STATE OF NEVADA'S RESPONSE TO DOE'S MOTION TO STRIKE NEVADA'S LSN CERTIFICATION
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I. INTRODUCTION


DOE’s motion has no factual or legal basis. Its factual basis is replete with flagrant mischaracterizations of Nevada testimony and statements and, ultimately, it relies on pure speculation about Nevada’s intentions and missing categories of documents. The motion does not even fully cite, or discuss, the NRC’s definition of "documentary material." Moreover, the motion is pure chutzpah. After extraordinary and ultimately successful efforts to deprive Nevada of its prior draft application materials, after filing an initial LSN certification with millions of documents known to be missing, and after filing another initial LSN certification with full knowledge that documents desperately needed by Nevada to draft contentions would not be included, DOE now wraps itself in the flags of fairness, full disclosure and transparency, insisting against all reason and evidence that it is Nevada, not DOE, that holds back. However, as explained below, Nevada is in full compliance with NRC’s LSN certification and DOE's speculative and conclusory motion should be denied.

II. NEVADA IMPLEMENTED A GOOD FAITH EFFORT TO CREATE AN ACCURATE AND COMPLETE LSN DATABASE; DOE'S UNSUPPORTED ASSERTIONS TO THE CONTRARY ARE WITHOUT MERIT

A. Nevada's Good Faith Effort

While "good faith" may not be a term defined by NRC regulation, there is no question that it is expected of the parties to this proceeding in all their endeavors and in the preparation of their responsive LSN databases for certification. Nevada believes that "good faith" in this
context involves a careful consideration of each document in its possession which is potentially "Documentary Material," in light of the regulatory definitions of Documentary Material and the obligations which those definitions portend. Nevada believes it is every bit as much an exercise of good faith both to include on the LSN those documents which are Documentary Material (in respect to which DOE fell millions of documents short in its 2004 certification) as it is to exclude from the LSN those documents which are not Documentary Material (a principle which DOE has failed to recognize in its recent certification, by including hundreds of thousands of documents on the LSN which are manifestly not Documentary Material (see infra)).

The need to include that which is Documentary Material is obvious; the vice attendant to including volumes of material which is not Documentary Material has been addressed by the NRC: “... the Commission believes that it would be beneficial to eliminate or at least significantly reduce the loading of duplicate documents. Reducing duplication will not only alleviate burdens on the participants, but will also make search and retrieval of the LSN collection more efficient.” 69 Fed. Reg. 113 at 32842 (2004).

Nevada began the process of providing information and guidance to the members of its licensing team early on. Here, DOE's unsubstantiated speculation by DOE about Nevada's team needs correction. While DOE states (Motion p. 29): "It is not credible that after 25 years of work on Yucca Mountain, the expenditure of several tens of millions of dollars, and a legion of experts, consultants, and contractors, Nevada has generated so few documents meeting the definition of Documentary Material." The facts are these: Dr. Thorne, the coordinator and leader of the licensing consultant group for Nevada, was not engaged until April 2003 (Fitzpatrick Declaration). With the exception of those who had done work on corrosion or volcanism for a different purpose earlier on, not involving contention preparation, every other member of the expert team was engaged after Dr. Thorne.
Nevada, mindful of the importance of the LSN and Documentary Material, has made the careful identification and disclosure of Documentary Material a high priority. Since 2003, there have been numerous expert "summits" (meetings of the entire consultant team, attorneys, and Nevada staff); at every one of those meetings, a block of time was set aside for the conduct of instruction on the requirements and definitions associated with the LSN and the provision of Documentary Material. Since at least mid-2004, there have been weekly telephone conferences which usually included each of the Nevada Area Certification Managers and Assistant Managers (i.e., Mr. Loux, Ms. Lynch, Mr. Malsch, Mr. Messenger, and Dr. Thorne), and which often included a discussion, issues, or questions relating to the LSN and its requirements (Fitzpatrick Declaration).

There have been various written communications provided to the team members (not limited to the samples of information which DOE acquired from the City of Las Vegas in this matter by having an attorney request them from a non-attorney). Inquiries from members of the team regarding LSN requirements have been fielded by counsel or by Area Certification Managers. *Id.*

Among the information provided by Nevada to its licensing team for guidance in their review and designation of Documentary Material were DOE's own publicly promulgated Frequently Asked Questions and DOE's own November 2006 Memorandum (Ex. 1) articulating to DOE and its contractor personnel the prerequisites of LSN compliance. At every stage, members of Nevada's licensing team were urged to "err in the direction of inclusion" in any instance in which there was any question whether something constituted Documentary Material or not (Fitzpatrick Declaration). In addition, the expert consultants were repeatedly cautioned that they bore the responsibility of ensuring that anything which they might possibly eventually rely upon in forming opinions or writing reports or testifying in connection with the licensing
proceeding must be on the LSN at the time of Nevada's certification or risk that it might not be available to them. 

Id. While it is difficult at this stage to pinpoint Nevada's licensing positions, it is telling that a search of its LSN database by subject discloses these "hits": TSPA – 380; corrosion – 701; LA – 940.

When DOE filed its Motion, it was well aware that written information had been distributed to Nevada's licensing team by Nevada relating to LSN training and procedures, information which DOE has not seen (and which DOE did not even inquire about until it had already prepared its motion and less than 24 hours before filing). 

Id. Thus, DOE incorrectly stated (Motion p. 4) that Nevada "delayed in issuing procedures until October, 2007." Incidentally, written procedures are not even required. In its August 31, 2004 Order, PAPO criticized the fact that DOE's 2004 written procedures were useless, having only been signed the day before its certification correctly noting that such belated procedures could not have been followed. Then, PAPO excused DOE's "paper" shortcoming and simply focused on whether proper document gathering methods had been implemented: "Nevertheless, we recognize that DOE is only required to certify that these procedures 'have been implemented,' see 10 C.F.R. §2.1009(b)" (8/31/04 PAPO Order at 50).

Contrary to DOE's criticism, the written information Nevada provided to its team reminded them about procedures and training Nevada had been implementing for several years; that it had recently reduced those preexisting LSN compliance procedures to written form; that they had received LSN training in numerous forms and in numerous forums, over the prior four years; and that this included presentations at the expert summits in each of which an LSN presentation was made (Fitzpatrick Declaration). Nevada's implementation of procedures and instruction and training to its licensing team epitomize a good faith effort on Nevada's part to create a complete and accurate LSN database.
DOE makes a single narrow criticism of that effort, pointing out that the distribution of some information promulgated by Nevada did not specifically recite that it was delivered to some individuals who worked as helpers or associates to the expert consultants who were so named in distribution. DOE speaks of a "push down" requirement, where information provided by a party to contractors is required to be "pushed down" by them to subcontractors and sub-subcontractors to ensure the compliance of all. DOE seemingly misapprehends the makeup of Nevada's team, where its engaged consultants are not massive companies with thousands of employees and dozens of subcontractors as is the case with DOE. Rather, even where Nevada has engaged an entity such as Geoscience Consultants or Geoscience Management International, the work is performed by one or two designated individuals. At all times during the progress of this proceeding, from the time of their engagement, expert consultants were instructed that any request for Documentary Material or certification of the delivery of Documentary Material was to apply not only to themselves individually, but to any associates or helpers who provided any assistance during the work process (see Lynch Declaration). In an abundance of caution, because DOE raised the suggestion that such a (limited by its nature) "push down" was not required by Nevada and may not have taken place, Nevada specifically contacted every consultant on its team in the interim between DOE's Motion and this Response and received in response the unanimous assurance of those consultants that their delivery of Documentary Material and certifications of compliance had in fact, as they had been instructed, included any Documentary Material in the possession of their helpers, assistants, or associates (Lynch Declaration).

B. **DOE's Absence of Such a Good Faith Effort**

Looking to the millions of documents it provided on its LSN database, DOE speculates that Nevada could not possibly have as few Documentary Materials as it has offered up on its
LSN certification. DOE errs in predicating on the size of its own 3.5 million document database the assertion that Nevada's is unduly small. First of all, all parties have realized for many years that the LSN database of DOE (responsible for site characterization, site recommendation, and License Application ("LA") production) would be by far the largest of any participant database. Second, it is axiomatic that other participants will largely rely upon the LSN database of DOE during their participation in the licensing proceeding; since the NRC has wisely adopted a provision precluding the necessity of placing duplicate documents on the LSN, this factor automatically results in a substantial reduction of what otherwise might be on the databases of the other participants. But finally, and most of all, DOE's rote speculation based on comparative database size ignores the facts that Nevada's LSN database is a consequence of its careful application of the regulations and the definition of Documentary Material (supra), while the enormous size of DOE's apparent benchmark for measurement – its own LSN database – is enormously bloated by the fact that DOE, in a bad faith effort to save time and money, dumped huge quantities of non-Documentary Material on its LSN database (infra).

Nevada acknowledges that, in seeking to apply the provisions of 10 C.F.R. 2 and particularly the definition of Documentary Material in Section 2.1001 (and to include documents which met those prerequisites but exclude those which did not), it did not aspire to employ the same quantum of good faith or bad faith which DOE did in its initial recertification last October. This is because DOE obviously failed to implement the most basic requirement of good faith in this context: specifically, reviewing each potential LSN document and determining whether it did or did not constitute Documentary Material as defined by the NRC's regulations. Had DOE done a good faith implementation of LSN requirements, it could not conceivably have included (to this day) documents on its LSN database such as:
1. **Duplicates:**

As NRC observed in adopting a regulation which precluded a necessity for any party putting on its LSN any duplicate of a document already on any other LSN database, “[t]herefore, the final amendment to section 2.1003(a)(1) allows an LSN participant to avoid loading a document created by another LSN participant if that document has already been made available by the LSN participant who created the document or on whose behalf the document was created.” 69 Fed. Reg. 113 at 32842 (2004)

A simple example of DOE's conduct in this regard results from a search of DOE's database under the term "colloid filtration in the volcanics." Of the resulting 83 "hits," there are a total of 30 duplicates, including **16 in a row** which, when viewed, turn out to be **identical documents**. (The search result is attached as Exhibit 2 to this Response; duplicate documents are marked with an arrow.) DOE's LSN database contains tens of thousands of duplicates; these are **not** Documentary Material required to be on the LSN.

2. **Old Obsolete Documents:**

A search of DOE's LSN database for documents predating 1990 yields tens of thousands of hits. Intuitively, one suspects that not all are Documentary Material. This is indeed the case. Examples include

- DN2002476639 (1982 purchase requisition from Battelle)
- DN2002476647 (meeting agenda for a "leak sip" meeting at Hanford in 1978)
- DN2000051242 (a 1977 justification of a "non-competitive procurement from Westinghouse)
- DN2002404914 (lead auditor record from October 21, 1976)
- DN2001633123 (1978 discussion of drilling salt dome in Louisiana)
The concept that documents over 30 years old on irrelevant subjects constitute Documentary Material in accordance with 10 C.F.R. 2 is ludicrous. There are thousands of these on DOE's LSN.

3. Emails Containing No Content:

Examples of such emails are attached as Exhibits 3-1, 3-2, and 3-3. In addition, DOE's "header" for the fourth document is attached as Exhibit 3-4 because it shows the title recited in the LSN database for the particular email is "N." Beyond these and similar examples, which are legion, there are a large number of empty email transmittals, i.e., an email which purports to attach some document being forwarded to someone else at the project, but with no attachment. The problem is not the missing attachment, which may be located elsewhere on the LSN; the problem is that a mere one-line transmittal email is simply not Documentary Material, and thousands of them should not be cluttering up the LSN. An email with no content can neither be relied on (DM-1) nor does it fail to support any party's position (DM-2) nor is it a report or study (DM-3).

4. Jokes, Cartoons, and Personal Messages:

There are a vast number of emails on DOE's LSN transmitting every conceivable kind of joke, cartoon, or other personal commentary, including restaurant menus, recipes, prayers, political commentary, movie reviews, etc. Some examples of these include the following (with only the first few attached as Exhibits 4-1 through 4-7, there being no need to belabor the obvious):

- LSN No. DN2002350283 – (email transmitting photograph of large carved pumpkin vomiting in toilet) (Response Ex. 4-1)
- LSN No. DN2001478428 – (cartoon of Santa pooping down chimney, "How To Tell You've Been Really Bad") (Response Ex. 4-2)
• LSN Participant Accession No. ALA.20050603.0291 – (humorous outcome of husband purchasing sheer negligee at Frederick's of Hollywood) (Response Ex. 4-3)

• LSN Participant Accession No. ALD.20040612.3414 – (DOE officials, including Carol Hanlon, Jean Younker, April Gil, et al., debate on the comparative merits of geologists versus engineers as husbands) (Response Ex. 4-4)

• LSN Participant Accession No. ALD.20050302.6581 – (discussion of the proper ingredients for a steak marinade recipe) (Response Ex. 4-5)

• LSN Participant Accession No. ALA.20050323.9472 – (lengthy email string debating the merits of various movies available to attend on the coming weekend) (Response Ex. 4-6)

• LSN Participant Accession No. ALA.20061221.0692 – (lengthy prayer in the form of a chain, "pass this message to eight people . . .") (Response Ex. 4-7)

• LSN Participant Accession No. ALA.20050531.4128 – (email about man who shoots wife in Paris but falls in the river; jury finds him guilty, but "inSeine")

• LSN Participant Accession No. ALD.20040612.5463 – (words to song about YMP set to the music of "Green Acres is the place to be")

• LSN Participant Accession No. ALA.20070710.0102 – (numerous jokes regarding "kids view on marriage")

• LSN Participant Accession No. ALA.20070710.0152 – (man eating ham sandwich accidentally eats baby residue instead of mustard)

• LSN Participant Accession No. ALA.20070710.0019 – (woman mistakes mechanic for husband; erotic consequences)

• LSN Participant Accession No. ALA.20070710.0215 – (how to shower like a woman/man)

• LSN Participant Accession No. ALA.20050818.4404 – (copy of menu from Italian restaurant)

• LSN Participant Accession No. ALG.20040618.2435 – (philosophical rant from professed "devout postmodernist")

• LSN Participant Accession No. ALF.20040618.3982 – (helicopter/shark attack photo)

• LSN Participant Accession No. ALD.20050315.5082 – (woman ties ribbon around testicles of dog, then husband to stop both from snoring)
The point of the foregoing examples is not to feign horror at personal exchanges, some of them quite amusing, nor is it to observe how taxpayer dollars are being misspent on the job by DOE employees and contractors who have managed to spend in excess of $1 million every single day for the last five years (since DOE's Site Recommendation), still without producing a License Application ("LA") or many of the critical documents prerequisite thereto. The real point is the measure of good faith, the measure of sincere effort, and the measure of conscientiousness displayed by DOE staff and its LSN contractor in allowing the foregoing examples and thousands more like them (this is not a case of few isolated examples "slipping under the radar") to be displayed on DOE's LSN database as "Documentary Material."

The point is that not a single one of the foregoing examples – the duplicates, the old obsolete documents, the emails containing no content, or the humor and personal emails constitute Documentary Material. As to the prevalence of such material? The examples given in this section were all located during a review of less than one-tenth of one percent of DOE's total database of 3.5 million documents.

Good faith in creating one's LSN database requires a sincere expenditure of time and effort in a quest to follow the directives of 10 C.F.R. Part 2, Subpart J, and particularly the definitions therein of "Documentary Material," to review every potential candidate document, and to make a thoughtful decision with respect to each whether it is or is not Documentary Material. Nevada did this, in the exercise of utmost good faith. DOE obviously did not do so, which may help to explain the relatively large number of documents it certified.

There is one final category of non-Documentary Material, which DOE has nonetheless placed on its LSN, which undoubtedly comprises at least hundreds of thousands of pages. This volume of documents was placed on the LSN intentionally by DOE, and not as a consequence of some mere negligence or oversight. The decision by DOE to dump onto its LSN every draft and
revision of every technical document (by definition not Documentary Material) was discussed by DOE counsel at the July 12, 2005 PAPO hearing. Given the somewhat complex definition of "circulated drafts" (which are Documentary Material), Judge Karlin asked: "Can I ask, do you have any circulated drafts that you're going to be putting on the LSN, not of the license application, necessarily, but of any other reports and other documents?" DOE's response: "[W]e made this decision, Judge Karlin, with respect to the underlying technical documents, like the reports and studies, and analyses and AMRs, that we could have gone through -- I mean, all these documents go through a lot of drafting iterations, as you might imagine. And we could have gone through and said this one is not a circulated draft, this one is not, this is not, this one is not. We also recognize though that was, in part, going to be a very time-consuming and expensive process, and we said well, we have these drafts in our record compilation system. We're not culling them out because they do or do not meet the definition of circulated draft, so we are voluntarily producing many, many drafts of these technical underlying documents so people can see the development of the science. You don't need to see the draft license application. We're going to be producing all the details, warts and all, for the development of the science on the project" (Ex. 5).

The Commission has found in this proceeding that the only drafts that are Documentary Material are circulated drafts (NRC Memorandum and Order dated February 2, 2006). DOE has itself instructed its personnel in its LSN guidance that drafts are not Documentary Material and not to be included on the LSN (see Ex. 1 at 3).

It may be that DOE considered the exclusion of such non-Documentary Material to be a "very time-consuming and expensive process." The fact remains, the dumping of all the drafts and the many other foregoing categories of non-Documentary Material discussed above on its
LSN by DOE has had the effect of making the system unwieldy and difficult or impossible to utilize by any reasonable person and is the antithesis of good faith.

III. DOE HAS FAILED TO IDENTIFY A SINGLE ITEM OF DOCUMENTARY MATERIAL MISSING FROM NEVADA'S LSN DATABASE; ITS ATTEMPT TO IDENTIFY THREE SUCH DOCUMENTS UTTERLY FAILS

Aside from DOE's vague speculation that Nevada's LSN database "is not large enough," and its erroneous suggestions that every email, every comment, and every bit of work product developed by a member of Nevada's licensing team must somehow be Documentary Material, DOE finally identifies three specific documents which it contends are Documentary Material, but which it claims Nevada supposedly excluded from its database. Had DOE been correct, this was a shortcoming Nevada could and would have remedied instantly, if informed. However, DOE did not meet and confer in good faith, did not reveal that its motion would contend these documents were missing, and accordingly, did not make any effort to resolve the issue of these allegedly missing documents.

The three documents DOE contends are Documentary Material supposedly missing from Nevada's LSN database are these:

1 – Memorandum by Michael Thorne on volcanic probability calculations (DOE Motion p. 20)
2 – A report on the first phase of "cheeseball experiments" performed in China (DOE Motion p. 21)
3 – Dr. Thorne's "White Paper" on corrosion issues (id.)

Unfortunately, as DOE would have promptly learned if it had conferred in good faith prior to filing its motion, all three documents asserted as missing by DOE are in fact Documentary Material, but none are missing and in fact each was prominently placed on Nevada's LSN database. In its haste to accuse Nevada, DOE engaged in faulty and incomplete
research, leading to erroneous conclusions (again, easily remedied if DOE had but asked the question). The circumstances of each document are set out below.

The first document is "Michael Thorne's memo on volcanic probability calculations" (DOE Motion p. 20). DOE believed it "discovered" the existence of such a memo by Dr. Thorne based on its observing a reference by Dr. Eugene Smith to a Thorne memo on volcanic probability calculations. DOE proceeded to conduct a search of the LSN collection in its words "for documents with Thorne as author and the word 'volcanic' in text." DOE did not come up with the referenced memo. Apparently failing to notice that Dr. Smith's reference neither capitalized nor put in quotation marks the words "volcanic probability calculations," which were simply his shorthand rendition of the subject of Dr. Thorne's memo, DOE conducted a search which was fatally too narrow. In fact, Dr. Thorne's memo on volcanic probability calculations is entitled "Dyke (English spelling) Intersection Probabilities" and is dated August 24, 2004, precisely one week before Dr. Smith's August 31, 2004 mention of its existence (in DOE Ex. O-60). Indeed, Dr. Thorne's August 24 memo was specifically addressed to Dr. Smith. It was and is contained in the Nevada LSN database collection with participant accession number NEV5000131.

The second document DOE claims as Documentary Material supposedly missing from Nevada's LSN is "the first phase of the 'cheeseball experiments,'" which involved corrosion work done in China and reported in a December 30, 2005 report. As authority for the conduct of such work and the potential for a report on its completion, DOE cites NEV5000148 at 3 (DOE Motion p. 21 fn.80). That document is indeed a Nevada memorandum which refers to "the cheeseball 1 experiments" and their findings. Beyond that, DOE does not explain the scope of its research; however, the complete report regarding the findings of the first phase of the corrosion
experiments in China was and is on Nevada's LSN database at NEV0003684. Nevada would gladly have provided this information if asked.

The third document DOE asserts is Documentary Material supposedly missing from Nevada's LSN is a White Paper by Dr. Thorne on corrosion issues (DOE Motion p. 21). As proof of this ostensible omission, DOE refers to a different memorandum by Dr. Thorne and an alleged reference in that document to the "missing" "White Paper" on corrosion issues (DOE Motion p. 21 fn.81). The citation referred to by DOE in its footnote 81 is indeed a different Dr. Thorne memorandum which indeed reports to his intent to prepare a "White Paper." However, the only "White Paper" Dr. Thorne refers to does not relate to corrosion at all. Rather, at the reference and page number cited by DOE in its footnote 81, Dr. Thorne mentions "when I develop my 'White Paper' on uncertainties [not corrosion]" (NEV5000134 at 4). Accordingly, Dr. Thorne's reference was undoubtedly to a White Paper he subsequently prepared that same fall entitled "The Role of Uncertainties in Defining the Proposed Standard" (Participant No. NEV5000145), which was and is once again found on Nevada's LSN database. Again, this information and DOE's mistake would have been promptly made known to DOE had it not concealed the purported "issue" during its bad faith meet and confer on January 28, preceding by a few hours the filing of its already-prepared motion.

DOE was required to implement a good faith consultation with Nevada before filing its motion. The PAPO Board Revised Second Case Management Order ("CMO") dated July 6, 2007, prescribed that motions will be summarily rejected by the PAPO Board if they are not preceded by a sincere attempt to resolve the issues and do not include the certification specified in 10 C.F.R. §2.323(b). That certification, in turn, provides that a motion must be rejected if it does not include a certification by the moving party that it has made a sincere effort to resolve the issues raised in the motion and that the "movant's efforts to resolve the issue(s) have been
unsuccessful."  DOE does not include the foregoing language in its inadequate certification; it does not do so because it simply did not comply with this requirement.  Nevada's counsel entered the conference with the resolution that any Documentary Material specifically identified by DOE as lacking in Nevada's LSN database would be promptly provided.  Nevada purposely stated this position at least five times during the conference, so that there could be no ground for the assertion that any specific document was being refused or that an "impasse" would ever be reached.  Even if all three documents cited by DOE were missing (which they were not), Nevada's counsel would have promptly provided them and thus avoided the necessity for their being the subject of this motion.  Had DOE identified the documents which would become the subject of the claim of "missing," Nevada would either have provided them, or in this case, advised DOE that they were already on Nevada's database.  The point, then, is not that DOE could have avoided the embarrassment of making a motion demanding three documents be made available on Nevada's LSN which are already on Nevada's LSN; rather, the point is that if DOE had conferred in good faith, such assertions would not have been brought to PAPO in the first place.

IV.  DOE'S POSITIONS WITH RESPECT TO ESTIMATES OF DOCUMENTARY MATERIAL AND CONTENTIONS ARE DEMONSTRABLY FRIVOLOUS

A.  The Alleged Estimate of 100,000 LSN Documents

Apparently determined to repetitiously make a point which is weak at best, DOE brings up in its Motion three separate times (pp. 2, 6, 29) a very rough, bounding estimate of the possible size of its LSN collection given by Nevada at a time when it had not yet tapped all its sources of Documentary Material.  In a May 4, 2005 PAPO hearing, with the LSN Administrator present, and with the potential burden under consideration of his need to incorporate into the NRC's centralized LSN possibly millions of documents of the parties, the Board inquired of each party an estimate of the size of its ultimate LSN collection.  Because the LSN Administrator can
spider only 30,000 documents per day, an estimate of a million documents would translate into approximately two months' work for the Administrator. Each party was surveyed, with DOE predicting an LSN collection of 3.5 million documents (May 4, 2005 PAPO Transcript at 10). When asked, Nevada stated "We don't have our arms around the total collection, but we're talking in probably terms of hundred thousand range, rather than millions." *Id.* at 8. The import of this for the Administrator would be a level of confidence that spidering Nevada's ultimate collection would take less than one week of his time.

DOE, in its motion, seeks to elevate the significance and formality of this gross *estimate*, referring to "the documents Nevada told this Board it would make available on the LSN" (Motion p. 2); arguing that "Nevada has never revised that estimate" (without mentioning why in the world anyone would think that necessary) (Motion p. 6); and finally, portraying it as proof of some imagined Nevada misconduct by arguing that "the incompleteness of Nevada's production is further apparent when the small number of documents Nevada has made available is contrasted to Nevada's representation about the expected size of its LSN collection" (Motion p. 29). DOE can ill afford to equate estimates with binding commitments.

Besides, the inaccuracy of DOE's estimates of the size of its own LSN collection is stunning by comparison. On September 19, 1999, DOE submitted an estimate to the LSN Administrator predicting that DOE's total LSN document collection would be comprised of only **10,000 documents** totaling about 100,000 pages of textual material (Ex. 6). DOE never changed this estimate until prodded to do so by Mr. Graser in March 2003 (Ex. 7). Finally, in April 2003, DOE disclosed a new estimate of three to four million documents composed of 27.5 million to 36.5 million pages (Ex. 8). Considering the capacity of Mr. Graser's spidering system, DOE's estimate accordingly jumped, overnight, from a requirement of **one-third of one day's** work for Mr. Graser to between 100 and 133 days' work. Indeed, at the time, Mr. Graser was calculating
his capacity at 100,000 documents per week and warned Mr. Ziegler that DOE's estimate meant "it will take the LSN software forty (40) weeks to spider and index four million documents" (Ex. 9). DOE's three-four million document estimate was reiterated again on February 27, 2004 (Ex. 10) and again on April 30, 2004 (Ex. 11). Then, incredibly, four days later, DOE radically changed its estimate to only **one** million documents (Ex. 12). Finally, on June 30, 2004, DOE certified its initial LSN database, which contained two million documents (two million documents **fewer** than the formal, written estimates it had given over and over until May 4, but one million documents **more** than the estimate it gave that day). Put in other terms, DOE's estimated collection fluctuated between four million, one million, and then two million, all in a 60-day period. In short, DOE is the last party who should complain about the accuracy of LSN document number estimates!

