

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

BEFORE THE COMMISSION

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| In the Matter of |) | |
| |) | September 30, 2013 |
| U.S. DEPARTMENT OF ENERGY |) | |
| |) | Docket No. 63-001-HLW |
| (High Level Waste Repository |) | |
| Construction Authorization Application) |) | |

**U.S. DEPARTMENT OF ENERGY'S RESPONSE TO THE COMMISSION'S
AUGUST 30, 2013 ORDER**

Ben McRae
U.S. DEPARTMENT OF ENERGY
Office of General Counsel
Department of Energy
1000 Independence Avenue, S.W.
Washington, D.C. 20585

Donald P. Irwin
Michael R. Shebelskie
HUNTON & WILLIAMS LLP
Riverfront Plaza, East Tower
951 East Byrd Street
Richmond, Virginia 23219-4074

Counsel for the U.S. Department of Energy

On August 13, 2013, the U.S. Court of Appeals for the D.C. Circuit issued a writ of mandamus ordering the Nuclear Regulatory Commission to resume its review of the Yucca Mountain license application. The mandamus order requires the Commission to move forward with the licensing proceeding “unless and until Congress authoritatively says otherwise or there are no appropriated funds remaining.” On August 30, 2013, the Nuclear Regulatory Commission issued an order inviting all participants in the proceeding to provide their views as to how the agency should continue with the licensing process in light of the writ of mandamus.

As the Department of Energy (the Department) has consistently stated, it will comply fully with the law. The Department is committed to complying as expeditiously as possible with any NRC order, subject to the availability of funds. As of August 30, 2013, the Department had approximately \$15.4 million in unobligated carryover funds that could be used to support participation in the licensing proceeding as ordered by the Commission. The Department estimates that it also has a total of \$29.5 million in carryover funds that were previously appropriated in the Nuclear Waste Disposal and Defense Nuclear Waste Disposal accounts, but that are currently obligated on existing contracts. Of these obligated funds, the Department estimates that \$18.1 million is obligated on contracts that are relevant and could be used to support the NRC licensing proceeding. Any of the remaining \$11.4 million in obligated funds would have to be deobligated before they could be used to support the NRC licensing proceeding.

The Department defers to the discretion of the Commission as to the most expeditious and cost-effective manner in which to move forward with the licensing process in light of the writ of mandamus. In doing so, the Department respectfully requests that, in exercising its discretion, the Commission consider the limited funds available to support the proceeding.

Respectfully submitted,

U.S. DEPARTMENT OF ENERGY

By Electronically Signed by Donald P. Irwin and
Michael R. Shebelskie

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Donald P. Irwin
Michael R. Shebelskie
HUNTON & WILLIAMS LLP
Riverfront Plaza, East Tower
951 East Byrd Street
Richmond, Virginia 23219-4074

Ben McRae
U.S. DEPARTMENT OF ENERGY
Office of General Counsel
Department of Energy
1000 Independence Avenue, S.W.
Washington, DC 20585

Counsel for the U.S. Department of Energy

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CERTIFICATE OF SERVICE

I hereby certify that copies of the **U.S. DEPARTMENT OF ENERGY'S RESPONSE TO THE COMMISSION'S AUGUST 30, 2013 ORDER** have been served on the following persons on this 30th day of September, 2013 through the Nuclear Regulatory Commission's Electronic Information Exchange.

CAB 04

Atomic Safety and Licensing Board Panel

Thomas S. Moore, Chair

E-mail: tsm2@nrc.gov

Paul S. Ryerson

E-mail: psr1@nrc.gov

Richard E. Wardwell

E-mail: rew@nrc.gov

Parties Served

Adams, Marta

Aiyar, Priya R.

Alleyne, Silma

Andersen, Robert M.

Bailey, Annie

Barlow, Gregory

Baughman, Mike

Bell, Kevin W.

