Dear Judges Moore, Ryerson and Wardwell:

The State of Nevada writes seeking clarification of the status of an important matter still pending before the Construction Authorization Board (CAB) – rulings on the eleven Phase 1 legal issues.

In its June 30, 2009 Memorandum and Order on the admission of contentions, CLI-09-14 at page 14, the Commission indicated that, “in the interest of moving forward expeditiously where possible in this proceeding,” the CAB should “provide a thorough and meaningful discussion of the legal issues and the bases for resolving them.” The CAB moved promptly to set the appropriate schedules for defining, briefing and arguing eleven Phase 1 legal issues. All of these legal issues were fully briefed and argued on January 26-27, 2010. They are still pending.

On February 16, 2010, the CAB issued an unopposed stay of the proceeding pending its disposition of the Department of Energy’s (DOE’s) (then) expected motion to withdraw its license application. That motion was filed on March 3, 2010. On April 23, 2010, in CLI-10-13, the Commission vacated the CAB’s further suspension order of April 6, 2010, and directed the Board to establish a briefing schedule and issue a decision on DOE’s motion to withdraw its license application. The Commission also (at page 5) said the Board should “continue case management and resolve all remaining issues promptly.” On June 29, 2010, in LBP-10-11, the Board denied DOE’s motion to withdraw and granted the pending intervention petitions of the states of Washington and South Carolina, the county of Aiken in South Carolina, the Prairie Island Indian Community, and the National Association of Regulatory Utility Commissioners, as
well as the amicus curiae filing by the Florida Public Service Commission. One contention of each new party was admitted (whether DOE lacks authority under the Nuclear Waste Policy Act to withdraw its application). See LBP-10-11 at page 47.

With the issuance of LBP-10-11, deciding DOE’s motion to withdraw, the Board’s February 16, 2010 stay of the proceeding expired according to its terms. No other stay is in effect. Accordingly, the parties have been filing the required LSN and updated witness reports with the CAB. However the eleven Phase 1 legal issues are still pending. It seems to Nevada that a decision on these issues is overdue.

The CAB may be waiting for a decision by the Commission regarding DOE’s motion to withdraw its application. However, the Commission’s instruction in CLI-10-13 that the Board should “continue case management and resolve all remaining issues promptly” would seem to include the eleven legal issues, especially now that the CAB has addressed what was obviously its first priority – deciding DOE’s motion to withdraw. Accordingly, Nevada would appreciate the CAB advising it and the other parties of its schedule for deciding these eleven issues.

A table of significant filings and events related to the eleven legal issues is attached for your information.

Sincerely,

(electronically signed)

