

February 2009

High-level Waste Hearings Summary Table

The following table summarizes

- The Request for Additional Information,
- Scheduled Bridge Line meetings for February,
- and the Electronic Hearing Docket Notices for February, 2008.

(Note: full text documents located here: http://hlwehd.nrc.gov/public_hlw-ehd/

Replies and answers – located here <http://www.trackhearings.com/index-4.html>

The following table is broken up into three categories and color coded as follows:

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ORDERS Electronic Hearing Docket Board Orders for February (CAB01)

Date	February 9	February 10	February 12th
	<p>ORDER (Designating CAB01 to Conduct Conference) The January 16, 2009 notice established three construction authorization boards (CABs) to preside, inter alia, over the proceeding involving the United States Department of Energy's application for construction authorization of a high-level waste repository at Yucca Mountain.1 The Chief Administrative Judge hereby designates Licensing Board CAB01 to conduct the first prehearing conference, pursuant to 10 C.F.R. § 2.1021, and all related matters. It is so ORDERED.</p>	<p>NOTICE OF CONFERENCE CALL (Schedule for Telephonic First Prehearing Conference) On February 9, 2009, the Chief Administrative Judge designated Licensing Board CAB01 to conduct the first prehearing conference called for in 10 C.F.R. § 2.1021 and noted in the Commission's schedule for the proceeding in CLI-08-25, 68 NRC __, __ (Oct. 17, 2008), 73 Fed. Reg. 63,029, 63,032 (Oct. 22, 2008). The purpose of this notice is to announce that the Board currently intends to hold the Section 2.1021 first prehearing conference via telephone conference. The telephone conference will be held on March 12, 2009 at 1:00 p.m. EST. The Board will set forth the details and the agenda for the conference in a future order.</p>	<p>NOTICE (Setting Date for Argument on Admissibility of Contentions) On January 16, 2009, the Chief Administrative Judge established three Licensing Boards, denoted construction authorization boards (CABs), to preside, inter alia, over the proceeding involving the United States Department of Energy's (DOE) application for construction authorization of a high-level waste repository at Yucca Mountain in Nye County, Nevada.1 On March 31, April 1, and April 2, 2009, the three Boards plan to conduct oral argument on matters pending therein at the Nuclear Regulatory Commission's Las Vegas Hearing Facility (LVHF), Pacific Enterprise Plaza, Building 1, 3250 Pepper Lane, Las Vegas, Nevada. The terms of, and more information about, the oral argument will be announced in a future order.</p>
Date	February 20th	Continued	February 23
	<p>MEMORANDUM AND ORDER (Revisions to the Joint Proposed Sixth Case Management Order) On January 16, 2008, the Pre-License Application Presiding Officer (PAPO) Board received the Revised Case Management Order Governing Classified Information (RCMO), protective order, and non-disclosure agreement requested by the Board at the December 2, 2008 case management conference.1 The RCMO addressed concerns raised by this Board over language in the original proposed Joint Case Management Order governing the State of Nevada's access to classified information. Upon reviewing the RCMO, we determined, however, that there are certain areas that remain unaddressed by the RCMO and for that reason; we are calling on the parties to confer and to come to agreement on the logistical aspects of Nevada's access to classified information. Part I of this Order contains proposed changes to specific provisions of the RCMO. We request that the DOE, the NRC Staff, and the State of Nevada review the proposed changes and inform the Board in writing of any objections within 21 days of this Order. Any filing objecting to the proposed changes should fully explain the basis of the objection and, if appropriate, provide alternative proposed language correcting the problem. Part II of this Order sets forth a number of matters upon which the three parties should confer and propose language to be</p>	<p>added to the RCMO to resolve such matters. The proposed amendments also shall be filed within 21 days of this Order. a. Issues to be resolved by DOE, Staff, and Nevada DOE, Staff, and Nevada should confer and reach agreement on the following matters. the CABs set 30 days as a reasonable time to file a new or amended contention based on the availability of subsequently filed information, absent a timely request for an extension.2 Do the parties intend to follow this deadline for classified information, and if not, what provision allowing adequate time for Nevada to gain access to, review, and formulate contentions or other pleadings from classified information should be included in the RCMO? b. What are the services and equipment that will be provided to Nevada for reviewing and producing contentions or other pleadings based upon Classified Information at the Secure Facilities of DOE and the NRC? c. Who will bear the cost of services and equipment necessary for Nevada's access to Classified Information, i.e., facility space for review of classified information, computers, and any other materials necessary to produce contentions? d. How will the derivative work product of Nevada be fully protected from personnel of DOE and NRC?</p>	<p>ORDER (Denying Motion for Extension of Time) On February 23, 2009 the Native Community Action Council (NCAC) moved for an extension of time of 15 days within which to file its reply to the Answer of the United States Department of Energy (DOE) to the NCAC's Petition to intervene in the above-captioned proceeding. Pursuant to 10 C.F.R. § 2.323 (b), a motion must be rejected if it does not include a certification by the attorney or representative of the moving party that the movant has made a sincere effort to contact other parties in the proceeding and resolve the issue(s) raised in the motion, and that the movant's efforts to resolve the issue(s) have been unsuccessful. NCAC's motion for a 15-day extension of time is DENIED for failure to follow the above cited regulation. It is so ORDERED.</p>

