

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

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

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

In the Matter of :)	February 16, 2010
)	
U.S. Department of Energy)	
Docket No. 63-001)	
)	Docket No. 63-001-HLW
(High Level Waste Repository Construction)	
Authorization Application))	
)	

**NYE COUNTY, NEVADA PRELIMINARY RESPONSE TO DOE'S
FEBRUARY 4, 2010 ANSWERS TO CAB LSN QUESTIONS**

On December 17, 2009, correspondence from the Licensing Support Network Administrator, Mr. Dan Glasser, was docketed in Docket No. 63-001-HLW, seeking information and answers from the various participants to this proceeding concerning how they would retain and preserve their current LSN documentary collections should the Department of Energy (DOE) withdraw its pending license application to construct a repository for the storage of spent nuclear fuel and other high-level radioactive waste at Yucca Mountain, Nevada. In response to the Glasser filing, the Construction Authorization Board (CAB04) issued an order giving the participants an opportunity to respond to that memorandum, and scheduled a portion of the January 27, 2010 Case Management Hearing to discuss the participants' responses to the December 17, 2009 memorandum.

At the January 27, 2010, Case Management Conference, CAB04 posed a series of questions to the DOE concerning DOE's proposed handling of its LSN collection and other information, data and samples that had been collected as part of this proceeding and DOE's

research of the Yucca Mountain site and licensing efforts over the years. On February, 4, 2010, DOE submitted preliminary information in response to questions from CAB04.

Subsequent to DOE's February 4th filing, a weather emergency has virtually paralyzed Washington DC. The Board made it clear at the Case Management Conference that the Board would permit responses from the various participant to DOE's answers to the LSN questions (see Tr. at 366-367), but has not yet set a time for such responses. Out of an abundance of caution, Nye County, Nevada (Nye County) submits the following abbreviated preliminary response to DOE's February 4th Answers to CAB04's LSN questions.¹

Nye County believes that DOE's Yucca Mountain technical information, records, documents, physical samples and scientific data, as well as the materials in the LSN collection constitute a critical national resource and source of information. All of that information should be protected and preserved for possible future use. Additionally, DOE should be required to put its LSN information in a format that will permit the other participants and future interested parties to readily search that information and retrieve the documents and information.

¹ Pursuant to 10 C.F.R. § 2.323 (c), parties have 10 days within which to respond to a motion by a fellow participant. Nye County is aware that this rule applies strictly to motions, and that DOE's response to CAB04 LSN questions is not a motion, but out of an abundance of caution Nye County is following the 10-day guidance espoused in that rule in filing this preliminary response to DOE's February 4th answer to LSN question..

Nye County is not in a position to more fully respond to DOE's proposed archive plan, as no such plan has yet been released by DOE. Nor can Nye County respond to DOE's proposed plans for preserving and protecting the data and core samples that are in DOE's custody, some of which are the property of Nye County, as those plans have also not been released to date. When DOE releases this information, Nye County welcomes the opportunity to respond to the details of those plans.

Respectfully Submitted,

Signed electronically

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February 16, 2010

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC AND SAFETY LICENSING BOARD

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

CERTIFICATE OF SERVICE

I hereby certify that copies of the Nye County Preliminary Response to DOE Answers to LSN Questions dated February 16, 2010, in the above-captioned proceeding have been served on the following persons by Electronic Information Exchange.

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