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

UNITED STATES OF AMERICA NUCLEAR REGULATORY COMMISSION BEFORE THE ATOMIC SAFETY AND LICENSING BOARDS

JOINT PROPOSAL TO CONSOLIDATE CONTENTIONS OF CLARK COUNTY, NEVADA, STATE OF NEVADA AND INYO COUNTY, CALIFORNIA

Pursuant to “CAB Case Management Order #2” (“CMO #2”) issued on September 30, 2009, Clark County, Nevada (“Clark County”), State of Nevada (“Nevada”), and Inyo County, California (“Inyo County”) (together, “the Parties”) hereby jointly submit this proposal to consolidate certain contentions pertaining to igneous and volcanic activity.¹

As set forth in Attachment 1, the Parties propose to consolidate NEV-SAFETY-150 through 152 and NEV-SAFETY-154 through 158 with CLK-SAFETY-003 through 005 and CLK-SAFETY-007 through 011, respectively, and to consolidate NEV-SAFETY-153, INY-SAFETY-003 and CLK-SAFETY-006, resulting in a total of nine volcanism contentions (“Volcanism Contentions”).

The Parties have reached agreement on the terms of joint prosecution and have designated Clark County as the lead party for the Volcanism Contentions, with Nevada and Inyo County participating to the fullest extent permitted by the CABs for a non-lead party. The Parties are actively engaged in discussion on the proper wording of the consolidated Volcanism

¹ Nevada and Inyo County have authorized Clark County to make this filing on the Parties’ behalf.
Contentions and propose that these be submitted within 20 days of an order approving consolidation of the Volcanism Contentions, with replies due 10 days thereafter.

Respectfully submitted,

/s/ filed electronically
Alan I. Robbins
Debra D. Roby
Bryce C. Loveland
Jennings, Strouss & Salmon, PLC
1700 Pennsylvania Ave, NW, Ste. 500
Washington D.C., 20006
telephone: (202) 464-0539
e-mail: arobbins@jsslaw.com
e-mail: droby@jsslaw.com
e-mail: bloveland@jsslaw.com

Attorneys for Clark County, Nevada
## PROPOSED PHASE I CONSOLIDATED VOLCANISM CONTENTIONS

<table>
<thead>
<tr>
<th>Contentions to be Consolidated</th>
<th>New Designation</th>
<th>SER Vol.</th>
<th>Lead Party</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 CLK-SAFETY-003 “The DOE Miscalculates Basaltic Magma Melting Depth” with NEV-SAFETY-150 “Basaltic Magma Melting Depth”</td>
<td>“Consolidated Contention CLK-SAFETY-003/NEV-SAFETY-150” with the title, “Basaltic Magma Melting Depth”</td>
<td>3</td>
<td>Clark County</td>
</tr>
<tr>
<td>3 CLK-SAFETY-005 “The DOE Improperly Focuses on Upper Crustal Extension Patterns” with NEV-SAFETY-152 “Focus on Upper Crustal Extension Patterns”</td>
<td>“Consolidated Contention CLK-SAFETY-005/NEV-SAFETY-152” with the title, “Focus on Upper Crustal Extension Patterns”</td>
<td>3</td>
<td>Clark County</td>
</tr>
<tr>
<td>Contentions to be Consolidated</td>
<td>New Designation</td>
<td>SER Vol.</td>
<td>Lead Party</td>
</tr>
<tr>
<td>------------------------------------------------------------------------------------------------</td>
<td>---------------------------------------------------------------------------------</td>
<td>----------</td>
<td>------------------</td>
</tr>
<tr>
<td>CLK-SAFETY-007 “The DOE Improperly Estimates Igneous Event Probability for 10,000 Years and 1,000,000 Years”</td>
<td>“Consolidated Contention CLK-SAFETY-007/NEV-SAFETY-154” with the title, “Igneous Event Probability for 10,000 Years and 1,000,000 Years”</td>
<td>3</td>
<td>Clark County</td>
</tr>
<tr>
<td>with NEV-SAFETY-154 “Igneous Event Probability for 10,000 Years and 1,000,000 Years”</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>CLK-SAFETY-008 “The DOE Ignores 11-Million Year Volcanism Data and Instead Relies on Only 5-Million Year Volcanism Data”</td>
<td>“Consolidated Contention CLK-SAFETY-008/NEV-SAFETY-155” with the title, “11-Million Year vs. 5-Million Year Volcanism Data”</td>
<td>3</td>
<td>Clark County</td>
</tr>
<tr>
<td>with NEV-SAFETY-155 “11-Million Year vs. 5-Million Year Volcanism Data”</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>with NEV-SAFETY-156 “Alternative Igneous Conceptual Models”</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>CLK-SAFETY-010 “The DOE Ignores Igneous Event Data Evaluated Since 1996 in the Total System Performance Analysis”</td>
<td>“Consolidated Contention CLK-SAFETY-010/NEV-SAFETY-157” with the title, “Igneous Event Data in the TSPA”</td>
<td>3</td>
<td>Clark County</td>
</tr>
<tr>
<td>with NEV-SAFETY-157 “Igneous Event Data in the TSPA”</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>CLK-SAFETY-011 “The DOE Lacks Sufficient Geophysical Data to Support Its Volcanic Model”</td>
<td>“Consolidated Contention CLK-SAFETY-011/NEV-SAFETY-158” with the title, “Geophysical Data in DOE’s Volcanic Model”</td>
<td>3</td>
<td>Clark County</td>
</tr>
<tr>
<td>with NEV-SAFETY-158 “Geophysical Data in DOE’s Volcanic Model”</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
Before the Atomic safety and Licensing Board