		e. RCMO - Page 11, Reservation of Rights – Does the reservation of rights provision also need to include the NRC Staff? Is there any reason why it would ever need to include Nevada?	
Electronic Hearing Docket Notices for February			
Date		February 9	February 10
	<p>ANSWER OF THE STATE OF NEVADA TO NUCLEAR ENERGY INSTITUTE'S PETITION TO INTERVENE: The State of Nevada (Nevada) believes the Nuclear Energy Institute's (NEI's) Petition to Intervene in this proceeding (Petition) should be denied for lack of standing, and that NEI's request for discretionary standing and intervention must be Rejected. Furthermore, NEI's proposed safety contentions fail to comply with 10 C.F.R. § 2.309(f) and should all be rejected. Nevada takes no position on the admissibility of NEI's NEPA contentions.</p>	<p>NRC STAFF ANSWER TO INTERVENTION PETITIONS Summary: Caliente Hot Springs Resort, Native Community Action Council, and Nuclear Energy Institute have not established their standing to intervene in this proceeding, nor have they proposed an admissible contention. Therefore, their requests to intervene in this proceeding should be denied.</p> <p>Certain of the petitioners (<i>i.e.</i>, the State of California; Clark County, Nevada; the County of Inyo California; the Nevada Counties of Churchill, Esmeralda, Lander and Mineral; the Timbisha Shoshone Tribe;¹³ and White Pine County, Nevada) that have established standing have failed to proffer an admissible contention, and therefore, in accordance with 10 C.F.R. § 2.309(a), their requests to intervene in this proceeding should be denied. The State of Nevada and Nye County, Nevada have standing and have proffered at least one admissible contention. Finally, the Staff does not oppose the requests of Eureka County, Nevada and Lincoln County, Nevada to participate as interested governmental participants pursuant to 10 C.F.R. § 2.315(c).</p>	<p>U.S. DEPARTMENT OF ENERGY'S ANSWER OPPOSING STATE OF NEVADA'S MOTION TO AMEND PETITION TO INTERVENE AS A FULL PARTY: In its Motion, Nevada seeks leave to amend one of its contentions—contention "NEV-SAFETY-03-Quality Assurance Implementation" (NEV-SAFETY-03)¹—and submits the proposed amendment pursuant to 10 C.F.R. § 2.309(f)(2). Nevada's Motion and amended contention should be rejected for numerous reasons. First, while Nevada conferred with DOE regarding its Motion and amended contention, as required by 10 C.F.R. § 2.323(b), it did not certify that it also conferred with the NRC Staff (or any other potential parties). Nevada's filing "must be rejected" for this reason alone. 10 C.F.R. § 2.323(b). Nevada is represented by experienced counsel and strict adherence to applicable procedural requirements is essential if this proceeding is to be prosecuted in a timely and efficient manner. Second, as discussed further below, Nevada's filing is neither timely, nor made with the requisite "good cause" for a non-timely filing, contrary to 10 C.F.R. §§ 2.309(f)(2) and (c)(1). Indeed, the filing is based on information that was available to Nevada long before it filed its Petition on December 19, 2008 and that in any event is not material to the proceeding. Finally, the filing must also be rejected, because it fails to meet all of the requirements for admissibility set forth in 10 C.F.R. § 2.309(f)(1). Accordingly, Nevada's request to amend contention NEV-SAFETY-03 should be denied.</p>
Date	February 10	February 13	February 17
	<p>NOTICE OF CONFERENCE CALL (Schedule for Telephonic First Prehearing Conference) On February 9, 2009, the Chief Administrative Judge designated Licensing Board CAB01 to conduct the first prehearing conference called for in 10 C.F.R. § 2.1021 and noted in the Commission's schedule for the proceeding in CLI-08-25, 68 NRC__, __ (Oct. 17, 2008), 73 Fed. Reg. 63,029, 63,032 (Oct. 22, 2008). The purpose of this notice is to announce that the Board currently intends to hold the Section 2.1021 first prehearing conference</p>	<p>THE NUCLEAR ENERGY INSTITUTE'S MOTION TO STRIKE NEVADA'S ANSWER TO THE NUCLEAR ENERGY INSTITUTE'S PETITION TO INTERVENE Pursuant to 10 C.F.R. 5 2.323(c), the Nuclear Energy Institute ("NEI") hereby moves to strike the February 9,2009 "Answer of the State of Nevada to Nuclear Energy Institute's Petition To Intervene" ("Nevada's Answer7).⁷ Commission regulations explicitly provide that answers to intervention petitions and contentions may only be filed by "the applicant/licensee, the NRC Staff, and any other</p>	<p>ERRATA TO ANSWER OF THE U.S. DEPARTMENT OF ENERGY TO THE STATE OF NEVADA'S PETITION TO INTERVENE It has come to the U.S. Department of Energy's attention that its Answer to the State of Nevada's Petition to Intervene, filed on January 16, 2009, contains minor errors, mostly to citations, on nine pages of the 2048 page document.</p>