Nevada's informal "ballpark" estimate is insignificant and irrelevant by comparison. It is insignificant because of the context in which the verbal estimate was made, and with the accompanying **caveat**, it provided the reasonable information Mr. Graser needed – that at most his spidering the Nevada LSN collection would take him a week or less. It is irrelevant because, unlike DOE (whose document collection came up two million documents short largely because DOE intentionally determined **not** to review millions of emails), the assertion has not been made, and **cannot** be made that Nevada failed to review all its potential documents in assessing their LSN worthiness and creating its database (Fitzpatrick Declaration). One can only wonder what the point is of DOE's repetitious argument about an informal oral estimate given by Nevada some **two and a half years** before the time of its initial certification. Nevada cannot fabricate documents which do not now exist to satisfy DOE's feigned concern about a Nevada document shortfall. It may be DOE's practice to make up information; but it is not Nevada's (e.g., a DOE contractor stated "I don't have a clue when these programs were installed. So I've made up the
dates and names . . . this is as good as it's going to get. If they need more proof I will be happy to make up some more stuff" (Ex. 13)).

B. **Estimate About Contentions**

In a fashion similar to its exaggerated discussion of the early Nevada estimate of LSN Documentary Material, DOE likewise trumpets its discovery in a newspaper article (DOE Ex. F) quoting Nevada official Robert Loux as offhandedly stating, "Nevada plans to file 'thousands' of contentions, or objections, during formal repository licensing hearings the Nuclear Regulatory Commission is expected to hold." On its face, the article talks about future planning and not existing Documentary Material. DOE also purported to quote a public statement by Nevada's Mr. Loux regarding a couple of thousand draft contentions. Assuming DOE's purported quotation of Mr. Loux in its Motion (p. 3 fn.11) was accurate (which Nevada does not concede), DOE's argument in its Motion distorts that purported quote. While DOE's footnote quotes Mr. Loux as talking about Nevada having "drafted" contentions, DOE's Motion recklessly uses the words "has already prepared" contentions. Moreover, what it refers to as "testimony" by Mr. Loux was simply an informal statement, unsworn. The real point, however, is not DOE's effort to "spin" every argument, relying on misstatement, distortion, and speculation. The important point is that when Mr. Loux spoke of Nevada's plans to prepare contentions, or even if he actually had discussed "drafts" of contentions, he was simply not (as DOE would have PAPO believe) referring to anything but preliminary draft contentions (Fitzpatrick Declaration; Thorne Declaration).

Referring again to DOE's own exhibits, Mr. Loux elsewhere stated some of the detailed information required to be included in final contentions to be submitted to NRC. He spoke of how Nevada must "provide NRC with a specific statement of every issue it wishes to raise in the licensing hearing (contentions), together with specification of every source it intends to rely upon
in sufficient detail to convince NRC there is a genuine issue for a hearing. I understand if a contention fails to meet NRC's extremely stringent pleading requirements, there will be no discovery, evidentiary hearing, or adjudicatory decision on the issue" (DOE Ex. B at 3 (italics in original)). Mr. Loux further explained his understanding that "to be admitted for purposes of the hearing, contentions must be submitted at the outset of the proceeding and must set forth Nevada's case on each issue with particularity. Contentions must include available and relevant alleged facts, data, analyses, and expert opinion and must indicate all alleged law violations" (DOE Ex. D at 3).

None of these explanations of the detailed work prerequisite to composing a final contention apparently fazed DOE in the least. Instead (as in the case of the so-called 100,000 document estimate, supra), DOE returned again and again to its supposed "find." Thus, DOE states (Motion p. 14): "Nevada says it has prepared 'thousands' of contentions. . . . Yet, Nevada’s LSN collection does not appear to contain those thousands of contentions." DOE goes back to the well yet a third time (Motion p. 33): "Nevada has publicly pronounced that it has prepared 'thousands' of contentions" (emphasis added).

The fact is that Nevada does not have a single final contention (Fitzpatrick Declaration). The fact is that Nevada does not have a single "circulated draft" contention (Fitzpatrick Declaration). To the extent that Nevada has been able, in some areas, to attempt to begin preliminary draft contentions, DOE has seen an exemplar thereof and has referred to it in its Motion (p. 15, referring to DOE Ex. P at 19-24). These preliminary draft exemplars, each containing a few bulletized sentences, fall far short of what a "contention" must ultimately contain. (They happen to be included in Nevada's LSN collection because they were contained in what Nevada considered to be a report or study, not because preliminary draft contentions themselves were Documentary Material.)
DOE quotes Nevada as stating that its LSN collection would include, at the time of its initial certification, the contentions Mr. Loux referred to as being in draft form. The discussion in the PAPO hearing cited by DOE specifically referred to Type 3 Documentary Material (i.e., circulated draft documents and final documents) only. Judge Karlin inquired whether Nevada would have circulated drafts of contentions, and whether such circulated draft contentions would be made available. Nevada offered that circulated drafts of all contentions and final versions of all contentions would be made available on the LSN (7/12/2005 PAPO Tr. 473). Contrary to DOE's misstatement, Nevada did not promise to have non-existent Documentary Material on the LSN "when it certified its LSN collection" (DOE Motion p. 14). The embryonic state of Nevada's formulation of preliminary draft contentions is best understood by a careful reading of the lengthy Supplemental Declaration of Mike Thorne. In addition to explaining the unavailability of information prerequisite to formulation of contentions, Dr. Thorne attempts in his Declaration to correct yet another intentional misstatement of the record by DOE. Thus, DOE's Motion quotes something written by Dr. Thorne as being impressed with the content and utility (for Nevada's experts) of the TSPA-SEIS made available by DOE only a week before its LSN certification on October 19. The only problem is that Dr. Thorne wrote the quoted comments prior to DOE's release of the TSPA-SEIS, speculating as to the value he hoped it might have. While Dr. Thorne's comments thoroughly detail Nevada's inability to prepare contentions and the limited value of DOE's TSPA-SEIS, a few excerpts serve to highlight Nevada's response:

- [T]he LSN is simply missing critical documents that anyone performing this analysis would need to have in order to frame contentions.

- The LSN does not include the "total systems performance assessment" for the License Application (the "TSPA-LA"). This is an incredibly complex model that in essence compiles over 100 other models so that inputs (which we have not seen), are run through a system (which we do not have), to achieve outputs (which
we have not been provided) ostensibly to fall within an exposure standard (which the Environmental Protection Agency and the Commission is yet to promulgate).

- Even if we knew every piece DOE was planning to use as part of its TSPA-LA (and we do not), without the TSPA-LA Analysis and Model Report ("AMR"), the pieces are not assembled. This makes it impossible to know what point is being made from a particular analysis, whether it will matter in any significant way to the ultimate conclusion, or what way it will matter. It is impossible for Nevada to guess what DOE’s TSPA-LA will ultimately look like, guess what the inputs are, guess what the outputs will be, and explain why it is flawed. And, of course, having a complete TSPA-LA would not allow us to evaluate a pre-closure safety analysis or retrieval plan that does not exist.

- In October 2007, DOE released a Total Systems Performance Assessment for its Supplemental Environmental Impact Statement (the "TSPA-SEIS"). Because we did not (and still do not) have the TSPA-LA that DOE will use for its licensing application, the experts working for Nevada took some time to examine the TSPA-SEIS and are continuing with that examination. We are engaging in this effort because the TSPA-SEIS is as close an indicator as DOE has provided us of how it might go about potentially structuring its TSPA-LA.

- The TSPA-SEIS, however, does not tell you what will be in the TSPA-LA, . . .

- DOE’s repeated statement that Nevada has already "prepared ‘thousands’ of contentions," DOE Opp. at 4, 30; DOE Motion at 3, is not true. Nevada expects that this case may well require thousands of contentions, and has tried its best to prepare preliminary drafts of contentions. But the lack of information on, and guesswork required to analyze, the LSN makes framing focused or meaningful contentions impossible.

- Although Nevada began assembling a team in 2001, it took considerable time to retain the large number of experts necessary for this project. Second, assembling a team is not the same as conducting meaningful analysis. There were no documents on the LSN, until June 30, 2004 and 2.1 million documents were not made available to any experts until April 2007. The TSPA-SEIS that DOE discusses at length in its brief is a document we received in October 2007. More importantly, not only has our work, therefore been limited in time (especially compared to the 18 years that DOE has been working on this project), none of this work has allowed Nevada to draft focused or meaningful contentions.

- DOE quotes a paragraph from a memorandum about a meeting I had with NRC Staff on the TSPA and TPA in which I said (before Nevada obtained copy of the TSPA-SEIS) that it would be advantageous for Nevada and NRC staff to obtain it, because it was "reasonable to suppose" that the TSPA-SEIS "resembles closely the version that will become the TSPA-LA" (emphasis added). As I went on to explain in the same meeting memorandum, the fact the TSPA-SEIS resembles the "version" being used in the TSPA-LA, does not mean it predicts what the TSPA-LA will contain . . .
• It is emphasised that none of this documentation is, as yet present on the LSN. Furthermore, the only document that can reasonably be used to guess at some of the approaches that may be adopted is Appendix F of the TSPA-SEIS. This is a very high-level overview of, possibly, non-Q calculations that are likely to be substantially revised for the TSPA-LA, so it cannot be used as an adequate basis for evaluating the technical arguments and calculation procedures that will underpin the License Application.

As in the case of DOE's distortions relating to Nevada "promising" a database of Documentary Material approximating 100,000 items, DOE has likewise distorted the record in a vain attempt here to suggest that there exist contentions in the possession of Nevada which are Documentary Material and which ought to have been, but are not, on its LSN. Once again, DOE is wrong.

V. DOE ACCUSES NEVADA OF PRODUCING LIMITED DOCUMENTARY MATERIAL, IGNORING ITS OWN INTENTIONAL ACTIONS CALCULATED TO DEFEAT NEVADA'S EFFORT

DOE's motion attempts to paint a picture of a large Nevada team, focused for years and years on the review of DOE information and preparation of Nevada's licensing position: "Nevada has been specifically preparing its positions for the Yucca Mountain licensing proceeding since at least 2001. Nevada hired outside counsel in September, 2001, and thereafter identified a group of at least 25 experts for the proceeding" (DOE Motion p. 2). DOE goes on to talk of "the seven years Nevada’s licensing counsel and experts have been preparing for the licensing proceeding--and the countless communications they have had" (id. at 15) and states, "A significant amount of the work by Nevada’s experts, consultants, and contractors over the years has been the critique of DOE’s various reports, studies and other technical work product concerning Yucca Mountain. Id.

The reality is altogether different, however, as a direct consequence of DOE's calculated concealment of its relevant Documentary Material. DOE again ignores the truth revealed by documents which DOE attaches to its own motion. Thus, for example, DOE's Exhibit A (Report
and Recommendations of the Nevada Commission on Nuclear Projects) indeed discusses the team of experts assembled by Nevada to assist in its effort to prepare for the licensing proceeding. DOE failed to note the report's complaint: "One of the most important - and frustrating - areas of the State's pre-licensing activities has been gaining access to current information and technical materials on the Yucca Mountain repository facility and system design being proposed for licensing and on DOE's key performance models and related information essential for licensing. DOE has, to date, refused to provide information on the current repository design and models used to assess repository system performance . . ." (DOE Ex. A at 32) (emphasis added).

Similarly, DOE apparently missed the urgent plea Nevada Governor Guinn made to Energy Secretary Bodman when it cited the Governor's November 20, 2006 correspondence (DOE Ex. K). Governor Guinn pointed out that after the time of DOE's June 30, 2004 initial certification, "2,123,265 additional documents have been turned over to the LSN administrator." Id. at 1. Governor Guinn's critical point: "I am deeply concerned that the two million-plus documents provided since 2004, and subsequently indexed by the LSN administrator, under instruction by the department, have not been made publicly available on the LSN." Id. at 2. Governor Guinn went on to point out that the withheld information is critical to an understanding of the planned repository system, but that the documentation "has literally been 'embargoed' by the department." Id.

Governor Guinn observed that, on instruction of the Department, the LSN Administrator, literally with the flip of a switch, could make these additional two million-plus documents publicly available for pre-application review by Nevada. He went on: "It is needlessly punitive and nothing short of tragic to withhold such information from the public and these important entities and parties when it can so easily be made available." Id. Bearing in mind the team of
experts engaged by Nevada to prepare for the licensing proceeding, the Governor insisted there was no justification for DOE withholding access to these documents now, "when the task of reviewing them is so overwhelming." *Id.* at 2.

DOE continued to forbid the LSN Administrator to release the approximately 2.1 million documents which it had concealed from public availability, despite the fact that they were complete and had been turned over the LSN Administrator by September 2005 (Ex. 14). When DOE belatedly decided to release the documents, DOE's self-serving press release at the time (April 30, 2007 PR) bragged "today's early disclosure of additional documentary material in advance of DOE's LSN certification is intended to facilitate and expedite the Yucca Mountain licensing proceeding and to assist the NRC Staff, the State of Nevada, and potential parties to the Yucca Mountain proceeding in their review of DOE's documentary material" (Ex. 15; emphasis added). DOE's press release is hypocritical in the extreme, in that DOE had withheld the very documents which Nevada's team needed the most for years, for the simple reason that it could do so. The transcript of a PAPO hearing held May 4, 2005, is revealing, with respect to DOE's concealment of information. At the time of that hearing, DOE counsel estimated that it intended to recertify its LSN collection within two or three months, before August 2005 or "certainly" before September 2005 (Tr. 9). That is no doubt why DOE's accumulation of documents in the hands of the LSN Administrator had reached the 3.5 million document level by September 2005 (Ex. 14). But when DOE's planned schedule for filing its LA changed, and its concomitant, lockstep LSN certification schedule changed, DOE made the decision to nonetheless conceal that vast quantity of Documentary Material (already identified, placed in the hands of the LSN Administrator, and spidered) from those who wished to and needed to review it. Thus, until the day of its belated April 30, 2007 release of 2.1 million additional documents, the status remained: not a page of Documentary Material had been made available since June 30, 2004;
obviously, all documents which had been made available at that time predated June 2004; and the additional 2.1 million documents critical to NRC, Nevada, and the other potential parties, had been withheld by DOE for a **full two years and ten months**!

Thus stymied, the Nevada team was deprived of access to the most relevant information which it needed to review and assimilate. DOE's posturing in this motion to the effect that Nevada has had a large group of individuals working non-stop for the past eight years is simply fiction. By way of example (Fitzpatrick Declaration), Dr. Mike Thorne, who is the technical coordinator of the Nevada licensing expert team, and who is one of the State's most productive and prodigious asset, averaged only 17 billable hours per month during the four-year period from the time of his engagement in April 2003 until the time of DOE's April 30, 2007 release of additional information, only nine months ago. This statistic illustrates two other points which DOE either does not understand, or understands but intentionally misleads the PAPO Board about. Specifically, Nevada has not "had a team in place for seven or eight years." Rather, Mr. Egan's law firm was hired at the tail end of 2001, and **began** at that time to assemble a team of world-class experts which took a considerable amount of time to accomplish (note Dr. Thorne's engagement was in April 2003).

Second, the idea that, at **any** time, there is a group of Nevada full-time employees working day and night producing Documentary Material, is likewise erroneous. Each of the members of Nevada's expert consultant team are "weekend warriors" in the sense that every single one of them has a list of clients for whom he or she currently performs work in addition to delegating some time for Nevada work, primarily based upon the unavailability of relevant documentation from DOE and budgeting. Thus, it can be seen that DOE's intentional concealment of information which was ready and placed in the hands of the LSN Administrator,
but with instructions not to make it publicly available, had the precise effect desired by DOE: to obstruct the effort of Nevada's team to prepare for licensing for three critical years.

In a classic analogy to the situation of a boy who kills his parents and then complains of being an orphan, DOE has intentionally impeded the effort of Nevada's team, and now complains of its alleged shortage of work product. DOE's motion repeatedly accuses Nevada of bad faith in not producing work product which DOE's calculated bad faith prevented Nevada from preparing.

VI. **DOE'S MOTION AS A WHOLE IS A COMPRENDIUM OF SPECIATION, UNSUPPORTED CONCLUSORY STATEMENTS, MISSTATEMENTS OF REGULATORY REQUIREMENTS, AND DISTORTIONS OF, AND MISLEADING USE OF, FACTS**

In addition to the foregoing discussions of specific dispositive points, Nevada is constrained to point out some examples where DOE's motion is comprised of pure speculation, conclusory statements, and distortion of regulatory requirements and facts. When one reads DOE's motion, what jumps out as obvious regarding its premise (that Nevada's LSN database is somehow wanting) is a total absence of any evidence or proof. The following are a few uncited and utterly unsupported examples:

Page 4: 

. . . there is an extraordinarily small number of emails.

Nevada’s production of so few emails is remarkable.

It is unclear why Nevada’s production of documents is so limited,

Page 5: Regardless of the explanation, the end-result of Nevada’s actions is reflected in Nevada’s LSN collection, and that end-result is deficient.

Page 7: The absence of documents associated with Nevada’s experts further evidences the insufficiency of Nevada’s November, 2006 production.

Page 15: It is improbable that . . .

Page 16: It cannot be that . . .

There particularly ought to be . . .

Nevada’s LSN collection is self-evidently missing documentary material from Nevada’s team of licensing experts.
Page 18-19: It also reveals that Dr. Thorne has been following development of the TSPA, . . .

Page 21: . . . it is clear that Dr. Thorne and his colleagues regularly communicate by email and by memoranda.

Page 23: The work product of other consultants and contractors to Nevada and its team of experts appears to be altogether absent from Nevada’s LSN collection.

Nevada has reportedly engaged more recently personnel in China. . . . Yet, Nevada’s LSN collection contains no work product by these persons, . . .

Dr. Smith engaged Terry Plank of Boston University to assist in the analysis of DOE’s volcanic model starting in 2005. Nevada’s LSN collection contains no documents authored by or sent to Professor Plank.

Page 24: Dr. Thorne makes reference to a Serco Assurance Limited . . . Nevada’s LSN collection has no documents attributed to Serco Assurance Limited in their bibliographic headers.

Page 27: . . . it is a certainty that Mr. Frishman has created and received hundreds of technical and scientific documents concerning Yucca Mountain . . .

Page 29: Nevada’s LSN production does not qualify as a substantial, good faith effort to make available Nevada’s documentary material.

First, the small number of documents Nevada has made available, standing alone, reflects an incomplete production.

It is not credible that . . . Nevada has generated so few documents meeting the definition of documentary material.

Page 30: The absence of email is particularly surprising . . .

Page 31: Nevada cannot plausibly maintain . . .

Nevada has not made a substantial good faith effort given its lack of diligence to identify its documentary material.

it then appears . . . seemingly advised . . . does not appear . . . does not appear to . . .

Page 32: That does not appear . . .

As has been illustrated supra, DOE frequently quotes statements out of context, while ignoring more relevant and dispositive statements in the very same exhibits from which DOE has
quoted. DOE's analysis casually assumes that all Nevada emails are Documentary Material; but they are not. DOE casually assumes that all Nevada comments on another's work are Documentary Material; but they are not. DOE casually assumes that any preliminary draft contention which a Nevada expert may have drafted is Documentary Material; but it is not. Indeed, DOE apparently assumes that everything any individual on the Nevada licensing team ever put in writing is Documentary Material; but DOE is wrong.

DOE even calculatedly omits the initial capital letters in discussing the phrase "Documentary Material," apparently hoping this Board will not notice that the Documentary Material required by 10 C.F.R. Part 2 to be made publicly available on the LSN is a term of art with a defined meaning, not applicable to every shred of paper (i.e., literal documentary material) a party has generated. DOE's focus on Nevada's documents is misplaced – it should be on the completion of its own Documentary Material and LA, to which most of Nevada's responsive information will be directed. DOE has now publicly admitted, contrary to its June 30, 2008 LA promises "DOE cannot set a definitive date for submittal of its License Application" (2/1/2008 DOE 33rd Monthly Status Report to PAPO). Yet DOE badgers Nevada for its alleged failure to provide DOE with all information critical of that nonexistent document!

DOE's determination to acquire from Nevada that which does not exist lies in stark contrast to its diligent concealment of its own Draft LA. DOE fought the production of its Draft LA before the PAPO Board and, when ordered by the Board to produce it, then appealed its decision to the Nuclear Regulatory Commission. DOE refused to produce it in response to a FOIA request and continued that fight through administrative appeals and then in the United States District Court. DOE was successful in securing an order from the NRC that the Draft LA was not Documentary Material, and need not be placed on its LSN by DOE. Significantly, in reaching its decision, the Commission rejected an argument by Nevada that, since the Draft LA
undoubtedly contained "information" which DOE intended to rely on in the licensing proceeding, that information should be on the LSN as DM-1 "reliance" information. The NRC instead ruled: "Even though language in a draft license application may be carried over into the final license application, should DOE seek to introduce that material in evidence, DOE will 'rely' on the final document, not on earlier versions, to set out its position on the issues" (2/2/2006 Memorandum and Order of the Commission CLI-06-05 at 9). In the same order, the Commission made another ruling, one that is elementary and noncontroversial, but is pertinent to DOE's misguided motion: "The only drafts of any document that must be placed on the LSN are circulated drafts of reports and studies." *Id.* at 13.

The following are some observations with respect to specific DOE distortions or misleading statements of regulatory requirements or pertinent facts, beyond those which are decisive of DOE's motion, and which were discussed in the foregoing sections.

**DOE Assertion**: DOE states (Motion p. 2) that Nevada has received $78 million for Yucca research (as proof of Nevada's insufficient output of Documentary Material).

**DOE Omission**: The $78 million covered the 22-year period 1983 through 2004, as stated in the same source cited by DOE. This amounts to less than $300,000 per month. To put this amount in context, DOE was legally required to file its LA by October 23, 2002 (90 days after its Site Recommendation of the YMP became final). DOE did not file its LA in 90 days, nor has it yet, five and a half years later. Since its Site Recommendation, DOE has somehow managed to spend well in excess of $1 million per day (Saturdays, Sundays, and holidays included) without yet completing an LA, and, ostensibly, without yet completing the primary critical documents prerequisite to doing so (PCSA, TSPA-AMR, TSPA-
LA, etc.). DOE's focus on Nevada's receipt of $78 million over a 22-year period is accordingly no basis for criticizing Nevada for not having complete and final Documentary Material ready for the licensing proceeding.

**DOE Assertion:** DOE feigns surprise that "the only documentary material" [avoiding the use of initial capital letters] "throughout this quarter-century" of Nevada work, is that which appears on the LSN.

**DOE Omission:** It was not until the last few years of this "quarter-century" that Nevada even undertook to prepare specifically for the licensing proceeding and began the creation of a licensing team. Given DOE's intentional concealment of millions of its own LSN documents for almost three years after their designation until their release in mid-2007, the amount of Documentary Material generated by Nevada is not surprising at all.

**DOE Assertion:** DOE's Motion (pp. 3, 7, 26) reported repeatedly on the number of documents found by "author" and "sent to" searches.

**DOE Omission:** DOE's searches are patently incorrect and result in meaningless statistics. Using one example, its chart (Motion p. 7) and one individual Nevada consultant (Aaron Barkatt), DOE's error is apparent. DOE simply searched under the "author" field in the Nevada database and came up with and reported 34 "hits" for Dr. Barkatt. (The actual number is 37.) More importantly, what DOE failed to do was to conduct a search or report its results searching all LSN databases and using Dr. Barkatt and the "author" field. This would have yielded 107 "hits." Since Nevada is not expected to put on its LSN database duplicates of documents already on the LSN, there is no reason Nevada would have felt it necessary to put any of the 107 "hits" from other databases on its database. Additionally, even the
suggested search of all databases under the "author" field would have been an incomplete one for the reason that "author" is not a mandatory field for LSN headers. Nevada became aware of this when its own early unsuccessful LSN searches under "author" led to a Nevada inquiry to the LSN Administrator, who advised that the "author" and "sent to" bibliographic header fields are not mandatory and that DOE was accordingly acting within the rules when it submitted tens of thousands of headers which did not disclose such information. Indeed, one example of a simple search (using the search term "corrosion") led to an enormous number of DOE documents in which the document clearly indicates the author, but with respect to which the DOE header left the "author" field empty. Numerous examples from that single search include: DN200124806, DN2001140070, DN2001317250, D2002491965, DN2002499116, DN2001453858, DN2002497861, DEN001565317, DEN001565355, DN2002500676, DN2002502632, DEN001564483, DN2002503317, DN2002501677, DN2000003654, DN2002490853, DN2002496622, DN2001131626, DN2002500847, and DN2002497323. The point is that DOE knew when it prepared its motion that its searches, conducted under the "author" discretionary header field, and limited to the Nevada database instead of all databases, do not necessarily prove a thing. Its protest on this ground is therefore disingenuous.

**DOE Assertion**: DOE refers in its motion to a dichotomy between "Nevada's initial production of documents" and Nevada's "supplementation" of its initial production (Motion pp. 6, 11).
**DOE Omission:** There is no such thing as Nevada's "initial" and "supplemental" production. There is nothing surprising or inappropriate about the fact that Nevada would begin accumulating its Documentary Material, but then, in view of indefinite postponements of its LSN and LA by DOE, would suspend that work until the likelihood of that work even being necessary became more clear. The decision was based primarily upon budgetary constraints, a consideration which DOE, with its hundreds of millions of dollars annually, apparently fails to recognize. Nevada did not deliberately plan an "initial" production and a "supplemental" production. It began gathering relevant Documentary Material at one point in time and completed that work, as required, in time for a mandatory January 2008 certification. Accordingly, it is nonsense for DOE to argue with respect to Nevada's "initial" production that "that limited production was self-evidently an incomplete collection of Nevada's documentary material" (Motion p. 6). This so-called "initial" production which DOE asserts took place in November 2006 was not **intended** nor was it **required** to be a "complete collection of Nevada's documentary material." DOE's LSN certification had been vacated at that point in time, and it was uncertain whether or when a new certification would take place. Only after such a new certification took place would an obligation on the part of Nevada arise to accumulate and make available all of its Documentary Material and to certify such.

