

**UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION**

**Before the Commission**

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<b>In the Matter of</b>	)	
	)	
<b>U.S. DEPARTMENT OF ENERGY</b>	)	<b>Docket No. 63-001- HLW</b>
	)	
<b>(High-Level Waste Repository)</b>	)	<b>September 25, 2013</b>
	)	

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**WHITE PINE 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. Since that decision was issued, the Commission has received new filings in the proceeding. 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.

White Pine 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, White Pine County filed its Request for Hearing and Petition for Leave to Intervene Including Supporting Contentions on the Application by the U.S. Department of Energy for

Authority to Construct a Geologic Repository at a Geologic Repository Operations Area at Yucca Mountain pursuant to 10 C.F.R. § 2.309. On May 11, 2009, the Commission granted White Pine County's request For Leave to Intervene and admitted White Pine County contentions WHI-NEPA-001, WHI-NEPA-002, WHI-NEPA-003 and WHI-NEPA-004.

By this filing, White Pine County reaffirms its desire to participate in the Yucca Mountain licensing proceeding and resolution of the County's admitted contentions. However, absent additional funding being provided through appropriations by the Congress through the Department of Energy or other sources to White Pine County, the County will run out of carryover Nuclear Waste Funding on or about October 15, 2013 and will be compelled to terminate its Yucca Mountain oversight initiatives, including participation in the related NRC licensing proceeding, at that time.

Notwithstanding White Pine County's dire fiscal capacity to continue its participation in the Yucca Mountain licensing proceeding, this filing serves to also offer the County's 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. White Pine County Views as to How the NRC Should Continue With the Yucca Mountain Licensing Process**

White Pine 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. Ensure that all parties to the proceeding have access to required levels of funding to effectively participate in subsequent licensing activities prior to issuing orders and

Memorandum regarding the commencement of said activities.

2. Issue, as soon as practical a final un-redacted version of the Safety Evaluation Report (SER) for the Yucca Mountain Project. White Pine County understands that said report was days away from public release before the former Chairman of the Commission ordered NRC staff to withhold its release. As a consequence, White Pine County sees no reason why the final un-redacted version of the SER for Yucca Mountain cannot be issued by NRC in an expeditious manner.

3. Schedule a case management conference for the purpose of restarting the licensing process. Given funding constraints faced by White Pine County and likely other admitted participants to the proceeding, the Commission should immediately solicit information from all parties regarding their financial capacity to participate in the licensing process. A Case Management Conference should then be scheduled (allowing financially constrained parties to participate via teleconference) by the NRC to consider what licensing activities should be undertaken (i.e. reinstatement of Phase I discovery) given the financial capacity of parties to participate in said licensing activities. To facilitate participation by Nevada parties in the proceeding that may be able to afford to travel, the case management conference should be held at a location in Las Vegas, Nevada.

Due to limitations in currently available funding faced by White Pine County and likely other parties to the proceeding including NRC, DOE state, tribal, and local governments, the Commission is encouraged to utilize existing document archival systems available to NRC in lieu of reconstituting the costly and cumbersome Licensing Support Network (LSN). White Pine County believes each of the aforementioned actions can and should be taken by NRC without reinstating the LSN.

### **III. White Pine County Views Regarding August 23, 2013 Nye County Motion**

White Pine County is largely in agreement with the actions requested of NRC in Nye County's August 23, 2013 motion. White Pine 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. White Pine County Views Regarding August 23, 2013 State of Nevada Motion**

White Pine County does not agree with that portion of Nevada's Motion requesting that the Licensing Support Network (LSN) be reconstituted. Nevada states in its motion that it 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, White Pine 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.

White Pine 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. White Pine County concurs with the State of Nevada that resumption of the Yucca Mountain licensing 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.

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Dated at Ely, Nevada  
This 25th Day of September 2013

**UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION**

In the Matter of )

U.S. DEPARTMENT OF ENERGY )  
(High-Level Waste Repository) )

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

CERTIFICATE OF  
SERVICE

I hereby certify that copies of the foregoing **WHITE PINE COUNTY, NEVADA VIEWS REGARDING HOW NRC SHOULD CONTINUE THE YUCCA MOUNTAIN LICENSING PROCESS** dated September 25, 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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