In the Matter of

U.S. DEPARTMENT OF ENERGY
(High-Level Waste Repository)

Docket No. 63-001-HLW

ASLBP Nos.

09-876-HLW-CAB01
09-877-HLW-CAB02
09-878-HLW-CAB03
09-892-HLW-CAB04

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Joint Proposal to Consolidate Contentions of Clark County, Nevada, State of Nevada and Inyo County, California, have been served on the following persons this 13 day of October, 2009 by Electronic Information Exchange.

<table>
<thead>
<tr>
<th>CAB 01</th>
<th>CAB 04</th>
</tr>
</thead>
<tbody>
<tr>
<td>William J. Froehlich, Chair</td>
<td>Thomas S. Moore, Chair</td>
</tr>
<tr>
<td>Thomas S. Moore</td>
<td>Paul S. Ryerson</td>
</tr>
<tr>
<td>Richard E. Wardwell</td>
<td>Richard E. Wardwell</td>
</tr>
<tr>
<td>Atomic Safety and Licensing Board Panel</td>
<td>Atomic Safety and Licensing Board Panel</td>
</tr>
<tr>
<td>U.S. Nuclear Regulatory Commission</td>
<td>U.S. Nuclear Regulatory Commission</td>
</tr>
<tr>
<td>Washington, D.C. 20555-0001</td>
<td>Washington, D.C. 20555-0001</td>
</tr>
<tr>
<td>Email: <a href="mailto:wjf1@nrc.gov">wjf1@nrc.gov</a></td>
<td>Email: <a href="mailto:tsm2@nrc.gov">tsm2@nrc.gov</a></td>
</tr>
<tr>
<td></td>
<td><a href="mailto:mark.barnett@nrc.gov">mark.barnett@nrc.gov</a></td>
</tr>
<tr>
<td></td>
<td><a href="mailto:rew@nrc.gov">rew@nrc.gov</a></td>
</tr>
<tr>
<td></td>
<td><a href="mailto:mcf@nrc.gov">mcf@nrc.gov</a></td>
</tr>
<tr>
<td></td>
<td><a href="mailto:mob1@nrc.gov">mob1@nrc.gov</a></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>CAB 02</th>
<th>CAB 04</th>
</tr>
</thead>
<tbody>
<tr>
<td>Michael M. Gibson, Chair</td>
<td>Paul S. Ryerson, Chair</td>
</tr>
<tr>
<td>Alan S. Rosenthal</td>
<td></td>
</tr>
<tr>
<td>Nicholas G. Trikouros</td>
<td></td>
</tr>
<tr>
<td>Atomic Safety and Licensing Board Panel</td>
<td>Atomic Safety and Licensing Board Panel</td>
</tr>
<tr>
<td>U.S. Nuclear Regulatory Commission</td>
<td>U.S. Nuclear Regulatory Commission</td>
</tr>
<tr>
<td>Washington, D.C. 20555-0001</td>
<td>Washington, D.C. 20555-0001</td>
</tr>
<tr>
<td>Email: <a href="mailto:mmg3@nrc.gov">mmg3@nrc.gov</a></td>
<td>Email: <a href="mailto:jgm1@nrc.gov">jgm1@nrc.gov</a></td>
</tr>
<tr>
<td></td>
<td>Matthew Rotman</td>
</tr>
<tr>
<td></td>
<td>Email: <a href="mailto:matthew.rotman@nrc.gov">matthew.rotman@nrc.gov</a></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Administrative Judges</td>
</tr>
<tr>
<td></td>
<td>E. Roy Hawkens, Chief Admin. Judge</td>
</tr>
<tr>
<td></td>
<td>Email: <a href="mailto:erh@nrc.gov">erh@nrc.gov</a></td>
</tr>
<tr>
<td></td>
<td>Lawrence McDade</td>
</tr>
<tr>
<td></td>
<td>Email: <a href="mailto:erh@nrc.gov">erh@nrc.gov</a></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>U.S. Nuclear Regulatory Commission</td>
</tr>
<tr>
<td></td>
<td>Office of the Secretary of the Commission</td>
</tr>
<tr>
<td></td>
<td>Mail Stop 0-16C1</td>
</tr>
<tr>
<td></td>
<td>Washington, D.C. 20555-0001</td>
</tr>
<tr>
<td></td>
<td>Hearing Docket</td>
</tr>
<tr>
<td></td>
<td>Email: <a href="mailto:hearingdocket@nrc.gov">hearingdocket@nrc.gov</a></td>
</tr>
</tbody>
</table>
Counsel for the U.S. Department of Energy
Hunton & Williams LLP
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
Patricia Slayton, Senior Paralegal
Email: pslayton@hunton.com
Stephane Meharg
Email: smeharg@hunton.com
Belinda Wright
Email: bwright@hunton.com