**DOE Assertion:** A similarly meaningless observation by DOE is that "the absence of documents associated with Nevada's experts further evidences the insufficiency of Nevada's **November 2006 production**" (Motion p. 7).
**DOE Omission:** There would have been nothing improper, had Nevada placed no Documentary Material on the LSN until January 2008. DOE's suggestion (Motion p. 8) that "the documents that Nevada made available in November 2006 were just a small group of test documents" is inaccurate. They are obviously not a "small group" since they comprised more than half of Nevada's ultimate collection; nor did Nevada claim that they were "just a small group of test documents." But the completeness, or not, of Nevada's LSN database as of November 2006 could not be more irrelevant.

**DOE Assertion:** DOE argues (Motion p. 13) that "a search for document type 'email' in the bibliographic header of Nevada's LSN collection yields only 54 hits" and concludes from this (Motion p. 14) that "it is evident that Nevada has not made a good faith production of emails." This is simply because DOE believes it "obvious that Nevada and its experts, consultants, and contractors communicate frequently through email." Again, not a shred of evidence for this speculative conclusion is offered.

**DOE Omission:** First of all, as DOE subsequently admitted, a single one of the 54 hits was a collection of 100 emails from one of Nevada's consultants. That fact aside, DOE's premise for its conclusion is erroneous. Based on nothing more than its "belief" that members of the Nevada licensing team communicate frequently by email, DOE accuses Nevada of bad faith in not loading up its LSN database with emails, regardless of their character as Documentary Material or not. Nowhere does 10 C.F.R. Part 2 suggest that all emails constitute Documentary Material. Nevada's licensing team (as it did with other document types) actually reviewed all their emails, applied the definitions set out in the Commission's regulations,
and included on the LSN those fairly and in good faith adjudged to be
Documentary Material. DOE's conclusory accusations are apparently based upon
its own premise that a better approach is to overload the LSN, willy-nilly, with
vast numbers of non-Documentary Material emails and other non-Documentary
Material in the interest of saving the time and money necessitated by actually
setting a pair of human eyes on each document.

**DOE Assertion**: DOE expands its erroneous observations about Nevada emails to
include virtually every other piece of paper in Nevada's possession (Motion p.
14). Thus, DOE criticizes "the widespread absence of work product" *(id.)*, "the
absence of contentions" *(id.)*, and asserts Nevada's LSN collection "ought to
contain a large number of memos, comment sheets, emails, or some other form of
documents critiquing DOE's reports, studies, and other technical work product"
*(id. at 16)* (emphasis added).

**DOE Omission**: DOE's rant ignores the fact that the vague term "work product" is not
any part of the definition of Documentary Material which must be on the LSN;
that likewise Nevada possesses no circulated draft or final contentions, but only
preliminary draft versions which are not required on the LSN; that there is
likewise no requirement, even assuming that there exist memos, comment sheets,
emails, or some other form of documents critiquing DOE's work, that they be on
the LSN unless they are Documentary Material. A common feature of DOE's
general accusations of missing document types (whether they be emails, work
product, contentions, memos, comment sheets, etc.) is the total absence of any
DOE acknowledgment that regardless of the nature of the document, their content
must meet the definition of one of the three types of Documentary Material (as
defined in 10 C.F.R. §2.1001) in order to be LSN-worthy. For example, if an email were sent after its author read a DOE document which made four points, agreeing with two of those points and disagreeing with the other two, that alone would in no way suggest the email was "Documentary Material." Just because the author disagreed with DOE on two of its points does not in any way suggest such fact will be relied upon by Nevada in the licensing proceeding (DM-1); the fact that the author agreed with DOE on two points likewise does not suggest that the email is nonsupportive of Nevada's licensing position (DM-2) – if anything, it is more likely that in areas where no disagreement with DOE exists, Nevada would not raise that issue at all in the licensing proceeding; and finally, there is no indication that any hypothetical email rises to the level of a report or study (DM-3).

**DOE Assertion**: DOE observes that Nevada's LSN contains reports from the 1990s and early 2000s from consultants Drs. Eugene Smith and Maury Morgenstein complaining that those reports "end" after Nevada undertook the creation of a licensing team and its preparation for a licensing proceeding.

**DOE Omission**: DOE's cynical conclusions of some kind of misconduct are again groundless. Drs. Smith and Morgenstein were hired by the State of Nevada long before it sought to prepare for a licensing proceeding, at a time when DOE was merely undertaking early site characterization efforts at YMP. Those consultants were hired to undertake scientific analyses and provide relevant information to the State and not to attack DOE technical documents or develop contentions for licensing (Lynch Declaration). The fact that their early reports are on the LSN is simply consistent with what Nevada viewed as its obligation under the definition
of DM-3: to include all studies or reports done on behalf of Nevada, without regard to whether they would or would not be relied on in the licensing proceeding. Accordingly, the analysis is quite reasonable: the early reports of these experts were considered DM-3 and thus included on the LSN; other documents they may have generated which were not considered DM-3 were excluded because those consultants concluded they did not meet the definitions of DM-1 or DM-2 either. If one of those experts concluded that, for example, raw data which he accumulated in 1995 could possibly become relevant to his anticipated work for the licensing proceeding, that individual would have predictably included that raw data in Nevada's LSN; should the other of the two conclude that raw data he accumulated the same year was something he would never likely refer to again, then that expert would reach a different conclusion regarding LSN worthiness. Both individuals would have made a good faith decision based on the appropriate definitional criteria, and there exists no inconsistency in their disparate judgments. Later in time, both of those consultants were engaged, for a different purpose, to join the Nevada licensing team. As they prepare Documentary Material, it will be made available on Nevada's LSN.

**DOE Assertion:** DOE asserts (Motion pp. 21-23) that with respect to required "graphic-oriented documents," Nevada "seemingly has made no organized production of this kind."

**DOE Omission:** As with any other LSN entries, there is a prerequisite for the inclusion of graphic-oriented materials – that they first be deemed Documentary Material. If Nevada has not made an "organized production" of graphic-oriented material, it
is because Nevada's analysis and that of its team members did not result in the conclusion that some mass amount of this information, to the extent it exists, is Documentary Material. Nevada's LSN is certainly not bereft of such material. For example, there is a 114-page output from Catholic University corrosion experiments on Nevada's LSN (NEV000004183). Likewise, in the information provided by Dr. Morgenstein in DOE's own exhibit (DOE Ex. P at 1-76), there are numerous examples of this type of data. These inclusions represent decisions on the part of the experts in question that, despite its early date, and regardless of the purpose for which it was done at that time, it is now (at the time of the LSN inclusion decision) conceivable that it is information Nevada experts might rely upon in formulating future opinions. Therefore, the decision was made to include them, certainly not as something Nevada now knows it will rely on; rather, it is something that (consistent with NRC guidance) Nevada may eventually rely on in the future. The decisions made with respect to this graphic material, then, are consistent with instructions given by Nevada to its expert team to err in the direction of inclusion on the LSN and to make decisions mindful of the principle that if existing documentation is excluded, it may be difficult to rely on it later on.

**DOE Assertion:** DOE draws (Motion pp. 28 and 23, respectively) totally non sequitur conclusions from the fact that Nevada sent LSN guidance to its team defining what Documentary Material was (and therefore what needed to be searched for and provided according to regulation) and that Nevada advised its team if they came across anything which might be potentially privileged to send it to the attorneys for further analysis.
**DOE Omission:** From the mere fact of Nevada's distribution of predictable information to its team (the absence of which DOE would no doubt have likewise criticized), DOE apparently draws the conclusion that there must be privileged information which Nevada is concealing, or it would not have so instructed its team; and similarly, because it defined what Documentary Material they should look for, Nevada's call memos "express no difficulty in the ability of Nevada's forces to identify the information they intend to cite or rely." But, obviously, Nevada had to have procedures that allowed the possibility of privileged documentary materials. Possibility doesn’t translate into reality. These two conclusions may be DOE's biggest stretch of all, in a motion which viewed as a whole is a tissue of speculation and unsupported conclusory attacks.

**VII. CONCLUSION AND PRAYER FOR RELIEF**

Nevada's conduct in preparing and certifying its LSN database is in accordance with NRC regulations and was implemented in the utmost good faith. DOE's conclusion that Nevada's database is not large enough, predicated on the enormous size of the DOE database which is swelled to choking with non-Documentary Material, is incorrect. Aside from DOE's bad faith in overburdening its database with non-Documentary Material in order to save time, effort, and money, it is axiomatic that DOE's database is expectably the largest of any party and that the remaining parties are not expected to load in their LSN databases documents which are duplicative of those on the DOE database. DOE did not properly certify its conduct of a meet-and-confer to seek resolution of disputed issues before filing its motion, for the reason that DOE did not conduct a good faith meet-and-confer with the intention of narrowing the issues for any motion it would file. Setting aside DOE's unsupported conclusory speculation that there should be "more" documents on Nevada's database, DOE, in the end, identifies only three specific
documents which it contends are Documentary Material left off that database. In each instance, even if DOE were correct, the documents would have been readily provided, thus obviating the need for any such complaint in its motion; however, all three documents were on Nevada's LSN database the whole time: DOE simply looked in the wrong place.

Wherefore, premises considered, there is no basis for Nevada's LSN certification to be struck. There is also no basis for the alternative relief sought by DOE, that the PAPO Board should call upon Nevada to remedy the deficiencies of its production, because Nevada constituted its LSN database in good faith. Therefore, DOE's motion should be, in all things, denied.

Respectfully submitted,

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Dated: February 8, 2008
CERTIFICATE OF SERVICE

I hereby certify that the foregoing State of Nevada's Response to DOE's Motion to Strike Nevada's LSN Certification has been served upon the following persons either by Electronic Information Exchange or electronic mail (denoted by an asterisk (*)).

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(signed electronically)
Susan Montesi
DECLARATION OF CHARLES J. FITZPATRICK

My name is Charles J. Fitzpatrick. I am over the age of 18 and have never been convicted of a crime. I am of sound mind and am fully qualified to make this Declaration.

1. As one of the attorneys representing the State of Nevada in connection with the DOE licensing proceeding and PAPO Board proceeding, I have personal knowledge of the following facts, and they are true and correct.

2. Nevada does not have a single final contention prepared.

3. Nevada does not have a single circulated draft contention prepared.

4. I was among the individuals primarily responsible on behalf of Nevada for the accumulation of Documentary Material and certification of its Licensing Support Network ("LSN") database.

5. Since 2003, there have been numerous expert "summits" (meetings of the entire consultant team, attorneys, and Nevada staff) in relation to the licensing proceeding.

6. At every one of those meetings, a block of time was set aside for the conduct of instruction on the requirements and definitions associated with the LSN and the provision of Documentary Material.
7. I participated in each of those summit meetings and presented the information regarding the LSN at each.

8. Since at least mid-2004, there have been weekly telephone conferences which usually included myself and each of the Nevada Area Certification Managers and Assistant Area Certification Managers and which often included a discussion of LSN issues and requirements and resolution of any questions.

9. There have been numerous written communications provided to the Nevada team regarding the definitions and requirements and obligations prerequisite to the creation of Nevada's LSN database.

10. Samples of Nevada's written information were provided to the City of Las Vegas in this matter for its use, and DOE counsel persuaded a non-attorney employee of the City of Las Vegas to release those samples to DOE.

11. Among the information provided by Nevada to its licensing team for guidance in their review and designation of Documentary Material were DOE's publicly promulgated Frequently Asked Questions (publicly available on the OCRWM website) and DOE's November 2006 "Call Memo"-type memorandum articulating to DOE and its contractor personnel the prerequisites of LSN compliance. At all times, the members of Nevada's licensing team were urged in conducting their review of Documentary Material for LSN inclusion to err in the direction of inclusion in any instance in which there was any question whether something constituted Documentary Material or not.

12. The expert consultants on the Nevada licensing team were repeatedly cautioned that they had the responsibility of ensuring that anything they might possibly eventually rely on in forming opinions or writing reports or testifying in
connection with the licensing proceeding must be on the LSN at the time of Nevada's certification.

13. Prior to the time DOE filed its motion in this matter on January 28, 2008, I had advised DOE that the samples of Nevada instructional materials which they obtained from the City of Las Vegas under questionable circumstances did not constitute all of the procedures and training and instruction given its team by Nevada.

14. Dr. Mike Thorne was engaged by Nevada in April 2003 and devoted an average of 17 hours per month to Yucca matters in the interim between then and May 2007.

Charles J. Fitzpatrick
My name is Susan Lynch. I am over the age of 18 and have never been convicted of a crime. I am of sound mind and am fully qualified to make this Declaration. The facts I discuss are within my personal knowledge and are true and correct.

1. I was employed by the State of Nevada's Agency for Nuclear Projects in 1998 in the position of Administrator of Technical Programs. I have been with the Agency for Nuclear Projects for a period of 20 years, and now occupy the position of Administrator for Technical Programs.

2. One of the duties of my position has been to participate in and monitor the engagement of consulting experts for the Agency for Nuclear Projects. In that role, I have personal knowledge of the assignments given to each such expert consultant and the objectives of their work at various times.

3. Prior to 2002, expert consultants were engaged by Nevada (including Dr. Maury Morgenstein, Dr. Roger Staehle, Dr. April Pulvirenti, Dr. Aaron Barkatt, and Dr. Eugene Smith). At the time of their engagement, the so-called Yucca Mountain project was being considered as the possible site for a nuclear waste repository, and the United States Department of Energy had begun site characterization work to assess the suitability of that site.
4. The individuals named in paragraph 3 were engaged to conduct analyses in their respective areas of expertise (primarily corrosion and volcanism) and to provide periodic progress reports with respect to that work. During the time prior to 2002, none of those individuals was asked to engage in any preparatory activities for the State of Nevada regarding a possible DOE License Application or subsequent licensing proceeding. None of them was asked to undertake to prepare "contentions" for use in such a proceeding.

5. At the end of 2001, the State of Nevada engaged the Egan law firm in connection with Nevada's preparation for an apparent License Application and licensing proceeding, and an effort was subsequently undertaken to engage a team of world-class expert consultants knowledgeable in the disciplines most likely to become at issue in such a licensing proceeding. While the expert consultants named in paragraph 3 above were not initially asked to become part of the licensing team, they were subsequently asked to do so and agreed to do so.

6. Nevada has endeavored to include reports received from the expert consultants named in paragraph 3 above on its Licensing Support Network ("LSN") database which were done during the 1990s and early 2000s; this did not represent a decision to rely on those reports, but was rather based on the conclusion that, without regard to whether Nevada would or would not rely on them in the licensing proceeding, they met the definition of reports or studies under the definition of DM-3 (10 C.F.R. §2.1001).

7. Another of the responsibilities of my position has been to participate in and monitor the preparation of an accurate and complete LSN database for the State of Nevada. Among other things, I was the individual to whom all members of the
Nevada licensing team were instructed to send Documentary Materials in order that I might forward them to our LSN contractor, Compulit, Inc., for processing and ultimate inclusion in NRC's centralized LSN database. I am an "Area Certification Manager" within the meaning of Nevada's LSN procedures, with one of my duties (with the assistance of two Assistant Area Certification Managers) being to ensure that our expert consultants, both domestic and international, reviewed, identified, and produced for LSN inclusion all Documentary Material in their possession and provided certifications to that effect.

8. I participated in numerous expert "summit" meetings over the period 2004 to the present, in which the entire Nevada licensing team (consultants, Nevada staff, and attorneys) all participated. At each one of these "summit" meetings, a block of time was reserved for a presentation that was made concerning the requirements and obligations for LSN compliance.

9. For at least the period from 2004 to the present, I have participated in weekly telephone conference calls with a smaller number of members of the Nevada team. However, these calls always included (unless an individual was unable to participate due to a conflict) each of the Area Certification Managers and Assistant Area Certification Managers responsible for LSN compliance under Nevada's procedures (including Mr. Loux, Dr. Thorne, Mr. Messenger, Mr. Malsch, and myself). Details of LSN compliance and resolution of any issues raised by any team member were frequently discussed during these weekly conference calls.

10. Some of the expert consultants on the licensing team utilized the assistance of associates or graduate students or other staff in the conduct of their work. Those
expert consultants were instructed that when they made available Documentary Material or certified they had done so, they were responsible to ensure that any Documentary Material in the hands of their staff or other helpers or associates was included.

11. I reviewed the DOE motion to strike Nevada's LSN certification filed by DOE on January 28, 2008, and saw the criticism made that not all individuals on the Nevada team were surveyed for Documentary Material because some staff members or associates of expert consultants were not specifically copied on call memos.

12. While I was aware this assertion was incorrect, I nevertheless undertook to confirm its untruth. On January 30, 2008, I sent correspondence to each expert consultant inquiring whether, indeed, when identifying and providing Documentary Material and certifications to that effect, each had made certain to include any Documentary Material in the possession of their staff or associates, as instructed. In response, I received the unanimous affirmative assurance from each expert consultant who had made the use of the services of staff or associates that each had indeed provided the Documentary Material in the possession of those persons, including it with that which was supplied by the expert consultant themselves.

13. Each of our expert consultants has been advised of their continuing duty to maintain every document in any way pertaining to the Yucca Mountain project, both that which may be Documentary Material and that which may not be, both that which exists at this time and that which is developed or acquired at any time.
in the future, since it may become pertinent either in the licensing proceeding or discovery associated therewith.

14. I have likewise advised each (many times) of Nevada's obligation to supplement its LSN document collection on an ongoing basis and to certify the fact of that supplementation on the first day of each month following the time of our initial certification.

Susan Lynch
My name is Mike Thorne. My curriculum vitae is attached as Exhibit A. I am over the age of 18 and have never been convicted of a crime. I am of sound mind and am fully qualified to make this Declaration. The facts I discuss are within my personal knowledge and are true and correct.

1. I am one of the experts retained by the State of Nevada to review DOE’s impending application to the NRC for a construction authorization for the proposed repository at Yucca Mountain in the State of Nevada. Among other assignments, I am responsible for coordinating the efforts of the various experts Nevada has retained for this project, and, in particular, the effort to draft expert contentions. I have attached a statement of my qualifications and background. I am qualified and experienced in performing risk assessments for nuclear waste disposal facilities. I have personal knowledge of the following facts based upon my education, experience and my extensive review of documents relating to the Yucca Mountain projects.

2. As part of my work for the State of Nevada on this project, I have devoted hundreds of hours attempting to review, to analyze and to understand what the DOE has placed on the Licensing Support Network (“LSN”). As part of this work, I have attempted to determine among other things, what its pre-safety closure analysis is; what features, events and processes the DOE is analyzing, or has decided not to analyze; what its models are; whether those models are empirical or conceptual; what assumptions underlie those models; what results the DOE has obtained; how DOE got the results it did; and more generally to discern whether it is possible for Nevada to frame focused or meaningful contentions to identify and document areas of difference with what DOE is doing.

3. As I explained in my Declaration of October 29, 2007, notwithstanding these efforts, the documentation that was available then, and is available now on the LSN does not enable me or the other experts with whom I work to frame focused or meaningful contentions in this proceeding.
4. One of the problems is that the LSN is simply missing critical documents that anyone performing this analysis would need to have in order to frame contentions. For example, the LSN does not include a pre-closure safety analysis. This makes it impossible to analyze safety during the 50 or 100 or more year process in which radioactive nuclear waste is first, to be shipped and held above ground while tunnels are supposed to be constructed, and, then loaded into the tunnels.

5. The LSN does not identify the features, events or processes that DOE is examining as inputs in its analysis, or explain which ones DOE has decided not to examine or why. This makes it impossible to know whether DOE has even considered the right factors in determining risks.

6. The LSN does not include the “total systems performance assessment” for the License Application (the “TSPA-LA”). This is an incredibly complex model that in essence compiles over 100 other models so that inputs (which we have not seen), are run through a system (which we do not have), to achieve outputs (which we have not been provided) ostensibly to fall within an exposure standard (which the Environmental Protection Agency and the Commission is yet to promulgate).

7. The LSN does not include any plan for retrieving the waste canisters once they are placed in the drifts. Accordingly, we cannot assess the feasibility or safety of such a plan.

8. These documents are critical to drafting meaningful contentions. In fact, even if we knew every piece DOE was planning to use as part of its TSPA-LA (and we do not), without the TSPA-LA Analysis and Model Report (“AMR”), the pieces are not assembled. This makes it impossible to know what point is being made from a particular analysis, whether it will matter in any significant way to the ultimate conclusion, or what way it will matter. It is impossible for Nevada to guess what DOE’s TSPA-LA will ultimately look like, guess what the inputs are, guess what the outputs will be, and explain why it is flawed. And, of course, having a complete TSPA-LA would not allow us to evaluate a pre-closure safety analysis or retrieval plan that does not exist.

9. In October 2007, DOE released a Total Systems Performance Assessment for its Supplemental Environmental Impact Statement (the “TSPA-SEIS”). Because we did not (and still do not) have the TSPA-LA that DOE will use for its licensing application, the experts working for Nevada took some time to examine the TSPA-SEIS and are continuing with that examination. We are engaging in this effort because the TSPA-SEIS is as close an indicator as DOE has provided us of how it might go about potentially structuring its TSPA-LA.

10. The TSPA-SEIS, however, does not tell you what will be in the TSPA-LA, or permit Nevada to frame focused or meaningful contentions about it. This is true for several reasons: To begin with, although it may be that some of the models in the TSPA-LA will turn out to be similar to models used in the TSPA-SEIS, some clearly will change substantially, and the LSN does not allow us to know which is
which. Moreover, even if we knew which models in the TSPA-LA will prove to be similar to models in the TSPA-SEIS, focused and meaningful contentions depend upon knowing the specific data DOE will feed into the model, e.g. sorption coefficients, infiltration rates, biosphere dose factors. No amount of scrutiny of TSPA-SEIS will tell us what datasets will be used in the TSPA-LA. The TSPA-SEIS does not tell us what features, events and processes the TSPA-LA will analyze, or address pre-closure safety, or a retrieval plan.

11. I have reviewed Department of Energy’s (“DOE’s”) Brief on Appeal in Opposition to Nevada’s Notice of Appeal from the PAPO Board’s January 4, 2008 and December 12, 2007 Orders (“DOE’s Opp.”), filed January 25, 2008, and similar statement DOE makes in its Motion to Strike the January 17, 2008 Licensing Support Network Certification by the State of Nevada (“DOE Motion”). In these briefs, DOE juxtaposes excerpts of statements taken from their context as support for broad assertions about Nevada’s process of drafting contentions, the nature of what DOE has made available, and my own prior statements. DOE’s selection of statements and its assertions do not accurately describe the situation.

12. DOE’s repeated statement that Nevada has already “prepared ‘thousands’ of contentions,” DOE Opp. at 4, 30; DOE Motion at 3, is not true. Nevada expects that this case may well require thousands of contentions, and has tried its best to prepare preliminary drafts of contentions. But the lack of information on, and guesswork required to analyze, the LSN makes framing focused or meaningful contentions impossible.

13. DOE’s statements that Nevada “assembled a special team of lawyers and experts in 2001 to prepare for the Yucca Mountain licensing proceeding,” and that this team has been “performing a thorough evaluation,” and worked extensively, DOE Opp. at 5, is misleading in several ways. First, although Nevada began assembling a team in 2001, it took considerable time to retain the large number of experts necessary for this project. Second, assembling a team is not the same as conducting meaningful analysis. There were no documents on the LSN, until June 30, 2004 and 2.1 million documents were not made available to any experts until April 2007. The TSPA-SEIS that DOE discusses at length in its brief is a document we received in October 2007. More importantly, not only has our work, therefore been limited in time (especially compared to the 18 years that DOE has been working on this project), none of this work has allowed Nevada to draft focused or meaningful contentions.

14. I have reviewed the statements on page 30 & n.74 of DOE’s Opposition, discussing how many gigabytes of data there are on the hard drive that contains the TSPA-SEIS. Although these figures are accurate, the size of the data set does not change the fact that the TSPA-SEIS does not tell us what will be in the TSPA-LA.
15. On page 31 of its Opposition, DOE quotes two of my statements. First, DOE quotes a sentence from ¶5 of my October 29, 2007 Declaration, in which I said that “[t]he type of information given on this hard drive [of the TSPA-SEIS] will be fundamental to scrutinizing the adequacy of the TSPA-LA.” (Emphasis added). But, as I explained immediately afterwards:

However, it must be emphasized that the information given relates only to the TSPA-SEIS and that it cannot be known the degree to which the information provided for the TSPA-LA will be the same as the TSPA-SEIS. Thus, for example, in the file ‘README DOCUMENT FOR THE TSPA-SEIS file transmittal (henceforth referred to as the README file), relating to the Input Database Software and Contents, it is stated that ‘[t]he TSPA_Input_DB Version 2.2 is not included in this submittal. The database has a check box that indicates that the values and the references have not been confirmed. At this time, the parameters have not all officially completed this process.’ The admission that the parameter values and references have not been officially confirmed shows that the input database is at an interim stage of development and changes can be anticipated in the database that will underpin the TSPA-LA.

I then went on in the next three paragraphs to explain several other reasons why this disk did not enable us to frame focused or meaningful contentions about the models and data that DOE will decide to put in the TSPA-LA.