	<p>via telephone conference. The telephone conference will be held on March 12, 2009 at 1:00 p.m. EST. The Board will set forth the details and the agenda for the conference in a future order. FOR THE ATOMIC SAFETY AND LICENSING BOARD</p> <hr/> <p>William J. Froehlich, Chairman</p>	<p>party to a proceeding." 10 C.F.R. 5 2.30901) (emphasis added). Non-parties may not file answers. Whether or not Nevada has legal standing pursuant to 10 C.F.R. 5 2.309(d)(2)(i), it has no admitted contentions pursuant to 10 C.F.R. 5 2.309(f)(l) and therefore is not a party to this proceeding. 10 C.F.R. §5 2.309(d)(2)(iii), 2.1001 (definition of "party"). Thus, whereas DOE and the NRC Staff are permitted to file answers to NEI's intervention petition and contentions, Nevada is not. Consequently, Nevada's Answer should be struck from the record.</p>	
Date	February 20	continued	February 23
	<p>MEMORANDUM AND ORDER (Revisions to the Joint Proposed Sixth Case Management Order) On January 16, 2008, the Pre-License Application Presiding Officer (PAPO) Board received the Revised Case Management Order Governing Classified Information (RCMO), protective order, and non-disclosure agreement requested by the Board at the December 2, 2008 case management conference.¹ The RCMO addressed concerns raised by this Board over language in the original proposed Joint Case Management Order governing the State of Nevada's access to classified information. Upon reviewing the RCMO, we determined, however, that there are certain areas that remain unaddressed by the RCMO and for that reason; we are calling on the parties to confer and to come to agreement on the logistical aspects of Nevada's access to classified information. Part I of this Order contains proposed changes to specific provisions of the RCMO. We request that the DOE, the NRC Staff, and the State of Nevada review the proposed changes and inform the Board in writing of any objections within 21 days of this Order. Any filing objecting to the proposed changes should fully explain the basis of the objection and, if appropriate, provide alternative proposed language correcting the problem. Part II of this Order sets forth a number of matters upon which the three parties should confer and propose language to be added to the RCMO to resolve such matters. The proposed amendments also shall be filed within 21 days of this Order.</p>	<p>b. Issues to be resolved by DOE, Staff, and Nevada DOE, Staff, and Nevada should confer and reach agreement on the following matters. the CABs set 30 days as a reasonable time to file a new or amended contention based on the availability of subsequently filed information, absent a timely</p> <p>c. request for an extension.² Do the parties intend to follow this deadline for classified information, and if not, what provision allowing adequate time for Nevada to gain access to, review, and formulate contentions or other pleadings from classified information should be included in the RCMO?</p> <p>d. What are the services and equipment that will be provided to Nevada for reviewing and producing contentions or other pleadings based upon Classified Information at the Secure Facilities of DOE and the NRC?</p> <p>c. Who will bear the cost of services and equipment necessary for Nevada's access to Classified Information, i.e., facility space for review of classified information, computers, and any other materials necessary to produce contentions?</p> <p>d. How will the derivative work product of Nevada be fully protected from personnel of DOE and NRC?</p> <p>e. RCMO - Page 11, Reservation of Rights – Does the reservation of rights provision also need to include the NRC Staff? Is there any reason why it would ever need to include Nevada?</p>	<p>JOINT MOTION BY EUREKA, CHURCHILL, CLARK, ESMERALDA, INYO, LANDER, LINCOLN, MINERAL, NYE, AND WHITE PINE COUNTY'S TO IMPLEMENT AND INSTITUTIONALIZE WEBCASTING OF YUCCA MOUNTAIN-RELATED PROCEEDINGS: Pursuant to 10 C.F.R. § 2.323, Eureka County, Churchill County, Clark County, Esmeralda County, Lander County, Lincoln County, Mineral County, Nye County, and White Pine County, Nevada; and Inyo County, California ("Petitioners") request the U.S. Nuclear Regulatory Commission ("NRC" or "Commission") to immediately implement and institutionalize the webcasting of all Yucca Mountain-related proceedings henceforth, including oral arguments, adjudicatory conferences, and hearings. Petitioners previously requested the same relief before the Commission in a motion dated June 18, 2008. The Secretary of the Commission returned the motion as "premature," stating that it could be re-submitted when a proceeding is commenced on the U.S. Department of Energy's ("DOE's") application for a license for the Yucca Mountain repository. Letter from Annette L. Vietti-Cook to Diane Curran (July 9, 2008). Now that the Yucca Mountain licensing proceeding has formally commenced with the establishment of three Atomic Safety and Licensing Board ("ASLB") panels, Petitioners are renewing their request. Proceeding has formally commenced with the establishment of three Atomic Safety and Licensing Board ("ASLB") panels, Petitioners are renewing their request..... For the foregoing reasons, Petitioners respectfully request that the Commission immediately implement and institutionalize a policy of webstreaming all future oral arguments, conferences, and evidentiary proceedings with respect to the licensing proceeding for the Yucca Mountain repository.</p>

