

**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)	
)	Docket No. 63-001-HLW
U.S. DEPARTMENT OF ENERGY)	ASLBP No. 09-892-HLW-CAB04
(High Level Waste Repository))	May 16, 2011

**U.S. DEPARTMENT OF ENERGY’S MOTION TO SUPPLEMENT ITS
MOTION FOR PROTECTIVE ORDER**

On May 5, 2011, the Department of Energy (“DOE”) moved for a protective order with respect to two notices of deposition filed by the State of Nevada.¹ DOE noted in its motion that counsel for Nevada had indicated that it intended to notice the depositions of at least 11 additional DOE witnesses within coming weeks. As of May 16, Nevada had filed an additional four notices of deposition.² The remaining seven notices, and perhaps additional notices, are expected to be filed soon according to Nevada’s answer to DOE’s motion.³

¹ U. S. Department of Energy’s Motion for Protective Order, May 5, 2011 (“Motion”).

² State of Nevada’s Notice *Duces Tecum* of the Intention to Take the Oral Deposition of Arthur McClure, May 6, 2011; State of Nevada’s Notice *Duces Tecum* of the Intention to Take the Oral Deposition of Michael Anderson, May 11, 2011; State of Nevada’s Notice *Duces Tecum* of the Intention to Take the Oral Deposition of Edward Thomas, May 12, 2011; State of Nevada’s Notice *Duces Tecum* of the Intention to Take the Oral Deposition of Gerald Gordon, May 13, 2011.

³ State of Nevada Answer to DOE Motion for Protective Order, May 16, 2011, at 2.

DOE moves the Board to supplement its pending motion for protective order, to include the four additional notices of deposition by Nevada, and any further notices of deposition, for the same reasons and on the same terms as stated in DOE's May 5 motion for a protective order quashing the two notices of deposition that had been filed by that date.

Certification Pursuant to 10 CFR § 2.323(b)

DOE certifies that, in accordance with 10 CFR § 2.323(b), it has notified all other parties of its intent to file this motion.

The following parties stated they did not oppose the motion: NRC Staff.

The following parties stated they had no objection to the motion, but reserved the right to respond to it: Counties of Churchill, Esmeralda, Mineral and Lander; National Association of Regulatory Utility Commissioners; Native Community Action Council; and Nye County.

The following parties stated they had no position on the motion, and reserved the right to respond to it: Aiken County; State of California; Clark County; Eureka County; Inyo County; Joint Timbisha Shoshone Tribal Group; Lincoln County; Nuclear Energy Institute; State of Nevada; Prairie Island Indian Community; and State of South Carolina.

The remaining parties had not responded as of the time DOE filed this motion.

Respectfully submitted,

U.S. DEPARTMENT OF ENERGY

By Electronically Signed by Michael R. Shebelskie

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CERTIFICATE OF SERVICE

I hereby certify that copies of **U.S. DEPARTMENT OF ENERGY'S MOTION TO SUPPLEMENT ITS MOTION FOR PROTECTIVE ORDER** have been served on the following persons on this 16th day of May 2011 through the Nuclear Regulatory Commission's Electronic Information Exchange.

CAB 04

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