

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

**ATOMIC SAFETY AND LICENSING BOARD
Before Administrative Judges:**

**09-892-HLW-CAB04
Thomas S. Moore, Chairman
Paul S. Ryerson
Richard E. Wardwell**

_____)	March 26, 2010
In the Matter of :)	
)	
U.S. Department of Energy) Docket No. 63-001)	
)	Docket No. 63-001-HLW
(High Level Waste Repository Construction)	
Authorization Application))	
_____)	

**NYE COUNTY ANSWERS TO THE PETITIONS TO INTERVENE
FILED BY THE STATE OF SOUTH CAROLINA, STATE OF
WASHINGTON, AIKEN COUNTY, SOUTH CAROLINA, THE
NATIONAL ASSOCIATION OF REGULATORY UTILITY
COMMISSIONERS, AND THE PRAIRIE ISLAND INDIAN
COMMUNITY**

In accordance with the recent Construction Authorization Board 04's (CAB) Scheduling Orders dated March 5 and 16, 2010, Nye County, Nevada, hereby submits its Answer to the Petitions to Intervene¹ filed by the State of South Carolina, the State of Washington, Aiken County, South Carolina, The National Association of Regulatory Utility Commissioners, and the Prairie Island Indian Community [hereinafter "Five Additional Petitioners"]. Nye County, Nevada is the local governmental body in which the proposed Yucca Mountain repository is wholly located, and as such intervened in this proceeding as a matter of right under 10 CFR §2.309(d)(2)(iii).

¹ Petition of the State of South Carolina to Intervene (February 26, 2010); State of Washington's Petition For Leave To Intervene and Request for Hearing (March 3, 2010); Petition of Aiken County, South Carolina (March 4, 2010); National Association of Regulatory Utility Commissioners Petition to Intervene (March 15, 2010), and the Petition to Intervene of the Prairie Island Indian Community (March 16, 2010).

From the outset, Nye County has clearly stated that its primary interest in this proceeding is protecting the health and safety of its residents. Provided that the concerns raised by Nye County in its contentions are addressed and satisfied by NRC's inclusion of appropriate conditions on construction authorization, Nye County believes that the repository could be constructed and operated safely and in a manner which adequately protects the residents of Nye County and the public from radiological releases and exposures.

During consultation with counsel for the Five Additional Petitioners, Nye County's legal representatives have stated that Nye County does not oppose the Petitions to Intervene. Nye County supports the intervention of these parties who have demonstrated standing and a stake in this proceeding, and have met the requirements of 10 C.F.R. §§ 2.309(a) through (g). By granting intervention, the CAB assures that all perspectives are considered as it determines whether to grant, deny, or condition DOE's Motion to Withdraw in this licensing proceeding which has major implications for national nuclear policy. For the reasons stated in the Five Additional Petitioners' filings in response to the requirements of 10 C.F.R. §§ 2.309(a)-(g),

which responses are incorporated herein by reference, Nye County supports the late intervention of each of the Five Additional Petitioners in this proceeding.²

Respectfully Submitted,

Signed electronically

Jeffrey D. VanNiel

Regulatory and Licensing Advisor

Nye County, Nevada

530 Farrington Court

Las Vegas, NV 89123

Voice: 702.896.0458

Fax: 702.896.0459

email: nbrjdn@gmail.com

Robert M. Andersen

Akerman Senterfitt LLP

750 9th Street N.W., Suite 750

Washington, DC 20001

Voice: 202.393.6222

Fax: 202.393.5959

email: robert.andersen@akerman.com

Malachy R. Murphy

18160 Cottonwood Rd. #265

Sunriver, OR 97707

Voice 541 593-1730

Fax 541 593-1730

email mrmurphy@chamberscable.com

Counsel for Nye County, Nevada

March 26, 2009

² Unlike the other Five Additional Petitioners, Aiken, South Carolina, did not separately address the requirements of 10 C.F.R. §§ 2.309(a)-(g) in its petition, but rather incorporated the State of South Carolina's petition by reference.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC AND SAFETY LICENSING BOARD

In the Matter of)	Docket No.	63-001-HLW
)		
U.S. DEPARTMENT OF ENERGY)	ASLBP Nos.	09-892-HLW-CAB04
)		
(High-Level Waste Repository))		
)		

CERTIFICATE OF SERVICE

I hereby certify that copies of the Nye County Answers to Petitions to Intervene dated March 26, 2010, in the above-captioned proceeding have been served on the following persons by Electronic Information Exchange.