Date	February 23	February 23	February 23
	<p>ORDER (Denying Motion for Extension of Time) On February 23, 2009 the Native Community Action Council (NCAC) moved for an extension of time of 15 days within which to file its reply to the Answer of the United States Department of Energy (DOE) to the NCAC's Petition to intervene in the above-captioned proceeding. Pursuant to 10 C.F.R. § 2.323 (b), a motion must be rejected if it does not include a certification by the attorney or representative of the moving party that the movant has made a sincere effort to contact other parties in the proceeding and resolve the issue(s) raised in the motion, and that the movant's efforts to resolve the issue(s) have been unsuccessful. NCAC's motion for a 15-day extension of time is DENIED for failure to follow the above cited regulation. It is so ORDERED.</p>	<p>CALIENTE HOT SPRINGS RESORT LLC's (CHS) REPLY TO U.S. DEPARTMENT OF ENERGY'S (DOE) ANSWER TO CHS' PETITION TO INTERVENE In accordance with 10 C.F.R. Section 2.309, CHS files its Reply to the Answer to the Petition to intervene (Petition). I. FAILURE TO FILE TIMELY ELECTRONICALLY CHS' counsel (counsel) is not experienced in matters before this Commission and apologizes to the Commission that, although CHS's Petition was mailed (December 19, 2008) and received by the Commission timely (December 22, 2009), it was not filed timely electronically (filed electronically on January 5, 2009). On December 19, 2009, after filing the Petition by U.S. Mail, counsel for CHS left for Montana to visit remote locations without computer access. Counsel was able to speak to NRC staff after December 22, 2009 and before January 1, 2009 by telephone from Montana in response to two voice mail messages from NRC staff concerning the need for CHS to file electronically. At that time, counsel informed staff that he would not have physical access to his computer to make an electronic filing until January 5, 2009, which was done. The basis for late filing was not included in the Petition because counsel did not know that the Petition required electronic filing. CHS respectfully requests the Commission through its Presiding Officer in this matter to allow CHS pursuant to the authority of 10 C.F. R. Section 2.309(c)(1) to proceed in this matter in accordance with the contention stated in the Petition as a reasons therefore states as follows: (i) The causes of the late filing of the Petition were counsel's inexperience in the VI. CONCLUSION CHS and counsel respectfully request that CHS be allowed to maintain CHS' Contention without regard to the tardiness of its electronic filings or the fact that it has no volume of paper to add to the LSI\J. It will make for a fairer proceeding and better record if the problems stated in CHS' Contention get open-minded treatment and solutions are found before the Commission adopts DOE's "consolation prize" that resulted when the Walker Lake Paiutes did a 180 on the Mina Route (DOE's preferred route and the "preferred alternative"), thereby leaving DOE to chase the Caliente Alternative (non-preferred or substandard route). Everyone knows that the Caliente Route to Yucca Mountain</p>	<p>STATE OF NEVADA ANSWER TO NUCLEAR ENERGY INSTITUTE MOTION TO STRIKE On February 13, 2009, the Nuclear Energy Institute (NEI) moved to strike the State of Nevada's (Nevada's) Answer to NEI's Petition to Intervene. NEI argues that Nevada cannot answer NEI's Petition because it is not a "party" within the meaning of 10 C.F.R. § 2.309(h)(1). Nevada anticipated that such a motion might be filed, and included a potential answer in its Answer. However, Nevada answers again below. 10 C.F.R. § 2.309(h)(1) provides that "the applicant/licensee, the NRC staff, and any other party to the proceeding" may answer a petition to intervene. NEI objects that Nevada cannot answer and oppose NEI's Petition because it is not a "party" within the meaning of 10 C.F.R. § 2.309(h)(1). This would mean that Nevada may be forced to litigate against an additional party (NEI) advocating the licensing of Yucca Mountain without being afforded any opportunity to object to that party's standing or contentions, which is patently unfair. Such an unfair result is easily avoided by a fair and reasonable reading of the regulations. NEI's opposition to Nevada's right to file must depend on the proposition that, when answers to timely petitions are due, only DOE and NRC Staff will qualify as "parties" who are entitled to file answers under 10 C.F.R. § 2.309(h)(1). However, under the definition of "party" in 10 C.F.R. § 2.1001, Nevada, affected units of local government, and affected Indian Tribes are already designated as "parties." NEI wrongly assumes that to be a "party," Nevada, affected units of local government, and affected Indian Tribes must be admitted as a party by some adjudicatory action, separate from and in addition to their designation as "parties" in 10 C.F.R. § 2.1001. However, 10 C.F.R. § 2.1001 defines "party" to include DOE, NRC Staff, Nevada, affected units of local government, and affected Indian Tribes, and <i>then</i> provides that "a person <i>admitted</i> under § 2.309 to the proceeding" would also be a "party" [emphasis added]. The Commission must have considered whether adjudicatory "admission" should be a precondition to party status and decided in the affirmative for "persons," but in the negative for DOE, NRC Staff, Nevada, affected units of local government, and affected Indian Tribes. To be sure, there is a proviso at the end of the definition of party in § 2.1001 that Nevada, an af-</p>

