

MAY 2011

High-level Waste Hearings Summary Table

High-Level Waste hearing

Request for Additional Information table (RAI's) [here](#)

ORDERS Electronic Hearing Docket Board Orders for February - CAB 4

Date	May 10	April 2011	
	<p>ORDER (Dismissing NEI Safety Contention 05) (Dismissing NEI Safety Contention 05) In LBP-10-22, 72 NRC__ (Dec. 14, 2010), CAB-04 addressed Legal Issue 1, which had been jointly proposed by the parties and accepted by the Board. That issue posited: (1) whether the Commission's regulations require ALARA ("as low as is reasonably achievable") considerations at individual nuclear plant sites remote from the Geologic Repository Operations Area (GROA) be addressed in the Department of Energy's (DOE) License Application; and (2) whether DOE must demonstrate that the repository not only meets applicable safety and environmental regulatory standards, but must show that it does so without any alleged unnecessary expenditures of resources. The Licensing Board held that the Commission's regulations do not require that DOE take into account ALARA considerations at remote individual nuclear plant sites outside the GROA and that there are no regulatory requirements that DOE demonstrate that the repository meets applicable safety and environmental standards without unnecessary expenditures of resources. Now before us is DOE's motion to dismiss Nuclear Energy Institute (NEI) Safety Contention 05 (NEI-SAFETY-05), the contention underlying Legal Issue 1 addressed in LBP-10-22. The NRC Staff agrees with DOE's motion that NEI-SAFETY-05 should be dismissed. Although misidentifying DOE's motion to dismiss as a motion for summary disposition, NEI "does not oppose the DOE motion." Accordingly, because LBP-10-22 definitively resolves the legal issue presented in NEI-SAFETY-05, DOE's motion to dismiss is granted and NEISAFETY-05 is dismissed.</p>	<p style="text-align: center;">UNITED STATES GOVERNMENT ACCOUNTABILITY OFFICE EFFECTS OF A TERMINATION OF THE YUCCA MOUNTAIN REPOSITORY PROGRAM AND LESSONS LEARNED</p>	

