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FINAL REPLY:

John Hadder
Citizen Alert

TO:

Chairman Meserve

FOR SIGNATURE OF :

** PRI **

CRC NO: 00-0497

Chairman

DESC:

Yucca Mountain

ROUTING:

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Norry
Blaha
Burns/Cyr
Merschhoff, RIV

DATE: 07/28/00

ASSIGNED TO:

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Dear Chairman Meserve,

Citizen Alert is concerned about three aspects of the Yucca Mountain project that involve the NRC: 1) the nature of the licensing process, 2) the proposed changes in the site suitability guidelines for the site selection of a high-level nuclear waste repository, and 3) NRC's proposed Yucca Mountain standards.

At the licensing meeting in Las Vegas, May 5, 2000, it was brought out that the NRC is considering informal hearings for the licensing of a Yucca Mountain repository. It is our understanding that a formal adjudicatory process is used for all commercial reactor facilities for the purpose of eliciting a complete understanding of the application and its implications to the public. The informal process appears to be less rigorous as there are no discovery rights, cross examination, or legal record of proceedings. The formal hearing process will allow the Commission the most objective and independent analysis of the suitability of Yucca Mountain as a high-level nuclear waste repository. It is well established that the best way to arrive at a conclusion on any issue is to weigh both sides of the argument with the greatest available facts. Only with legal cross-examination by "dueling" parties, supporting and opposing to the project (as in a court of law), will all the strengths and weaknesses be fully realized. This is absolutely imperative to assure the health and safety of the public.

Citizen Alert urges the Commission to follow the standard practice of holding

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formal adjudicatory hearings on the licensing of a Yucca Mountain or any other repository for high-level nuclear waste. Why should the public be any less regarded for a Yucca Mountain repository than any other nuclear facility? Certainly the waste materials handled at the repository are those from reactors, so the level of hazard is no less. In fact, it could be easily argued that the level of hazard is greater, since more high-level waste will be handled in one place with the inherent dangers associated with transferring the waste into and out of transportation casks and the transportation itself. We question why informal hearings would be better for Yucca Mountain?

An informal hearing process only will go a long way toward increasing the public's dissatisfaction with the Yucca Mountain process and the entire nuclear waste policy. Nevadans, in particular, are keenly aware of the inconsistencies and inadequacies that surround the characterization process for Yucca Mountain. While there should be opportunity for meaningful public involvement, a rigorous formal licensing process is required; otherwise, the Yucca Mountain licensing will prove to be the proverbial "nail in the coffin" for the government's disregard of public opinion. If the Commission wishes the public to trust the licensing procedure and believe the advertised mission of the Commission to assure public health and safety as an independent regulatory agency then a formal hearing is required.

Citizen Alert also questions the motivation behind the NRC's action regarding Yucca Mountain licensing rules. The new proposed rulemaking, 10 CFR Part 63, directs that these licensing rules will apply only to a Yucca Mountain repository. Why? Should not these rules apply to any high-level nuclear waste dump? It is clear in the proposed amended 10 CFR Part 60 that the "old" licensing rules apply to any high-level nuclear waste dump other than at Yucca Mountain. Again why two different licensing rules? The obvious inference is that Yucca Mountain is being singled out in a "special" way, and Citizen Alert views *special* as meaning an easier path to a Yucca Mountain repository. There can be no doubt that by removing the subsystem performance criteria and allowing the sole use of the Total System Performance Assessment (TSPA) to determine Yucca Mountain's suitability will lift a great burden from the DOE. In fact, to date there exists compelling physical evidence that the burden is too great; Yucca Mountain being unsuitable by existing standards. The results of the TSPA are malleable as it contains numerous adjustable parameters and assumptions unlike the subsystem performance criteria (or the DOE's potentially former qualifying and disqualifying conditions). To the public it appears as though the NRC is doing the DOE a favor by relaxing the licensing requirements, and we note the remarkable similarities to the DOE's site suitability guidelines for Yucca Mountain.

It is no mystery that the DOE is on the "hot seat" to make Yucca Mountain work for the disposal of the nation's spent nuclear fuel. This mandate has left the DOE looking for allies as Yucca

Mountain is a poor site and help is needed. Is the NRC providing that help by creating an easier path through less stringent licensing rules and an informal licensing hearing? How do you reconcile the inconsistencies in our observed actions by the NRC and its stated mission to be independent assuring that public health and safety are primary?

We do not understand why the NRC has proposed exposure standards that are more lax than used for the Waste Isolation Pilot Plant (WIPP) in New Mexico or any other nuclear facility for that matter. Why should Nevadans be allowed to receive higher doses than the rest of the population. The overall dose standard of 25 millirems/year (higher than the EPA proposed limit) and the lack of a groundwater radiation limit does not properly protect the public and further erodes public confidence in the NRC's ability to regulate? In particular, the absence of a groundwater standard is suspicious, since by the DOE's own information the groundwater will become contaminated eventually. Without a restriction on groundwater radioactivity the task of the DOE in proving Yucca Mountain as suitable is made much easier. Again, this could be interpreted as indirectly advocating for Yucca Mountain to be the repository; leaving the public with the perception of the NRC as the "man behind the curtain". The NRC needs to be transparent in its responsibilities and internal processes to be an effective, meaningful, and believable regulatory agency.

In summary, Citizen Alert wants to see formal licensing hearings for Yucca Mountain (if sited), provide for effective public involvement, does not support the NRC's proposed licensing rule 10 CFR Part 63 nor see why Yucca Mountain is singled out, supports exposure standards no less than for the rest of the population, and expects to receive a response to the questions raised here. If we receive no response in writing then we will have no choice but to conclude that the NRC cares little about the public's concerns and that what is apparent is true.

On behalf of Citizen Alert and its supporters I thank you for taking the time to read and respond to this letter.

Sincerely,



John Hadder, Northern Nevada Coordinator

cc: Commissioners Greta J. Dicus, Nils J. Diaz, Edward McGaffigan, Jr., and Jeffrey S. Merrifield;
Bob Loux, Nevada Agency for Nuclear Projects