		<p>is substandard and not preferred: DOE said so in its FEIS, just exactly that in no uncertain terms. But, there does not have to be a complete muck-up.</p>	<p>affected unit of local government, or an affected Indian Tribes "files a list of contentions in accordance with the provisions of § 2.309." However, to be consistent with the preceding text, the proviso must be construed as a condition subsequent whereby party status, granted by regulation, is revoked by adjudicatory decision if no admissible contention is filed. Moreover, the proviso language uses the word "files," looking to the future. If NEI were correct that the proviso is a condition precedent, the language here would have been "filed." The Commission knows the difference between tenses, and the corresponding difference between conditions subsequent and conditions precedent, because it used the past tense "admitted" when it established when "persons" would qualify as parties in the definition.</p> <p>NEI cannot offer any reason why the Commission would have wanted to preclude Nevada and the others from answering timely petitions and contentions, but then allow them to answer untimely ones filed after they are admitted as parties.</p> <p>The text is clear: Nevada, affected units of local government, and affected Indian Tribes, are already designated as "parties" for the purpose of applying 10 C.F.R. § 2.309(h)(1), will remain so at least until after answers are due, and are entitled to file answers.</p> <p>Finally, 10 C.F.R. § 2.309(h) provides that § .309(h)(1) applies "[u]nless otherwise specified by the Commission, the presiding officer, or the Atomic Safety and Licensing Board designated to rule on requests for hearings or petitions for leave to intervene." Therefore, even if Nevada is not now a party, it may request permission to file an answer, and Nevada so requests, based on its unique status as the host State, and the patent unfairness of being forced to litigate against an additional party (NEI) advocating the licensing of Yucca Mountain without being afforded any opportunity to object to that party's standing or contentions.</p>
Date	February 23	(continued)	(continued)
	<p>NRC STAFF ANSWER TO NUCLEAR ENERGY INSTITUTE'S <u>MOTION TO STRIKE</u> The NEI Motion seeks to strike Nevada's February 9, 2009 answer to NEI's December 19, 2008 intervention petition. As set forth below, the Staff agrees with NEI's position that Nevada has no right to file an answer to NEI's Petition, however, the Staff does not oppose Nevada's alternative request for permission to file such an answer. <u>DISCUSSION</u> In response to the Commission's Notice of Hearing,</p>	<p>In its Answer, Nevada, asserted that it is a party under 10 C.F.R. § 2.1001, notwithstanding that at this time, none of Nevada's filed contentions have been admitted. Nevada Answer at 2 Therefore, Nevada believes that since it is a party, it is entitled to file an answer to NEI's Intervention petition, under 10 C.F.R. § 2.309(h). Nevada asserts that "a fair and reasonable reading of the regulations" supports its position. Nevada Answer at 2. In the alternative, Nevada requests permission to file its answer. <i>Id.</i> at 3.</p>	<p>CONCLUSION For all of the foregoing reasons, the Staff respectfully requests the Board to find that Nevada has no right to file an answer to NEI's Intervention petition. However, the Staff does not oppose granting Nevada's request for permission to file an answer. The right to file answers to requests for hearing and petitions to intervene is governed by 10 C.F.R. § 2.309(h), which provides that Unless otherwise specified by the Commission, the presiding officer, or the Atomic Safety and Licensing Board desig-</p>