CAB 01

William J. Froehlich, Chairman
Thomas S. Moore
Richard E. Wardwell
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
E-mail: wjf1@nrc.gov
tsm2@nrc.gov
rew@nrc.gov

CAB 04

Thomas S. Moore, Chairman
Paul S. Ryerson
Richard E. Wardwell
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
E-mail: tsm2@nrc.gov
psr1@nrc.gov
rew@nrc.gov

CAB 02

Michael M. Gibson, Chairman
Alan S. Rosenthal
Nicholas G. Trikouros
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
E-mail: mmg3@nrc.gov
axr@nrc.gov
ngt@nrc.gov

Office of the Secretary
ATTN: Docketing and Service
Mail Stop: O-16C1
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
E-mail: HEARINGDOCKET@nrc.gov

Office of Commission Appellate
Adjudication
ocaamail@nrc.gov

B 03

Paul S. Ryerson, Chairman
Michael C. Farrar
Mark O. Barnett
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
E-mail: psr1@nrc.gov
mcf@nrc.gov
mob1@nrc.gov
mark.barnett@nrc.gov

Martin G. Malsch, Esq.
Egan, Fitzpatrick & Malsch, PLLC
1750 K Street, N.W. Suite 350
Washington, D.C. 20006
E-mail: mmalsch@nuclearlawyer.com

Brian W. Hembacher, Esq.
Deputy Attorney General
California Attorney General's Office
300 South Spring Street
Los Angeles, CA 90013
E-mail: timothy.sullivan@doj.ca.gov

Timothy E. Sullivan, Esq.
Deputy Attorney General
California Department of Justice
1515 Clay Street., 20th Flr.
P.O. Box 70550
Oakland, CA 94612-0550
E-mail: kwbell@energy.state.ca.us

Kevin W. Bell, Esq.
Senior Staff Counsel
California Energy Commission
1516 9th Street
Sacramento, CA 95814
E-mail: kwbell@energy.state.ca.us

Bryce C. Loveland
Jennings Strouss @Salmon, PLC
8330 W. Sahara Avenue, Suite 290
Las Vegas, NV 89117-8949
E-mail: bloveland@jsslaw.com

Charles J. Fitzpatrick, Esq.
John W. Lawrence, Esq.
Egan, Fitzpatrick, Malsch & Lawrence PLLC
12500 San Pedro Avenue, Suite 555
E-mail: cfitzpatrick@nuclearlawyer.com
jlawrence@nuclearlawyer.com

Donald J. Silverman, Esq.
Thomas A. Schmutz, Esq.
Thomas C. Poindexter, Esq.
Paul J. Zaffuts, Esq.
Alex S. Polonsky, Esq.
Lewis Csedrik, Esq.
Morgan, Lewis & Bockius LLP
1111 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
E-mail: dsilverman@morganlewis.com
tschmutz@morganlewis.com
tpointexter@morganlewis.com
pzaffuts@morganlewis.com
apolonsky@morganlewis.com
lcshedrik@morganlewis.com

Malachy R. Murphy, Esq.
18160 Cottonwood Rd. #265
Sunriver, OR 97707
E-mail: mrmurphy@chamberscable.com

Robert M. Andersen
Akerman Senterfitt
801 Pennsylvania Avenue N.W., Suite 600
Washington, D.C. 20004 USA
E-mail: Robert. andersen@akerman.com

Alan I. Robbins, Esq.
Debra D. Roby, Esq.
Jennings Strouss & Salmon, PLC
1700 Pennsylvania Ave., NW Suite 500
Washington, D.C. 20005
E-mail: arobbins@jsslaw.com
droby@jsslaw.com

George W. Hellstrom
U.S. Department of Energy
Office of General Counsel
1551 Hillshire Drive
Las Vegas, NV 89134-6321

Jeffrey D. VanNiel, Esq.
530 Farrington Court
Las Vegas, NV 89123
E-mail: nbrjdv@gmail.com

Susan L. Durbin, Esq.
Deputy Attorney General
1300 I Street
P.O. Box 944255
Sacramento, CA 94244-2550
E-mail: susan.durbin@doj.ca.gov

Frank A. Putzu
Naval Sea Systems Command Nuclear
Propulsion Program
1333 Isaac Hull Avenue, S.E.
Washington Navy Yard, Building 197
Washington, D.C. 20376
E-mail: frank.putzu@navy.mil

John M. Peebles
Darcie L. Houck
Fredericks Peebles & Morgan LLP
1001 Second Street
Sacramento, CA 95814
E-mail: jpeebles@ndnlaw.com

Ellen C. Ginsberg
Michael A. Bauser
Anne W. Cottingham
Nuclear Energy Institute, Inc.
1776 I Street, N.W., Suite 400
Washington, D.C. 20006
E-mail: ecg@nei.org
mab@nei.org
awc@nei.org

Martha S. Crosland, Esq.
Angela M. Kordyak, Esq.
Nicholas P. DiNunzio
James Bennett McRae, Esq.
U.S. Department of Energy
Office of the General Counsel
1000 Independence Avenue, S. W.
Washington, D.C. 20585
E-mail: martha.crosland@hq.doe.gov
angela.kordyak@hq.doe.gov
nick.dinunzio@rw.doe.gov
ben.mcrae@hq.doe.gov