MOTIONS AND PLEADINGS

May 2	May 2	May 8
<p><u>NEVADA ANSWER TO U.S. DEPARTMENT OF ENERGY'S MOTION FOR CLARIFICATION AND STATUS REPORT REGARDING</u></p> <p>THE BOARD'S ORDER DATED APRIL 11, 2011</p> <p>The State of Nevada ("Nevada") does not object to the U.S. Department of Energy's ("DOE") motion for clarification and status report regarding the Licensing Board's April 11, 2011 Order. In its Motion, DOE requests that the Board enter an order, clarifying that: (1) DOE is permitted to submit its DOE LSN document collection on high capacity external hard drives; (2) the NRC Secretary will accommodate those LSN documents that meet the standard OCR exceptions from subpart J; and (3) the variations to the Guidance agreed to by DOE, the LSNA, and the technical staff of the Secretary are acceptable.</p> <p>The State of Nevada ("Nevada") does not object to reconsideration or certification of the Licensing Board's April 11, 2011 Order, or to a temporary stay of that Order, as requested by NRC Staff. Nevada believes the Licensing Board's April 11, 2011 Order raises several significant legal and policy issues that could not have reasonably been anticipated, and that a temporary stay of that Order will not harm Nevada. Nevada supports the Board's goal to preserve the electronic accessibility of Yucca Mountain documentary material, but also is sympathetic to the NRC Staff's concern that using ADAMS for this purpose raises issues not considered in the various rulemaking proceeding leading to the LSN. Nevada is not in a position to offer an independent evaluation of the NRC's Staff's arguments regarding the financial and administrative burdens of complying with the Order. Moreover, assuming the NRC Staff's estimates are correct, Nevada cannot tell from NRC Staff's Motion whether sufficient FY-2011 finds are or can be made available for compliance. Accordingly, Nevada takes no position regarding whether, on reconsideration or certification, the Board's Order of April 11, 2011 should be modified.</p>	<p><u>NEVADA ANSWERS TO (1) NRC STAFF REQUEST FOR LEAVE TO FILE MOTION FOR RECONSIDERATION AND MOTION FOR RECONSIDERATION OF THE BOARD'S APRIL 11, 2011 ORDER, OR PETITION FOR CERTIFICATION, AND (2) NRC STAFF MOTION FOR STAY OF APRIL 11, 2011 BOARD ORDER</u></p> <p>The State of Nevada ("Nevada") does not object to reconsideration or certification of the Licensing Board's April 11, 2011 Order, or to a temporary stay of that Order, as requested by NRC Staff. Nevada believes the Licensing Board's April 11, 2011 Order raises several significant legal and policy issues that could not have reasonably been anticipated, and that a temporary stay of that Order will not harm Nevada. Nevada supports the Board's goal to preserve the electronic accessibility of Yucca Mountain documentary material, but also is sympathetic to the NRC Staff's concern that using ADAMS for this purpose raises issues not considered in the various rulemaking proceedings leading to the LSN. Nevada is not in a position to offer an independent evaluation of the NRC's Staff's arguments regarding the financial and administrative burdens of complying with the Order. Moreover, assuming the NRC Staff's estimates are correct, Nevada cannot tell from NRC Staff's Motion whether sufficient FY-2011 finds are or can be made available for compliance. Accordingly, Nevada takes no position regarding whether, on reconsideration or certification, the Board's Order of April 11, 2011 should be modified.</p>	<p><u>STATE OF NEVADA'S NOTICE DUCES TECUM OF THE INTENTION TO TAKE THE ORAL DEPOSITION OF JOHN A. McCLURE</u></p> <p>PLEASE TAKE NOTICE that, pursuant to 10 C.F.R. 2.1019, the State of Nevada will take the deposition of John A. "Art" McClure, at 8:00 a.m., on Thursday, the 7th day of July, 2011. The deposition will be conducted at Hampton Inn Belle Vernon, 1525 Broad Avenue Extension, Belle Vernon, PA 15012 (724.929.8100). John A. "Art" McClure works at Beckman & Associates, Inc., which is located at 1071 State Route 136, Belle Vernon, PA 15012 (724.929.6760). The deposition shall be upon oral examination before, and transcribed by, a duly authorized court reporter. The deposition will be transmitted to the Secretary of the United States Nuclear Regulatory Commission for entry in the electronic docket for this proceeding and may be used in evidence therein. The witness will be examined on the following matters, including such information in relation thereto as is reasonably calculated to lead to the discovery of admissible evidence:</p> <ol style="list-style-type: none"> 1. NEVADA-SAFETY 2. NEVADA-SAFETY-144 <p>John A. "Art" McClure shall produce those documents and materials at the time of his deposition, and ten days prior to his deposition, in the form and on the schedule prescribed in the attached Exhibit A which is incorporated herein for all purposes (10 C.F.R. 2.1019(i)). A copy of the transmittal letter associated with this notice to counsel for the Department of Energy is attached as Exhibit B.</p>