	<p>NEI filed its petition to intervene and contentions on December 19, 2008. Nevada filed an answer which opposed NEI's intervention on the basis that NEI lacked standing and that NEI had not submitted any admissible contentions. On February 13, 2009, NEI moved to strike Nevada's answer.</p> <p>(1) The applicant/licensee, the NRC staff, and any other party to a proceeding may file an answer to a request for a hearing, a petition to intervene and/or proffered contentions . . .</p> <p>(2) . . .</p> <p>(3) No other written answers or replies will be entertained. 10 C.F.R. § 2.309(h) NEI moves to strike Nevada's Answer on the basis that "answers to intervention petitions and contentions may only be filed by "the applicant/licensee, the NRC Staff and any other <u>party</u> to a proceeding." NEI Motion, at 1. Emphasis in the original. NEI asserts that although Nevada has "standing" pursuant to 10 C.F.R. § 2.309(d)(2)(i), Nevada is not a "party" to this proceeding, because, at this time, Nevada has no contentions admitted pursuant to 10 C.F.R. § 2.309(f)(1). Therefore, NEI asserts that since Nevada is not a party, Nevada is not entitled to file an answer to any intervention petitions and contentions. <i>Id.</i></p>	<p>Both NEI and Nevada acknowledge that answers to petitions to intervene and contentions can only be filed by parties. The dispute centers on NEI's assertion that Nevada is not a party and therefore may not file an answer, and Nevada's contrary assertion that it is a party and may file an answer. The Staff agrees with NEI that Nevada is not a party to this proceeding until at least one of its proffered contentions is found to be admissible. 10 C.F.R. § 2.1001.</p> <p>Nevada does not cite any case law to support its argument that it is a party, even though it has no admitted contentions. Nevada relies instead on a complex grammatical analysis of the use of the present tense of the word "files" in 10 C.F.R. § 2.1001's definition of "party," in an effort to establish that having an admitted contention is not a prerequisite to party status....</p>	<p>nated to rule on requests for hearings or petitions for leave to intervene--</p>
Date	February 23	February 23	February 24
	<p>STATE OF CALIFORNIA'S REPLY TO ANSWER OF THE U.S. DEPARTMENT OF ENERGY AND NRC STAFF ANSWER response</p>	<p>NATIVE COMMUNITY ACTION COUNCIL'S MOTION FOR EXTENSION OF TIME Pursuant to 10 C.F.R. § 2.1026(b)(1), the Native Community Action Council (NCAC) hereby moves for an extension of time of 15 days within which to file its reply to the Answer of the United States Department of Energy (DOE) to the Council's Petition to intervene as a full party in the above-captioned proceeding. Based on the schedule established by the Commission, the reply is now due on February 24, 2009. The NCAC requests an extension to and including April 8, 2009. As set forth below, the NCAC has good cause for this modest extension of time.</p> <p>The DOE filed an answer comprising 65 pages of legal argument and factual assertions. Within the past few days, the NCAC has been able to obtain legal counsel to represent it in this proceeding. With the reply due tomorrow, new counsel has had insufficient time to consult with the NCAC, review the license application, review DOE's answer and prepare a response. A short, 15-day extension will not prejudice the rights of any other party, nor delay the disposition of this proceeding. It is in the interest of the Commission and the parties to have a thorough and complete</p>	<p>REPLY OF WHITE PINE COUNTY TO THE U.S. DEPARTMENT OF ENERGY AND NUCLEAR REGULATORY COMMISSION STAFF ANSWERS TO WHITE PINE COUNTY'S 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 response</p>

