyf@atg.wa.gov](mailto:andyf@atg.wa.gov)  
[JonaT@atg.wa.gov](mailto:JonaT@atg.wa.gov)

Haynsworth Sinkler Boyd, PA  
[tgottshall@hsblawfirm.com](mailto:tgottshall@hsblawfirm.com)  
[rshealy@hsblawfirm.com](mailto:rshealy@hsblawfirm.com)

National Association of Regulatory  
 Utility Commissioners  
[jramsay@naruc.org](mailto:jramsay@naruc.org)  
[rlunt@naruc.org](mailto:rlunt@naruc.org)

Prairie Island Indian Community  
[pmahowald@piic.org](mailto:pmahowald@piic.org)

Public Law Resource Center PLLC  
[donkeskey@publiclawresourcecenter.com](mailto:donkeskey@publiclawresourcecenter.com)

Todd R. Bowers  
[toddb@atg.wa.gov](mailto:toddb@atg.wa.gov)

*(signed electronically)*  
 Laurie Borski, Paralegal