	May 13:	May 16	May 16
	<p><u>CLARK COUNTY, NEVADA'S ANSWER TO THE DEPARTMENT OF ENERGY'S MOTION FOR PROTECTIVE ORDER</u></p> <p>Clark County, Nevada ("Clark County") hereby submits this Answer to the Department of Energy's ("DOE") Motion for Protective Order filed on May 5, 2011 in which DOE seeks to quash two notices of deposition ("Notices of Deposition") issued by the State of Nevada. DOE also suggests that this Board consider indicating that it will not require the parties to accede to deposition requests at least through the end of Fiscal Year 2011. Finally, DOE suggests that the Board instruct the parties to propose a modification to the schedule for the completion of discovery provided in the Second Case Management Order that accounts for Congress' action as to the Fiscal Year 2011 budgets.</p> <p>Whether or not the Board grants DOE's motion for protective order, Clark County respectfully submits that it would be helpful for the Board to convene a conference for purposes of making necessary revisions to CMO#2. If the Board grants DOE's motion for protective order, such conference could be scheduled upon lifting the protective order. If the Board denies DOE's motion, such conference should be scheduled soon</p>	<p><u>STATE OF NEVADA ANSWER TO DOE MOTION FOR PROTECTIVE ORDER</u></p> <p>On May 5, 2011, the U.S. Department of Energy (DOE) moved for a protective order quashing two deposition notices served by the State of Nevada (Nevada). DOE also suggested that the Licensing Board issue an order indicating that it will not require the parties to accede to any additional deposition requests at least through the end of Fiscal Year 2011 (FY 2011) and that a modified schedule for completion of discovery should be developed so that Phase 1 discovery would not close until at least ten months after discovery re-activation.</p> <p>For the reasons set forth below, Nevada does not object to suspending deposition discovery until the end of FY 2011 as requested by DOE provided that, if the suspension is lifted, Nevada (and the other parties) will then be able to exercise their full discovery rights.</p> <p>Conclusion</p> <p>Nevada does not object to suspending deposition discovery through the end of FY 2011 provided that, if the suspension is lifted, Nevada (and the other parties) will then be able to exercise their full discovery rights.</p>	<p><u>U.S. DEPARTMENT OF ENERGY'S MOTION TO SUPPLEMENT ITS MOTION FOR PROTECTIVE ORDER</u></p> <p>On May 5, 2011, the Department of Energy ("DOE") moved for a protective order with respect to two notices of deposition filed by the State of Nevada. DOE noted in its motion that counsel for Nevada had indicated that it intended to notice the depositions of at least 11 additional DOE witnesses within coming weeks. As of May 16, Nevada had filed an additional four notices of deposition. The remaining seven notices, and perhaps additional notices, are expected to be filed soon according to Nevada's answer to DOE's motion. DOE moves the Board to supplement its pending motion for protective order, to include the four additional notices of deposition by Nevada, and any further notices of deposition, for the same reasons and on the same terms as stated in DOE's May 5 motion for a protective order quashing the two notices of deposition that had been filed by that date. Certification Pursuant to 10 CFR § 2.323(b) DOE certifies that, in accordance with 10 CFR § 2.323(b), it has notified all other parties of its intent to file this motion.</p> <p>The following parties stated they had no objection to the motion, but reserved the right to respond to it: Counties of Churchill, Esmeralda, Mineral and Lander; National Association of Regulatory Utility Commissioners; Native Community Action Council; and Nye County.</p> <p>The following parties stated they had no position on the motion, and reserved the right to respond to it: Aiken County; State of California; Clark County; Eureka County; Inyo County; Joint Timbisha Shoshone Tribal Group; Lincoln County; Nuclear Energy Institute; State of Nevada; Prairie Island Indian Community; and State of South Carolina.</p> <p>The remaining parties had not responded as of the time DOE filed this motion.</p>

	May 26		
	<p><u>STATE OF NEVADA WITHDRAWAL OF DEPOSITION NOTICES</u></p> <p>As directed by this Licensing Board in its Memorandum and Order (Granting Motion for Protective Order) dated May 20, 2011 (hereinafter "Order"), the State of Nevada (Nevada) hereby withdraws its recently-issued Notice Duces Tecum of the Intention to Take the Oral Deposition (hereinafter "Deposition Notice") for each of six named party witnesses in this proceeding. Specifically, Nevada withdraws its Deposition Notice for Kevin Coppersmith and its Deposition Notice for Michael Gross, both of which were issued on April 25, 2011, and both of which were quashed by the Order (at 3) of the Licensing Board. In addition, as requested by the Licensing Board's Order (at 3), Nevada also withdraws the Deposition Notice for John McClure issued on May 6, 2011, the Deposition Notice for Michael Anderson issued on May 11, 2011, the Deposition Notice for Edward Thomas issued on May 12, 2011, and the Deposition Notice for Gerald Gordon issued on May 13, 2011. Finally, Nevada will refrain, absent compelling circumstances, from the issuance of any further deposition notices based upon the direction and guidance provided by the Licensing Board in its Order. In view of the pending uncertainties relating to the continuation of the licensing proceeding, these steps seem eminently sound.</p>		