16. In footnote 77 on page 31 of its Opposition, DOE quotes a paragraph from a memorandum about a meeting I had with NRC Staff on the TSPA and TPA in which I said (before Nevada obtained copy of the TSPA-SEIS) that it would be advantageous for Nevada and NRC staff to obtain it, because it was “reasonable to suppose” that the TSPA-SEIS “resembles closely the version that will become the TSPA-LA” (emphasis added). As I went on to explain in the same meeting memorandum, the fact the TSPA-SEIS resembles the “version” being used in the TSPA-LA, does not mean it predicts what the TSPA-LA will contain:

Thus, again, it would be extremely useful to obtain access to the TSPA-SEIS, with a view to developing advice on the resources required for adequate verification of the TSPA-LA by the State of Nevada, as it would not be appropriate to accept the results obtained at their face value until such a verification had been undertaken. In this context, I should emphasise that verification comprises only the process of determining that the model undertakes the specified calculations. A wider aspect of the review process will be to determine whether the underlying conceptual and mathematical models are appropriate and fit-for-purpose. From the presentation by NRC Staff, it was clear that a detailed examination of both the structure of the TSPA-LA and of intermediate results generated by it is to be undertaken by the NRC, so the issue of the resources required to achieve such an examination is as relevant to the Commission as it is to the State of Nevada.
Finally, in the same footnote, DOE quotes portions of memos I sent to lawyers for Nevada. In one of the memos I encouraged one of Nevada’s lawyers, Charles Fitzpatrick, to review the TSPA-SEIS for scenarios that DOE was using. In the other, I said to Martin Malsch that the DOE on the TSPA-SEIS disk “has done a pretty good job in providing information to underpin the TSPA-SEIS calculations.” (emphasis added). Again, although all of these statements are true, all they refer to is the point I made above – that “the TSPA-SEIS is as close an indicator as DOE has provided us of how it might go about potentially structuring its TSPA-LA.” As I went on to explain in the memo to Mr. Fitzpatrick:

The various comments set out above indicate that the TSPA-LA AMR is likely to be a very substantial document in its own right and that it will necessarily be supported by a number of other substantial documents and computer files. Specifically, the TSPA-LA AMR must report the results and interpretation of a wide range of calculation cases. These will include compliance, verification and validation calculations, plus sensitivity, uncertainty and importance analyses. Furthermore, the results will need to be reported not only at the overall system level, but also at sub-system and component model levels, to demonstrate that the results obtained are reasonable and consistent. In addition, there will be comparative studies and reviews relating to natural analogues and there will also be simplified calculations used to support the confidence in the compliance model. It is not clear whether these will be reported in the TSPA-LA AMR or in supporting documents. However, it is noted that letter reports and memos are mentioned in relation to the reporting of sensitivity and uncertainty analyses.

For comparison, in the Supplemental Environmental Impact Statement (SEIS), only a top-level overview of the non-Q calculations undertaken in support was reported in Appendix F. Even that very high-level overview of the limited number of cases studied comprised a densely written 69 page document. For comparison, the top-level safety assessment document recently produced by SKB in relation to their KB3-3 concept (SKB Report TR-06-09, 2006) was 620 pages. Similarly, the FY01 Supplemental Science and Performance Analyses, which gave a high-level account of TSPA modelling and results comprises around 1000 pages of technical material. Taking these documents into account, it seems likely that the main text of the TSPA-LA AMR will be in excess of 500 pages and that there will be technical annexes or supplementary documents giving details of the underlying calculations that will comprise many thousands of pages of text, graphs and tables. There will also be supplementary software documentation on the various dlls used in the TSPA-LA and this could be very extensive, as the dlls
relate to complex, process-based models in some instances (see Table 9.1, [p.33]). It is this second level of supplementary documentation that will require detailed scrutiny to determine the validity, or otherwise, of the results reported. Furthermore, the top-level and supplementary documentation will point to a substantial number of computer files detailing the model runs that were undertaken, including both those used directly for compliance purposes and those used for other purposes, including the investigation of alternative parameter value distributions and alternative conceptual models.

*It is emphasised that none of this documentation is, as yet present on the LSN. Furthermore, the only document that can reasonably be used to guess at some of the approaches that may be adopted is Appendix F of the TSPA-SEIS. This is a very high-level overview of, possibly, non-Q calculations that are likely to be substantially revised for the TSPA-LA, so it cannot be used as an adequate basis for evaluating the technical arguments and calculation procedures that will underpin the License Application.*

(Emphasis added). DOE again, does not cite these statements.

18. In short, I cannot imagine that anyone reading the full text of what I have written could fairly conclude that I believe the TSPA-SEIS to be a meaningful substitute for having the TSPA-LA when it comes to framing contentions. I have never suggested that such is the case, and I do not believe that to be close to the truth.

Mike Thorne
Exhibit A

Exhibit A
PROFESSIONAL ACTIVITIES AND MEMBERSHIP

Visiting Fellow at the Climatic Research Unit, School of Environmental Sciences, University of East Anglia
Fellow of the Society for Radiological Protection and a Past President of the Society
Member of the Editorial Board of the Journal of Radiological Protection
Member of the National Dose Assessment Working Group (NDAWG) and Chairman of the Habits Subgroup
Member of the Eco-ethics International Union
Consultant to the Institute for Energy and Environmental Research, Washington DC.
Quintessa Associate
Director, Mike Thorne and Associates Limited

ACADEMIC RESPONSIBILITIES

Formal supervision of two PhD students at the University of East Anglia:
M Hoar, Reconstructing Climate Gradients across Europe for the Last Glacial-interglacial Cycle, PhD awarded 2004.
Informal supervision of PhD students at the University of Edinburgh (development and retreat of ice sheets) and at Imperial College of Science, Technology and Medicine (radionuclide transport in vegetated soil columns – experimental studies and modelling interpretations).
Teaching on the MSc course on Environmental Radioactivity at the University of Surrey.
Teaching on the MSc course in Environmental Technology at Imperial College of Science, Technology and Medicine.
Supervision of Post-doctoral research activities at the Universities of East Anglia; University of Newcastle and Imperial College of Science, Technology and Medicine on behalf of various commercial clients.
CAREER HISTORY (Selection of Projects)

Mike Thorne and Associates Limited, 2001 onward

*Development of Climate and Landscape Change Scenarios, Biosphere Factors and Characteristics of Potentially Exposed Groups for the LLWR near Drigg, West Cumbria*

*Client - Nexia Solutions Ltd*

Project building on previous work for BNFL relating to the LLWR and for the NDA relating to vulnerabilities of various sites.

*Radiological Impact of NORM Discharges to the Marine Environment*

*Client - Scotoil Services Ltd*

Support to an appeal against a SEPA decision to curtail such discharges from North Pier, Aberdeen.

*Development of Proposals for Setting Radiation Protection Standards based on Consideration of More Sensitive Individuals in a Population*

*Client – Institute for Energy and Environmental Research, Washington DC*

Overall project review and development of techniques for calculating radiation doses to the early embryo from internally incorporated radionuclides.

*Review of Impacts of Coastal Erosion at Hunterston*

*Client – ERM Limited*

Evaluation of the potential radiological implications of coastal erosion on the VLLW pits at Hunterston Nuclear Power Station.

*Advice on Dose Reconstruction*

*Client – S A Cohen & Associates for NIOSH*

Advice on dose reconstructions for workers at DOE facilities from 1941 onward.

*Advice on Effects of Radionuclides on Organisms other than Man*

*Client – Nuclear Safety Solutions Limited, Canada*

Provision of guidance on dosimetry, reference levels and effects relevant to selected protected species.

*Participation in Safety Assessment Studies for the Baita Bihor Repository, Romania*

*Client – Quintessa/for the European Union*

Compilation of inventory data, shielding studies and development of both operational and post-closure safety cases.
Review of the Yucca Mountain Project  
Client – State of Nevada  
Co-ordination of technical activities involved in a review of the proposed License Application by US DOE for disposal of radioactive wastes at Yucca Mountain.

Co-ordination of biosphere research and participation in BIOCLIM  
Client – UK Nirex Ltd (NDA/RWMD)  
Co-ordination of research on climate change, ice-sheet development, near-surface hydrology and radionuclide transport, as well as participation in an international programme on the implications of climate change for radioactive waste disposal. Also includes development of new models for radionuclide transport in the biosphere and for the gas pathway.

Development of a Handbook on Radionuclide Behaviour in the Environment  
Client – Serco Assurance  
Development of a handbook for Environment Agency staff outlining the behaviour of a wide variety of radionuclides in terrestrial and aquatic environments.

Development of a Simplified Dose Assessment Model  
Client – Serco Assurance  
Development of a simplified spreadsheet-based dose assessment tool for use by Environment Agency staff in determining Authorisations.

Provision of Biosphere Advice  
Client – Ciemat, Spain  
Provision of advice on models and data relevant to geological disposal of radioactive wastes

Provision of Advice on Safety  
Client – NNC Ltd/Defra  
Provision of expert advice to the UK Committee on Radioactive Waste Management (CoRWM).

Effects of Radiation on Organisms Other Than Man  
Client – AEA Technology/Serco Assurance  
Study for ANDRA to identify appropriate indicator organisms and develop appropriate dosimetry and effects models for those organisms.

Member of the Site Investigation Expert Review Group (SIERG)  
Client – SKB  
Oversight reviews of site investigation activities and the associated research and assessment programmes.
Advice on the Short-, Medium- and Long-term Effects of Climate Change on Nuclear Licensed Sites  
Client – BNFL and Nexia Solutions Ltd

Interpretation of results from the international BIOCLIM project in relation to decommissioning and solid radioactive waste management, with particular emphasis on the potential significance of sea-level changes. Review of information on coastal vulnerabilities at NDA sites.

Advice on Submarine Reactor Accidents and the Development of Detailed Emergency Planning Zones  
Client – Electrowatt-Ekono

Assistance to MoD in revising emergency planning criteria in the light of recent changes of views on Emergency Reference Levels and other technical developments. Also studies on tritium analyses and migration from transfer tanks.

Review of Continuing Operational Safety Cases  
Client – Electrowatt-Ekono

Review of COSRs developed by BNFL for contaminated land.

Development of a New Soil-Plant Model for use in Radiological Assessments  
Client – Food Standards Agency/Quintessa

Development of the specification for a new soil-plant model (PRISM) to replace that implemented in the SPADE suite of codes (implementation of the model has been by Quintessa) and extension of that work to new models for $^3$H and $^{14}$C.

Review of Probabilistic Safety Assessment and Criticality Issues relating to a Proposed Surface Storage Facility for Spent Nuclear Fuel  
Client – State of Utah

Review of the potential for criticality in breached storage casks and of the probability of breaching by aircraft impacts. Also, supervision of various criticality and radiation shielding calculations.

Development of Models for Radionuclide Transfers to Sewage Sludge and for Evaluating the Radiological Impact of Sludge applied to Agricultural Land  
Client – Food Standards Agency

Includes a review of literature and the development and implementation of probabilistic models for such transfers.
Development of Biokinetic Models for Radionuclides in Animals  
Client – Serco Assurance

Development of updated biokinetic models for use by the Food Standards Agency in their SPADE and PRISM modelling systems.

Review Studies for the Proposed Australian National Radioactive Waste Repository  
Client – RWE NUKEM

Reviews of reports on animal transfer factors and of the potential effects of climate change on the repository plus development of a model for the biokinetics of the $^{226}$Ra decay chain in grazing animals.

Development and Application of a Model for Assessing the Radiological Impacts of $^3$H and $^{14}$C in Sewage Sludge  
Client – NNC Ltd

Development of a model based on physical, chemical and biochemical principles for the uptake of $^3$H and $^{14}$C into sewage sludge and their subsequent distribution and transport after application of the sludge to agricultural land.

Support for development of the Drigg Post-closure Radiological Safety Assessment  
Client - BNFL

Support in the areas of FEP analysis, biosphere characterisation, human intrusion assessment and the effects of natural disruptive events. In addition, provision of advice of future research initiatives that should be pursued by BNFL.

Review of Parameter Values  
Client – AEA Technology/Serco Assurance

Review of biosphere parameter values for use in the ANDRA assessment model AQUABIOS.

Development of a Database related to Emergency Planning  
Client – AEA Technology (Rail)

Identification of relevant international, overseas and national legislation, regulations and guidance, and production of brief summaries of the documents.

Dose Reconstruction for Workers on a Uranium Plant  
Client - McMurry and Talbot

Dose reconstruction for the plaintiffs in a case relating to the Paducah Gaseous Diffusion Plant.
Dose reconstruction for a worker exposed by a puncture wound in the finger while working at a glove box.

AEA Technology, 1998-2001

Revision of Exemption Orders Made Under the Radioactive Substances Act
Client – DETR

Review of requirements for revision and preparation of a draft text for the purposes of consultation.

Assessment of Remediation Options for Uranium Liabilities in Eastern Europe
Client - European Commission

Studies of remediation requirements relating to mines, waste heaps and hydrometallurgical plant in Bulgaria, Slovakia and Albania.

Evaluation of Unusual Pathways for Radionuclide Transport from Nuclear Installations
Client – Environment Agency

Review of literature and conduct of formal elicitation meetings to determine potential pathways and evaluate their radiological significance.

Support Studies on the Drigg Post-closure Performance Assessment
Client - BNFL

Support in the areas of FEP analysis, biosphere characterisation, human intrusion assessment and the effects of natural disruptive events. In addition, provision of advice of future research initiatives that should be pursued by BNFL.

Development of Models for the Biokinetics of H-3, C-14 and S-35 in Farm Animals
Client - FSA

Review of relevant literature, development of appropriate biokinetic models and implementation in stand-alone software.

Integration of Aerial and Ground-based Monitoring in the Event of a Nuclear Accident
Client - FSA

Desk-based review and simulation study designed to determine optimum monitoring strategies for different types of accidents.
**Elicitation of Parameter Values for use in Radiological Impact Assessment Models**  
*Client - FSA*

Expert elicitation study to provide distributions of parameter values for use in the suite of assessment models currently used by the FSA for routine and accidental releases.

**Biosphere Research Co-ordination and Assessment Studies**  
*Client - United Kingdom Nirex Ltd*

Continuation of a programme of work originally undertaken at Electrowatt Engineering (UK) Ltd

**Site Investigation and Risk Assessment - Hilsea Lines**  
*Client - Portsmouth City Council*

Radiological assessment of a radium-contaminated site.

**Electrowatt Engineering (UK) Ltd, 1987-1998**

**Development of a Siting Policy for Nuclear Installations: Harbinger Project and Follow-up Study**  
*Client - HSE/NSD*

Review of existing policy and development of alternatives as a precursor to application to a wide range of installations, not restricted to commercial reactors.

**Support to the Rock Characterisation Facility Public Enquiry**  
*Client - UK Nirex Ltd*

Preparation of position papers and rebuttals of evidence.

**Rongelap Resettlement Project**  
*Client - Marshall Islands Government*

Participation in an oversight committee evaluating the radiological safety of Rongelap in the context of resettlement by its evacuated community.

**Evaluation of Inhalation Doses from Uranium**  
*Client - Baron & Budd*

Provision of expert witness support in a class action relating to environmental exposure from a uranium plant.

**Biosphere Studies Relating to Drigg**  
*Client - BNFL*

 Provision of advice on time-dependent biosphere modelling for the Drigg low-level radioactive waste disposal facility.
Radiation Doses to an Individual as a Consequence of Working on the San Onofre Nuclear Power Plant  
Client - Howarth & Smith

Interpretation of personal and area monitoring data for legal purposes.

Interpretation of Uranium in Urine Data for the Fernald, Ohio Feed Materials Processing Center  
Client - Institute for Energy and Environmental Research

Interpretation of urinalysis and lung counting data, and appearance as an expert witness in the associated trial.

Determination of Failure Probabilities for use in PRA  
Client - Nuclear Installations Inspectorate

Development of new approaches to the use of Bayes Theorem in defining component failure probabilities for use in PRA when statistics on actual failures are limited.

Review of Inventory Information  
Client - UK Nirex Ltd

Review of uncertainties in inventories of individual radionuclides.

ALARP Study of Options for the Treatment, Packaging, Transport and Disposal of Plutonium Contaminated Material  
Client - UK Nirex Ltd

Use of multi-attribute utility analysis to establish which option is preferred.

Expert Judgement Estimation of Intrusion Model Parameters  
Client - British Nuclear Fuels plc

Project Manager of a study assessing the risks of human intrusion into Drigg radioactive disposal site using expert judgement techniques.

Brainstorming Study of Risks Associated with Building Structures  
Client - Building Research Establishment

Participation in a classification study of the health risks associated with buildings including both injuries and disease.

Radiological Consequences of Deferred Decommissioning of Hunterston A  
Client - Scottish Nuclear Ltd

Project Manager of a study of the radiological impacts of groundwater transport of radionuclides, releases to atmosphere and intrusion.
Reviews of Safety Documentation  
Client - UK Nirex Ltd

Review of safety related documentation for Packaging and Transport Branch.

The Sheltering Effectiveness of Buildings in Hong Kong  
Client - Ove Arup & Partners

Project Manager of a study evaluating the shielding effectiveness of all types of building in Hong Kong for volume sources of photons in air and surface deposition sources.

Assessment of the Radiological Impact of Releases of Radionuclides from Premises other than Licensed Nuclear Sites  
Client - Ministry of Agriculture, Fisheries and Food

Project Manager of a study to identify representative premises, obtain data on their releases of radionuclides and assess radiological impacts using a new methodology developed for the project.

Assessment of the Radiological Implications of Uranium and its Radioactive Daughters in Foodstuffs  
Client - Ministry of Agriculture, Fisheries and Food

Project Manager of a review study of concentrations of uranium and its daughters in foodstuffs, taking local and regional variations in uranium concentrations in soils, sediments and waters into account.

Radionuclides in Sewage  
Client - Her Majesty's Inspectorate of Pollution

Project Manager of a study including a desk review on alternative methods of disposal of sewage sludges, interpretation of monitoring data relating to radionuclide discharges from Amersham International to the public sewer system, development of a model for radionuclide transport in sewers, and collection and analysis of effluent, foul water, sediment, sludge and other samples suitable for use in model validation studies.

Accident Consequence Calculations  
Client - Nuclear Installations Inspectorate

Project Manager of a study to assess the radiological consequences of various atmospheric releases using the MARC code.

Definition of Threshold Recording Levels for Drums of ILW  
Client - UK Nirex Ltd

Project Manager of a study of the implications of post-closure radiological impacts of radioactive waste disposal in defining Threshold Recording Levels for radionuclides in individual waste drums.
**Definition of Expert Judgment Exercises Relating to Nuclear Safety**  
*Client - Commission of the European Communities*

Project Manager for a study defining expert judgment exercises relating to conceptualisation, representation and input data specification. Included a comprehensive review of available formal expert judgment procedures, and mathematical and behavioural aggregation techniques.

*Client - Nuclear Safety Research Management Unit, HSE*

Development of proposals for using combined behavioural and mathematical aggregation procedures in formal elicitations of expert judgment.

**Development Priorities for the Drigg Technical Development Programme**  
*Client - British Nuclear Fuels plc*

Provision of detailed advice to BNFL on future design options, and research and development priorities, in relation to radioactive waste disposal at Drigg.

**Channel Tunnel Safety Studies**  
*Client - Channel Tunnel Safety Authority*

Provision of advice and guidance on safety criteria appropriate to the Fixed Link, on the classes of Dangerous Goods that may properly be carried and on the overall characteristics of the proposed Safety Case.

**Development of Societal Risk Criteria**  
*Client - Marathon Oil*

Interpretation of F-N curves in the context of the offshore oil/gas industry, taking risk aversion into account.

**Impacts of Salt Dispersal on Plant Communities**  
*Client - Sir William Halcrow*

Evaluation of salt dispersal from a major road in winter in relation to adjacent Sites of Special Scientific Interest.

**Offsite Consequence Assessments**  
*Client - Nuclear Electric*

Studies of the offsite radiological impacts of atmospheric and liquid releases of radioactive materials from Magnox stations.
Dry Run 3  
**Client - Her Majesty's Inspectorate of Pollution**

Uncertainty and bias studies involving formal expert judgment procedures to develop a conceptual model of those factors and interrelationships which are of significance in determining the post-closure radiological impact of a deep geological repository for radioactive wastes. This project also included advice on data and models to be used for post-closure radiological assessments.

**Radiological Assessments of Drigg**  
**Client - British Nuclear Fuels plc**

Project Manager for post-closure radiological impact assessments of the Drigg LLW disposal site. Also included specification and development of computer codes relating to the radiological impact of fires, releases of radioactive gases produced by microbial action and metal corrosion, and human intrusion.

**Biosphere Co-ordination**  
**Client - UK Nirex Ltd**

Co-ordination of the UK Nirex Ltd Biosphere Research Programme from its inception, including requirements definition, technical management of all projects and QA surveillance as the Client's Representative.

**Biosphere Support for the Nirex Disposal Safety Assessment Team**  
**Client - AEA Technology**

Development of approaches for assessing the radiological impact of releases of radionuclides to the biosphere, plus advice on radiological protection criteria, definition of individual risk, implications of conventionally toxic chemicals in wastes and a variety of other matters.

**Evaluation and Radiological Assessment of Liquid Effluent Releases from Various Premises**  
**Client - Her Majesty's Inspectorate of Pollution**

Reviews of monitoring data and evaluations of radiological impact, primarily related to Harwell, Aldermaston, Capenhurst and Amersham International.

**Evaluation of the Radiological Impact of Overseas Nuclear Accidents**  
**Client - Her Majesty's Inspectorate of Pollution**

Studies of the impact of potential overseas nuclear accidents on the UK, with emphasis on survey and monitoring requirements, and the selection of appropriate radiation detection equipment for monitoring.

**Bilsthorpe Power Station**  
**Client - British Coal/East Midlands Electricity**

Preparation of an Environmental Statement with emphasis on atmospheric dispersion of $SO_2$ and $NO_\xi$. 
**Gas Generation in Radioactive Waste Disposal Facilities**  
*Client - AEA Technology*

Development of a coupled microbial degradation and corrosion model for gas generation in repositories for LLW and ILW.

**Effects of Chernobyl on Drinking Water Supplies**  
*Client - Her Majesty's Inspectorate of Pollution*

Evaluation of the radiological implications of enhanced concentrations of radionuclides in water supplies in England and Wales subsequent to the Chernobyl accident.

**Sea Disposal of Radioactive Wastes**  
*Client - UK Nirex Ltd*

Participation in an Environmental Impact Assessment of the proposed resumption of sea-dumping of radioactive wastes.

**UK Research Related to Radioactive Waste Management**  
*Client - Her Majesty's Inspectorate of Pollution*

Identification of gaps in the UK national research effort related to radioactive waste management.

**Research Requirements for Repository Design and Site Investigations**  
*Client - UK Nirex Ltd*

Review of research requirements for repository design and site investigations in relation to LLW and ILW disposal in near-surface and deep repositories.


Scientific Secretary responsible for arranging and minuting meetings, administrative arrangements, technical review of reports, editing of the Commission's journal, liaison with other international organisations and public relations.


Reviews of data on the distribution at transport of radionuclides in terrestrial and aquatic ecosystems (see publications list).

Development of a dynamic model for radionuclide transport in agricultural ecosystems and implementation of the model on various microcomputer systems.

Photon and neutron shielding studies of radiochemical plant, together with area classification and ALARA studies.
A review of UK use of the criticality code MONK and other approaches to criticality safety assessment.

Radiological and conventional safety aspects of Magnox reactor decommissioning.

Development of metabolic models for inclusion in ICRP Publication 30.

Development of pharmacodynamic models for toxic chemicals.

Review of neutron activation analysis in studies of radionuclide transport in soils and plants.

Experimental studies on radionuclide transport in soils and plants using various photon-emitting radionuclides.

Support for DoE work on probabilistic risk assessment of LLW and ILW disposal.

Review of UK research requirements for HLW disposal.

Post-closure radiological impact assessment of the proposed LLW and ILW facility at Elstow, Bedfordshire.

Development of a generalised biosphere model for use in probabilistic risk assessments of solid radioactive waste disposal.

Initial development of a mathematical model for use in assessing the radiological impact of contaminated groundwater.

Development, computer implementation and comprehensive documentation of a model to calculate the radiological impact of intrusion into radioactive waste repositories.


Studies on the potential radiological consequences of Magnox reactor accidents.

**Medical Research Council Radiobiology Unit, Chilton, Didcot, Oxon, England, 1974-1979**

Development of dosimetric and metabolic models for use in ICRP Publication 30.

Studies on the metabolism of plutonium in bone and relationships to blood flow.

Theoretical studies on radionuclide metabolism and dosimetry.

Development of techniques in neutron-induced autoradiography and alpha imaging.

Image analysis studies of plutonium in bone, uranium in lungs, lysosomal inclusions in cells and heterochromatin.
Studies on the clearance of inhaled UO₂.

Alpha spectroscopy in support of toxicity studies with Ra-224.

Data analysis in connection with experimental animal studies on the potential efficacy of neutron therapy using 42 MeV neutrons.

**University of Sheffield, 1971-1974**

Experimental studies on the reaction \( \gamma + p \rightarrow \pi^0 + p \) at photon energies between 1 and 3 GeV, using a linearly polarised photon beam.

**SELECTION OF PUBLICATIONS**


UK Nirex approach to the protection of the natural environment, M J Egan, M C Thorne and M A Broderick, Stockholm Symposium.


Modelling radionuclide distribution and transport in the environment, K M Thiessen, M C Thorne, P R Maul, G Prohl and H S Wheater, Environmental Pollution, 100, 151-177, 1999.


The construction of global eustatic sea-level scenarios for the next 150,000 years, Goodess, C M, Watkins, S J, Palutikof, J P and Thorne, M C, Climatic Research Unit Research Paper Number 3
(Second Series), Climatic Research Unit, School of Environmental Sciences, University of East Anglia, Norwich NR4 7TJ, October 2004.


Model Review and Comparison for C-14 Dose Assessment, S Sheppard and M C Thorne, BIOPROTA Theme 2, Task 3 Report published by UK Nirex Limited.


Exhibit 1
MEMORANDUM TO: Distribution

FROM: David R. Hill
       General Counsel

SUBJECT: Ongoing Licensing Support Network ("LSN") Obligations

This memorandum and its attachments provide further guidance concerning LSN obligations of personnel in affected Department of Energy (DOE) and contractor organizations working on the Yucca Mountain project. DOE and contractor organizations previously have been given guidance through the May 5, 2003 memorandum of the DOE General Counsel ("Call Memo") and the May 24, 2005 memorandum of the DOE Assistant General Counsel ("Refresher Guidance") regarding the submittal and retention of documents for the Yucca Mountain license proceeding.

You are required to distribute a copy of this guidance to each person in your organization who is working on matters concerning the Yucca Mountain project. You also are required to distribute a copy to all contractors of your organization who work on matters concerning the Yucca Mountain project, with instructions that these contractors distribute copies to their affected personnel and subcontractors. Upon doing so, provide written verification (using the accompanying form) to the DOE LSN Project Manager, Dong Kim, in the DOE Office of Civilian Radioactive Waste Management ("OCRWM"), that (i) your organization has appropriately distributed this guidance to its personnel and contractors, and (ii) your organization’s affected contractors have similarly verified in writing to you that they have appropriately distributed this guidance to their personnel and subcontractors.

