

UNITED STATES OF AMERICA

BEFORE THE SURFACE TRANSPORTATION BOARD

STB FINANCE DOCKET NO. 35106

**UNITED STATES DEPARTMENT OF ENERGY – RAIL
CONSTRUCTION AND OPERATION – CALIENTE RAIL LINE
IN LINCOLN, NYE, AND ESMERALDA COUNTIES, NEVADA**

**NOTICE OF CONSTRUCTION AUTHORIZATION BOARD 04 MARCH 5,
AND MARCH 16, 2010, SCHEDULING ORDERS REGARDING RESPONSES TO
PENDING PETITIONS TO INTERVENE AND U.S. DEPARTMENT OF ENERGY'S
MOTION TO WITHDRAW LICENSE APPLICATION IN NRC DOCKET NO. 63-001**

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March 18, 2010

**NOTICE OF CONSTRUCTION AUTHORIZATION BOARD 04 MARCH 5,
AND MARCH 16, 2010, SCHEDULING ORDERS REGARDING RESPONSES TO
PENDING PETITIONS TO INTERVENE AND U.S. DEPARTMENT OF ENERGY'S
MOTION TO WITHDRAW LICENSE APPLICATION IN NRC DOCKET NO. 63-001**

On March 3, 2010 the United States Department of Energy (DOE) filed with the Construction Authorization Board (CAB or Board) a motion to withdraw the license application for a permanent geologic repository at Yucca Mountain, Nevada which is now pending in Docket No. 63-001 before the Atomic Safety and Licensing Board of the United States Nuclear Regulatory Commission (NRC), specifically Construction Authorization Board 04 (CAB04). Following DOE's Motion, the States of South Carolina and Washington, Aiken County, South Carolina, the Prairie Island Indian Tribe, and the National Association of Regulatory Utility Commissioners have sought to intervene and participate in Docket 63-001, for the purpose of opposing DOE's pending motion to withdraw the license application.

Following docketing of those Petitions to Intervene, CAB04 has issued two scheduling orders, on March 5, and March 16, 2010, for purposes of scheduling the responses to the pending petitions to intervene and to establish a schedule for the participants in Docket 63-001 to file responses to DOE's pending motion to withdraw the license application. See, CAB Order (Concerning Scheduling), ALSBP No. 09-892-HLW-CAB04 (March 5, 2010), and CAB Order (Filing Times for Answers and Replies), ALSBP No. 09-892-HLW-CAB04 (March 16, 2010).

A true copy of the CAB04's March 5, and March 16, 2010, Orders are attached hereto as Exhibits A and B.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that true and correct copies of the foregoing document with exhibits were served on Parties of Record or their designated Counsel either by (1) first-class U.S. mail, postage prepaid, (2) e-mail, or (3) other expeditious method, this 18th day of March, 2010.

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Jeffrey D. Van Niel

EXHIBIT A
(CAB 04 March 5, 2010 Scheduling Order)

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

Thomas S. Moore, Chairman
Paul S. Ryerson
Richard E. Wardwell

In the Matter of

U.S. DEPARTMENT OF ENERGY

(High Level Waste Repository)

Docket No. 63-001-HLW

ASLBP No. 09-892-HLW-CAB04

March 5, 2010

ORDER
(Concerning Scheduling)

Before the Board are several related matters. First, the Department of Energy (DOE) has moved to withdraw its application.¹ Second, the State of South Carolina (South Carolina), the State of Washington (Washington), and Aiken County, South Carolina (Aiken County) have each petitioned to intervene, challenging whether DOE's motion should be granted and, if so, on what terms.² Third, the parties have not yet been afforded an opportunity to comment on DOE's filings regarding the preservation and archiving of its Licensing Support Network (LSN) document collection.³

The stay imposed by our February 16, 2010 Order does not prevent briefing of these matters, which shall proceed as follows:

¹ U.S. Department of Energy's Motion to Withdraw (Mar. 3, 2010).

² Petition of the State of South Carolina to Intervene (Feb. 26, 2010); State of Washington's Petition for Leave to Intervene and Request for Hearing (Mar. 3, 2010); Petition of Aiken County, South Carolina, to Intervene (Mar. 4, 2010).

³ The Department of Energy's Answers to the Board's Questions at the January 27, 2010 Case Management Conference (Feb. 4, 2010); The Department of Energy's Status Report on Its Archiving Plan (Feb. 19, 2010); see CAB Order (Granting Stay of Proceeding) (Feb. 16, 2010) at 2 (unpublished) (stating that a schedule for further filings regarding the preservation and archiving of the LSN documentation collection will be set in a subsequent order).

1. In accordance with CAB Case Management Order #1⁴ and Commission regulations,⁵ answers to the South Carolina, Washington and Aiken County petitions would ordinarily be due 25 days after service, and replies due seven days thereafter. For convenience, there shall be common filing dates: that is, answers to the three petitions shall be due Monday, March 29, 2010, and the replies of South Carolina, Washington and Aiken County shall be due Monday, April 5, 2010. To the extent practicable, the parties are encouraged to file answers jointly with other parties asserting similar positions.

2. The ten-day deadline for answers to DOE's motion to withdraw is waived.⁶ The Board will set a time for responses to DOE's motion to withdraw after it has determined whether South Carolina, Washington and Aiken County shall be permitted to intervene.

3. The Board expects shortly to seek written responses from DOE to additional questions concerning DOE's LSN collection. After the Board's questions have been answered, we will establish a schedule for comments by the parties on DOE's preservation and archiving plans.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

Thomas S. Moore, Chairman
ADMINISTRATIVE JUDGE

Rockville, Maryland
March 5, 2010

⁴ CAB Case Management Order #1 (Jan. 29, 2009) at 3 (unpublished).

⁵ See 10 C.F.R. § 2.309(h)(1)-(2).

⁶ See *id.* at § 2.323(c).

EXHIBIT B
(CAB 04 March 16, 2010 Scheduling Order)

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

Thomas S. Moore, Chairman
Paul S. Ryerson
Richard E. Wardwell

In the Matter of
U.S. DEPARTMENT OF ENERGY
(High Level Waste Repository)

Docket No. 63-001-HLW
ASLBP No. 09-892-HLW-CAB04
March 16, 2010

ORDER
(Filing Times for Answers and Replies)

The provisions of 10 C.F.R. § 2.309(h) shall control the time for filing answers to the newly filed intervention petitions of the National Association of Regulatory Utility Commissioners and the Prairie Island Indian Community and the time for filing any replies. In the event any additional intervention petitions are filed, those same provisions shall control the time period for filing answers and replies.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

Thomas S. Moore, Chairman
ADMINISTRATIVE JUDGE

Rockville, Maryland
March 16, 2010

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 ORDER (FILING TIMES FOR ANSWERS AND REPLIES), dated March 16, 2010, have been served upon the following persons by Electronic Information Exchange.

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U.S. DEPARTMENT OF ENERGY (High Level Waste Repository) Docket No. 63-001-HLW
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U.S. DEPARTMENT OF ENERGY (High Level Waste Repository) Docket No. 63-001-HLW
ORDER (FILING TIMES FOR ANSWERS AND REPLIES)

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U.S. DEPARTMENT OF ENERGY (High Level Waste Repository) Docket No. 63-001-HLW
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U.S. DEPARTMENT OF ENERGY (High Level Waste Repository) Docket No. 63-001-HLW
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