Martin G. Malsch

mmalsch@nuclearlawyer.com

MGM:lb
Enclosure
<table>
<thead>
<tr>
<th>DATE OF FILING</th>
<th>NATURE OF FILING</th>
</tr>
</thead>
<tbody>
<tr>
<td>December 19, 2008</td>
<td>Nevada petitions to intervene, identifying 19 legal contentions</td>
</tr>
<tr>
<td>January 16, 2009</td>
<td>DOE answers Nevada’s petition, challenging all legal contentions</td>
</tr>
<tr>
<td>February 9, 2009</td>
<td>NRC Staff answers Nevada’s petition, challenging all legal contentions</td>
</tr>
<tr>
<td>February 24, 2009</td>
<td>Nevada separately replies to answers filed by DOE and NRC Staff</td>
</tr>
<tr>
<td>May 11, 2009</td>
<td>Board issues LBP-09-06, admitting 28 legal contentions from Nevada (designating some contentions as legal notwithstanding how they were pled)</td>
</tr>
<tr>
<td>May 21, 2009</td>
<td>NRC Staff appeals admissibility of legal contentions to Commission</td>
</tr>
<tr>
<td>May 29, 2009</td>
<td>Nevada opposes NRC Staff’s appeal of LBP-09-06</td>
</tr>
<tr>
<td>June 30, 2009</td>
<td>Commission issues CLI-09-14, affirming admissibility of legal contentions</td>
</tr>
<tr>
<td>July 21, 2009</td>
<td>Board issues Serial Case Management Order seeking information on relationship of legal contentions to NRC Staff SER Volumes</td>
</tr>
<tr>
<td>August 17, 2009</td>
<td>DOE responds to Board Order of July 21st</td>
</tr>
<tr>
<td>August 21, 2009</td>
<td>Nevada responds to Board Order of July 21st</td>
</tr>
<tr>
<td>September 30, 2009</td>
<td>Board issues Case Management Order #2, requiring parties to identify a legal question for each of the 11 legal contentions to be addressed in Phase I</td>
</tr>
<tr>
<td>October 6, 2009</td>
<td>Nevada (10 legal contentions), NEI (1 legal contention) and DOE jointly respond to CMO#2; Nevada and DOE also separately respond on 1 issue</td>
</tr>
<tr>
<td>October 13, 2009</td>
<td>NRC Staff comments on October 6th separate responses by DOE and Nevada</td>
</tr>
<tr>
<td>October 23, 2009</td>
<td>Board issues Order scheduling 11 Phase I legal issues for briefing</td>
</tr>
<tr>
<td>December 7, 2009</td>
<td>Nevada, NEI, DOE and NRC Staff file opening briefs on Phase I legal issues</td>
</tr>
<tr>
<td>December 9, 2009</td>
<td>Board issues LBP-09-29, admitting another Nevada legal contention</td>
</tr>
<tr>
<td>December 22, 2009</td>
<td>NRC Staff responds to Board questions from LBP-09-29</td>
</tr>
<tr>
<td>December 30, 2009</td>
<td>Nevada replies to NRC Staff response to Board questions from LBP-09-29</td>
</tr>
<tr>
<td>January 6, 2010</td>
<td>Nevada, NEI, DOE and NRC Staff file reply briefs on Phase I legal issues</td>
</tr>
<tr>
<td>January 26-27, 2010</td>
<td>Board conducts oral argument of briefs on Phase I legal issues</td>
</tr>
<tr>
<td>February 16, 2010</td>
<td>Board stays proceeding until it resolves DOE’s expected withdrawal motion</td>
</tr>
<tr>
<td>March 3, 2010</td>
<td>DOE files motion to withdraw its Yucca Mountain license application</td>
</tr>
<tr>
<td>May 17, 2010</td>
<td>Nevada answers DOE’s motion to withdraw</td>
</tr>
<tr>
<td>June 3, 2010</td>
<td>Board conducts oral argument on DOE’s motion to withdraw</td>
</tr>
<tr>
<td>June 29, 2010</td>
<td>Board issues LBP-10-11 denying DOE’s motion to withdraw</td>
</tr>
<tr>
<td>June 30, 2010</td>
<td>Commission Secretary schedules briefs on LBP-10-11</td>
</tr>
<tr>
<td>July 9, 2010</td>
<td>Nevada (and other parties) file briefs with Commission on LBP-10-11</td>
</tr>
<tr>
<td>July 19, 2010</td>
<td>Nevada (and other parties) file reply briefs with Commission on LBP-10-11</td>
</tr>
</tbody>
</table>
CERTIFICATE OF SERVICE