U.S. Department of Energy
Office of General Counsel
1000 Independence Avenue S.W.
Washington, DC 20585
Martha C. Crosland, Esq.
Email: martha.crosland@hq.doe.gov
Nicholas P. DiNunzio, Esq.
Email: nick.dinunzio@rw.doe.gov
James Bennett McRae
Email: ben.mcrae@hq.doe.gov
Cyrus Nezhad, Esq.
Email: cyrus.nezhad@hq.doe.gov
Christina C. Pak, Esq.
Email: christina.pak@hq.doe.gov

For the U.S. Department of Energy
Talisman International, LLC
1000 Potomac St., NW, Suite 300
Washington, DC 20007
Patricia Larimore, Senior Paralegal
Email: plarimore@talisman-intl.com

U.S. Department of Energy
Office of General Counsel
1551 Hillshire Drive
Las Vegas, NV 89134-6321
George W. Hellstrom, Esq.
Email: george.hellstrom@ym.gov
Jocelyn M. Gutierrez, Esq.
Email: jocelyn.gutierrez@ym.gov
Josephine L. Sommer, Paralegal
Email: josephine.sommer@ym.gov

U.S. Department of Energy
USA Repository Services LLC
Yucca Mountain Project Licensing Group
1160 N. Town Center Drive, Suite 240
Las Vegas, NV 89144
Jeffrey Kriner, Regulatory Programs
Email: jeffrey.kriner@ym.gov
Stephen J. Ceraghino, Licensing/Nucl Safety
Email: stephen.ceraghino@ym.gov

U.S. Department of Energy
Yucca Mountain Project Licensing Group
6000 Executive Boulevard, Suite 608
North Bethesda, MD 20852
Edward Borella, Sr Staff, Licensing/
Nuclear Safety
Email: edward.borella@ym.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

Counsel for the State of Nevada
Egan, Fitzpatrick, Malsch & Lawrence, PLLC
2001 K Street, NW, Suite 400
Washington, DC 20006
Martin G. Malsch, Esq.
Email: mmalsch@nuclearlawyer.com
Susan Montesi:
Email: smontesi@nuclearlawyer.com

Counsel for the State of Nevada
Egan, Fitzpatrick, Malsch & Lawrence, PLLC
12500 San Pedro Avenue, Suite 555
San Antonio, TX 78216
Charles J. Fitzpatrick, Esq.
Email: cfitzpatrick@nuclearlawyer.com
John W. Lawrence, Esq.
Email: jlawrence@nuclearlawyer.com
Laurie Borski, Paralegal
Email: lborski@nuclearlawyer.com