Computer-based training on this guidance will soon be available for all affected organizations and personnel. Also, LSN project members will soon contact the LSN Responsible Manager and LSN Point of Contact for your organization to provide additional information regarding implementation of this guidance.

Please contact Dong Kim (202-586-1223) if you have any questions.

Attachments
Distribution

Office of the Secretary
Office of the Deputy Secretary
Office of the Under Secretary
Office of the Under Secretary for Science
Administrator, National Nuclear Security Administration
Deputy Administrator for Naval Reactors
Director, Office of Civilian Radioactive Waste Management
Assistant Secretary, Office of Nuclear Energy, Science and Technology
Assistant Secretary for Energy Efficiency and Renewable Energy
Assistant Secretary for Environmental Management
Assistant Secretary for Congressional and Intergovernmental Affairs
Assistant Secretary for Policy and International Affairs
Director of Public Affairs
Office of Inspector General
Administrator, Energy Information Administration
Office of Health, Safety and Security
Director, Office of Management
Acting Chief Financial Officer
Office of the Chief Human Capital Officer
Director, Office of the Executive Secretariat

cc:
Manager, Sandia Site Office
Manager, Albuquerque Site Office
Manager, Livermore Site Office
Manager, Los Alamos Site Office
Manager, Nevada Site Office
Manager, Chicago Operations Office
Manager, Idaho Operations Office
Manager, Oak Ridge Operations Office
Manager, Oakland Operations Office
Manager, Ohio Field Office
Manager, Richland Operations Office
Manager, Savannah River Operations Office
Manager, Office of River Protection
GUIDANCE CONCERNING ONGOING LSN OBLIGATIONS

A. DOCUMENTS TO BE INCLUDED ON THE LSN

DOE needs to make available on the LSN its “documentary material” prior to submitting its license application for a geologic repository for spent nuclear fuel and high level radioactive waste at Yucca Mountain. Generally speaking, a document qualifies as “documentary material” and is “LSN-Relevant” if it falls into any of the following three categories:

1. Class 1: It contains information that DOE intends to cite or rely on in the license application or in support of its positions in the license proceeding.
2. Class 2: It contains information that is adverse to, contradictory of, or inconsistent with the information in the first category.
3. Class 3: It is a report or study prepared by or for DOE that is relevant to both the license application and the issues in the Topical Guidelines in NRC Regulatory Guide 3.69 (including “circulated drafts” of such reports and studies).

To enable DOE to collect the documents that potentially qualify as “documentary material,” personnel need to follow the document submittal procedures below. A one-page summary of these document submittal requirements is attached for reference as Attachment 1.

1. Follow project procedures for submittal of documents to the OCRWM Records Processing Center (“RPC”). If you perform work on the Yucca Mountain project that is subject to procedures that require records to be submitted to the RPC, e.g., Procedure AP-17.1Q, you must follow those procedures. When you submit a record to the RPC, you are required to designate on the transmittal form whether you consider the document to be LSN-Relevant, i.e., that it qualifies as documentary material. You are also required to mark appropriately, and identify on the transmittal form, all submitted documents that you believe may be privileged.

Personnel in the RPC review all submitted documents and forward copies as appropriate to DOE’s Automated Litigation Support (“ALS”) Contractor, i.e., CACI, Inc., for inclusion on the LSN. Accordingly, submittal of a record to the RPC satisfies your LSN obligations for that document. You do not need to retain for purposes of derivative discovery a copy of any document that is submitted to the RPC.

2. Submittal of other potentially LSN-Relevant documents to the ALS Contractor. If you author a final document that is not submitted to the RPC, you must assess whether the document falls within any of the three classes of documentary material and therefore is LSN-Relevant. You must make the same assessment for all documents that you receive from persons outside the Yucca Mountain project in the course of your work on the project (e.g., letters or studies received from universities) that are not submitted to the RPC.
For any such document that you believe is LSN-Relevant, you must submit a copy to the
LSN Point of Contact for your organization, who will provide the documents to DOE's
ALS Contractor. Each document that you provide to your organization's LSN Point of
Contact should be accompanied by a copy of the form provided as Attachment 3, on
which you should note all privileges that you believe may apply to the document.
You should note the following regarding this document submittal requirement:

- This obligation applies to any type of document, e.g., memoranda, letters, faxes,
electronic files, etc. Whether a document qualifies as documentary material
depends on its content, not its form.

- With one exception, you do not need to submit drafts and should submit only final
versions of documents. The one exception is a "circulated draft" of an LSN-
Relevant report or study. A "circulated draft" of a report or study is a
presumptively final version that has been distributed for organizational approval
and that received a formal, written non-concurrence.

- This obligation does not apply to documents that are submitted to the RPC
(whether by you or someone else).

- This obligation does not apply to documents you receive that are authored by
Yucca Mountain project personnel. That is because each project member has the
independent duty to submit LSN-Relevant documents that member authors. Your
submittal obligation applies to (i) documents you author and (ii) documents you
receive from persons outside the project.

NOTE: If you plan to submit LSN-Relevant documents with either Protected Personal
Identifying Information (Protected PII) or Safeguards Information (SGI), you must
identify those documents to your organization's LSN Point of Contact in advance, so
special arrangements can be made for them.

Protected PII is information that can be used to distinguish or trace an individual's
identity, such as their social security number, date and place of birth, mother's maiden
name, personal financial information, biometric records, medical history, and any other
personal information that is linked or linkable to an individual (or that could be used for
identity theft).

SGI is information that is authorized by §147 of the Atomic Energy Act (AEA) of 1954, as
amended, to be protected from inadvertent release and unauthorized disclosure, and that is
further governed by 10 C.F.R. Part 73.

NOTE: Do not submit any documents that contain classified information even if they are
LSN-Relevant. Preserve these documents, and contact your organization's LSN Point of
Contact to receive special handling instructions.
3. **Submit potentially "non-supporting" and "supporting" emails.** You must submit all emails you author that you believe may contain either "non-supporting" or "supporting" information. Emails in either category should be treated as LSN-Relevant.

"Non-supporting" emails are those that contain information that may be adverse to, inconsistent with, or contradictory of--or that otherwise call into question--the information or analyses relied upon or used in preparation of the license application or documents underlying the license application, e.g., AMRs. These also include emails that may call into question DOE's compliance with QA requirements or DOE's ability to satisfy the requirements of NRC's Part 63 regulations for the Yucca Mountain repository.

"Supporting" emails are those that it might be useful for DOE to cite and rely on in the license proceeding. For example, DOE may cite emails that explain or otherwise put in context emails or other information cited by opponents in connection with their contentions. Accordingly, you should identify emails you believe may assist DOE in the license proceeding (e.g., emails that put into context or resolve an issue raised in a non-supporting email) as LSN-Relevant and submit those emails.

For each email that you submit--whether non-supporting or supporting--that you believe may be privileged under the deliberative process privilege, attorney client communication privilege, litigation work product doctrine or other applicable privilege, you should mark the email as privileged. If you do not have an OCRWM Lotus Notes email account, you can do this for emails that you author by writing in the beginning of the email that the email is "Privileged and Confidential."

If you have an OCRWM Lotus Notes email account, that system employs a template that requires you to categorize for LSN relevance and privilege each email you send as well as each email you receive from outside that system. All emails that you categorize as LSN-Relevant through the OCRWM Lotus Notes system are sent to the ALS Contractor, which fulfills your submittal requirement for such emails. Because of this feature, you should use your OCRWM Lotus Notes account to the extent practicable for matters related to the Yucca Mountain project.

The OCRWM Lotus Notes system template, in addition to requiring users to determine whether the email is "LSN-Relevant" and/or "Privileged," also requires you to indicate whether the email is a "Federal Record." You generally should mark all emails that pertain to your work for the Federal government as a "Federal Record." Further, the template also requires you to indicate whether the email reflects a "Condition Adverse to Quality," and you must also make this determination for all emails.

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1Emails that merely distribute copies of reports and studies do not need to be submitted to the ALS Contractor. DOE's reports and studies that need to be produced on the LSN are obtained either through the RPC or by direct submittal to the ALS Contractor. Any copies attached to emails are therefore duplicates.
If your organization uses an email system other than the OCRWM Lotus Notes system, you can submit LSN-Relevant emails from that system by sending a copy to one of the OCRWM Lotus Notes addresses established to capture external email. Personnel working for the lead lab should cc: "LEAD_LAB@notes.ymnp.gov". Personnel other than those working directly for the lead lab should cc: OCRWM_RPC@notes.ymnp.gov". Alternatively, you can submit copies of LSN-Relevant emails from these other systems to your organization's LSN Point of Contact in either paper or electronic form, using the transmittal form for submittal of documents discussed in the preceding section. You should denote whether you consider any such submitted emails from these other networks to be privileged. (Note: You are not required to denote such emails as a "Federal Record" or "Condition Adverse to Quality." Those designations are a function of the template on the OCRWM Lotus Notes system.)

You should not use personal email accounts (e.g., Yahoo, AOL, MSN) for matters related to the Yucca Mountain project.

The following kinds of emails do NOT contain supporting or non-supporting information and should NOT be categorized as LSN-Relevant or otherwise submitted:

- Emails that solely concern the schedule or process for preparing or reviewing the license application or other documents.
- Emails that solely concern the date, time, location and topic of meetings.
- Emails that merely distribute a draft of a document for review with no substantive analysis or commentary about the draft.
- Emails that solely concern internal administrative matters such as budgets, financial management, personnel matters, office space or payroll information.
- Emails that solely concern procurement matters.
- Emails that solely concern DOE's processes to collect documents for the LSN.

B. DOCUMENTS TO BE RETAINED. While they do not need to be submitted to the ALS Contractor at this time, there are 6 categories of other documents that need to be preserved for potential use in the "derivative discovery" phase of the license proceeding. That phase will follow docketing of the license application. Unless copies of these documents are submitted to the RPC or are otherwise retained by your organization--such as by the LSN Point of Contact for your organization--you (or your organization) must retain one copy of any documents in the following 6 categories THAT YOU CREATE. A one-page summary of these document retention requirements is attached for reference as Attachment 2.

1. Preliminary drafts. If you are writing a report, study, or other document that is likely to qualify as documentary material when finalized, you must save drafts of these documents that are distributed to others for comment AND that are not submitted to the RPC.
2. **Marginalia on documents.** If you write on a document, you must retain that copy of the document if your notation reasonably could be construed as non-supporting information—that is, a reasonable person could think that an opposing party could use the notation to help frame or support a contention against DOE in the license proceeding. This does not mean that you must save a copy of every document that you write on. You need to retain a copy only if your notations contain substantive information that could reasonably be construed as non-supporting information in the license proceeding. The following rules also apply to and limit the scope of this retention obligation:

- If your marginal notations are comments on draft work product that will be collected and submitted to the RPC as part of a records package, you do not need to retain a copy of the draft with your notations.
- If you have submitted to the ALS Contractor a document that includes marginalia, you do not need to retain a copy.
- Highlighting and underlining are not marginalia, and you do not need to retain a copy of a document merely because you have highlighted or underlined text.

3. **Notes for personal use.** If you write a note for your personal use—either on paper or electronically—you must retain a copy of your note if it contains substantive content that reasonably could be construed as non-supporting information—that is, if a reasonable person could think that an opposing party could use the note as evidence to help frame or support a contention against DOE in the license proceeding. This does not mean that you must save a copy of all your personal notes. For example, you do NOT need to retain the following kinds of personal notes:

- Notes that are merely a to-do list or other type of action item list.
- Schedules or calendars, or notes that merely recite the date and topics of meetings.
- Notes that solely concern administrative or personal matters.
- Notes that merely list attendees and topics discussed in a meeting, with no substantive information pertaining to the merits of the license application.
- Notes that are reminders to call someone.

As these examples illustrate, you do not need to retain every note that you write during a meeting, presentation or phone call. You need to retain your notes ONLY IF they contain specific, substantive information from the discussion that could be considered non-supporting evidence.

4. **Speeches.** If you give a speech concerning the Yucca Mountain project, you (or your organization) should keep a copy of any text and presentation materials you prepared for the speech.
5. **Yucca Mountain-related travel vouchers.** If you travel on Yucca Mountain-related business, you (or your organization) should retain a copy of the travel vouchers for the trip.

6. **Offsite transportation documents.** As noted in the Call Memo, documents concerning offsite transportation of spent nuclear fuel or high-level radioactive waste to Yucca Mountain are not to be submitted to the ALS Contractor. However, if you work on offsite transportation matters, you (or your organization) must retain all documents that contain substantive information concerning the environmental effects of offsite transportation to Yucca Mountain. You do not need to retain such documents that are submitted to the RPC or that are included in the administrative record for an Environmental Impact Statement.

C. **POST-PROJECT EMPLOYMENT.** If you discontinue working on the Yucca Mountain project, you should advise your organization's LSN Point of Contact so appropriate arrangements can be made for the safekeeping of the documents you have retained for derivative discovery. As a general matter, if you discontinue work on the project because you are leaving the employment of DOE or a DOE contractor, the documents you have retained for derivative discovery, including personal notes, should remain in the custody of DOE or the DOE contractor, and should not be taken with you.

***

If you have questions concerning this guidance, contact either the LSN Point of Contact for your organization or Martha Crosland (202-586-5793) or Angela Kordyak (202-586-4301) in the Office of the General Counsel.

Attachments
LSN 2006 GUIDANCE, ATTACHMENT 1

SUMMARY GUIDANCE FOR LSN DOCUMENT SUBMITTAL

1. Follow project procedures for submittal of documents to the Records Processing Center (RPC). If a document is submitted to the RPC, no further action is required.

2. Submit to your organization’s LSN Point of Contact all other “LSN-Relevant” documents that (i) you author or (ii) you receive from outside the Yucca Mountain project. A document is “LSN-Relevant” if it is:

   a. A final report or study relevant to both the Yucca Mountain license application and the issues set forth in the Topical Guidelines in NRC Regulatory Guide 3.69;

   b. A “circulated draft” of any report or study identified in item 2.a above. A “circulated draft” is a presumptively final version of a report or study distributed for organizational approval but that receives a formal, written non-concurrence; or

   c. Any other final document that contains “non-supporting” information.

3. If you send or receive emails on the OCRWM Lotus Notes system, you do not need to retain copies of these emails because they are automatically retained. However, you must complete a template to categorize emails on the OCRWM Lotus Notes system. You should:

   a. Categorize as “LSN-Relevant” all emails that contain “non-supporting information,” or contain “supporting information” that could be helpful to DOE in the license proceeding, such as emails that put in context or resolve issues raised by “non-supporting” emails;

   b. Categorize as “Privileged” all emails that you believe may contain information that is privileged under the deliberative process privilege, attorney client communication privilege, litigation work product doctrine or any other applicable privilege.

   c. Categorize as a “Federal Record” all emails that pertain to your work for the Federal government.

4. If you send or receive an LSN-Relevant email on another system, you must either (a) send a copy to one of the addresses on the OCRWM Lotus Notes system designated for receipt of outside relevant emails; or (b) submit a copy to your organization’s LSN Point of Contact.

NOTE: Consult your organization’s LSN Point of Contact before you submit any documents with either Protected Personal Identifying Information or Safeguards Information.

NOTE: Do not submit documents with classified information. Preserve these documents, and contact your organization’s LSN Point of Contact for instruction.
SUMMARY GUIDANCE FOR DOCUMENT RETENTION

1. Preliminary drafts. Retain a copy of drafts of potentially relevant documents if:
   a. The draft was distributed for comment; and
   b. A copy has not been submitted to the RPC.

2. Personal records/notes. Retain any notes or other personal records that you write if they contain substantive information that could reasonably be considered "non-supporting" of the license application.

3. Marginalia. If you write on a document, retain a copy of the document with your marginalia if the marginalia contains substantive information that could reasonably be considered "non-supporting" of the license application.

4. Speeches. Retain a copy of all speeches that you give that concern Yucca Mountain (unless your organization already retains them in a central location).

5. Travel vouchers. Retain a copy of your travel vouchers for Yucca Mountain-related business (unless your organization already retains them in a central location).

6. Offsite transportation. Retain a copy of any document that contains substantive information concerning the environmental effects of offsite transportation to Yucca Mountain (unless the document is in the administrative record of an environment statement prepared for the Yucca Mountain project or the document has been submitted to the RPC).
LSN Document Shipment Form

Custodian: ______________________

Date Shipped: ________________

The attached document is subject to the following privileges (mark all that apply):

____ Attorney-client communication

____ Litigation work product

____ Deliberative process

____ Protected Personal Privacy Information (PII)

____ Other privacy information

____ Proprietary privilege

____ Safeguards Information (SGI)

____ Other security privilege (OUO, UCNI, etc.)

____ Archeological privilege
VERIFICATION FORM FOR LICENSING SUPPORT NETWORK GUIDANCE DISTRIBUTION

I hereby verify that I have (1) distributed the guidance from the DOE General Counsel regarding Ongoing Licensing Support Network Obligations dated November 3, 2006, to all personnel in my organization who work on matters concerning the Yucca Mountain project; (2) distributed the guidance to all contractors of my organization who work on matters concerning the Yucca Mountain project, with instructions that these contractors distribute copies to their affected personnel and subcontractors; and (3) received written verification from those contractors that they have appropriately distributed the guidance to their personnel and subcontractors. I will continue to distribute the guidance to new personnel and contractors who work on matters concerning the Yucca Mountain project.

Signature: __________________________

Title: ______________________________

Date: ______________________________
Exhibit 2

Exhibit 2
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Filtration is modeled by applying a retardation factor to the transport. Note that CRWMS M&O 2000b, refers to colloid filtration as retardation.

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Filtration is modeled by applying a retardation factor to the transport. The colloid tracers used at the -hole complex consisted of fluorescent car oxylate-modified latex polystyrene microspheres.

Filtration is modeled by applying a retardation factor to the transport. Note that AMR, ANL-NBS-HS-000031 (CRWMS M&O In Preparation b), refers to colloid filtration as retardation.

Filtration is modeled by applying a retardation factor to the transport. Note that CRWMS M&O 2000b, refers to colloid filtration as retardation.
Filtration is modeled by applying a retardation factor to the transport. The colloid tracers used at the C-wells complex consisted of fluorescent carboxylate-modified latex polystyrene microspheres. As with radionuclides that are irreversibly sorbed onto colloids in the volcanic units, filtration in the alluvium is modeled by applying a retardation factor to the transport parameter. The colloid tracers used at the C-wells complex consisted of fluorescent carboxylate-modified latex polystyrene microspheres.
As with radionuclides that are irreversibly sorbed onto colloids in the volcanic units, filtration in the alluvium is modeled by applying a retardation factor to the transport parameter.

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LSN #: DN2000954932  Participant #: ALH.20050302.8197  Document Date: 03/01/2000
As with irreversible colloids in the volcanic units, filtration in the alluvium is modeled by applying a retardation factor to the transport parameter. Thus, the same Kc applies to transport of a radionuclide in the volcanic units and the alluvium.

86%  CHECK COPY/PCG REVIEW FOR TDR-NBS-HS-000001, REVISION 02A, SATURATED ZONE FLOW AND TRANSPORT PROCESS MODEL REPORT, BY NORMA BIGGAR (C)
LSN #: DEN001436724  Participant #: MOL.20010205.0135  Document Date: 10/27/2000
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<td>As with radionuclides that are irreversibly sorbed onto colloids in the volcanic units, filtration in the alluvium is modeled by applying a retardation factor to the transport parameter.</td>
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<td>As with irreversible colloids in the volcanic units, filtration in the alluvium is modeled by applying a retardation factor to the transport parameter. Thus, the same Kc applies to transport of a radionuclide in the volcanic units and the alluvium.</td>
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<td>CHECKER COPY FOR TDR-NBS-HS-000001, REVISION 00C (INCLUDES DIRS), SATURATED ZONE FLOW AND TRANSPORT</td>
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Matrix exclusion in the volcanic units is invoked because of the large size and small diffusivities of the colloids compared to the solute, plus the possibility of similar electrostatic charge of the colloids and the tuff matrix.

As with irreversible colloids in the volcanic units, filtration in the alluvium is modeled by applying a retardation factor to the transport parameter.

As with irreversible colloids that are irreversibly sorbed onto colloids in the volcanic units, filtration in the alluvium is modeled by applying a retardation factor to the transport parameter.

As with radionuclides that are irreversibly sorbed onto colloids in the volcanic units, filtration in the alluvium is modeled by applying a retardation factor to the transport parameter.

As with radionuclides that are irreversibly sorbed onto colloids in the volcanic units, filtration in the alluvium is modeled by applying a retardation factor to the transport parameter.

As with radionuclides that are irreversibly sorbed onto colloids in the volcanic units, filtration in the alluvium is modeled by applying a retardation factor to the transport parameter.
in the alluvium is modeled by applying a retardation factor to the transport parameter.

86%  

**SATURATED ZONE SITE-SCALE FLOW AND TRANSPORT NOMINAL CASE; SZ PMR 3.7 to checking 000325**

LSN #: DN2000922990 Participant #: ALF.20050302.9871 Document Date: 03/01/2000

As with irreversible colloids in the volcanic units, filtration in the alluvium is modeled by applying a retardation factor to the transport parameter. Thus, the same Kc applies to transport of a radionuclide in the volcanic units and the alluvium.

86%  

**CHECK COPY FOR TDR-NBS-HS-000001, REVISION 00A (INCLUDES DIRS) PLUS TWO ATTACHMENTS, SATURATED ZONE FLOW AND TRANSPORT PROCESS MODEL REPORT (C)**

LSN #: DN2002064901 Participant #: JOL.20000720.0198 Document Date: 04/20/2000

As with irreversible colloids in the volcanic units, filtration in the alluvium is modeled by applying a retardation factor to the transport parameter.

86%  

**SATURATED ZONE FLOW AND TRANSPORT PROCESS MODEL REPORT, TDR-NBS-HS-000001, REVISION 00, ICN 01A, JULY 2000, PRELIMINARY DRAFT (C)**

LSN #: DN2001661129 Participant #: MOL.20001128.0083 Document Date: 07/01/2000

As with colloids that are irreversibly sorbed onto colloids in the volcanic units, filtration in the alluvium is modeled by applying a retardation factor to the transport parameter.

86%  

**3.7 SATURATED ZONE SITE-SCALE FLOW AND TRANSPORT NOMINAL CASE; SZ PMR 3.7 RevB 000401**

LSN #: DN2000842078 Participant #: ALA.20050321.7339 Document Date: 04/01/2000

As with irreversible colloids in the volcanic units, filtration in the alluvium is modeled by applying a retardation factor to the transport parameter.

86%  

**ANALYSIS/MODEL COVER SHEET FOR UNCERTAINTY DISTRIBUTION FOR STOCHASTIC PARAMETERS, ANL-NBS-MD-000011, REVISION 00 ICN 01D INCLUDING DOCUMENT INPUT REFERENCE SHEET (FINAL CHECK COPY #2) (C)**

LSN #: DN2001082161 Participant #: MOL.20020529.0119 Document Date: 09/24/2001

Filtration is modeled by applying a retardation factor to the transport. The colloid tracers used at the C-wells complex consisted of fluorescent carboxylate-modified latex polystyrene microspheres.

86%  

**REVIEW COPY FOR TDR-NBS-HS-000001, REVISION 00B, (INCLUDES DIRS) SATURATED ZONE FLOW AND TRANSPORT PROCESS MODEL REPORT (C)**

LSN #: DEN0011446246 Participant #: MOL.20000720.0202 Document Date: 04/01/2000

Thus, the same KK applies to transport of 314 a radionuclide in the volcanic units and the alluvium. 315 For TSPA-SR, the Kdcol parameter is based on the Kdcol for americium onto waste-form colloids 316 as established by CRWMS M&O (2000-F0115).

86%  

**REVIEW FOR SATURATED ZONE FLOW AND TRANSPORT PROCESS MODEL REPORT, TDR-NBS-HS-000001, REVISION 00, ICN 01C WITH EDITORIAL CHANGES ONLY (C)**

LSN #: DEN0011449983 Participant #: MOL.20001128.0096 Document Date: 07/18/2000

As with colloids that are irreversibly sorbed onto colloids in the volcanic units, filtration in the alluvium is modeled by applying a retardation factor to the transport parameter.

86%  

**3. SATURATED ZONE FLOW AND TRANSPORT MODEL AND ABSTRACTIONS FOR TOTAL SYSTEM PERFORMANCE ASSESSMENT**
FOR SITE RECOMMENDATION; SZ PMR 000001 R00 Section 3
LSN #: DN2002027389  Participant #: ALF.20050214.1011  Document
Date: 04/01/2000
TDR-NBS-HS-000001 REV 00 3-129 April 2000 , As with irreversible colloids in the volcanic
units, filtration in the alluvium is modeled by applying a retardation factor to the transport
parameter.

TDR-NBS-HS-000001 REV 00, ICN 01D, JULY 2000 (C)
LSN #: DEN001436347  Participant #: MOL.20001128.0099 Document
Date: 08/16/2000
As with irreversible colloids in the volcanic units, filtration in
the alluvium is modeled by applying a retardation factor to the transport parameter.

Suggest More
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Query executed at Wednesday February 6, 2008 1:38 PM EST
As with irreversible colloids in the volcanic units, filtration in the alluvium is modeled by applying a retardation factor to the transport. For TSPA-SR, reversible colloids are modeled using the $K_c$ concept.

Re: Key factors. SZ performance Sorption in volcanic Colloid filtration in volcanics Matrix diffusion in volcanics Sorption in alluvium Seismic Scenario Class Annual exceedance frequency Infiltration/percolation flux Number of BS breached Patches

As with colloids that are irreversibly Sorbing onto colloids in the volcanic units, filtration in the alluvium is modeled by applying a retardation factor to the transport parameter.

Matrix exclusion in the volcanic units is assumed because of the large size and small diffusivities of the colloids compared to the solute, plus the possibility of similar electrostatic charge of the colloids and the tuff matrix.

Matrix exclusion in the volcanic units is invoked because of the large size and small diffusivities of the colloids compared to the solute, plus the possibility of similar electrostatic charge of the colloids and the tuff matrix.
charge of the colloids and the tuff matrix.

Note that CRWMS M&O 20006, refers to colloid filtration as retardation.