I hereby certify that the foregoing The State of Nevada’s Status Inquiry 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
wifl@nrc.gov
CAB 02
mmg3@nrc.gov
axr@nrc.gov
NGT@NRC.GOV
CAB 03
psr1@nrc.gov
mcf1@nrc.gov
mob1@nrc.gov
mark.barnett@nrc.gov
CAB 04
tsm2@nrc.gov
psr1@nrc.gov
rew@nrc.gov
U.S. Nuclear Regulatory Commission
Office of the Secretary of the Commission
hearingdocket@nrc.gov
alb@nrc.gov
atb1@nrc.gov
U.S. Nuclear Regulatory Commission
Office of Comm Appellate Adjudication
ocaamail@nrc.gov
U.S. Nuclear Regulatory Commission
Office of the General Counsel
may@nrc.gov
mlz@nrc.gov
alc1@nrc.gov
dwl2@nrc.gov
Adam.Gendelman@nrc.gov
jsg1@nrc.gov
kf4@nrc.gov
Michael.dreher@nrc.gov
Jessica.Bielecki@nrc.gov
Elva.BowdenBerry@nrc.gov
OGCMailCenter@nrc.gov
Hunton & Williams LLP
kfaglioni@hunton.com
dirwin@hunton.com
mshebelskie@hunton.com
pslayton@hunton.com
dsilverman@morganlewis.com
c@morganlewis.com
pzaffuts@morganlewis.com
ccooper@morganlewis.com
carla@hunton.com
sstaton@morganlewis.com
rkuyler@morganlewis.com
Carter Ledyard & Milburn, LLP
Counsel for Lincoln County
neuman@clm.com
Churchill, Esmeralda, Eureka, Mineral and Lander Counties
lpitchford@comcast.net
Armstrong Teasdale LLP
rlist@armstrongteasdale.com
City of Las Vegas
mplaster@LasVegasNevada.gov
Clark County Nuclear Waste Division
iln@co.clark.nv.us
evt@co.clark.nv.us
klevorick@co.clark.nv.us
Nuclear Waste Project Office
breslow@nuc.state.nv.us
steve.fr@hotmail.com
Eureka County and Lander County
Harmon, Curran, Speilberg & Eisenberg
dcurran@harmoncurran.com
U.S. Department of Energy
Office of General Counsel
george.hellstrom@ym.gov
martha.crosland@hq.doe.gov
nick.dinunziok@rw.doe.gov
ben.mcrae@hq.doe.gov
christina.pak@hq.doe.gov
scott.harris@hq.doe.gov
sean.lev@hq.doe.gov
U.S. Department of Energy
Office of Counsel
Naval Sea Systems Command
frank.putzu@navy.mil
U.S. Department of Energy
USA Repository Services LLC
Yucca Mountain Project Licensing Group
jeffrey_kriner@ym.gov
stephen_cereghino@ym.gov
U.S. Department of Energy
USA Repository Services LLC
Yucca Mountain Project Licensing Group
edward_borella@ym.gov
U.S. Department of Energy
Office of Civilian Radioactive Waste Mgmt
Office of Repository Development
timothy_gunter@ym.gov
U.S. Department of Energy
OCRWM
eric.knox@hq.doe.gov
dong.kim@rw.doe.gov
Morgan, Lewis, Bockius LLP
lcsedrik@morganlewis.com
jguiterrez@morganlewis.com
cmoldenhauer@morganlewis.com
boldham@morganlewis.com
tpoindexter@morganlewis.com
apolonsky@morganlewis.com
tschmutz@morganlewis.com
Nevada Nuclear Waste Task Force
judynwtf@aol.com
Talisman International, LLC
plarimore@talisman-intl.com
White Pine County
City of Caliente
Lincoln County
jayson@idtservices.com
Nuclear Energy Institute
mab@nei.org
Nuclear Waste Technical Review Board
dory@nwtrb.gov

Intertech Services Corporation
bigboff@aol.com

Nye County Department of Natural Resources & Federal Facilities
dswanson@nyecounty.net

Lincoln County Nuclear Oversight Prgm
jcciac@co.lincoln.nv.us

Nye County Regulatory/Licensing Adv.
mrmurphy@chamberscable.com

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

Mineral County Board of Commissioners
yuccainfo@mineralcountynv.org

State of Nevada
madams@ag.state.nv.us

White Pine County (NV) Nuclear Waste Project Office
wpnucwst1@mwpower.net

Fredericks & Peebles, L.L.P.
dhouck@ndnlaw.com
jpeebles@ndnlaw.com
chairman@timbisha.org
dvdurbarbara@netscape.com
sthinelk@ndnlaw.com

California Department of Justice
susan.durbin@doj.ca.gov
brian.hembacher@doj.ca.gov
timothy.sullivan@doj.ca.gov

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