

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
(High Level Waste Repository)

Docket No. 63-001-HLW
ASLBP No. 09-892-HLW-CAB04
May 18, 2010

MEMORANDUM AND ORDER
(Logistics for Oral Argument)

As described in our May 3, 2010 order,¹ Construction Authorization Board (CAB) 04 will hear oral argument and hold a case management conference on the matters identified in our order of April 27, 2010 on Thursday, June 3, 2010 and Friday, June 4, 2010 at the Las Vegas Hearing Facility (LVHF), Pacific Enterprise Plaza, Building 1, 3250 Pepper Lane, Las Vegas, Nevada. This order sets forth the subject and terms of the oral argument and case management conference and other necessary logistical information.

A. Terms of Oral Argument

Commencing at 9:00 a.m. PDT, Thursday, June 3, 2010, CAB-04 will hear oral argument on the Department of Energy's (DOE) motion to withdraw with prejudice its pending license application to construct a geologic repository at Yucca Mountain, Nevada. The Board will not

¹ CAB Order (Scheduling Argument and Further Prehearing Conference) (May 3, 2010) (unpublished).

hear any argument on the grant or denial of the five pending intervention petitions.²

DOE, as the movant, and the other proponents of the DOE motion will have two-and-a-half hours for argument and will be heard first. Counsel for DOE shall divide the time among the motion proponents as he and the other counsel agree. Counsel for DOE should not allocate argument time to any proponent that has not made substantial, substantive arguments in its response to DOE's motion on the subjects identified in the Board's May 3, 2010 order. In the event counsel cannot agree on an allocation of time, DOE counsel shall determine the time allocations. In allocating time, counsel for DOE shall grant the Staff 10 minutes for argument, no more than two minutes of which may be reserved for rebuttal. All counsel should confer and, to the extent practicable, avoid repetition in presenting their arguments. As the movant, DOE may reserve no more than 15 minutes for its rebuttal and, with the exception of the NRC Staff, all other proponents combined may have no more than 10 minutes for rebuttal. No later than 12:00 p.m. EDT, Friday, May 28, 2010, counsel for DOE shall file a statement of the time allocation among the motion proponents, including the name, affiliation, and proponent represented for each counsel presenting argument.

The opponents of the DOE motion also shall have two-and-a-half hours for argument. Counsel for the State of Washington shall divide the time among the opponents of DOE's motion as he and the other counsel agree. Counsel for the State of Washington should not allocate argument time to any opponent that has not made substantial, substantive arguments in its response to DOE's motion on the subjects identified in the Board's May 3, 2010 order. In the event counsel cannot agree on an allocation of time, counsel for the State of Washington shall determine the time allocations. All counsel should confer and, to the extent practicable, avoid repetition in presenting their arguments. No later than 3:00 p.m. PDT, Friday, May 28,

² See Petition of the State of South Carolina to Intervene (Feb. 26, 2010); State of Washington's Petition for Leave to Intervene and Request for Hearing (Mar. 3, 2010); Petition of Aiken County, South Carolina, to Intervene (Mar. 4, 2010); Petition to Intervene of the Prairie Island Indian Community (Mar. 15, 2010); National Association of Regulatory Utility Commissioners Petition to Intervene (Mar. 15, 2010).

2010, counsel for the State of Washington shall file a statement of the time allocations among the motion opponents, including the name, affiliation, and opponent represented for each counsel presenting argument.

Oral argument shall be limited to counsel who have filed an appropriate notice of appearance and only one counsel for each party, petitioner, or interested governmental participant (IGP) shall present argument. Other counsel for parties, petitioners, or IGPs that are not presenting argument, however, are free to attend the June 3 argument if they wish. The Board will not hear argument from any amicus curiae or entertain any limited appearance statements pursuant to 10 C.F.R. § 2.315.

B. Terms of Case Management Conference

On Friday, June 4, 2010 at 9:00 a.m. PDT, the Board will convene a case management conference to address DOE's plans for preserving its licensing support network (LSN) document collection, DOE's answers to the Board's questions set forth in Appendix C of its April 21, 2010 order, and the comments on DOE's LSN preservation plans. Counsel for DOE and the NRC Staff shall attend. Counsel for any other party, petitioner, or IGP are free to attend and, if they wish, participate. Because not all counsel will be attending the June 3 oral argument, the Board will permit participation in the case management conference by telephone.

C. Logistical Matters

The proceeding of June 3 and 4, 2010 will be open to the public. They will also be web streamed for public viewing at the following links:

June 3: <http://www.visualwebcaster.com/event.asp?id=69198>

June 4: <http://www.visualwebcaster.com/event.asp?id=69199>

This web stream will be available for viewing for 90 days after the proceeding concludes.

1. Las Vegas Hearing Facility

Upon arrival at the front entrance of the LVHF, all persons seeking to enter the building

will be required to present at least one form of state or federal government-issued photo identification and then undergo a security screening process. Given that the LVHF security procedures permit only a limited number of individuals to occupy the lobby at one time, people seeking entry may temporarily need to wait outside. Thus, everyone is encouraged to arrive at the LVHF well in advance of the beginning time for the argument and conference. Counsel should arrive even earlier to ensure that they do not disrupt the beginning of the proceedings.

2. Oral Argument Logistics

For purposes of the June 3 oral argument, counsel tables in the well of the LVHF are reserved for counsel and will be assigned to relevant parties, petitioners, and IGPs. No other persons will be allowed in the well of the LVHF during argument.

3. Case Management Conference Logistics

For purposes of the June 4 conference, counsel tables will be assigned to counsel participating in the conference. On or before May 26, 2010, each party, petitioner and IGP attending the conference in person shall file a notice informing the Board of the names of counsel who will be representing the participant. Counsel for those parties, petitioners, and IGPs participating by telephone must notify both Karen Valloch (Karen.Valloch@nrc.gov) and Matthew Rotman (Matthew.Rotman@nrc.gov) by 5:00 p.m. EDT on May 26, 2010. Each participant shall provide the name of counsel that will be participating by telephone, and if more than one counsel, the number of locations from which counsel will be participating. Thereafter, on or before May 28, 2010, you will receive an e-mail containing the phone number and pass code required to connect to the conference.

4. Conference Rooms

Conference rooms will not be available to any parties, petitioners, or IGPs for either the June 3 oral argument or the June 4 case management conference.

5. Parking

Counsel may obtain a reserved parking space at the LVHF in connect with the oral

argument and conference. To do so, counsel should submit a request to Joe Deucher (DDMSWebmaster.Resource@nrc.gov) on or before May 26, 2010. Use of such reserved parking spaces for June 3 and 4 will be limited to a maximum of two vehicles for each party, petitioner, or IGP and spaces will be available on a first come, first serve basis. Parking is limited to the time period starting one hour prior to the proceeding and ending one hour after the Board has adjourned for the day. Significant security restrictions apply and must be followed.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

Thomas S. Moore, Chairman
ADMINISTRATIVE JUDGE

Rockville, Maryland
May 18, 2010

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NUCLEAR REGULATORY COMMISSION

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Board MEMORANDUM AND ORDER (Logistics for Oral Argument), dated May 18, 2010, have been served upon the following persons by Electronic Information Exchange.

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U.S. DEPARTMENT OF ENERGY (High Level Waste Repository) Docket No. 63-001-HLW
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U.S. DEPARTMENT OF ENERGY (High Level Waste Repository) Docket No. 63-001-HLW
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U.S. DEPARTMENT OF ENERGY (High Level Waste Repository) Docket No. 63-001-HLW
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[Original Signed by Linda D. Lewis] _____
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