

November 13, 2001

The Honorable Harry Reid, Chairman
Subcommittee on Transportation,
Infrastructure, and Nuclear Safety
Committee on Environment and Public Works
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

As required by Section 114(a)(1)(E) of the Nuclear Waste Policy Act of 1982, as amended (42 U.S.C. 10134(a)(1)(E)), the U.S. Nuclear Regulatory Commission (NRC) has provided the U.S. Department of Energy (DOE) with its preliminary comments (enclosure) regarding a possible geologic repository at Yucca Mountain, Nevada. These comments concern "...the extent to which the at-depth site characterization analysis and waste form proposal for such site seem to be sufficient for inclusion in any application to be submitted by the Secretary for licensing of such site as a repository."

There are two important constraints related to NRC's preliminary comments. First, in making these comments, the NRC is drawing no conclusions concerning the actual site suitability of the Yucca Mountain site. Rather, the NRC comments address whether sufficient information will exist to begin a potential licensing review should DOE submit a license application. Second, NRC's licensing decisions, in terms of a potential repository at Yucca Mountain, will not occur until DOE submits a high-quality license application, the staff completes its independent safety review and issues a safety evaluation report, NRC provides an opportunity for a hearing, and NRC makes its final determination of whether the DOE license application meets NRC regulations.

Based on many years of extensive pre-licensing consultation with DOE, the State of Nevada, affected units of local government, and other stakeholders, the NRC's preliminary comments are that:

1. DOE has obtained or has agreed to obtain sufficient at-depth site characterization analysis and waste form proposal information required for a possible license application.
2. Although significant additional work is needed prior to the submission of a possible license application, we believe that agreements reached between DOE and NRC staff regarding the collection of additional information provide the basis for concluding that development of an acceptable license application is achievable.

3. DOE is exploring a flexible design concept to allow for the possibility of operating the repository over a range of thermal conditions. If DOE were to adopt a lower temperature operating mode or the approach used in the FY01 Supplemental Science and Performance Analyses, NRC believes that additional information would be needed for a potential license application.

If you have any questions or comments, please contact me.

Sincerely,

/RA/

Richard A. Meserve

Enclosure:
As stated

cc: Senator James M. Inhofe

LIST OF ADDRESSEES

The Honorable Harry Reid, Chairman
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Infrastructure, and Nuclear Safety
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cc: Senator James M. Inhofe

The Honorable Joe Barton, Chairman
Subcommittee on Energy and Air Quality
Committee on Energy and Commerce
United States House of Representatives
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cc: Representative Rick Boucher

The Honorable Sonny Callahan, Chairman
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Committee on Appropriations
United States House of Representatives
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cc: Representative Peter J. Visclosky

The Honorable Harry Reid, Chairman
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cc: Senator Pete V. Domenici

The Honorable W.J. "Billy" Tauzin, Chairman
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The Honorable Jeff Bingaman, Chairman
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cc: Senator Frank Murkowski

The Honorable James M. Jeffords, Chairman
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cc: Senator Bob Smith

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The Honorable Jim Gibbons
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