

October 6, 2000

The Honorable Shelley Berkley
United States House of Representatives
Washington, D.C. 20515

Dear Congresswoman Berkley:

I am responding to your letters of August 30 and 31, 2000, concerning the license application for a potential geologic repository at Yucca Mountain, Nevada.

In your August 30 letter, you expressed concern over the possible use of informal, rather than formal, hearing procedures in the consideration of the repository application. You should be aware that the Commission notified the public at the time it published its proposed licensing criteria for a potential Yucca Mountain repository that it had undertaken a study of the NRC hearing process in general, not just with respect to the process that would be used for repository licensing (see 64 Fed. Reg. 8640, 8641 [Feb. 22, 1999]). The Commission emphasized that, although it was inclined at that time to provide for informal hearings, no decisions had been made and that if the Commission concluded that changes to the hearing process were warranted, it would propose them for adoption in a separate notice and comment rulemaking. The Commission has not yet decided whether to propose any changes to its present hearing processes. Absent any changes, repository licensing will be considered under the provisions of 10 C.F.R. Part 2, Subpart J, which provides formal hearing procedures.

Your August 31 letter expressed concern about the need for research on the potential consequences of the mixing of toxic heavy metals and nuclear waste during transportation and storage of those materials and the need to explore potential impacts in the Environmental Impact Statement (EIS) for a potential geologic repository at Yucca Mountain, Nevada. Under section 114(f) of the Nuclear Waste Policy Act of 1982, as amended, 42 U.S.C. § 10134(f), the Department of Energy (DOE) has the responsibility for preparing an EIS for a repository which the Nuclear Regulatory Commission (NRC) must adopt, to the extent practicable, in connection with its consideration of a construction authorization and license. Consequently, the responsibility for assessing potential risks from the transport of nuclear waste to a repository rests primarily with DOE. To make sure DOE is aware of your concern as it prepares its Final EIS or any necessary supplements, we have forwarded your letter to the Department's Office of Civilian Radioactive Waste Management for its consideration.

Fuel for civilian nuclear power plants and nuclear waste (for example transuranic waste destined for the Waste Isolation Pilot Project) is routinely and safely shipped throughout the U.S. in NRC-certified containers. In addition, spent nuclear fuel is safely stored at existing power plants in NRC-approved packages. The NRC is not at this time aware of any evidence that would indicate that there is a significant health and safety issue concerning the intermixture of toxic heavy metals and nuclear waste that has not already been considered in our approval

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of waste transportation and storage packages. However, we would be pleased to carefully consider any specific information you could provide us on this topic.

If I can be of further assistance in this matter, please contact me.

Sincerely,

/RA/

Richard A. Meserve