Department of Energy
Washington, DC 20585

August 28, 2001

Ms. R.O. Virgilio
U.S. Nuclear Regulatory Commission
State Programs
Mail Stop 0-3010
Washington, DC 20555

Dear Ms. Virgilio:

Over the next several months the Secretary of Energy will carefully consider a large body of scientific documents, as well as the views of the public, and decide whether or not to recommend to the President that Yucca Mountain be developed to serve as our repository for spent nuclear fuel and high level radioactive waste. As you probably know, on August 21, 2001, the Department of Energy (Department) published a Federal Register notice (66 FR 43850) which scheduled public hearings and announced a closing date of September 20, 2001 for public comments on this possible recommendation by the Secretary. Your comments in response to this notice would be very much appreciated.

The Nuclear Waste Policy Act, as amended (the Act), establishes the Federal responsibility for the final disposition of spent nuclear fuel and high level radioactive waste in the United States. This responsibility includes 50 years of defense legacy wastes that have resulted from the development of nuclear weapons, spent fuel that has provided power for the United States Navy, spent fuel from the Nation's university research reactors, and spent fuel from the Nation's civilian reactors, which provide approximately twenty percent of our domestic electricity supply.

The Department has spent 20 years and over $6.7 billion studying various means to fulfill the Federal responsibility. Since 1987, at the direction of the Act, the Department has been required to focus exclusively on the Yucca Mountain site. The result of this effort is contained within the Yucca Mountain Preliminary Site Suitability Evaluation (PSSE) and other scientific documents produced by the Department. The PSSE and these other supporting technical documents are available on the Internet (http://ymp.gov), or may be requested by telephone (1-800-967-3477).

The Secretary's recommendation regarding the Yucca Mountain site is an important intermediate step in the decades-long process for siting and developing a repository. If the Secretary determines that the scientific evaluation of the site indicates the site is suitable for development of a repository, he may then submit a recommendation for site development to the President. If

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the President accepts the Secretary's positive recommendation, he would recommend the site as qualified for application for a construction license from the Nuclear Regulatory Commission (NRC). The State of Nevada would then have the opportunity to submit a disapproval notice. If it does so, Congress would have to pass a law approving the President's recommendation in order for it to take effect. If the President's recommendation does take effect, the Department would then prepare and submit a construction license application to NRC.

It is important to note that, following a possible Presidential recommendation and prior to either the construction of or use of a repository, numerous additional steps must be satisfied. These steps include consideration of the Presidential recommendation by the State of Nevada and possibly the United States Congress. In addition, construction of a facility and receipt of waste requires the issuance of a construction license and a license to possess nuclear material, respectively, by the NRC after a rigorous review process with public involvement.

In providing comments to the Department, there are a number of topics regarding which your views and comments would be appreciated. An outline of these topics is enclosed for your use. The Department also values any other comments you believe would be relevant to its consideration. Your participation on this critical issue is important and helpful. Thank you for your assistance.

Sincerely,

Lake H. Barrett, Acting Director
Office of Civilian Radioactive
Waste Management

Enclosure:
Suggested Topics for Public Comment on
Yucca Mountain

Suggested Topics for Public Comment on Yucca Mountain

- Please provide your views concerning whether the Yucca Mountain Preliminary Site Suitability Evaluation (PSSE) and other scientific documents produced by the Department provide an adequate basis for finding that the Yucca Mountain site is suitable for development of a repository. If you believe that certain aspects of the PSSE are inadequate, please detail the basis for this belief and indicate how the documentation might be made adequate with respect to these aspects.

- If the Secretary determines that the scientific analysis indicates that the Yucca Mountain site is likely to meet the applicable radiation protection standards established by the Environmental Protection Agency and Nuclear Regulatory Commission, do you believe that the Secretary should proceed to recommend the site to the President at this time? If not, please explain.

- Are there any reasons that you believe should prevent the President from concluding that the Yucca Mountain site is qualified for the preparation and submission of a construction license application to the Nuclear Regulatory Commission?

- If you believe that the Secretary should not proceed with a recommendation to develop a repository at Yucca Mountain, what mechanism should be utilized to meet the Department's legal obligation to begin accepting spent nuclear fuel and high level radioactive waste?

- If you believe that the Secretary should not proceed with a recommendation to develop a repository at Yucca Mountain, what measures should the Nation consider for assuring safe disposal of spent nuclear fuel and high level radioactive waste?

- Please provide any other comments concerning any relevant aspect of the Yucca Mountain site for use as a repository, or that are otherwise relevant to the consideration of a possible recommendation by the Secretary.