Do you mean the volcanics? colloids in the volcanics and alluvium are important factors. I thought the base case did not include colloid filtration in the volcanics or the alluvium.

Do you mean the volcanics? colloids in the volcanics and alluvium are important factors. What is Section 8.3.2.12 include colloid filtration in the volcanics or the alluvium.

Do you mean the volcanics? colloids in the volcanics and alluvium are important factors. I thought the base case did not include colloid facilitated transport. What is include colloid filtration in the volcanics or the alluvium.

Do you mean the volcanics? colloids in the volcanics and alluvium are important factors. I thought the base case did not include colloid facilitated transport. What is include colloid filtration in the volcanics or the alluvium.

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Do you mean the volcanics? colloids in the volcanics and alluvium are important factors. I thought the base case did not Base case does not include colloid facilitated transport. What is include colloid filtration in the volcanics or the alluvium.
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Do you mean the volcanics? colloids in the volcanics and alluvium are important factors. I thought the base case did not Base case does not include colloid facilitated transport. What is include colloid filtration in the volcanics or the alluvium.
#### D 81% DOCUMENT REVIEW COMMENT SHEET & 2. DOCUMENT TITLE: SAFETY CLASSIFICATION OF SSCS AND BARRIERS; Dixon 214 Comments Class

LSN #: DN2002168293  Participant #: ALA.20051018.1726  Document Date: 07/28/2005

The volcanic tuff and alluvial material are subject to sorption, matrix diffusion, and colloid filtration resulting in a slower radionuclide release rate.

#### D 81% DOCUMENT REVIEW COMMENT SHEET & 2. DOCUMENT TITLE: SAFETY CLASSIFICATION OF SSCS AND BARRIERS; Dixon 214 Comments Class

LSN #: DN2002183224  Participant #: ALA.20051007.0310  Document Date: 07/28/2005

The volcanic tuff and alluvial material are subject to sorption, matrix diffusion, and colloid filtration resulting in a slower radionuclide release rate.

#### D 80% DOCUMENT REVIEW COMMENT SHEET; S0025 comments_sja

LSN #: DEN001269677  Participant #: ALB.20040618.1028  Document Date: 11/14/2003

The volcanics looks much more important according to Table 8.3-1. 52 Section 8.3.1 I don't understand the logic in this paragraph. I thought the base case did not include colloid filtration in the volcanics or the alluvium.

#### D 80% DOCUMENT REVIEW COMMENT SHEET; S0025 comments_sja

LSN #: DEN001498308  Participant #: ALJ.20040615.0818  Document Date: 11/14/2003

The volcanics looks much more important according to Table 8.3-1. 52 Section 8.3.1 I don't understand the logic in this paragraph. I thought the base case did not include colloid filtration in the volcanics or the alluvium.

#### D 80% DOCUMENT REVIEW COMMENT SHEET; ATT4E30U

LSN #: DEN001274455  Participant #: ALB.20040618.1066  Document Date: 11/14/2003

The volcanics looks much more important according to Table 8.3-1. 52 Section 8.3.1 I don't understand the logic in this paragraph. I thought the base case did not include colloid filtration in the volcanics or the alluvium.

#### D 80% DOCUMENT REVIEW COMMENT SHEET; S0025 comments_sja

LSN #: DN2000971369  Participant #: ALA.20050308.7840  Document Date: 11/14/2003

The volcanics looks much more important according to Table 8.3-1. 52 Section 8.3.1 I don't understand the logic in this paragraph. I thought the base case did not include colloid filtration in the volcanics or the alluvium.

#### D 80% DOCUMENT REVIEW COMMENT SHEET; S0025 comments_sja rev2

LSN #: DN2000913815  Participant #: ALG.20050302.2148  Document Date: 11/14/2003

The volcanics looks much more important according to Table 8.3-1. 52 Section 8.3.1 I don't understand the logic in this paragraph. I thought the base case did not include colloid filtration in the volcanics or the alluvium.

#### D 80% DOCUMENT REVIEW COMMENT SHEET; ATT4E30U

LSN #: DN2001330846  Participant #: ALJ.20040615.0425  Document Date: 11/14/2003

The volcanics looks much more important according to Table 8.3-1. 52 Section 8.3.1 I don't understand the logic in this paragraph. I thought the base case did not include colloid filtration in the volcanics or the alluvium.

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http://www.lsnnet.gov/results.aspx

2/6/2008
Exhibit 3
Attached is an issue paper for our meeting at 0930 on Monday November 26 in Bob Porter's office. Have a great Thanksgiving!

ON 2001/10/24
Finally!
10395, 10395, 873, 7.731389, 36

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Another one of Jeff's little treasures...

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> Sent: Thursday, October 17, 2002 9:48 AM
> To: Aase, Scott; Craig Payne (E-mail); Edward Bryson (E-mail); 'Irene Robinson' (E-mail); Jill (home) (E-mail); KATE BIDDULPH (E-mail); Finch, Robert J.
> Subject: FW: FW: Happy Halloween!
> >This picture speaks for itself.
> >Jeff
> >Subject:   FW: FW: Happy Halloween!
> >
> >
> >
> >
> >
> - drunk pumpkin.jpg

Attachment: drunk pumpkin.JPG
**HEADER VIEW:** DEN001478428 - ALK.20040612.8273

HOW TO TELL YOU'VE BEEN REALLY BAD.; att1

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How To Tell You've Been Really Bad.
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LSN Participant Accession Number(s): ALA.20050603.0291

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Norma Biggar
12/09/99 04:38 PM
To: Carol Hanlon/YD/RWDOE@CRWMS, Martha Pendleton/YM/RWDOE@CRWMS, Candace Lugo/YM/RWDOE@CRWMS, Linda Bauer/YD/RWDOE@CRWMS, Jean Younker/YM/RWDOE@CRWMS, Deborah Barr/YD/RWDOE@CRWMS, Sheryl Morris/YD/RWDOE@CRWMS, Claudia Newbury/YD/RWDOE@CRWMS
cc: 

Subject: Re: Geos R us

Does anyone remember the content/issue of the original letter to Ann Landers, the one that sparked the response below?

Carol Hanlon
12/09/99 03:13 PM
To: April Gil/YD/RWDOE@CRWMS
cc: Martha Pendleton/YM/RWDOE@CRWMS, Candace Lugo/YM/RWDOE@CRWMS, Norma Biggar/YM/RWDOE@CRWMS, Linda Bauer/YD/RWDOE@CRWMS, Jean Younker/YM/RWDOE@CRWMS, Deborah Barr/YD/RWDOE@CRWMS
Subject: Re: Geos R us

Well, I know that we're great (doesn't that go without saying?) but as for engineering husbands, I have to say that I think they're pretty great, also. Anyway, mine is, and he keeps my truck purring! what more could you ask?

c

April Gil
12/09/99 01:14 PM
To: Martha Pendleton/YM/RWDOE@CRWMS, Candace Lugo/YM/RWDOE@CRWMS, Norma Biggar/YM/RWDOE@CRWMS, Linda Bauer/YD/RWDOE@CRWMS, Jean Younker/YM/RWDOE@CRWMS, Carol Hanlon/YD/RWDOE@CRWMS
cc: Deborah Barr/YD/RWDOE@CRWMS

Subject: Geos R us

WOW! we always knew it was true....thanks, Debbie!

---------------------- Forwarded by April Gil/YD/RWDOE on 12/09/99 01:12 PM

Deborah Barr
12/09/99 12:49 PM
To: Sheryl Morris/YD/RWDOE@CRWMS, Claudia Newbury/YD/RWDOE@CRWMS, April Gil/YD/RWDOE@CRWMS, Pamela Adams/YD/RWDOE@CRWMS
cc:

Subject: FW: A shining endorsement if I've ever heard one. (fwd)
DEAR ANN LANDERS:

This letter, my first ever to an advice columnist, was sparked by your column about the geologist's wife who asked, "Are all geologists the very embodiment of all the virtues and qualities that are universally admired in humankind? Have they alone, of all the professions, achieved a state of grace far beyond that ever speculated by history's most hopeful philosophers and theologians?" The answer is ABSOLUTELY! Geologists ARE a different breed. They are wise, often strikingly handsome and beautiful, kind to small children and animals, sensitive to the subtleties of everything around them, and when it comes to relationships, well, Mom, my three sisters-in-law and one-brother-in-law, and my two aunts and two uncles seemed always to have a serene, deeply satisfied look of complete contentment. If only I could have hitched up with one too. Signed, A Jealous and Bitterly Resentful Wife of an Engineer.

Ann Landers Replies: DEAR JEALOUS: I've been swamped with letters from the lucky spouses and relatives of geologists. They've given me a real education, and made me feel a little jealous too. Read on:

PORTLAND: Geologists ARE different. And I say "Vive la difference!" I thought maybe I was the luckiest person ever to have been born, but I have found that other geologist's spouses have similar experiences. My geologist husband has more sensitivity and consideration than 10 "normal" men, selflessly making life safe, loving and meaningful for others. I am so lucky to have this man in my life!

DENVER: Ann, the best piece of advice you could pass along to your readers is this: if you can't be one yourself, do whatever it takes to associate with as many geologists as you can. My life has been rich, so meaningful, since I divorced the egghead engineer I was married to for 12 years. If I weren't so ecstatic nearly all my waking hours, I would be in despair over all that wasted time. But in retrospect, I would have traded fifty years with "Ms. Pocket-Protector" for just a few weeks of the blissful existence I have with my big lovable rockhound. She has shown me all the richness that life holds. I spend hours just basking in the warmth of her vast knowledge of life, the universe, and everything. She has so much beauty and understanding. And she's always ready to share that gift. She's able to explain the most incredibly complex concepts in a way that helps you understand, and makes you feel just plain good all over. And how can anyone be so perfect, yet so warm and sensitive to the needs of others? Think of the world we would have if everyone were a geologist!
Title: Re: How Soon They Forget!

LSN Participant Accession Number(s): ALD.20050302.6581

Image Count: 3

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Estimate Get Images
Well I went home last night and rechecked the recipe. I forgot:

1/4 cup ketchup
onion powder

Sorry. How did the meat turn out?

Joyce

Joyce Golos
09/12/2000 03:17 PM
To: lflint@usgs.gov
cc:
Subject: Re: How Soon They Forget!

Sounds good though. Let me know how it turned out.

Joyce

Iflint@usgs.gov on 09/12/2000 03:15:51 PM

To: Joyce Golos/YM/RWDOE
cc:

Subject: Re: How Soon They Forget!

I forgot the brown sugar and bay leaf and used crushed red peppers and oregano. I didn't poke the meat either. Dang. It will have marinated for 24 hours though, so should be good. Thanks!

Joyce_Golos@not es.ymp.gov

To: lflint@usgs.gov
cc:
09/12/2000
Subject: Re: How Soon They Forget!

Marinade:

1/2 cup oil
1/4 cup soy sauce (I use the lite it has less salt)
1/4 red wine
2 tbls brown sugar
pepper (I used cracked pepper)
crushed garlic
1 bay leaf

Polk holes in meat with fork (your right 2" is good really perfect).

Marinade at least 8 hours.

Grill

Is this close to what you did?
lflint@usgs.gov on 09/12/2000 01:05:07 PM
Subject: Re: How Soon They Forget!
Oh David. I get a call yesterday that he wanted to get another balance, but was running beyond the schedule. Honestly didn't know what he was up to. I too, will tolerate the nastygram I'll get. Sorry about that, you're a champ. By the way, I'm marinating a sirloin to grill for tonight. I hope it got it right. Want to remind me of the ingredients? (It's almost 2" thick!)
Joyce_Golos@notes.ymp.gov

David_Hudson@notes.ymp.gov
cc: lflint@usgs.gov, aflint@usgs.gov, kellett@usgs.gov
09/12/2000 11:03 AM
Subject: How Soon They Forget!

David:

Do you remember some time back you and I were having lunch with Alan and Clinton and you made the statement to me that you were never informed that splitting requirements was not allowed. (Meaning, you know you have a requirement to purchase something which exceeds your $2,500.00 per purchase limit and then you intentionally split the orders between cards in order to stay below that level.) At the time we joked about the fact that you have been told in fact numerous times, for which I think everyone else can attest to. So now along comes poor Kevin Ellett, and he forwards me the following message. He's trying to be a good team player and keep us informed on what is outstanding. However, the AO only forwards this message on to a new Budget Analyst who is a very by the book sort of employee (whom by the way had a contracting warrant at one time), and she freaks out, because.

1. David, you used other people's credit cards to purchase items. A real and definite NO-NO!

2. You used other credit cards so that you could split requirements. Another NO-NO!

Kevin, I think you and Lorrie were suppose to send these to me separately, minus the note that David used your credit cards.

Kiera wants desperately to write a note explaining the rules and what you violated. I'm going to let Kiera write that note as a reminder of the rules, so don't be offended when it comes out.

Sorry!

Joyce
PS: Rule #1: If I catch you, you weren't sneaky enough.

David_Hudson@not
es.ymp.gov To:

Lorrie_Flint@notes.ymp.gov,
kellett@usgs.gov cc:

09/11/2000 06:09 Subject: Thanks for Ordering
PM

Lorrie and Kevin:

I used your credit cards cards to order 2 balances today. I put one balance on each card. I think you need to send Joyce a list of your outstanding charges so this should be added.

Vendor: GSE Weighing Systems
23900 Haggerty
Farmington Hills, MI 48335
(800) 755-7875

Item: Model 4444 Floating Beam Scale Base 12" by 18". 100 lbs capacity.

Cost: $1345 plus shipping.

Charge to Account: 21302

Thanks,

David
Title: Re: This weekend

LSN Participant Accession Number(s): ALA.20050323.9472

Image Count: 5

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[Estimate] [Get Images]
Haha You know what I love? The fact that I was trying to offer a wide array of movies that would encompass most of the spectrum in an attempt to determine what your tastes are. I'm thinking, does she like girlie movies like dramas? Guilty pleasures? Is she an action babe? And you were interested in movies like Hero and Shaun of the Dead. That makes me very happy. ;-) I don't know many girls who are interested in both like me. Yeah. Hero will be awesome. I'll check out some times for playing and we can decide on something tomorrow.

Sara
Darby Kimball
10/02/2004 10:33 AM
To: Sara Burkhert/YM/RWDOE@CRWMS
cc:
Subject: Re: This weekend
User Filed as: Not Categorized in ERMS
LSN:

Sunday works better for me also (I came in a bit late too. :) ). We can settle on time, etc. tomorrow.

But yeah, Hero looks like the best choice. YAY JET LI!

Darby

Sara Burkhert
10/02/2004 10:25 AM
To: Darby Kimball/YM/RWDOE@CRWMS
cc:
Subject: Re: This weekend
User Filed as: Excl/AdminMgmt-14-4/QA:N/A
LSN:

Hey Girl,

How do you feel about a Sunday matinee? I came into work late today, so I have a lot of stuff to take care of, but tomorrow should be a lighter day. Hope your Saturday is going well.

Sara

Darby Kimball
10/01/2004 04:06 PM
To: Sara Burkhert/YM/RWDOE@CRWMS
cc:
Subject: Re: This weekend
User Filed as: Not Categorized in ERMS
LSN:

I'm at the La Quinta West Lakes - at Sahara & Ft. Apache.

There really isn't much out this week, is there?
I'm fine with Collateral or Vanity Fair. Open Water I'd like to see, but I have this problem with jumping and screaming when things on movie screens happen too suddenly. :) (Though I did hear an interesting rumor about that movie - apparently the director was running out of budget, so instead of getting a shark cage he just towed the actors out in the ocean, started filming the scenes, and then dumped chum all over. So apparently the terror is not so much acting, cause the sharks are very real.)

Other options in the area are Hero (if you like Jet Li & samurai movies like me) and Shaun of the Dead (which is a supposedly hilarious zombie comedy). Also I saw Sky Captain last week and that was pretty good.

Darby

Sara Burkhert
10/01/2004 03:35 PM
To: Darby Kimball/YM/RWDOE@CRWMS
cc:
Subject: Re: This weekend
User Filed as: Excl/AdminMgmt-14-4/QA:N/A
LSN:

I have to work both days this weekend, and likely full days, but would probably relish the opportunity to take a long, lazy break one afternoon to go see a film.

Here's what's playing at the Suncoast. I've never been to their theatre before, but it's a nice casino and it's near here. I'm assuming your hotel is nearby?

Collateral
Action (R) • 1 hr 56 mins

(11:15am), (1:55pm), (4:35pm), 7:20pm, 10:00pm

Criminal
Drama (R) • 1 hr 27 mins

(11:20am), (1:25pm), (3:35pm), (5:35pm), 7:40pm, 9:45pm

A Dirty Shame
Comedy (NC-17) • 1 hr 29 mins

(11:35am), (1:40pm), (3:40pm), (5:45pm), 7:55pm, 9:55pm

Facing Windows
Art/Foreign (R) • 1 hr 41 mins

(11:25am), (1:45pm), (4:10pm), 7:05pm, 9:35pm
Going Upriver: The Long War of John Kerry
Documentary (PG-13) • 2 hrs 10 mins

(11:20am), (1:30pm), (3:30pm), (5:40pm), 7:45pm, 9:50pm

Mr. 3000
Comedy (PG-13) • 1 hr 43 mins

(11:30am), (12:30pm), (2:00pm), (3:00pm), (4:30pm), (5:30pm),
7:00pm, 8:05pm, 9:30pm, 10:30pm

Napoleon Dynamite
Comedy (PG) • 1 hr 26 mins

(11:40am), (2:30pm), (5:00pm), 7:25pm, 9:40pm

The Notebook
Romance (PG-13) • 2 hrs 1 min

(11:30am), (2:10pm), (4:55pm), 7:35pm, 10:20pm

Open Water
Drama (R) • 1 hr 19 mins

(11:55am), (2:25pm), (4:20pm), 6:20pm, 8:10pm, 10:05pm

Paparazzi
Drama (PG-13) • 1 hr 25 mins

(11:50am), (1:45pm), (3:45pm), 6:15pm, 8:10pm, 10:30pm

Silver City
Drama (R) • 2 hrs 9 mins

(1:35pm), (4:25pm), 7:15pm, 10:05pm
Vanity Fair
Drama (PG-13) • 2 hrs 17 mins

(12:40pm), (3:50pm), 6:55pm, 10:10pm

Wicker Park
Drama (PG-13) • 1 hr 55 mins

(12:05pm), (2:40pm), (5:10pm), 7:50pm, 10:25pm

Wimbledon
Comedy (PG-13) • 1 hr 40 mins

(12:00pm), (2:20pm), (4:40pm), 7:00pm, 9:20pm

Without a Paddle
Comedy (PG-13) • 1 hr 35 mins

(12:00pm), (2:15pm), (4:45pm), 7:10pm, 9:25pm

Of those listed, I'm interested in Napoleon Dynamite (I hear it's good),
Vanity Fair (It looks like a girl's period piece movie with Reese Witherspoon),
Wimbledon (Because I love Paul Bettany), the Notebook (Cause it's a sappy
drama. Why not?), and Open Water (I can rarely get anyone in this city to go
to see a scary movie with me, but I hear this one is more of a thriller and is
based [loosely] on true events), and Collateral (I've heard fairly good things
about this movie, and I hear it's strange to see Tom Cruise as the bad guy and
Jamie Foxx doing drama). I'm not sure what Criminal is about, and am always
good for a guilty pleasure comedy. Basically, I love movies. Anything is good
for me. I can look at another theatre in the vicinity if nothing there strikes
your fancy.

Sara
Darby Kimball
10/01/2004 03:27 PM
To: Sara Burkhert/YM/RWDOE@CRWMS
cc:
Subject: Re: This weekend
User Filed as: Not Categorized in ERMS
LSN:

Definitely! Either day is fine with me; the only thing I really have to do
this weekend besides work is go spend my VPP check on new shoes.

I have no idea what's even playing - anything you're interested in?

Darby

Sara Burkhert
Hi Darby,

I hope things are going well for you this fine fine Friday.

My roommate is trapped in Austin this weekend so our housing option appointment has been postponed. If you're still interested in a movie sometime tomorrow or Sunday, let me know.

Sara

Message Addressees

To:
Darby Kimball/YM/RWDOE@CRWMS
DOE LSN Image Display Selection

Title: [Fwd: FW: FW: Prayer 6005>

LSN Participant Accession Number(s): ALA.20061221.0692

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Please take a moment to relax your mind and humble your heart to focus on Christ. Allow God to be the only person on your mind while you read this prayer.

Dear Lord,

I thank You for this day. I thank You for my being able to see and to hear this morning. I'm blessed because You are a forgiving God and an understanding God. You have done so much for me and You keep on...
blessing me. Forgive me this day for everything I have done, said or thought
was not pleasing to you. I ask now for Your forgiveness.

Please keep me safe from all danger and harm. Help me to start this day with a new attitude and plenty of gratitude. Let me make the best of each and every day to clear my mind so that I can hear from You.

Please broaden my mind that I can accept all things.

Let me not whine and whimper over things I have no control over. Let me continue to see sin through God's eyes and acknowledge it as evil.

And when I sin, let me repent, and confess with my mouth my wrongdoing, and receive the forgiveness of God.

And when this world closes in on me, let me remember Jesus' example-to slip away and find a quiet place to pray. It's the best response when I'm pushed beyond my limits. I know that when I can't pray, You listen to my heart. Continue to use me to do Your will.

Continue to bless me that I may be a blessing to others. Keep me strong that I may help the weak. Keep me uplifted that I may have words of encouragement for others. I pray for those that are lost and can't find their way. I pray for those that are misjudged and misunderstood.

I pray for those who don't know You intimately. I pray for those that will delete this without sharing it with others. I pray for those that don't believe. But I thank you that I believe.

I believe that God changes people and God changes things. I pray for all my sisters and brothers. For each and every family member in their...
households. I pray for peace, love and joy in their homes that they are out of debt and all their needs are met.

I pray that every eye that reads this knows there is no problem, circumstance, or situation greater than God. Every battle is in Your hands for You to fight. I pray that these words be received into the hearts of every eye that sees them and every mouth that confesses them willingly.

This is my prayer.

In Jesus' Name, Amen.

If you prayed this prayer, change the number in the subject box before forwarding the message so people can SEE how many people have done so. God Bless!!!!!!!

Just repeat this phrase and see how God moves!!

Lord I love you and I need you, come into my heart, please.

Pass this message to 8 people except you and me.

You will receive a miracle tomorrow.

Don't ignore and God will bless you.

Know that you are already blessed by the person whom sent this to

Dee

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- C.DTF

Attachment: C.DTF
DOE LSN Image Display Selection

Title: Re: FW: Gullible

LSN Participant Accession Number(s): ALA.20050531.4128

Image Count: 2

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[ Estimate ] [ Get Images ]
A man was walking across a bridge in Paris when he saw his wife on the other side of the bridge with her lover. The man drew a gun and shot his wife. The recoil from the gun caused him to fall off the bridge into the river. He was tried for murder. 
What was the jury's verdict?
answer: guilty, but inSeine.

Thought for the day...
----------- Forwarded by Robert Murray on 12/10/97 01:46 PM
-----------------
He asked 50 people if they supported a ban of the chemical dihydrogen monoxide. Forty-three said yes, six were undecided, and only one knew that the chemical is more commonly called "water." The title of his prize-winning project was, "How Gullible Are We?" The conclusion is obvious.

- att1.unk

Attachment: att1.unk
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Title: the words; GACRES

LSN Participant Accession Number(s): ALD.20040612.5463

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http://lsnextc.lsnext.us/cgibin/fetch_doc?D=ALD.20040612.5463&MI=/documents/dev01... 1/30/2008
Green Acres is the place to be
Farm Livin' is the life for me
Land Spreadin' out so far and wide
Keep Manhattan, just give me that country side
New York is where I'd rather stay
I get allergic smelling hay
I just adore a penthouse view
Darling I love you but give me Park Avenue
The Chores! The Stores!
Fresh Air! Times Square!
You are my wife
Goodbye city life
Green Acres we are there

Bill Nelson knows the place to be
Flow Models in Full-Blown 3-D
Plumes spreadin' out so far and wide
Who needs TOUGH-2, FEHMN gives him each rad-nuclide

1-D, Bill says he'd rather slay
He's trashin' it most ev'ry day
Waste of time in his point of view
So hard he tried, but PA still has no clue

The Flow! So Slow!
It's Clear! No Fear!
It gave Bill strife
Goodbye Project Life
Bill Nelson's out of here
Fast Grids!  Cool Vids!

Los Alamos is the place to be
TOUGH-2 is how I'd rather play
Running calcs doesn't take all day
DOE LSN Image Display Selection

Title: Kids view on marriage

LSN Participant Accession Number(s): ALA.20070710.0102

Image Count: 2

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Estimate Get Images
HOW DO YOU DECIDE WHO TO MARRY?
You got to find somebody who likes the same stuff. Like, if you like sports, she should like it that you like sports, and she should keep the chips and dip coming. --Alan, age 10

No person really decides before they grow up who they're going to marry. God decides it all way before, and you get to find out later who you're stuck with. Kirsten, age 10

WHAT IS THE RIGHT AGE TO GET MARRIED?
Twenty-three is the best age because you know the person FOREVER by then. --Camille, age 10

No age is good to get married at. You got to be a fool to get married. --Freddie, age 6

HOW CAN A STRANGER TELL IF TWO PEOPLE ARE MARRIED?
You might have to guess, based on whether they seem to be yelling at the same kids. --Derrick, age 8

WHAT DO YOU THINK YOUR MOM AND DAD HAVE IN COMMON?
Both don't want any more kids. --Lori, age 8

WHAT DO MOST PEOPLE DO ON A DATE?
Dates are for having fun, and people should use them to get to know each other. Even boys have something to say if you listen long enough. --Lynnette, age 8

On the first date, they just tell each other lies, and that usually gets them interested enough to go for a second date. --Martin, age 10

WHAT WOULD YOU DO ON A FIRST DATE THAT WAS TURNING SOUR?
I'd run home and play dead. The next day I would call all the newspapers and make sure they wrote about me in all the dead columns. --Craig, age 9

WHEN IS IT OKAY TO KISS SOMEONE?
When they're rich. --Pam, age 7

The law says you have to be eighteen, so I wouldn't want to mess with that. --Curt, age 7

The rule goes like this: If you kiss someone, then you should marry them and have kids with them. It's the right thing to do. --Howard, age 8

IS IT BETTER TO BE SINGLE OR MARRIED?
I don't know which is better, but I'll tell you one thing. I'm never going to have sex with my wife. I don't want to be all grossed out. --Theodore, age 8

It's better for girls to be single but not for boys. Boys need someone to clean up after them. --Anita, age 9
HOW WOULD THE WORLD BE DIFFERENT IF PEOPLE DIDN'T GET MARRIED?
There sure would be a lot of kids to explain, wouldn't there?
--Kelvin, age 8

"And the #1 Favorite is........."

