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**Nuclear Regulatory Commission (NRC)
Yucca Mountain Review Plan, Draft Revision 2 Rules and Directives
May 22, 2002 Public Hearing**

Branch
(18-30)

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1. I appreciate the opportunity to comment on an important document that will be important. I would like to express a number of comments, questions and concerns about the Draft Revision 2 of the Yucca Mountain Review Plan as well as the licensing process.
2. The NRC is the key agency in whether Yucca Mountain will be licensed to accept waste at a repository. This documents is integral to this discussion, however, there are a number of concerns.
3. Maintaining the independence and professional integrity of the NRC is imperative if the site is to receive a fair review (NRC in its mission statement notes independence as being a key objective). As you're aware the decisions you will make will "affect someone's backyard" and future generations.
4. Concerns:
 - a. Congressional pressures to complete Yucca Mountain.
 - i. Recent statements indicate that many in Congress feel that Yucca Mountain is proceeding ahead (May 16, 22 Senate hearings; Senator Craig "now we can proceed with the development of a repository")
 - ii. Arguments= billions spent, fuel accumulating at reactors (Political)
 - iii. No real strong arguments on the suitability of the site.
 - iv. DOE has been tasked with making a case for "site suitability" but the Presidential-appointed NWTRB has indicated in their April 24, 2002 letter that when DOE's "technical and scientific work is taken as a whole, the Board's view is that the technical basis for the DOE's performance assessment is weak to moderate at this time." Not a strong endorsement. Others including the GAO have echoed this concern as well. and several recent articles.
 - b. NRC responsibilities:
 - i. Secretary Abraham and others have noted that the NRC will review license for technical adequacy.
 - ii. The issue whether the site is adequate for long-term storage of nuclear waste has been adequately substantiated.
 - iii. The license application review is designed to ensure that DOE has demonstrated compliance with performance objectives.

Template = ADM-013

RFDs = ADM-03
Gill = J. Ciano (JAR3)
H. Beranek (AFB)

- c. Concerns about the NRC licensing process:
 - i. During the acceptance review = NRC does not determine the adequacy of the submitted information. (Who does then?)
 - ii. NRC can grant the license subject to conditions agreed to by the licensee (What if they don't agree?)
 - iii. NRC has no power to compel the licensee to come forward with or prepare a different proposal (How does NRC enforce the conditions of the license?)
 - iv. The NRC is not seeking scientific precision (again, who does?)
 - v. Summary: In a perfect world where DOE had completed its mission to provide a stronger basis for site suitability maybe we could accept these generalities. The NRC must be stronger in its review and interpretation of DOE information in the licensing process.

d. Concerns about the Revised Plan:

- i. The three figures in the document describe processes reviewed and issues examined.
 - 1. It would be useful for the public to have a process diagram illustrating how decisions are made, or how inadequacies are addressed.
 - 2. Figure 1-3 illustrates phenomena reviewed: There is a sense of how the review will consider "engineered barrier" failure- how will similar inadequacies be addressed for the site environment?
- ii. The acceptance process has three potential options "Reject," "Accept," or "Accept, request additional information." The third category description should be modified. If additional information were needed there would appear to be some basis for rejection. As worded, this could give the wrong impression to Congress and others that an issue has been resolved.
- iii. Although the Final Yucca Mountain Environmental Impact Statement (YMEIS) is referenced in the document, it is described in terms of why it is not considered, etc. There should be another section that describes the other documents in the licensing process- YMEIS, state and local government review documents, and similar for those who may not be aware of these submittals and their purpose.

5. Questions:

- a. The YMEIS is included in the licensing submittal. How will the NRC consider the comments made by NRC and others to the draft YMEIS that may not have been incorporated in the final? Will the NRC require DOE to correct issues that have not been addressed (including the NRC's)? Will the NRC develop an EIS to correct any deficiencies if DOE does not?
- b. How will the NRC inform the public on the status of its review in particular issues that have not been resolved adequately?

- c. Will the LSSARP continue to perform a review role?
 - d. How will the NRC handle any major course corrections in DOE's work?
 - e. How will the NRC consider technical documents produced by others, the State of Nevada, etc. in deliberating licensing issues?
 - f. It is uncertain in my mind as to when the NRC considers the license application to be complete; there are currently 250 issues that have not been resolved by DOE to the NRC's satisfaction?
 - g. How will the NRC consider "context" issues; the communities surrounding the site, transportation and similar?
6. Summary
- a. The NRC (and perhaps the courts) will (or should) be the "reality check" for the suitability of the site, now that it appears that Congress and DOE are abrogating their responsibilities per the Nuclear Waste Policy Act and amendments.
 - b. Since this is in essence a "first of a kind facility" notwithstanding the repository at WIPP in New Mexico, and given the safety of storing waste at reactor sites for at least 100 years (by NRC evaluations), the licensing process undertaken should be deliberate, ensure that the public and workers safety and not circumvented by political expediency or undue haste.
7. Thank you for the opportunity to provide input.