

November 1, 2000

The Honorable Richard A. Meserve
Chairman
U. S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Dear Chairman Meserve:

**SUBJECT: ADVISORY COMMITTEE ON NUCLEAR WASTE —YUCCA MOUNTAIN
 STAKEHOLDERS MEETING**

The Advisory Committee on Nuclear Waste (ACNW) hosted a public comment session during its 121st meeting on September 19, 2000, in Las Vegas, Nevada. The media covered this meeting. A major objective in holding this session was to continue our dialogue with stakeholders and get feedback on issues from the State, affected counties, Native American groups, and other Yucca Mountain project stakeholders. We use these sessions to develop ideas about how to improve effective public participation in and the public's understanding of the NRC's regulatory process.

The session was opened with a teleconference call from Nevada Congresswoman Shelley Berkley. In her comments, which are in the transcript, she discussed the presence of aquifers, the potential for volcanic and seismic activity, the hazards associated with transportation, and possible alternative sites outside Nevada. Congresswoman Berkley stated that the site will not qualify and further development should cease. Other speakers included representatives from the State of Nevada's Agency for Nuclear Projects, Nevada's Clark, Eureka, Nye, Mineral, and Lincoln counties, the Western Shoshone Tribe, the Nevada Nuclear Waste Task Force, and members of the public.

As in previous public meetings that we have held in Nevada, members of the public expressed a number of strong opinions (see Appendix for a sample of comments). Many of the issues noted in our report on our public meeting last year were raised again this year. These include socioeconomic impacts associated with the proposed repository, the transportation of spent fuel, and the need to involve the public throughout the site sufficiency review and licensing process. Among the other areas of concern are problems associated with communicating with the NRC. Criticism of the NRC web site was lodged. There is confusion about "which NRC" to talk to on high-level waste-related issues (the Yucca Mountain project, the licensing activities for the Private Fuel Storage (PFS) site in Utah, or transportation of high-level waste are each under different groups within the agency).

OBSERVATION One concern expressed at the meeting was that the NRC would rely on performance assessment to make a decision about the Yucca Mountain site, but results from these assessments are obscure. Considerable skepticism that the results from performance

assessment were valid was evident. The ACNW thinks that at least part of this skepticism is because the results from performance assessments presented thus far are not easily understood by the public and therefore not trusted.

RECOMMENDATION The Commission should ask the staff to evolve a strategy to convey in a clear and transparent way the role performance assessment will play in evaluating a license application. If a license application for Yucca Mountain is submitted, the staff should implement this strategy to inform the public about the role of performance assessment.

OBSERVATION The ACNW believes that public participation is an essential element of risk-informed, performance-based regulation. We think that our meetings with the public in Nevada are important. The stakeholders have expressed appreciation that ACNW and others from the NRC do hold meetings in Nevada. Stakeholders particularly noted their recent discussions with individual Commissioners and looked forward to further opportunities to explain their concerns and express their views and suggestions.

RECOMMENDATION The Commissioners should consider holding a Commission meeting in Nevada. The meeting would provide a forum for the State, counties, and other affected parties to bring their concerns directly to the Commission. The meeting might also be organized to have the ACNW and other technical groups make presentations to the Commission so that the stakeholders could observe Commission consideration of technical material.

Sincerely,

/RA/

B. John Garrick
Chairman

APPENDIX

EXAMPLES OF PUBLIC COMMENTS

- There are alternatives to the disposition of waste in Nevada.
- The site has seismic and volcanic history; there must be a less active site.
- The rules (10 CFR Part 63, 10 CFR Part 963, 40 CFR 197) are being changed to accommodate the site. Use of existing regulations and standards would disqualify the site.
- Department of Energy's (DOE's) Performance Confirmation should be used to increase confidence in the reasonable assurance decision—not to provide data to make that determination.
- DOE is relying on ongoing site characterization throughout the licensing period. Question: Will the NRC be able to conduct a meaningful license application review?
- Since only about 10 percent of the total cost estimate has been expended thus far, should one consider stopping the project now in light of the uncertainties?
- The transportation part of the Draft Environmental Impact Statement is vague and incomplete.
- The only reason DOE is selecting a robust waste package is because the site will fail.
- Reliance on performance assessment is not acceptable. No one knows what can go wrong, the likelihood of something going wrong, or the consequences.
- The Treaty of 1863 (Ruby Valley) is still valid. The United States has no title to the land.
- Many people will die solely because of transportation accidents (not radiation effects).
- The Package Performance Study is flawed. What does NRC consider to be an acceptable transportation risk?
- The NRC web site is difficult to access.
- Inconsistencies exist in the Yucca Mountain references in the DEIS for the proposed Private Fuel Storage facility in Utah.