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March 23, 2018

Dr. Andrew Bates  
Chairman, LSNARP  
Office of the Secretary  
U.S. Nuclear Regulatory Commission

RE: Comments on February 27-28, 2018 LSNARP Meeting

Dear Dr. Bates:

During the February 27-28 LSNARP meeting regarding a potential suitable replacement for the Licensing Support Network (LSN), Mr. Chip Cameron, the meeting facilitator, invited the attendees to submit comments on the meeting by March 23, 2018. That is the purpose of this letter.

First of all, we appreciated the opportunity to meet with a variety of parties, share information and provide comments on the December 2017 NRC LSN Options paper.

After reviewing the transcript of the meeting, we believe there are several key “takeaways” from the two-day meeting:

1. The meeting was a good first step in bringing the interested parties together to discuss an appropriate litigation database for use in the Yucca Mountain adjudicatory proceeding, should it be restarted.
2. The effort by NRC LSN Staff to consider and present options for such a database was much appreciated.
3. An ultimate decision on the litigation database architecture should be made after:
  - a. Multiple meetings of the LSNARP, representing all the litigants, to discuss the potential design options;

- b. Sufficient funding to facilitate the effective participation of LSNARP members (which may not be available unless it becomes apparent that the proceeding will definitely move forward); and
  - c. Appointment, if deemed appropriate by the members of the LSNARP, of a Technical Working Group that has appropriate information systems expertise, as was the case in the preparation of the original LSN.
4. The LSNARP should make recommendations to NRC regarding a suitable replacement for the LSN after it has had an opportunity to develop them.
5. The following functional requirements for an LSN replacement appear to be the appropriate ones:
  - Fair
  - Transparent
  - Accessible
  - Fast
  - Accurate
  - Comprehensive
  - Cost-Effective
  - Searchable by whatever platform an end-user has
  - Cybersecure
  - Flexibility to adapt to future technology (potentially 100 years)
  - Simplicity
  - Ability to file LSN documents as exhibits
  - Enhanced exhibit processing
  - Money should not drive the decision
6. Nevada will object to any process whereby an inadequately funded LSNARP would be asked to provide final advice after only one meeting. The LSNARP should be the prime mover in reconstituting the Licensing Support Network. Nevada further suggests that the proper deliverable from this meeting cannot be final opinions and options to the Atomic Safety and Licensing Board Panel, but instead should be a path forward for facilitating effective participation in future meetings and obtaining the LSNARP's advice that reflects all of the users' needs. The Commission decided to move forward with this one LSNARP meeting without consulting the parties. In the future, Nevada hopes the Commission will express greater interest in hearing the views of the public and all the parties to the adjudication before taking significant actions with respect to the potential restart of the adjudicatory proceeding.
7. Nevada supports the process that was followed originally, which included several meetings of the LSNARP (not just one), the formation of a Technical Working Group, followed by notice and comment rulemaking. The discussions at the February meeting have reinforced our belief that this is the only way to proceed. Several participants agreed that, once there is funding, an independent Technical Working Group should be established to provide participants with information on available options, requirements, capabilities and cost.

8. The LSN as a Cloud-based system presents cost and technical challenges that the LSNARP members felt would be best informed by an independent Technical Working Group. The FEDRamp certification substantially limits choices in the Cloud. Any platform has to be authorized by NRC, have an ATO [authorization to operate] by NRC, and has to be approved by NRC to operate. It is impossible for Nevada (or any participant) to make an informed comparison of the Cloud alternatives at this point because options such as search capability, cybersecurity, and interface depend on the product chosen and have not yet been defined.

9. Both the LSN and its predecessor, the LSS, were incorporated into Part 2, principally Subpart J of Part 2, only after notice and comment rulemaking. Nevada believes the same process should be followed in adopting any replacement litigation database. If the Commission were to proceed to amend Subpart J to accommodate a new electronic discovery system, and to do so without prior notice and public comment, it would raise a significant legal question as to whether it has violated Section 189(a) of the Atomic Energy Act.

Overall, we felt the meeting was very productive, and that those present and those who participated electronically enjoyed a useful, while preliminary, exchange of ideas.

Respectfully,



Robert J. Halstead  
Executive Director

cc: Office of Governor Brian Sandoval  
Office of Attorney General Adam Laxalt  
Senator Richard Bryan, Chairman, Nevada Commission on Nuclear Projects  
LSNARP members