HOW WOULD YOU MAKE A MARRIAGE WORK?
Tell your wife that she looks pretty even if she looks like a truck.
--Ricky, age 10
Title: Ham Sandwich

LSN Participant Accession Number(s): ALA.20070710.0152

Image Count: 1

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"Ham Sandwich"

As ham sandwiches go, it was perfection. A thick slab of ham, a fresh bun, crisp lettuce and plenty of expensive, light brown, gourmet mustard. The corners of my jaw aching in anticipation, I carried it to the picnic table in our backyard, picked it up with both hands but was stopped by my wife suddenly at my side. "Hold Johnny (our six-week-old son) while I get my sandwich," she said.

I had him balanced between my left elbow and shoulder and was reaching again for the ham sandwich when I noticed a streak of mustard on my fingers.

I love mustard.

I had no napkin.

I licked it off.

It was not mustard.

No man ever put a baby down faster.

It was the first and only time I have sprinted with my tongue protruding. With a washcloth in each hand I did the sort of routine shoe shine boys do, only I did it on my tongue. Later my wife said, (Are you ready for this?) "Now you know why they call that mustard 'Poupon'."

---

Choose 3 DVDs for $0.49 each!

- att1.htm
- C:WINDOWSTEMP\nmsmailAP.gif

Attachment: att1.HTM
Attachment: att2.GIF
Title: Friday Funny

**LSN Participant Accession Number(s):** ALA.20070710.0019

Image Count: 1

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[Estimate]  [Get Images]
Be careful what you wear (or don’t wear), when working under your vehicle...especially in public. From the Sydney Morning Herald Australia comes this story of a central west couple who drove their car to K-Mart only to have their car break down in the parking lot. The man told his wife to carry on with the shopping while he fixed the car there in the lot.

The wife returned later to see a small group of people near the car. On closer inspection she saw a pair of male legs protruding from under the chassis. Although the man was in shorts, his lack of underpants turned private parts into glaringly public ones.

Unable to stand the embarrassment she dutifully stepped forward, quickly put her hand up his shorts and tucked everything back into place. On regaining her feet she looked across the hood and found herself staring at her husband who was standing idly by.

The mechanic, however, had to have three stitches in his head.
DOE LSN Image Display Selection

Title: Funny....but I think the Man is Homer Simpson

LSN Participant Accession Number(s): ALA.20070710.0215

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HOW TO SHOWER LIKE A WOMAN:
1. Take off clothing and place it in sectioned laundry hamper according to lights and darks.

2. Walk to bathroom wearing long dressing gown. If you see your husband along the way, cover up any exposed areas.

3. Look at your womanly physique in the mirror—make mental note—must do sit-ups.

4. Get in the shower. Use face cloth, arm cloth, leg cloth, long loofah, wide loofah and pumice stone.

5. Wash your hair once with Cucumber and Sage shampoo with 43 added vitamins.

6. Wash your hair again to make sure it's clean.

7. Condition your hair with Grapefruit Mint conditioner enhanced with natural avocado oil. Leave on hair for fifteen minutes.

8. Wash your face with crushed apricot facial scrub for ten minutes until red.

9. Wash entire rest of body with Ginger Nut and Jaffa Cake body wash.

10. Rinse conditioner off hair (you must make sure that it has all come off).

11. Shave armpits and legs. Consider shaving bikini area but decide to get it waxed instead.

12. Scream loudly when your husband flushed the toilet and you lose the water pressure.

13. Turn off shower.


15. Get out of shower. Dry with towel the size of a small country. Wrap hair in super absorbent second towel.

16. Check entire body for the remotest sign of a zit, tweeze hairs.
17. Return to bedroom wearing long dressing gown and towel on head.

18. If you see your husband along the way, cover up any exposed areas and then sashay to bedroom to spend an hour and a half getting dressed.

HOW TO SHOWER LIKE A MAN:
1. Take off clothes while sitting on the edge of the bed and leave them in a pile.

2. Walk naked to the bathroom. If you see your wife along the way, shake wiener at her making the "woo-woo" sound.

3. Look at your manly physique in the mirror and suck in your gut to see if you have pecs (no). Admire the size of your wiener in the mirror and scratch your ass.

4. Get in the shower.

5. Don't bother to look for a washcloth (you don't use one).

6. Wash your face.

7. Wash your armpits.

8. Blow your nose in your hands, then let the water just rinse it off.

9. Crack up at how loud your fart sounds in the shower.

10. Majority of time is spent washing your privates and surrounding area.

11. Wash your butt, leaving those coarse butt hairs on the soap bar.

12. Shampoo your hair (do not use conditioner)

13. Make a shampoo Mohawk.

14. Peek out of shower curtain to look at yourself in the mirror again.

15. Pee (in the shower).

16. Rinse off and get out of the shower. Fail to notice water on the floor because you left the curtain hanging out of the tub the whole time.

17. Partially dry off.

18. Look at yourself in the mirror, flex muscles. Admire wiener size again.

19. Leave shower curtain open and wet bath mat on the floor.

20. Leave bathroom fan and light on.

21. Return to the bedroom with towel around your waist. If you pass your wife, pull off the towel, shake wiener at her, and make the "woo-woo" sound again.

22. Throw wet towel on the bed. Take 2 minutes to get dressed.
DOE LSN Image Display Selection

Title: WE SERVE THE FINEST OF DOMESTIC AND IMPORTED WINES

LSN Participant Accession Number(s): ALA.20050818.4404

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Use this form to select details on how to download the document.

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We Serve the Finest of Domestic and Imported Wines

ITALIAN SPECIALTIES

**ALA CARTE**
SERVED WITH SIDE OF SPAGHETTI, MEAT SAUCE OR TOASTED RAVIOLI

<table>
<thead>
<tr>
<th>Item</th>
<th>Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>CHICKEN SICILIAN</td>
<td>$16.50</td>
</tr>
<tr>
<td>CHICKEN HUNTER STYLE</td>
<td>$16.50</td>
</tr>
<tr>
<td>CHICKEN CARUSO</td>
<td>$16.50</td>
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<tr>
<td>CHICKEN OF THE ANGELS</td>
<td>$16.50</td>
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<tr>
<td>CHICKEN PARMIGIANA</td>
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</tr>
<tr>
<td>VEAL PICCANTE</td>
<td>$17.50</td>
</tr>
<tr>
<td>VEAL SCALLOPINI, RISOTTO</td>
<td>$17.50</td>
</tr>
<tr>
<td>VEAL AND PEPPERS RISOTTO</td>
<td>$17.50</td>
</tr>
<tr>
<td>PHEASANT</td>
<td>$12.95</td>
</tr>
<tr>
<td>CHUKKAR</td>
<td>$12.95</td>
</tr>
</tbody>
</table>

**Beverages**

<table>
<thead>
<tr>
<th>Item</th>
<th>Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>Try Our Famous Cappuccino</td>
<td></td>
</tr>
<tr>
<td>Hot Tea</td>
<td>$1.00</td>
</tr>
<tr>
<td>Iced Tea</td>
<td>$1.00</td>
</tr>
<tr>
<td>Expresso Coffee</td>
<td>$2.00</td>
</tr>
<tr>
<td>Decaf Expresso Coffee</td>
<td>$1.00</td>
</tr>
</tbody>
</table>

**Desserts**

<table>
<thead>
<tr>
<th>Item</th>
<th>Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cheese Cake (Plain)</td>
<td>$2.00</td>
</tr>
<tr>
<td>Strawberry Cheese Cake</td>
<td>$3.00</td>
</tr>
<tr>
<td>Blueberry Cheese Cake</td>
<td>$3.00</td>
</tr>
<tr>
<td>Spumoni (Italian Ice Cream)</td>
<td>$2.50</td>
</tr>
<tr>
<td>Black Forest Cake</td>
<td>$4.00</td>
</tr>
</tbody>
</table>
APPETIZERS

Alaskan King Crab Cocktail (mustard sauce) 6.95
   Celery and Olives 3.00
Jumbo Shrimp Cocktail 6.95
Minted Herring in Sour Cream 4.50
Imported Black Greek Olives 3.00
Linguini with White Clam Sauce 5.50

IN SEASON

Soup du Jour (Tureen) 2.50
French Onion au Gratin (Tureen) 2.50
Chicken Broth with Rice or Noodles (Tureen) 2.50

SOUPS

Choice of Salad Dressing: Italian or 1001 Island — (Imported Roquefort 1.00)

GARLIC BREAD
   Made with
   Imported Cheese
   1.00
   Don Chicken

IN SEASON

Soup du Jour (Tureen) 2.50
French Onion au Gratin (Tureen) 2.50

ALACABTE

PrIME Rib of Beef
   DIAMOND LIL CUT 19.50
   DIAMOND JIM CUT 22.50
   Creamed Horseradish Sauce — Baked Potato
   U.S.P. Prime Rib (Sliced)

Roquefort Cheese Dressing
   Made with
   Imported French
   Roquefort
   1.00

DINNERS

Soup du Jour or Mixed Green Salad (Imported Roquefort 1.00) Garlic Bread 1.00 per order

FRESH BROOK TROUT Pan Fried, Drawn Butter 15.50
FILET OF NORTH ATLANTIC WHITEFISH sauteed in Lemon Butter, Sherry Wine 16.50
FROG LEGS Provencale, Oklahoma or Garlic Butter 17.00
BAKED HALIBUT STEAK, Picante 17.50
SCALLOPS PICCANTE, Sautéed Scallops In a Tangy Lemon Sauce 17.50
SCALLONE, Cutlets of Abalone & Scallops, Dipped in Egg Batter, Topped with Almonds 17.50
GRENA DINE OF BEEF (Slices of Filet, Green Peppers, Onions, Red Wine, Risotto) 17.50
NEW YORK CUT PEPPER STEAK with Cracked Peppercorns, Special Sauce 21.00

Above served with choice of one: Pasta du Jour or Toasted Ravioli or Baked Potato or French Fried Potatoes

A LA CARTE

FROM THE CHARCOAL BROILER

(We use prime Eastern corn fed beef exclusively)

BROILED ½ SPRING CHICKEN (disjointed) Extra large Spiced Peaches 11.00
DOUBLE CUT LAMB CHOPS (2 Double Cut Chops, Mint Jelly, Pineapple Ring) 19.95
BROCHETTE OF BEEF (Flambe) 11.95
TOP SIRLOIN (Eastern Prime) 15-16 oz. 16.95
SHORT HORN STEAK (Regular New York Cut) 16 oz. 19.50
LONG HORN STEAK (Our Special New York Cut) Cut Extra Thick 24 oz. 22.50
FILET MIGNON (The Aristocrat of Tenderness) 19.50
ALASKAN KING CRAB LEGS, broiled to perfection, drawn butter 19.50
LOBSTER AND FILET MIGNON (Australian Tail, Eastern Filet) 24.00
JUMBO AUSTRALIAN LOBSTER TAIL (One) 21.00
CHATEAUBRIAND (for 2), (Bouquetiere) (Allow 45 minutes) (22.50 per person)
RACK OF LAMB (for 2), (Bouquetiere) (Allow 45 minutes) (22.50 per person)

A LA CARTE SERVED WITH CHOICE OF PASTA DU JOUR OR TOASTED RAVIOLI OR BAKED POTATO OR FRENCH FRIED POTATOES

SAUTÉED MUSHROOMS 3.50

VEGETABLES

Carrots 2.50 Asparagus 3.50
Broccoli 3.00 Cauliflower 2.50

Potatoes

Baked 2.00
Cottage Fried 2.95
Italian Fries 3.95

Lyonnaise 2.00

Side Order Minnesota Wild Rice 2.50

Vegetable will be added to Regular Price on All Tasty Items.

We reserve the right to refuse service to anyone.

WE FREEZE NO MEAT.

Mushroom Sauce 3.00
DOE LSN Image Display Selection

Title: More

LSN Participant Accession Number(s): ALG.20040618.2435

Image Count: 2

- Download All Images

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Estimate Get Images

http://lsnextd.lnext.us/cgibin/fetch_doc?D=ALG.20040618.2435&MI=/documents/dev02...

1/30/2008
I am reading and ruminating a lot, and I'm trying to make sense out of our experience with the program. It represents seven years of my life—one fifth of my career, and it is in fact one chapter in a coherent six chapter story. The question I'm addressing is this: Suppose I should write about it—what would my magnum opus say? (This is a broader question than the question about our paper—maybe.) What is interesting is that a large number of distinctly different themes can be superimposed on the assembled facts. Thinking about this is making me a more devout postmodernist.

I am pondering your remark about being a devout postmodernist. If you are, then I am too. But I cannot countenance that to mean that nothing that can be said about anything. I don't feel good about concluding common sense is invalid. And yet I understand why people say that. Here are some thoughts on this.

1. There is some sense in which common sense is valid. Gravity works, it rains in Nevada, catastrophes can happen even if I have never seen one, and I know you cannot predict the future. Common sense. Common to a lot of people.

2. The false religion of arcane analysis serves only the purposes of power, wealth, and security—not successful completion of difficult projects. That religion permits false statements and obscurantism. Nothing but astrology.

3. Oops, not astrology—the common man can see through that. In fact, common sense also tells you that this false religion has no basis, no ring of truth, is useless in anything but ordering society in some metastable state. But the common man has a harder time figuring that one out—probably because his criteria for credibility are wrong.

4. A related problem (if not the same) is that common sense gets extended to areas where it has no business—things that have not been measured or that are unmeasurable. Real common sense says you don't make statements about such things. So the war is between real common sense and the inappropriate extension.

5. We have to learn to do well, to seek for sound judgement, but to be humble in that judgement. This is not the same thing as saying common sense has no intrinsic value. (What a challenge this— it is hard to be humble in the face of risk and doubt when we are afraid.)

6. We are fighting against evil, mediocrity, and clockmindedness that prevent success. We can only do that with truth. If there is no truth, then there is no way to beat them. Therefore, there must be things that are true.

In my reading of Isaiah this week I noticed this statement somewhere in the first few chapters: wo unto us if we call evil good or good evil, or put darkness for light or light for darkness, or that put bitter for sweet or sweet for bitter. Whatever other purpose he had in mind, he is talking to hydrologists who choose to represent unsaturated fracture flow as a continuum in the face of experiments to the contrary, air force contractors who discount
sun-induced failures because they get in their way, and incompetent design
engineers who impose their old mining and reactor experience on a new waste
isolation problem they refuse to think about. And any clockmind who puts
square pegs in round holes because the procedures in his head say so.

Somewhere else in those early chapters Isaiah said. "Wo to those that are wise
in their own eyes." For some reason, this seems relevant to these musings.
AND YOU THINK YOUR HAVING A BAD DAY AT WORK!!; mime001
AND YOU THINK YOUR HAVING A BAD DAY AT WORK!!

Although this looks like a picture taken from a Hollywood movie, it is in fact a real photo, taken near the South African coast during a military exercise by the British Navy.

It has been nominated by Geo as "THE photo of the year".
A returning joke, and a long P.S. on YMP

Terrific joke about the Girlfriend programs -- I'm passing it along to others. This one isn't as good as yours, but I hope it will bring a chuckle.

Thanks again.

P.S. Any feedback/new developments on EPA's draft standard? Seems to me that if it stays (and maybe even if it doesn't, and the standard goes forward without it,) the whole concept of "permanent isolation" will have to be rethought. It strikes me as already damn near impossible to show that releases of each isotope will stay within the prescribed limits for 10K years, and now EPA is likely to be sued on the grounds that its 10K-year cutoff is arbitrary & capricious. (And the anti's will probably win this one, as long as the models indicate that the longest-lived Np, Tc, and I releases won't peak for thousands of years later, at levels orders of magnitude greater than even 100 mr/yr.)

All of this augurs for the political doom of the disposal concept as we now know it. The best that we could probably hope for is that the death will not be agonizing, strangled by decades of legal and regulatory guerilla warfare.

I know you'll probably think I'm crazy here (and you'll probably be right,) but it seems to me that the only way to make a nuclear waste management facility like this acceptable is to make it a heavily-monitored retrievable storage facility and combine it with a huge, collocated investment in basic nuclear physics research to render the stuff innocuous, or re-burnable without reprocessing as we know it now. This should also be combined with more investment to capitalize on the commercial spinoffs of the already huge investment in earth sciences at YMP (e.g., to identify and predict more accurately the behavior of potential seismic events, or to model vadose hydrology.) If this enterprise could be framed as the NWM equivalent of the moon shot, with all the enormous competitive advantages in materials engineering, computational science, cleaner energy, and other capabilities that such research could bring, it would at least address in a politically credible way Nevada's fears that it would become a national sacrifice area, with no possibility of economic diversification beyond military activities and tourism. Think of the possibilities of a major national investment in removing the most stubborn impediment to the deployment of the only major non-fossil energy option for global warming. (Not that a major advance in understanding nuclear physical behavior couldn't also benefit renewable options like solar photovoltaics.) If YMP and the national labs could become nurseries for the development of leapfrogging technologies for better environmental, climatic, and seismic security -- nurseries that would attract more inventive technological talent and the high-income economic development that comes with it -- these facilities could actually come to be viewed by both their host communities and the nation as economic and environmental assets.

Ah, well. You have every right to laugh this off as an impossible dream. But you also have to admit that it's probably no less impossible, and a whole lot more politically and commercially attractive, than the political and scientific nightmare now confronting us for as far as the eye can see. Yes, a national investment in solving the problem of radioactivity at its source (and/or reinventing reactors to burn a lot more than the one or two percent of the energy now obtained from uranium fuel) will be enormously costly. But one could argue that an investment in something like this will become harder and harder to avoid as it becomes harder and harder to
demonstrate compliance with any foreseeable EPA standard in an NRC license proceeding.

When you have a minute, I'd be much obliged to hear your reactions to these notions. Are they totally beyond the realm of the bureaucratically possible at YMP? Are they worth trying out on anybody at DOE? Can things get any worse for the program than they appear to be now?

P.P.S. Don't worry about getting a bill for this, since you didn't authorize it.

-----Original Message-----
From: mattm <mattm@nassau.cv.net>
To: aaa me at work <mdmurray@cbscable.com>; Akkana Peck <akkana@best.com>; Bill Del Vecchio <wdv@compuserve.com>; Bob Tunnell <bobt@wmfilms.com>; Bracci <bracci@circoncorp.com>; Brian.F.Smith@snet.net <Brian.F.Smith@snet.net>; Byron Short <bshort@AFSinc.com>; Carrie Pires <carrie_pires@sv-oln.com>; Clint & Vera <clint@goss.com>; Dani Berman <NYIFAN@aol.com>; Dave Van Allan <davevanvan@aol.com>; David Nathanson <dngolfer@aol.com>; Ernie Addario <mcclc@javanel.com>; Gary & Kay Lessner <taangary@aol.com>; Greg Smalter <greg@rgts.com>; Jackie Fineman <biginjim2@ix.netcom.com>; Jay Langer <jlanger12@aol.com>; Joe Gastwirt <CDJoe@centcon.com>; Kate Hughes <HughesKW@corning.com>; Katie Kelly <katie@spss.com>; Ken Berger <madmix@earthlink.net>; Kevin & Kay Bailey <kbaileys@worldnet.att.net>; MacDougall <rdmacd@iname.com>; Mark Sirota <msirota@isc.upenn.edu>; Mark Wentworth <autox@tiac.net>; Matt Dreier <mattparts@aol.com>; MoynahanMD <moynahanMD@ AOL.COM>; Pat Marafiote home <pmarafiote@msn.com>; Patty & George <lotris1313@aol.com>; Patty Tunnell <PLTunnell1@aol.com>; Paul & Lynn <pkracer1@aol.com>; PAVANOCPA@aol.com <PAVANOCPA@aol.com>; Terry Baker <drt4bmws@infi.net>; Tom & Pat Crolius <tomic25ca@worldnet.att.net>; Tom Reichle <choosiert@ix.netcom.com>; Tony Platano <tonyplat@aol.com>; Traci at work <taronson@irl1.com>; Tucker & Ginny Crolius <tcrolius@aol.com>

Date: Tuesday, July 28, 1998 1:35 PM
Subject: Snoring Cure

>A woman had a dog who snored in his sleep and kept her and her husband awake at night. She went to the vet to see if he can help. The vet tells the woman to tie a ribbon around the dog's testicles and he will stop snoring. Of course the woman is very sceptical in believing this and goes home. A few hours after going to bed the dog is snoring as usual.
>
>Finally getting very frustrated, she went to the closet and grabbed a piece of ribbon, ties it around the dogs testicles, and sure enough the dog stops snoring. The woman is amazed.
>
>Later that night her husband returns from being out with his friends and he is very drunk. He climbs into bed, falls asleep, and begins snoring very loudly. The woman is desperate and thinks maybe the ribbon will work on him. She goes to the closet again, grabs a piece of ribbon, and ties it around her husbands testicles. Amazingly it also works on him.
>The woman falls asleep again and sleeps very soundly.
>
>The next morning the husband wakes up very hung over. He stumbles into the bathroom to urinate. As he is standing in front of the toilet, he looks in the mirror and sees a blue ribbon attached to his scrotum. He is very confused. He walks back into the bedroom and sees a red ribbon attached to his dogs scrotum. He looks at the dog and says "Boy, I don't remember what the hell happened last night, but where ever you and I were, we got first and second place!"
Exhibit 5

Exhibit 5
UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of: Docket No. PAPO-00
U.S. DEPARTMENT OF ENERGY ASLBP No.
(High-Level Waste Repository: 04-8239-01-PAPO
Pre-Application Matters)

Hearing Room T3BB45
U.S. Nuclear Regulatory Commission
Two White Flint North
11545 Rockville Pike
Rockville, Maryland

Tuesday, July 12, 2005

The above-entitled matter came on for
hearing, pursuant to notice, at 9:00 a.m.

Before Administrative Judges:

THE HONORABLE THOMAS S. MOORE, Chairman
THE HONORABLE ALEX S. KARLIN
THE HONORABLE ALAN S. ROSENTHAL

NEAL R. GROSS
COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701
(202) 234-4433
www.nealrgross.com
I'm afraid, Your Honor -- and we also have processes ongoing now where the project people are looking at, here's the ones that we are presumptively going to put out in full text. We're giving you on the project a month or so, speak now or forever hold your peace before we release these - just privacy information or other privileged information, because we recognize once we release them, we're not going back.

JUDGE KARLIN: Can I ask, do you have any circulated drafts that you're going to be putting on the LSN, not of the license application, necessarily, but of any other reports and other documents?

MR. SHEBELSKIE: Right. Well, we made this decision, Judge Karlin, with respect to the underlying technical documents, like the reports and studies, and analyses and AMRs, that we could have gone through -- I mean, all these documents go through a lot of drafting iterations, as you might imagine. And we could have gone through and said this one is not a circulated draft, this one is not, this is not, this one is not. We also recognize though that was, in part, going to be a very time-consuming and expensive process, and we said well, we have these drafts in our record compilation system. We're not culling them out because they do or do not meet the

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definition of circulated draft, so we are voluntarily producing many, many drafts of these technical underlying documents so people can see the development of the science. You don’t need to see the draft license application. We’re going to be producing all the details, warts and all, for the development of the science on the project.

CHAIRMAN MOORE: Well, I would like to just add one caveat. It’s the difference between the numbers that have been bandied around - 5,800 pages and 70 chapters, and millions of pages. That strikes some of us as --

MR. SHEBELSKIE: Millions of pages for the license application?

CHAIRMAN MOORE: Well, so that the public can see how the science was developed.

MR. SHEBELSKIE: Oh.

CHAIRMAN MOORE: And you have, under your view of the world, not making any of this public, so everybody is going to have precisely six months, that’s a huge difference. And that’s, I think, one of the underlying tensions in all of this that we’re having. With that said --

MR. SHEBELSKIE: That said, but there’s another point, keep in mind. You know, there has been
PRELIMINARY INFORMATION REGARDING LSN PARTICIPATION
September 27, 1999

The following organizations have responded to the NRC request for preliminary information on LSN participation:

A. Eureka County, NV  
   Abby Johnson

B. Lincoln County Nuclear Oversight  
   Yvonne Culverwell

C. Nevada Agency for Nuclear Projects  
   Steve Frishman

D. Nevada Nuclear Waste Task Force  
   Judy Treichel

E. Nye County, NV  
   Malachy Murphy

F. U.S. Department of Energy  
   Claudia Newbury

G. White Pine Nuclear Waste Project Office  
   Debra Koliman

H. Clark County, NV  
   Dennis Bechtel

I. U.S. Nuclear Regulatory Commission  
   Dan Graser

<table>
<thead>
<tr>
<th>Questions</th>
<th>A</th>
<th>B</th>
<th>C</th>
<th>D</th>
<th>E</th>
<th>F</th>
<th>G</th>
<th>H</th>
<th>I</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Will you participate in the LSN process?</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>2. Do you currently operate your own website?</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>3. Do you operate a website jointly with others?</td>
<td>No</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
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<tr>
<td>4. If not, are you planning to start a website?</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>Yes</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
</tbody>
</table>

1 Nye County has offered to host a joint website for other local governments. No decisions have been made on this issue.
2 [www.aulg.org](http://www.aulg.org) or the affected units of local government central jump point.
5. How do you anticipate access to your material?
   a. Publish on existing website
   b. Develop a dedicated website
   c. Participate in a group/coalition website
   d. Other

6. If Other, estimate volume of documentary material

<table>
<thead>
<tr>
<th>Material Accessption</th>
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<tbody>
<tr>
<td>a. Publish on existing website</td>
</tr>
<tr>
<td>b. Develop a dedicated website</td>
</tr>
<tr>
<td>c. Participate in a group/coalition website</td>
</tr>
<tr>
<td>d. Other</td>
</tr>
</tbody>
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7. Please provide technical characteristics of your existing or planned website

<table>
<thead>
<tr>
<th>Hosting Platform Operating System</th>
<th>Hosting Platform Web Server Software</th>
<th>Search/Index Software</th>
<th>Net Bandwidth to Site from Internet</th>
<th>Gross Bandwidth to Site from Internet</th>
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<td>RJX 2.11</td>
<td>MS, Unix, MS RS</td>
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</tbody>
</table>

3. Possible collaboration with other affected units of local government (AULGs).
4. Our website does not have a search engine. Documents will be posted on the website in HTML and other downloadable formats, e.g., text and PDF.
5. I'm changing computer systems and website server this year so current specifications are not relevant.
6. Looking for an ISP located in Nye County, so this information will probably change in the near future.
7. Currently have partial search capability. We are working on implementation.
8. Dedicated external server contains all NRC publicly available documents; a separate library of HLW documents will be identified; documents are TIFF or PDF and native word processing format or ASCII; full search capabilities provided at the server.
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<th>html, text, GIF, PDF</th>
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<th>html, text, GIF, PDF, TIFF</th>
<th>html, text, GIF, PDF, TIFF</th>
<th>html, text, GIF, PDF, TIFF, native word processing, etc.</th>
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Exhibit 7

Exhibit 7
March 28, 2003

Mr. Joseph D. Ziegler  
Acting Director  
Office of License Application and Strategy  
U.S. Department of Energy  
P.O. Box 364629  
North Las Vegas, Nevada 89036-8629

RE: Update on DOE Document Volume Estimates for Licensing Support Network

Dear Mr. Ziegler:

First of all, I would like to thank you for the comments submitted on the draft revision to the Licensing Support Network (LSN) guidelines for OCR accuracy and to let you know that DOE comments are being given thoughtful attention.

