LINCOLN COUNTY’S RESPONSE TO STATE OF NEVADA PETITION FOR RELIEF WITH RESPECT TO POSSIBLE ISSUANCE OF A PARTIAL SAFETY EVALUATION REPORT FOR YUCCA MOUNTAIN

In a June 14, 2010 petition, the State of Nevada requested the Commission (“Petition”) to order an immediate suspension of NRC Staff’s (“Staff”) work on the Yucca Mountain related Safety evaluation Report (SER) Volume 3 until such time as the Commission issues a final decision on DOE’s March 3, 2009 motion to withdraw its license application. Lincoln County is responding to Nevada’s Petition with the opinion that the Commission should deny Nevada’s request for immediate suspension or termination of ongoing work by Staff on SER Volume 3. Further, Lincoln County believes the Commission should grant Nevada’s request that the Commission issue an order directing CAB-04 to develop a brief opinion on each of the ten pending legal issues raised by Nevada.
Lincoln County believes that the Commission has, over the years, with the support of competent staff, demonstrated an important ability to protect the public health and safety through its conduct of unbiased adjudications of complex technical and legal matters. Lincoln County fears that the relief preferred by Nevada would require the Commission to support keeping from the public Staff’s evaluation of and conclusions regarding the whether the Yucca Mountain repository can be operated safely and in a manner which protects public health. If Lincoln County residents come to believe that the Commission has become subject to the same political decision-making that appears to be driving the DOE’s efforts to terminate the Yucca Mountain project, Lincoln County is concerned that its residents may lose confidence in the ability of NRC to protect public health and safety. By suppressing important Staff evaluations and conclusions regarding the extent to which Yucca Mountain may or may not be able to operate safely, the Commission may lose the respect and confidence of the very public it seeks to protect. The request by Nevada that the Commission order the immediate suspension or termination of the Staff’s SER work should be rejected.

Given the dependence of Lincoln County and its residents on the NRC to protect public health and safety through a process of adjudicating complex technical and legal information in a politically unbiased manner, 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, Lincoln County believes that Staff should consider the outcome of all legal contentions filed in this proceeding which have been briefed and are therefore ready for resolution as SER Volume 3 is completed. Lincoln 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, and further believes that all legal contentions (not just
Nevada’s) filed in this proceeding which have been briefed and are ready for ASLB resolution should be addressed if such an order is issued by the Commission.

Respectfully submitted,

Signed electronically by
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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                                     )
U.S. DEPARTMENT OF ENERGY ) Docket No. 63-001
) ASLBP No. 09-892—HLW-CAB04
(High-Level Waste Repository: )
Pre-Application Matters)
) June 22, 2010

CERTIFICATE OF SERVICE

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