Berkey, Curtis

Berger, Michael

E-mail Addresses

madams@ag.nv.gov

Priya.aiyar@hq.doe.gov

salleyne@jsslw.com

randerson@clarkhill.com

baileys@lcturbonet.com

lcda@lcturbonet.com

mikebaughman@charter.net

kwbell@energy.state.ca.us

cberkey@abwwlaw.com

michael@lawofficeofmichaelberger.com

| | |
|--------------------------------|---|
| Beutel, Theodore | tbeutel.ecda@eurekanv.org |
| Bielecki, Jessica A. | jessica.bielecki@nrc.gov |
| Bollwerk III, G. Paul | paul.bollwerk@nrc.gov |
| Bonanno, Jerry | jxb@nei.org |
| Borski, Laurie | lborski@nuclearlawyer.com |
| Bowdenberry, Elva | elva.bowdenberry@nrc.gov |
| Bowers, Todd | toddb@atg.wa.gov |
| Brooks, Felicia M. | fbrooks@ndnlaw.com |
| Brown, Kelly | kbrown@mwpower.net |
| Clare, Christopher | cclare@clarkhill.com |
| Colburn, Ross | rcolburn@ndnlaw.com |
| Crosland, Martha S. | Martha.Crosland@hq.doe.gov |
| Curran, Diane | dcurran@harmoncurran.com |
| Dinunzio, Nicholas | Nicholas.dinunzio@hq.doe.gov |
| Dobie, Julie | jdobie@gklaw.com |
| Durbin, Susan | susan.durbin@doj.ca.gov |
| Farnsworth, Jody | jfarnsworth@naruc.org |
| Fitz, Andrew | andyf@atg.wa.gov |
| Fitzpatrick, Charles J. | cfitzpatrick@nuclearlawyer.com |
| Francis, Karin | Karin.francis@nrc.gov |
| Fraser, Matthew | mfraser@harmoncurran.com |
| Frishman, Steve | steve.frishman@hotmail.com |
| Gitter, Rebecca | rll@nrc.gov |
| Gores, Jennifer A. | jgores@armstrongteasdale.com |
| Gottshall, Thomas R. | tgottshall@hsblawfirm.com |
| Graser, Daniel J. | djg2@nrc.gov |
| Hanna, Robert S. | robert@lawofficeofmichaelberger.com |
| Harkavy, Anne | anne.harkavy@hq.doe.gov |
| Hearing Docket | hearingdocket@nrc.gov |
| Hembacher, Brian | brian.hembacher@doj.ca.gov |
| Horin, William | whorin@winston.com |
| Houck, Darcie L. | dhouck@ndnlaw.com |
| James, Gregory L. Esq. | gljames@earthlink.net |
| Julian, Emile | Emile.julian@nrc.gov |
| Kennedy, Joe | joekennedy08@live.com |
| Keskey, Don | donkeskey@publiclawresourcenter.com |
| Kirstein, Josh | josh.kirstein@nrc.gov |
| Klevorick, Phil | klevorick@clarkcountynv.gov |
| Kuyler, Raphael P. | rkuyler@morganlewis.com |
| Larimore, Patricia | plarimore@talisman-intl.com |
| Leigh, Rovicane | rleigh@abwwlaw.com |
| Lenahan, Daniel | daniel.lenahan@nrc.gov |
| Lewman, Shelbie R. | shelbie.lewman@nrc.gov |
| List, Robert F. | rlist@armstrongteasdale.com |
| Lynch, Susan | slynch1761@gmail.com ; szeee@nuc.state.nv.us |
| MacDonald, Diana | dianam@atg.wa.gov |

| | |
|---|--|
| Mahowald, Phillip | pmahowald@piic.org |
| Martinez, Melanie | wpnucwst2@mwpower.net |
| Mathias, Linda | yuccainfo@mineralcountynv.org |
| McRae, James Bennett | ben.mcrae@hq.doe.gov |
| Mercado, Michele | michele.mercado@doj.ca.gov |
| Miller, Cynthia | cmiller@psc.state.fl.us |
| Miras-Wilson, Rachel | rwilson@winston.com |
| Moldenhauer, Charles | cmoldenhauer@morganlewis.com |
| Montesi, Susan | smontesi@nuclearlawyer.com |
| Moore, Thomas S. | thomas.moore@nrc.gov |
| Mueller, Edwin | muellered@msn.com |
| Murphy, Malachy | mrmurphy@chamberscable.com |
| Nelson, Sharon | sharonn@atg.wa.gov |
| Nezhad, Cyrus | cyrus.nezhad@hq.doe.gov |
| OCAA Mail Center | OCAAEMAIL@nrc.gov |
| Pitchford, Loreen, LSN Coordinator | lpitchford@comcast.net |
| Pitts, Jason | jayson@idtservices.com |
| Poindexter, Thomas | tpoindexter@morganlewis.com |
| Polansky, Alex | apolonsky@morganlewis.com |
| Ramsay, James | jramsay@naruc.org |
| Repka, David A. | drepka@winston.com |
| Rhoan, Robert | rrhoan@ndnlaw.com |
| Richards, Cathreen | crichards@inyocounty.us |
| Ryerson, Paul S. | psr1@nrc.gov |
| Sandoval, Celeste | csandoval@co.nye.nv.us |
| Schwartz, Jacqueline | jschwartz@gklaw.com |
| Shealy, Ross | rshealy@hsblawfirm.com |
| Silberg, Jay E. | jay.silberg@pillsburylaw.com |
| Silverman, Donald | dsilverman@morganlewis.com |
| Simkins, Connie | jcciac@co.lincoln.nv.us |
| Simon, Mike | wpnucwst1@mwpower.net |
| Sisco, Carlos L. | csisco@winston.com |
| Staton, Shannon | sstaton@morganlewis.com |
| Sullivan, Timothy E. | timothy.sullivan@doj.ca.gov |
| Taylor, Jane K. | jane.taylor@hq.doe.gov |
| Vibert, Elizabeth A. | Elizabeth.Vibert@ccdandv.com |
| Walsh, Timothy J. | timothy.walsh@pillsburylaw.com |
| Wardwell, Richard E. | rew@nrc.gov |
| Webb, Maria | maria.webb@pillsburylaw.com |
| Woodington, Kenneth | kwoodington@dml-law.com |
| Wright, Megan A. | Megan.Wright@nrc.gov |
| Young, Mitzi A. | may@nrc.gov |
| Zabarte, Ian | mrizabarte@gmail.com |

U.S. DEPARTMENT OF ENERGY

By Electronically Signed by Stephanie E. Meharg

Donald P. Irwin
Michael R. Shebelskie
HUNTON & WILLIAMS LLP
Riverfront Plaza, East Tower
951 East Byrd Street
Richmond, Virginia 23219-4074

Ben McRae
U.S. DEPARTMENT OF ENERGY
Office of General Counsel
Department of Energy
1000 Independence Avenue, S.W.
Washington, DC 20585

Counsel for the U.S. Department of Energy