CORRECTED WHITE PINE COUNTY’S RESPONSE TO STATE OF NEVADA’S PETITION FOR RELIEF WITH RESPECT TO POSSIBLE ISSUANCE OF A PARTIAL SAFETY EVALUATION REPORT

On June 14, 2010, the State of Nevada petitioned the Commission ("Petition") to order an immediate suspension of NRC Staff’s ("Staff") work on Safety Evaluation Report (SER) Volume 3 until there is a final Commission decision on DOE’s March 3, 2009 motion to withdraw its license application. The Commission should reject Nevada’s call for immediate suspension or termination of the Staff’s SER work but should grant Nevada’s request for the Commission to direct the presiding Atomic Safety and Licensing Board (CAB-04) to issue an order on each of the ten pending legal issues raised by Nevada. In addition, White Pine County believes that all legal contentions filed in this proceeding which have been briefed and are ready for ASLB resolution should be included in any such order issued by the Commission.

Nevada assumes that Staff, following informal consultation with the Commission, will ultimately decide to issue SER Volume 3 even if DOE’s application is finally withdrawn. If correct, there is no reason for the Commission, in advance of a final ruling on DOE’s motion allowing it to withdraw its application, to issue an order directing Staff to suspend or terminate work on SER Volume 3. If Nevada’s assumption is wrong and Staff would not seek to issue SER
Volume 3 following a final ruling on DOE’s motion, then the relief requested by Nevada is not needed. In any case, it appears Nevada’s petition is untimely.

White Pine County is particularly concerned that the preferred relief requested by Nevada would require the Commission to support Nevada’s attempt to suppress Staff’s evaluation of the safety of the Yucca Mountain project from public review. White Pine County and its residents depend upon NRC to protect public health and safety in a manner which relies upon adjudication of technical and legal information, not politics. If the public perceives that the Commission has become subject to the same political decision-making driving the DOE’s efforts to terminate the Yucca Mountain project, White Pine County residents will lose confidence in the ability of NRC to protect public health and safety. Nevada’s call for immediate suspension or termination of the Staff’s SER work should be rejected by the Commission.

However, 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, White Pine County believes that Staff should consider all legal contentions filed in this proceeding which have been briefed and are therefore ready for resolution as SER Volume 3 is completed. Accordingly, White Pine 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. In addition, White Pine County believes that all legal contentions (including Nevada’s) filed in this proceeding which have been briefed and are ready for ASLB resolution should be included in any such order issued by the Commission.
Respectfully submitted,
Signed electronically by
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UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION

BEFORE THE PRE-LICENSE APPLICATION PRESIDING BOARD

In the Matter of

U.S. DEPARTMENT OF ENERGY) Docket No. 63-001

) ASLBP No. 09-892-HLW-CAB-04

(High-Level Waste Repository: Pre-Application Matters)

June 22, 2010

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