		response to the DOE's answer. This request could not have been filed five days in advance of the filing deadline, due to the unforeseen circumstance of retention of legal counsel within the past few days.	
Date	February 24	February 24	February 24
	STATE OF NEVADA'S REPLY TO NRC STAFF'S ANSWER TO NEVADA'S PETITION TO INTERVENE AS A FULL PARTY Response	CORRECTED REPLY OF WHITE PINE COUNTY TO THE U.S. DEPARTMENT OF ENERGY AND NUCLEAR REGULATORY COMMISSION STAFF ANSWERS TO WHITE PINE COUNTY'S 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 response http://trackhearings.com/PDF/response/correctedwhitepine.pdf	CALIENTE HOT SPRINGS RESORT LLC's (CHS) REPLY TO U.S. DEPARTMENT OF ENERGY'S (DOE) ANSWER TO CHS' PETITION TO INTERVENE
Date	February 24	February 24	February 24
	ORDER (Denying Motion for Extension of Time) On February 23, 2009 the Native Community Action Council (NCAC) moved for an extension of time of 15 days within which to file its reply to the Answer of the United States Department of Energy (DOE) to the NCAC's Petition to intervene in the above-captioned proceeding. Pursuant to 10 C.F.R. § 2.323 (b), a motion must be rejected if it does not include a certification by the attorney or representative of the moving party that the movant has made a sincere effort to contact other parties in the proceeding and resolve the issue(s) raised in the motion, and that the movant's efforts to resolve the issue(s) have been unsuccessful. NCAC's motion for a 15-day extension of time is DENIED for failure to follow the above cited regulation.	NEVADA COUNTIES OF CHURCHILL, ESMERALDA, LANDER AND MINERAL Replies to the NRC Staff Answer to the Nevada Counties of Churchill, Esmeralda, Lander and Mineral Petition to Intervene	NEVADA COUNTIES OF CHURCHILL, ESMERALDA, LANDER AND MINERAL Replies to the DOE
Date	February 24	February 24	February 24
	NOTICE OF NYE COUNTY'S ADOPTION OF NEI SAFETY CONTENTIONS NEI-SAFETY-3 AND NEI- SAFETY-4 .	REPLY OF CLARK COUNTY, NEVADA TO THE ANSWERS OF THE U.S. DEPARTMENT OF ENERGY AND THE NUCLEAR REGULATORY COMMISSION STAFF	NATIVE COMMUNITY ACTION COUNCIL'S MOTION FOR EXTENSION OF TIME
Date	February 24	February 24	February 24
	Reply of the Timbisha Shoshone Yucca Mountain Oversight Program Non-Profit Corporation In Support of its Petition to Intervene as a Full Party .	RESPONSES OF THE COUNTY OF INYO TO THE ANSWERS OF THE U.S. DEPARTMENT OF ENERGY AND NRC STAFF	The Timbisha Shoshone Tribe ("Tribe") submits this request for an extension of time
Date	February 25	February 25	February 25
	NRC STAFF ANSWER TO NATIVE COMMUNITY ACTION COUNCIL'S MOTION FOR EXTENSION OF TIME	Answer of the U.S. Department of Energy to the Native Community Action Council's Motion for Extension of Time	ORDER (Granting Motion for Extension of Time) On February 24, 2009 the Native Community Action Council (NCAC) moved for an extension of