Jay E. Silberg
Timothy J.V. Walsh
Pillsbury Winthrop Shaw Pittman LLP
2300 N. Street N.W.
Washington, D.C. 20037-1122
E-mail: jay.silberg@pillsburylaw.com
timothy.walsh@pillsburylaw.com

Gregory L. James
710 Autumn Leaves Circle
Bishop, CA 93514
E-mail: gljames@earthlink.net

Arthur J. Harrington
Godfrey & Kahn, S.C.
780 N. Water Street
Milwaukee, WI 53202
E-mail: aharring@gklaw.com

Steven A. Heinzen
Douglas M. Poland
Hannah L. Renfro
Godfrey & Kahn, S.C.
One East Main Street, Suite 500
P.O. Box 2719
Madison, WI 53701-2719
E-mail: sheinzen@gklaw.com
dpoland@gklaw.com
hrenfro@gklaw.com

David A. Repka
William A. Horin
Rachel Miras-Wilson
Winston & Strawn LLP
1700 K Street N.W.
Washington, D.C. 20006
E-mail: drepka@winston.com
whorin@winston.com
rwilson@winston.com

Ina Zabarte, Board Member
Native Community Action Council
P.O. Box 140
Baker, NV 89311
E-mail: mrizabarte@gmail.com

Richard Sears
District Attorney No. 5489
White Pine County District Attorney's Office
801 Clark Street, Suite 3
Ely, NV 89301
E-mail: rwsears@wpcda.org

Donald P. Irwin
Michael R. Shebelskie
Kelly L. Faglioni
Hunton & Williams LLP
Riverfront Plaza, East Tower
951 East Byrd Street
Richmond, VA 23219-4074
E-mail: dirwin@hunton.com
mshebelskie@hunton.com
kfaglioni@hunton.com

Curtis G. Berkey
Scott W. Williams
Rovianne A. Leigh
Alexander, Berkey, Williams & Weathers LLP
2030 Addison Street, Suite 410
Berkley, CA 94704
E-mail: cberkey@abwwlaw.com
swilliams@abwwlaw.com
rleigh@abwwlaw.com

Robert F. List, Esq.
Jennifer A. Gores, Esq.
Armstrong Teasdale LLP
1975 Village Center Circle, Suite 140
Las Vegas, NV 89134-6237
E-mail: rlist@armstrongteasdale.com
jgores@armstrongteasdale.com

Diane Curran
Harmon, Curran, Spielberg, & Eisenberg, LLP
1726 M. Street N.W., Suite 600
Washington, D.C. 20036
E-mail: dcurran2harmoncurran.com

Bret O. Whipple
1100 South Tenth Street
Las Vegas, NV 89104
E-mail: bretwhipple@nomademail.com

Connie Simkins
P.O. Box 1068
Caliente, NV 89043
E-mail: jcciac@co.lincoln.nv.us

Dr. Mike Baughman
Intertech Services Corporation
P.O. Box 2008
Carson City, NV 89702
E-mail: bigoff@aol.com

Gregory Barlow
P.O. Box 60
Pioche, NV 89043
E-mail: lcda@lcturbonet.com

Michael Berger
Robert S. Hanna
Attorney for the County of Inyo
233 East Carrillo Street Suite B
Santa Barbara, CA 93101
E-mail: mberger@bsglaw.net
rshanna@bsglaw.net

National Association of Regulatory Utility
Commissioners
1101 Vermont Avenue NW, Suite 200
Washington, DC 20005
James Bradford Ramsay, General Counsel
Email: jramsay@naruc.org
Robin J. Lunt, Assistant General Counsel
Email: rlunt@naruc.org

Prairie Island Indian Community
Philip R. Mahowald, General Counsel
5636 Sturgeon Lake Road
Welch, MI 55089
pmahowald@piic.org

Don L. Keskey
505 N. Capitol Avenue
Lansing MI, 48933
donkesky@publiclawresourcecenter.com

Aiken County, South Carolina
Thomas R. Gottshall
HAYNSWORTH SINKLER BOYD, P.A.
P. O. Box 11889
Columbia, SC 29211-1889
tgottshall@hsblawfirm.com

Kenneth P. Woodington
DAVIDSON & LINDEMANN, P.A.
1611 Devonshire Drive, 2nd Floor
Post Office Box 8568
Columbia, South Carolina 29202
E-mail: kwoodington@dml-law.com
Counsel South CARolina

ANDREW A. FITZ, Senior Counsel
AndyF@atg.wa.gov
MICHAEL L. DUNNING
MichaelD@atg.wa.gov
H. LEE OVERTON
LeeO1@atg.wa.gov
Assistant Attorneys General
State of Washington
Office of the Attorney General
PO Box 40117
Olympia, WA 98504-0117

March 26, 2010

Signed (electronically) by
Jeffrey D. VanNiel
Regulatory and Licensing Advisor
Nye County, Nevada
530 Farrington Court
Las Vegas, NV 89123
Voice: 702.896.0458
Fax: 702.896.0459
email: nbrjdv@gmail.com