Bureau of Government Affairs
Nevada Attorney General
100 N. Carson Street  
Carson City, NV 89701  
Marta Adams, Chief Deputy  
Attorney General  
Email: madams@ag.nv.gov

Nevada Agency for Nuclear Projects  
Nuclear Waste Project Office  
1761 East College Parkway, Suite 118  
Carson City, NV 89706  
Steve Frishman, Tech. Policy Coordinator  
Email: steve.frishtman@gmail.com  
Susan Lynch, Administrator of  
Technical Programs  
Email: slynch1761@gmail.com

Counsel for Nye County, Nevada  
Ackerman Senterfitt  
801 Pennsylvania Avenue, NW, #600  
Washington, DC 20004  
Robert Andersen, Esq.  
Email: robert.andersen@akerman.com

Counsel for Nye County, Nevada  
530 Farrington Court  
Las Vegas, NV 89123  
Jeffrey VanNiel, Esq.  
Email: nbjrdvn@gmail.com

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

Nye County Nuclear Waste  
Repository Project Office (NWRPO)  
1210 E. Basin Road, #6  
Pahrump, NV 89060  
Sherry Dudley, Admin. Technical Coordinator  
Email: sdulely@co.nye.nv.us  
Zoie Choate, Secretary  
Email: zchoate@co.nye.nv.us

Clark County, Nevada  
Office of the District Attorney  
500 S. Grand Central Parkway

Las Vegas, NV 98155  
Elizabeth A. Vibert, Deputy District Attorney  
Email: elizabeth.vibert@ccdanv.com  
Phil Klevorick, Sr. Mgmt Analyst  
Email: klevorick@co.clark.nv.us

Counsel for Clark County, Nevada  
Jennings, Strouss & Salmon  
1700 Pennsylvania Avenue, NW, Suite 500  
Washington, DC 20006-4725  
Alan I. Robbins, Esq.  
Email: arobbins@jslaw.com  
Debra D. Roby, Esq.  
Email: droby@jslaw.com  
Elene Belete, Legal Secretary  
Email: ebelete@jslaw.com

Counsel for Clark County, Nevada  
8330 W. Sahara Avenue, #290  
Las Vegas, NV 89117  
Bryce C. Loveland, Esq.  
Email: bloveland@jslaw.com

Counsel for Lincoln County, Nevada  
1100 S. Tenth Street  
Las Vegas, NV 89017  
Bret Whipple, Esq.  
Email: baileys@leturbonet.com or  
Email: brewhipple@nomademail.com

For Lincoln County, Nevada  
Intertech Services Corporation  
PO Box 2008  
Carson City, NV 89702  
Mike Baughman, Consultant  
Email: bigboff@aol.com

Lincoln County Nuclear Oversight Program  
P.O. Box 1068  
Caliente, NV 89008  
Connie Simkins, Coordinator  
Email: jcciac@co.lincoln.nv.us

Lincoln County District Attorney  
P.O. Box 60  
Pioche, NV 89403  
Gregory Barlow, Esq.
Email: lcda@lcturbonet.com

Counsel for Eureka County, Nevada
Harmon, Curran, Spielberg & Eisenberg, LLP
1726 M. Street N.W., Suite 600
Washington, DC 20036
Diane Curran, Esq.
Email: dcurran@harmoncurran.com
Matthew Fraser, Law Clerk
Email: mfraser@harmoncurran.com

Eureka County, Nevada
Office of the District Attorney
701 S. Main Street, Box 190
Eureka, NV 89316-0190
Theodore Beutel, District Attorney
Email: tbeutel.ecda@eurekanv.org

Nuclear Waste Advisory for Eureka County, Nevada
1983 Maison Way
Carson City, NV 89703
Abigail Johnson, Consultant
Email: eurekanrc@gmail.com

Eureka County Public Works
P.O. Box 714
Eureka, NV 89316
Ronald Damele, Director
Email: rdamele@eurekanv.org

For Eureka County, Nevada
NWOP Consulting, Inc.
1705 Wildcat Lane
Ogden, UT 84403
Loreen Pritchford, Consultant
Email: lpitchford@comcast.net

