

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

Before the Commission

In the Matter of)	
)	
U.S. DEPARTMENT OF ENERGY)	Docket No. 63-001- HLW
)	
(High-Level Waste Repository))	September 26, 2013
)	

**LINCOLN COUNTY, NEVADA VIEWS REGARDING HOW NRC SHOULD
CONTINUE THE YUCCA MOUNTAIN LICENSING PROCESS**

I. Introduction.

On August 13, 2013, the U.S. Court of Appeals for the District of Columbia Circuit granted a writ of mandamus against the NRC, and directed the agency to “promptly continue with the legally mandated licensing process” associated with the captioned matter.¹ Since that decision was issued, the Commission has received new filings in the proceeding.² In an Order issued August 30, 2013, the Commission invited all participants in the Yucca Mountain licensing proceeding to provide by September 30, 2013 their views as to how the agency should continue with the licensing process. In addition, the August 30, 2013 Secretarial Order invited the participants to include their responses to the Nye County and Nevada motions within their views.

Lincoln County, Nevada is one of 10 Units of Affected Government designated by the Secretary of Energy pursuant to the Nuclear Waste Policy Act, as amended. On December 22, 2008, Lincoln County filed its corrected request to participate as an Interested Governmental Participant pursuant to 10 C.F.R. § 2.315(c). The Commission granted Lincoln County’s request to participate as an Interested Governmental Participant on January 15, 2009. On June 22, 2009,

Lincoln County filed its intent to participate in the following admitted contentions with the Atomic Safety Licensing Board:

CLK-NEPA-003
CAL-NEPA-005
CAL-NEPA-020
NEI-SAFETY-001
NEI-SAFETY-002
NEI-SAFETY-004
NEI-NEPA-001
NEV-NEPA-001
NEV-NEPA-002
NEV-NEPA-003
NEV-NEPA-004
NEV-NEPA-005
NEV-NEPA-006
NEV-NEPA-008
NEV-NEPA-010
NEV-NEPA-013
NEV-NEPA-014
NEV-NEPA-015
JTS-NEPA-007
WHI-NEPA-001
WHI-NEPA-002
WHI-NEPA-003
WHI-NEPA-004

By this filing, Lincoln County reaffirms its intent to participate in the aforementioned admitted contentions as an Interested Government Participant and offers its views as to how the NRC should continue with the licensing process as well as its views on the related Nye County and State of Nevada motions.

II. Views as to How the NRC Should Continue With the Yucca Mountain Licensing Process

Lincoln County believes that the following actions should be taken by the NRC (in order of priority) as a means to continue with the Yucca Mountain licensing process and otherwise comply with the August 13, 2013 decision of the U.S. Court of Appeals for the

District of Columbia Circuit which granted a writ of mandamus against the NRC:

1. Lift the respective NRC and ASLB suspensions of the licensing proceeding.
2. Issue a final, un-redacted version of the Safety Evaluation Report (SER) for the Yucca Mountain Project.
3. Schedule a case management conference for the purpose of restarting the licensing process.

In preparation for said case management conference, the NRC and assigned ASLB should request admitted parties, including interested governmental participants, in the proceeding to describe their continuing commitment to adjudicate and/or participate in admitted contentions and related financial capacity to participate in the licensing process. Decisions by NRC regarding what licensing activities should be undertaken (i.e. reinstatement of Phase I discovery) could then follow the case management conference. To facilitate participation by Nevada parties in the proceeding, the case management conference should be held at a location (i.e. a rented hotel conference room) in Las Vegas, Nevada.

Due to limitations in currently available funding to NRC, DOE state, tribal, and local government parties to the licensing proceeding, each of the aforementioned actions can and should be taken by NRC without reinstating the Licensing Support Network (LSN).

III. Views Regarding August 23, 2013 Nye County Motion

Lincoln County generally agrees with the actions requested of NRC in Nye County's August 23, 2013 motion. Specifically, Lincoln County agrees with Nye County that a) NRC and DOE should not be allowed to use previous improper actions to further delay the licensing proceeding; b) the ASLB should immediately convene a case management hearing; and c) the ASLB should order the immediate issuance of the original unredacted Staff SERs with safety conclusions intact.

IV. Views Regarding August 23, 2013 State of Nevada Motion

Lincoln County disagrees with the State of Nevada's request that the Licensing Support Network (LSN) be reconstituted. Nevada desires to have the texts of relevant documents electronically accessible and searchable. At the request of the ASLB prior to suspension of the licensing proceeding, Lincoln County and all other parties have converted all relevant documents to a PDF format which is searchable and have provided all such documents to NRC. Placement of these documents on the NRC's existing ADAMS document archival system would make said documents electronically accessible and searchable without having to bear the expense of reconstituting and maintaining the LSN.

Lincoln County agrees with the State of Nevada that any in-person hearings required by the Licensing Board as part of the restarted proceeding take place in the Las Vegas, Nevada area.

Lincoln County agrees with the State of Nevada that (Lincoln County would add to the extent possible) the restarted proceeding be conducted by CAB 04. As noted in Nevada's filing, CAB 04 members have extensive and unique experience in addressing the parties and issues in the Yucca Mountain proceeding.

¹ See generally *In re Aiken County*, No. 11-1271 (D.C. Cir. Aug. 13, 2013) (slip op. at 22).

² *Nye County's Motion for Lifting of Suspension of Yucca Mountain Licensing Proceeding, Scheduling of Immediate Case Management Conference, and Issuance of Related Administrative Orders* (Aug. 23, 2013) (identical motions made before the Commission and the Atomic Safety and Licensing Board); *State of Nevada Motion for Commission Action Related to a Possible Restart of the Yucca Mountain Licensing Proceeding* (Aug. 23, 2013).

Dated at Carson City, Nevada
This 26th Day of September 2013

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NUCLEAR REGULATORY COMMISSION**

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Docket No. 63-001-HLW
ASLBP No. 09-892-HLW-CAB04

CERTIFICATE OF
SERVICE

I hereby certify that copies of the foregoing **LINCOLN COUNTY, NEVADA VIEWS REGARDING HOW NRC SHOULD CONTINUE THE YUCCA MOUNTAIN LICENSING PROCESS** dated September 26, 2013, have been served upon the following persons by Electronic Information Exchange and by e-mail. Some participants do not have current digital certificates.

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