			<p>time of 15 days within which to file its reply to the Answer of the United States Department of Energy (DOE) to the NCAC's petition to intervene in the above-captioned proceeding.</p> <p>NCAC states that it only recently obtained legal counsel to represent it in this proceeding and that newly retained counsel has had insufficient time to consult with the NCAC, review the license application, review DOE's answer and prepare a timely response. NCAC further states the 15-day extension will not prejudice the rights of any other party nor delay the disposition of this proceeding.</p> <p>NCAC's motion certifies that pursuant to 10 C.F.R. § 2.323(b) it has made an effort to contact the other parties in the proceeding by e-mail on February 24, 2009 to request their consent to the motion. Of the parties NCAC was able to contact, only the NRC Staff and DOE oppose this motion. DOE's Answer, filed on February 25, 2009, indicates that only DOE's Office of General Counsel received NCAC's February 24, 2009 e-mail and that the attorneys with its law firm did not receive NCAC's e-mail.</p> <p>For good cause shown, NCAC's motion for a 15-day extension of time until March 11, 2009 to file its reply is GRANTED. This extension applies only to NCAC. NCAC is directed to insure that all future filings with the Commission or these Licensing Boards are in strict compliance with the Commission's filing regulations. It is so ORDERED.</p> <p>FOR THE ATOMIC SAFETY - AND LICENSING BOARDS</p>
Date	February 25th, 2009	February 25th	February 26th
	<p>ANSWER OF THE U.S. DEPARTMENT OF ENERGY TO THE JOINT MOTION BY EUREKA CHURCHILL, CLARK, ESERALDA INYO, LANDER, LINCOLN, MINERAL COUNTY, NYE, AND WHITE PINE COUNTY's TO IMPLEMENT AND INSTITUTIONALIZE WEBCASTING OF YUCCA MOUNTAIN-RELATED PROCEEDINGS</p> <p>In accordance with 10 C.F.R. § 2.323(c), the U.S. Department of Energy (DOE or the Department) hereby files its Answer to the "Joint Motion by Eureka County, Churchill County, Clark County, Esmeralda County, Inyo County, Lander County, Lincoln County, Mineral County, Nye County, and White Pine County to Implement and Institutionalize Webcasting of Yucca Mountain-Related Proceedings," (Joint Motion), filed on February 23, 2009. DOE does not object to the Joint Motion to the extent that it is limited to the webcasting of adjudicatory proceedings in this matter, including "oral arguments, adjudicatory conferences and hearings." Joint Motion at 1.</p>	<p><u>NRC STAFF ANSWER TO EUREKA COUNTY'S MOTION FOR LEAVE TO FILE REPLY</u></p>	<p>NRC STAFF ANSWER TO TIMBISHA SHOSHONE TRIBE'S REQUEST FOR EXTENSION OF TIME</p>

	DOE objects to the webcasting of proceedings, in which protected information, such as classified, proprietary and other similarly categorized information, is anticipated to be disclosed.		
Date	February 27, 2009	March 2nd, 2009	March 3rd, 2009
	<p>Timbisha Amended motion for extension of time</p>	<p>ANSWER OF THE U.S. DEPARTMENT OF ENERGY TO TIMBISHA SHOSHONE TRIBE'S AMENDED MOTION FOR EXTENSION OF TIME</p> <p>I. Introduction</p> <p>In accordance with 10 C.F.R. § 2.323(c), the U.S. Department of Energy (DOE or the Department) hereby opposes the "Timbisha Shoshone Tribe's Amended Motion for Extension of Time and Finding of Good Cause for Late Filed Motion," (Amended Motion), filed on February 27, 2009.¹ As the Atomic Safety and Licensing Board (Board) is aware, approximately two and a half hours after the deadline for filing the Timbisha Shoshone Tribe's (Tribe) Reply to DOE and the NRC Staff's Answers, the Tribe filed its original motion for extension of time. On February 27, 2009, the Board denied the Tribe's original motion. On that same day, three days after the deadline for filing the Tribe's Reply, the Tribe filed its Amended Motion. Joint Motion at 1. DOE objects to the webcasting of proceedings, in which protected information, such as classified, proprietary and other similarly categorized information, is anticipated to be disclosed.</p>	<p>- NRC STAFF ANSWER TO TIMBISHA SHOSHONE TRIBE'S REQUEST FOR EXTENSION OF TIME</p>