Counsel for Churchill, Esmeralda, Lander, and Mineral Counties, Nevada
Armstrong Teasdale, LLP
1975 Village Center Circle, Suite 140
Las Vegas, NV 89134-6237
Robert F. List, Esq.
Email: rlist@armstrongteasdale.com
Jennifer A. Gores, Esq.
Email: jgores@armstrongteasdale.com

White Pine County, Nevada
Office of the District Attorney
801 Clark Street, #3
Ely, NV 89301
Richard Sears, District Attorney
Email: rwsears@wpcde.org

For White Pine County, Nevada
Intertech Services Corporation
PO Box 2008
Carson City, NV 89702
Mike Baughman, Consultant
Email: bigboffi@aol.com

White Pine County Nuclear Waste Project Office
959 Campton Street
Ely, NV 89301
Mike Simon, Director
Email: wpnucwst1@mwpower.net

Counsel for Inyo County, California
Greg James, Attorney at Law
710 Autumn Leaves Circle
Bishop, CA 93514
Greg James, Esq.
Email: gljames@earthlink.net

Attorney for the County of Inyo
233 East Carrillo Street Suite B
Santa Barbara, California 93101
Michael C. Berger, Esq.
Email: mberger@bsglaw.net
Robert S. Hanna, Esq.
Email: rshanna@bsglaw.net

Inyo County Yucca Mountain Repository Assessment Office
P.O. Box 367
Independence, CA 93526-0367
Alisa M. Lembke, Project Analyst
Email: alembke@inyocounty.us

Esmeralda County Repository Oversight Program
Yucca Mountain Project
PO Box 490
Goldfield, NV 89013
Edwin Mueller, Director
Email: muellered@msn.com

California Department of Justice
Office of the Attorney General
1300 I Street
P.O. Box 944255
Sacramento, CA 94244-2550
Susan Durbin, Deputy Attorney General
Email: susan.durbin@doi.ca.gov
Michele Mercado, Analyst
Email: michele.mercado@doi.ca.gov

California Department of Justice
Office of the Attorney General
1515 Clay Street, 20th Floor
P.O. Box 70550
Oakland, CA 94612-0550
Timothy E. Sullivan, Deputy Attorney General
Email: timothy.Sullivan@doi.ca.gov

California Department of Justice
300 S. Spring Street, Suite 1702
Los Angeles, CA 90013
Brian Hembacher, Deputy Attorney General
Email: brian.hembacher@doi.ca.gov

California Energy Commission
1516 Ninth Street
Sacramento, CA 95814
Kevin W. Bell, Senior Staff Counsel
Email: kwbell@energy.state.ca.us

Nuclear Energy Institute
Office of the General Counsel
1776 I Street, NW Suite 400
Washington, DC 20006-3708
Ellen C. Ginsberg, General Counsel
Email: ecg@nei.org
Michael A. Bauser, Deputy General Counsel
Email: mab@nei.org
Anne W. Cottingham, Esq.
Email: awc@nei.org

Counsel for the Nuclear Energy Institute
Pillsbury Winthrop Shaw Pittman LLP
2300 N Street, N.W.
Washington, DC 20037-1122
Jay E. Silberg, Esq.
Email: jay.silberg@pillsburylaw.com
Timothy J.V. Walsh, Esq.
Email: timothy.walsh@pillsburylaw.com
Maria D. Webb, Senior Energy Legal Analyst
Email: maria.webb@pillsburylaw.com

Counsel for the Nuclear Energy Institute
Winston & Strawn LLP
1700 K Street, N.W.
Washington, DC 20006-3817
David A. Repka, Esq.
Email: drepka@winston.com
William A. Horin, Esq.
Email: whorin@winston.com
Rachel Miras-Wilson
Email: rwilson@winston.com
Carlos L. Sisco, Senior Paralegal
Email: csisco@winston.com

Native Community Action Council
P.O. Box 140
Baker, NV 89311
Ian Zabarte, Member of Board of Directors
Email: mrizabarte@gmail.com

Counsel for the Timbisha Shoshone Tribe
Fredericks, Peebles, & Morgan LLP
1001 Second St.
Sacramento, CA 95814
Darcie L. Houck, Esq.
Email: dhouch@ndlaw.com
John M. Peebles, Esq.
Email: jpeebles@ndlaw.com