Attached is a summary document presented to the Licensing Support Network Advisory Review Panel (LSNARP) at its October 13, 1999 meeting. It summarizes information provided to NRC's Licensing Support Network Administrator in response to a survey of all parties, potential parties and interested governmental entities to be used in sizing the Licensing Support Network (LSN) system. You will note that estimates submitted by Claudia Newbury in September 1999 indicate an expected DOE document collection of 10,000 documents comprised of 100,000 pages of textual material (DOE information is listed in column F, and the information on document and page estimates will be found on the lines marked 7.g and 7.h). These estimates were used to size the LSN portal server and software which was subsequently developed by NRC and operationally made available on October 18, 2001. Based on this 1999 information, the current LSN portal configuration is sized to a high-end maximum volume of 15 million pages.

As we get closer to the point in time where NRC must have the LSN operational in order to service parties in their compliance efforts, one of our great concerns is that the LSN database sizing assumptions will be exceeded during our fiscal year project execution, thereby introducing a constraint on the parties' ability to timely comply with the requirements of 10 C.F.R. Part 2, Subpart J. At the same time, we are in the early stages of planning and assessment for a final cycle of technology refreshment for the LSN platform and software. We therefore ask you to review the 1999 DOE estimates and provide us with any revisions, as appropriate, based on your current planning basis for LSN document availability, including both volume and approximate timing.

I am certain that you can appreciate the importance of thoughtful advance planning and accurate information to ensuring that the LSN fulfills its mission in support of a potential construction authorization application for the High Level Waste repository. As we are currently active in budget formulation for Fiscal Years 2004 through 2006, a response no later than April 7, 2003 would be greatly appreciated.
If you have any questions, please contact Mr. Matthew Schmit at 301-415-7469 or via e-mail at MRS3@NRC.GOV. Your update information may be sent to me via e-mail at DJG2@NRC.GOV or may be mailed to my attention at:

U.S. Nuclear Regulatory Commission
Atomic Safety & Licensing Board Panel
Mail Stop T3-F23
Washington, DC 20555-0001

Once again, thank you for your assistance in our planning efforts. We will be following up this electronic communication with a paper record.

Sincerely,

Daniel J. Graser
Licensing Support Network Administrator

Copies:

M. Schmit, ASLBP
G. P. Bollwerk, ASLBP
PRELIMINARY INFORMATION REGARDING LSN PARTICIPATION
September 27, 1999

The following organizations have responded to the NRC request for preliminary information on LSN participation:

A. Eureka County, NV
   Abby Johnson
B. Lincoln County Nuclear Oversight
   Yvonne Culverwell
C. Nevada Agency for Nuclear Projects
   Steve Frishman
D. Nevada Nuclear Waste Task Force
   Judy Treichel
E. Nye County, NV
   Malachy Murphy
F. U.S. Department of Energy
   Claudia Newbury
G. White Pine Nuclear Waste Project Office
   Debra Kelkman
H. Clark County, NV
   Dennis Bechtel
I. U.S. Nuclear Regulatory Commission
   Dan Graser

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<th>C</th>
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<th>E</th>
<th>F</th>
<th>G</th>
<th>H</th>
<th>I</th>
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<td>1. Will you participate in the LSN process?</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
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<tr>
<td>2. Do you currently operate your own website?</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
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<tr>
<td>3. Do you operate a website jointly with others?</td>
<td>No</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>Yes ²</td>
<td>Yes</td>
<td>No</td>
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<td>4. If not, are you planning to start a website?</td>
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<td>N/A</td>
<td>N/A</td>
<td>Yes</td>
<td>N/A</td>
<td>N/A</td>
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² Nye County has offered to host a joint website for other local governments. No decisions have been made on this issue.

² www.aulg.org or the affected units of local government central jump point.
5. How do you anticipate access to your material?
   a. Publish on existing website
   b. Develop a dedicated website
   c. Participate in a group/coalition website
   d. Other

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<th>b</th>
<th>c</th>
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6. If Other, estimate volume of documentary material

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7. Please provide technical characteristics of your existing or planned website

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<td>&gt;1 GB</td>
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3 Possible collaboration with other affected units of local government (AULGs).
4 Our website does not have a search engine. Documents will be posted on the website in html and other downloadable formats, e.g., text and PDF.
5 NV is changing computer systems and website server this year so current specifications are not relevant.
6 Looking for an ISP located in Nye County, so this information will probably change in the near future.
7 Currently have partial search capability. We are working on implementation.
8 Dedicated external server contains all NRC publicly available documents; a separate library of HLW documents will be identified; documents are TIFF or PDF and native word processing format or ascii; full search capabilities provided at the server.
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UPDATE ON DOE DOCUMENT VOLUME ESTIMATES FOR LICENSING SUPPORT NETWORK & PRELIMINARY INFORMATION REGARDING LSN PARTICIPATION 09/27/1999; zieg0328

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Document Date  03/28/2003
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QA Record Indicator  N
# Of Images  5
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Access Controls
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Addressee Orgs  OFFICE OF LICENSE APPLICATION AND STRATEGY U.S. DEPARTMENT OF ENERGY, ASLBP, ASLBP
Author Names  GRASER DANIEL J
Author Orgs  UNITED STATES NUCLEAR REGULATORY COMMISSION
Document Numbers
Document Types  CORRESPONDENCE, DATA, EMAIL-ATT, LIST
Packages Ids
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Miscellaneous Information

Document Content:


1/31/2008
The Licensing Support Network (LSN) is an official United States Government web site. Please e-mail your comments and suggestions to the LSN Webmaster.
There are no documents corresponding to the search criteria specified.

Query executed at Thursday January 31, 2008 3:08 PM EST
OVERNIGHT MAIL

Daniel J. Graser, LSN Administrator
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Two White Flint North
Rockville, MD 20852

REVIEW OF 1999 U.S. DEPARTMENT OF ENERGY (DOE) ESTIMATES BASED ON CURRENT PLANNING FOR LICENSING SUPPORT NETWORK (LSN) DOCUMENT AVAILABILITY

Reference: Ltr, Graser to Ziegler, dtd 3/28/03

In the referenced letter, you requested a review of the 1999 DOE estimates of the DOE LSN participant website. While, at this time, we are still reviewing our document collection, it is estimated that, at initial certification, the DOE LSN participant website will contain approximately 3,000,000-4,000,000 documents composed of 27,500,000-36,500,000 pages. The majority of pages will be “tif” images averaging 50KB per page, one page per file. There will be an additional 3,000,000-4,000,000 “xml” files (one per document) and 3,000,000-4,000,000 “html” files (also one per document).

You also requested timing information related to the DOE LSN participant website. The DOE has recently contracted with CACI, Inc. to perform services related to loading and operating DOE’s LSN website. At this time, DOE is evaluating when the website will be electronically available.

If you have any questions concerning these comments, please contact Harry E. Leake at (702) 794-1457 or Sheryl A. Morris at (702) 794-5487.

[Signature]
Joseph D. Ziegler, Acting Director
Office of License Application and Strategy
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Mr. Joseph D. Ziegler  
Acting Director  
Office of License Application and Strategy  
U.S. Department of Energy  
P.O. Box 364629  
North Las Vegas, Nevada 89036-8629  

PLANNING ESTIMATES PROVIDED BY DOE  

Reference: Letter, Ziegler to Graser, dated April 11, 2003  

Dear Mr. Ziegler:  

Thank you for providing the above-referenced updated planning estimates of DOE materials that could possibly be made available via the LSN.  

I note that your estimates generally characterized the majority of pages as being TIF images, with an additional "xml" file and an additional "html" file per document. Please be aware that 10 C.F.R. Part 2, Subpart J, requires that high level waste repository licensing proceeding party/potential party documentary materials must be made available in a searchable text format (unless the document is essentially graphical in nature) with an accompanying notification indicating where an official image version of a document can be acquired. Images of textual documents that have been rendered in TIF format seemingly will not, by themselves, meet the requirements of Subpart J because TIF images are not text searchable.  

In this regard, up to this point our coordination efforts with DOE computer technical staff, including the test documents they have provided, have involved searchable full text as required by the rule. In addition to demonstrating the basic DOE intent and capability to provide searchable text, this DOE test document collection design includes providing the image file for textual documents (as well as the required images for those documents that are essentially graphical). Indeed, by providing the image associated with searchable text for online access via the LSN, DOE goes beyond the basic requirements of Subpart J.  

Also in connection with the planning information you provided, I would like to share with you the LSN staff's analysis of that data. Relative to the LSN portal software, and the "spidering" software used to index participant collections, our current throughput capacity is conservatively estimated to be 100,000 documents per week. This means that without any increase in LSN software throughput capacity, or the invocation of other measures to increase that capacity, and assuming a regular five work-day-a-week schedule and no technical problems with either the DOE collection server or the LSN portal server, it will take the LSN software forty (40) weeks to spider and index four million documents.
To the extent that documents are not "available," within the meaning of 10 C.F.R. § 2.1003(a), via the LSN until this indexing process is complete, to ensure that DOE documents are available on the LSN when you expect to certify compliance with Subpart J, at a minimum you should be prepared consistently to generate 100,000 documents per week for a period necessary to have all DOE documents indexed six months prior to the time DOE wishes to submit an repository construction authorization application to the NRC. Moreover, in planning for timely DOE certification, you should bear in mind that any party/potential party can begin populating its document collection server at any time, which could impose additional productivity constraints on the LSN spidering software's ability to index documents so as to make them LSN available. In light of these considerations, to ensure timely indexing, advance coordination with the LSN staff would be most helpful prior to actually beginning to post a high volume of documents on the DOE LSN server.

Please do not hesitate to contact me if you require any additional information or assistance in coordinating your participation in the LSN effort. A hardcopy version of this letter will follow.

Sincerely,

Daniel J. Graser
Licensing Support Network Administrator

Copies:

M. Schmit, ASLBP
G. P. Bollwerk, ASLBP
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<tr>
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</table>

Exhibit 10
Mr. Daniel J. Graser
Licensing Support Network Administrator
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Dear Mr. Graser:

The U.S. Department of Energy (DOE) has reviewed your letter of February 5, 2004, proposing an "operational alternative" for populating the Licensing Support Network (LSN) with DOE documents. You asked that DOE respond to the proposal by February 27, 2004, in order for you to report back to the Commission.

The DOE appreciates the time and effort put forth by your office to formulate the proposal within the U.S. Nuclear Regulatory Commission (NRC) and commit resources as necessary to the task. Based upon our preliminary review, DOE believes the proposal sounds quite promising and, under proper conditions, may well enable DOE to provide the LSN Administrator (LSNA) with documents for the limited purpose of indexing and loading them prior to initial certification to facilitate LSN operations.

While your letter provided a general outline of the proposal, DOE believes there is the need for further discussions with your office before agreement and implementation of this approach. For example, in your letter you provide helpful reassurance that DOE's documentary material made available to the LSN staff would be protected from disclosure prior to DOE certification or absent DOE approval. In our view, important elements of such protection would include the following. All DOE documents received by the LSNA will be controlled to prevent their unauthorized disclosure. This would include preserving in strict confidence the information received, maintaining information in either locked files or areas providing restricted access to prevent unauthorized disclosure. In preserving this information, the LSNA would use the same standard of care it would use to secure and safeguard its own confidential information of similar importance, but in no event less than reasonable care.
Mr. Daniel J. Graser

The documents would retain their character as DOE agency records, and would not be considered to be records in the possession or control of the NRC such that the NRC would consider them responsive to a Freedom of Information Act (FOIA) request directed to the NRC. Rather, any such FOIA request would be referred to the DOE for its direct response to the requester. Furthermore, DOE's control of the documentary material would include the exclusive ability to continue its evaluation of the material for relevancy and privilege after it has been provided to the LSNA for indexing/loading. Thus, DOE would maintain its ability and right to refine the identification of documentary material appropriate for inclusion or subject to privilege in the LSN prior to DOE certification. Relatedly, DOE does not believe this arrangement would alter current policies or practices regarding NRC and DOE interactions in the pre-licensing phase (e.g., this arrangement itself would not trigger initiation of the high-level waste proceeding and attendant NRC rules of procedure).

We believe it is important -- for both DOE and NRC -- to have a common understanding on these and related matters before agreement and implementation of this proposal. We are available to meet at the earliest opportunity to discuss these matters and clarify the details of the proposal.

Your letter also requested a current estimate regarding the size of the DOE LSN document collection. As you know, DOE is actively collecting, processing and reviewing its documentary material for possible inclusion in the LSN. The current estimate remains within the range previously provided, approximately 3 - 4 million documents composed of 27.5 - 36.5 million pages.

Please contact me at (702) 794-5567 if you have questions on this letter.

Sincerely,

[Signature]

Joseph D. Ziegler, Director
Office of License Application and Strategy
cc:
C. W. Reamer, NRC, Rockville, MD
A. C. Campbell, NRC, Rockville, MD
L. L. Campbell, NRC, Rockville, MD
D. D. Chamberlain, NRC, Arlington, TX
G. P. Hatchett, NRC, Rockville, MD
R. M. Latta, NRC, Las Vegas, NV
J. D. Parrott, NRC, Las Vegas, NV
D. B. Spitzberg, NRC, Arlington, TX
N. K. Stablein, NRC, Rockville, MD
B. J. Garrick, ACNW, Rockville, MD
H. J. Larson, ACNW, Rockville, MD
W. C. Patrick, CNWRA, San Antonio, TX
Budhi Sagar, CNWRA, San Antonio, TX
J. R. Egan, Egan & Associates, McLean, VA
J. H. Kessler, EPRI, Palo Alto, CA
M. J. Afted, Monitor Scientific, LLC, Denver, CO
Rod McCullum, NEI, Washington, DC
W. D. Barnard, NWTRB, Arlington, VA
R. R. Loux, State of Nevada, Carson City, NV
Pat Guinan, State of Nevada, Carson City, NV
Alan Kalt, Churchill County, Fallon, NV
Irene Navis, Clark County, Las Vegas, NV
George McCorkell, Esmeralda County, Goldfield, NV
Leonard Fiorenzi, Eureka County, Eureka, NV
Michael King, Inyo County, Edmonds, WA
Andrew Remus, Inyo County, Independence, CA
Mickey Yarbro, Lander County, Battle Mountain, NV
Spencer Hafen, Lincoln County, Pioche, NV
Linda Mathias, Mineral County, Hawthorne, NV
L. W. Bradshaw, Nye County, Pahrump, NV
Mike Simon, White Pine County, Ely, NV
R. I. Holden, National Congress of American Indians, Washington, DC
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<td>Graser D J</td>
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<td><strong>Addressee Orgs</strong></td>
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<tr>
<td><strong>Author Names</strong></td>
<td>Ziegler J D</td>
</tr>
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<td><strong>Author Orgs</strong></td>
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Exhibit 11
Audit Report

Report on Management Controls Over the Licensing Support Network for the Yucca Mountain Repository
Appendix 2 (continued)

Comments on the Office of Inspector General (OIG)
Licensing Support Network (LSN)
Draft Audit Report

The Office of Civilian Radioactive Waste Management (OCRWM) appreciates the comments provided by OIG concerning the management controls over the LSN. It should be pointed out that OCRWM has estimated that it would provide between 3 and 4 million documents to the OCRWM LSN, and a revised estimate for the initial LSN Certification will be provided to the NRC within the next few weeks.

The following sections provide the actual or planned corrective actions with pertinent target dates for each recommendation.

Recommendation 1.
Evaluate the effectiveness of the Privacy Act screening software and determine if it is a viable tool for document processing.

- If so, fully implement the software for use on the remaining documents.
- If not, identify and implement an alternative method for screening the documents for Privacy Act information.

Response
Concur: Analysis has shown the software is effective at identifying privileged and Privacy Act information within its functional limitations. Consequently, it was implemented on March 4, 2004, and the manual privileged and privacy review is going forward. Additionally, both electronic searches and user review are being used to identify the privileged and Privacy Act information.

Recommendation 2.
Complete the implementation of the software to process electronic mail associated with the Yucca Mountain Project.

Response
Concur: We have been working to address this area of concern through a variety of methods, including manual and electronic processing. Estimated Completion Date: May 15, 2004.
**Recommendation 3.**

Develop a plan and begin processing information maintained in other relevant databases and computer programs.

**Response**

Concur: A Concept of Operation for the handling of potentially relevant databases and software programs has been developed and is in the management approval process. The amount of documentary material within this category is 115 databases and 900 software programs. The draft OCRWM LSN Project Execution Plan calls for the relevant databases and software programs to have a bibliographic header created and all of the manual reviews for privacy and sensitive unclassified information to be completed by May 28, 2004. The processing of the databases and software programs is not expected to present a problem to OCRWM in meeting the June 23, 2004, LSN certification date.

**Recommendation 4.**

Finalizing the agreement regarding document availability and indexing with the U.S. Nuclear Regulatory Commission (NRC).

**Response**

Concur: The U.S. Department of Energy (DOE) has met and discussed with the NRC the NRC’s desire to obtain early release of DOE material to the OCRWM LSN. The NRC has created a new LSN Guideline, Guideline 23 Access Control Prior to Initial Certification, to control access to materials and indices related to pre-certification loading/indexing, and OCRWM has provided comments on this Guideline to the NRC. Estimated Completion Date: May 11, 2004.
OVERNIGHT MAIL

Mr. Daniel J. Graser  
Licensing Support Network Administrator  
Atomic Safety and Licensing Board Panel  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555-0001

Subject: Participant Request for Licensing Support Network (LSN) Access Control Prior to Initial Certification

Dear Mr. Graser:

As provided in Chapter 23 of the April 2004 Licensing Support Guidelines (Access Control Guidelines), the U.S. Department of Energy (DOE) submits this request for access control prior to its initial certification under 10 CFR 2.1003(a). As requested in the Access Control Guidelines, DOE provides the following information:

DOE currently estimates that the size of its document collection to be made available at the time of its initial certification is approximately one million documents consisting of approximately 12 million pages. DOE expects to begin populating its participant website with these documents on or about May 5, 2004, with weekly feeds thereafter. The feed for the initial, as well as subsequent weeks will approximate 150,000 documents, which we understand is the current weekly capacity of the U.S. Nuclear Regulatory Commission (NRC) technical staff to crawl documents for the LSN. An exact schedule will be determined after consultation between the DOE and the NRC technical staff to ensure that operational and technical factors are considered.

DOE requests acknowledgement from the NRC that DOE will be provided access control pursuant to Access Control Guidelines for the documents that DOE populates on its participant website prior to its initial certification. Additionally, DOE understands the Access Control Guidelines to mean (i) that the documents DOE populates on its participant website will not be in any way released to the web, identified in response to web queries, or otherwise disclosed by the NRC before DOE makes its initial certification per 10 CFR 2.1003(a); (ii) that DOE can recall documents for any reason prior to its initial certification; and (iii) that DOE does not waive any privileges by providing documents to the NRC technical staff for crawling pursuant to the Access Control Guidelines. DOE requests NRC’s confirmation that this understanding of the Access Control Guidelines is correct.
In consideration of DOE's desire to begin populating its participant website this week as early as Wednesday, May 5, 2004, DOE requests by May 5, 2004, NRC's acknowledgement that it will be providing access control and confirmation that DOE's understanding of the Access Control Guidelines on the three points referenced above is correct.

If you have any questions, please contact Harry E. Leake at (702) 794-1457 or e-mail at harry_leake@ymp.gov.

Sincerely,

[Signature]

Joseph D. Ziegler, Director
Office of License Application and Strategy

cc:
A. C. Campbell, NRC, Rockville, MD
L. L. Campbell, NRC, Rockville, MD
D. D. Chamberlain, NRC, Arlington, TX
G. P. Hatchett, NRC, Rockville, MD
R. M. Latta, NRC, Las Vegas, NV
J. D. Parrott, NRC, Las Vegas, NV
D. B. Spitzberg, NRC, Arlington, TX
N. K. Stablein, NRC, Rockville, MD
B. J. Garrick, ACNW, Rockville, MD
H. J. Larson, ACNW, Rockville, MD
W. C. Patrick, CNWRA, San Antonio, TX
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Irene Navig, Clark County, Las Vegas, NV
George McCorkell, Esmeralda County, Goldfield, NV
Leonard Fiorenzi, Eureka County, Eureka, NV
Michael King, Inyo County, Edmonds, WA
cc: (continued)
Andrew Remus, Inyo County, Independence, CA
Mickey Yarbro, Lander County, Battle Mountain, NV
Spencer Hafen, Lincoln County, Pioche, NV
Linda Mathias, Mineral County, Hawthorne, NV
L. W. Bradshaw, Nye County, Pahrump, NV
Mike Simon, White Pine County, Ely, NV
R. I. Holden, National Congress of American Indians, Washington, DC
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Exhibit 13
Bill,
The programs, of course, are all already installed otherwise the AMR would not exist. I don’t have a clue when these programs were installed. So I’ve made up the dates and names (see red edits below). This is as good as its going to get. If they need more proof I will be happy to make up more stuff, as long as its not a video recording of the software being installed.

Joe

---------------------- Forwarded by Joseph Hevesi/YM/RWDOE on 03/30/2000 03:39 PM --------------------------

William Scott
03/29/2000 03:13 PM
To: Joseph Hevesi/YM/RWDOE@CRWMS, Alan Flint/YM/RWDOE@CRWMS
cc: Cynthia Miller-Corbett/YM/RWDOE@CRWMS, Lorrie Flint/YM/RWDOE@CRWMS
bcc:

Subject: Installations

I’m trying to follow-up on this request, but I need your help. Please respond back to me, asap, with the appropriate answers to the questions Don Peppers is seeking............thanks.

----------- Forwarded by William Scott/YM/RWDOE on 03/29/2000 03:08 PM ---------

Don Peppers
03/29/2000 01:52 PM
To: William Scott/YM/RWDOE@CRWMS
cc: Betty Hodgson/YM/RWDOE@CRWMS, Greg Carlisle/YM/RWDOE@CRWMS

Subject: Installations

Good Afternoon Bill:

I am following up on our conversation today about the installations I have pending.

The installations are for Unqualified Software Codes under section 5.11 of AP-ST.IQ.

SURFER V6.04  Joe Hevesi  (1/1/1998)
TRANSFORM V3.3  Joe Hevesi  (1/1/1998)
ARCINFO V6.1.2  Bill Davies  (1/1/1995)

All three code are for Joe Hevesi and Alan Flint. The first two codes are for CPU# SM321276, ARCINFO is for CPU SN 249P2296.

The information I need have these codes already been installed to initiate the 5.11 process, or do they still need to be installed? If they have been installed I need to know the name of the individual that installed the codes and the date. I will also need you permission to make the entries onto the User Request forms to bring them up to date.
Don
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Exhibit 14

Exhibit 14
LSN Load Statistics Summary  
As of January 31st, 2006

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FOR IMMEDIATE RELEASE
April 30, 2007

Additional Yucca Mountain Documents Made Available on NRC’s Licensing Support Network to Facilitate Yucca Mountain Licensing Proceeding

Las Vegas, NV. -- The U.S. Department of Energy’s (DOE) Office of Civilian Radioactive Waste Management (OCRWM) today made publicly available about 2.1 million additional Yucca Mountain-related documents through the Nuclear Regulatory Commission (NRC) Licensing Support Network (LSN). The LSN is an electronic database established by the NRC to support the agency’s licensing proceeding for the nation’s first spent nuclear fuel and high-level radioactive waste repository at Yucca Mountain, Nevada.

NRC’s regulations for the Yucca Mountain licensing proceeding (10 CFR Part 2, Subpart J), require that all parties make their relevant documentary material publicly available on the LSN and certify their collections. The DOE must certify its LSN collection six months before the DOE submits its license application to the NRC.

DOE currently plans to certify its LSN collection not later than December 21, 2007 and to submit its license application for authorization to construct the Yucca Mountain repository not later than June 30, 2008. DOE has already made about 1.3 million documents available on the LSN. As of today, DOE’s collection of documents publicly available on the LSN now totals some 3.4 million documents, including scientific, engineering and other license related documents, and is estimated to exceed 30 million pages.

Today’s early disclosure of additional documentary material in advance of DOE’s LSN certification is intended to facilitate and expedite the Yucca Mountain licensing proceeding and to assist the NRC staff, the State of Nevada and potential parties to the Yucca Mountain proceeding in their review of DOE’s documentary material. DOE will continue to add non-privileged documents to the LSN on an ongoing basis.

The NRC’s LSN web site is at http://www.lsnnet.gov. Persons without access to the internet may use the public access computers at the following locations: DOE public reading room (1E-190), U.S. Department of Energy, Forrestal Building, 1000 Independence Ave. SW, Washington, D.C.; and most libraries worldwide.

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