

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

STATE OF NEVADA, CLARK
COUNTY, NEVADA, and CITY OF
LAS VEGAS, NEVADA

Petitioners,

v.

UNITED STATES NUCLEAR
REGULATORY COMMISSION

Respondent.

COPY



Case No. 02-1116

**JOINT STIPULATION REGARDING
SUBMISSION OF SUPPLEMENTAL APPENDIX**

Petitioners State of Nevada, Clark County, Nevada, and the City of Las Vegas, Nevada (collectively, "Petitioners") and Respondents United States Nuclear Regulatory Commission and the United States (collectively, the "NRC") hereby jointly stipulate and agree to the following:

1. The NRC has compiled and certified an administrative record for consideration by this Court in this matter.
2. Petitioners have compiled a list of documents that they believe the NRC did or should have considered during its deliberations underlying this action. Petitioners have requested that the NRC add said documents to the certified administrative record.
3. The NRC has agreed to the inclusion of several of these documents in the administrative record and will file a supplemental index identifying those documents it has agreed to add to the certified administrative record. The NRC has otherwise declined to include in the record the balance of the documents identified by Nevada.

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4. The parties have agreed that Petitioners may prepare and file with the Court a supplemental appendix containing, to the extent relied upon in the parties' briefs, those documents (identified in Attachment A to this Joint Stipulation) whose inclusion the NRC disputes. The parties have further agreed, in accordance with the procedure adopted by the Court in a similar case, *Nevada v. Department of Energy*, No. 01-1516 (orders of Sept. 6, 2002 and Sept. 20, 2002), that it is appropriate for the Court to defer consideration of whether these documents should be included in the administrative record pending oral argument in this action.

Agreed to this 21st day of November, 2002.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served this
21st day of November, 2002, by First Class Mail, postage prepaid.

Michael A. Bauser, esq.
Associate General Counsel
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1776 I Street, N.W.
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A handwritten signature in black ink, consisting of a large, stylized loop followed by a horizontal line and a small flourish.

Joseph R. Egan
Attorney for Petitioners

ATTACHMENT A

Disputed Documents Absent from NRC Administrative Record

1. The Disposal of Radioactive Waste on Land, Pub. 519, National Research Council National Academy of Sciences (Sept. 1957)
2. Commission Briefing on SECY-81-267, 10 C.F.R. 60 (May 7, 1981).
3. SECY-81-260, 10 C.F.R. 60, Disposal of High-Level Radioactive Waste in Geologic Repositories: Technical Criteria (April 1981).
4. NRC Notice Federal Register, 58 F.R. 36902, et seq. (July 9, 1993).
5. DOE 1985 Mission Plan.
6. DOE Public Notice, 59 F.R. 39766, et seq. (August 4, 1994).
7. DOE Public Notice (Draft Regulation), 61 F.R. 66158, et seq. (December 16, 1996).
8. DOE Public Notice (Proposed Final Rule), 66 F.R. 57298 (November 14, 2001).
9. Joint NEA-IAEA International Peer Review of the Yucca Mountain Project TSPA-SR (December 2001).
10. NRC SECY-96-120: NRC's Refocused Preliminary High-Level Waste Repository Program (June 3, 1996).
11. September 18, 2001 letter from George M. Hornberger (ACNW Chairman) to Richard A. Meserve (NRC Chairman) "Total System Performance Assessment-Site Recommendation (TSPA-SR)."
12. September 28, 2001 letter from George E. Hornberger (ACNW Chairman) to Richard A. Meserve (NRC Chairman) "ACNW Comments on NRC Staff's Issue Resolution Process for Risk-Informing Its Sufficiency Review of DOE's Technical Basis Documents for the Yucca Mountain Site Recommendation."
13. January 17, 2002 letter from George M. Hornberger (ACNW Chairman) to Richard A. Meserve (NRC Chairman) "Total System Performance Assessment and Conservatism."

14. April 27, 1981, Rulemaking Issue (Affirmation) – SECY-81-267, “10 C.F.R. Part 60 – ‘Disposal of High-Level Radioactive Wastes in Geologic Repositories: Technical Criteria.’”
15. All correspondence between ACNW and NRC regarding 10 C.F.R. 60, 10 C.F.R. 63, 10 C.F.R. 960, 10 C.F.R. 963, 40 C.F.R. 191, and 40 C.F.R. 197, or any aspect of those regulations from 1995 through 2001.
16. All correspondence between DOE and NRC regarding 10 C.F.R. 60, 10 C.F.R. 63, 10 C.F.R. 960, 10 C.F.R. 963, 40 C.F.R. 191, and 40 C.F.R. 197, or any aspect of those regulations from January 1, 1994 through 2001.
17. All ACNW correspondence to and from NRC regarding Yucca Mountain from January 1, 1994, through November 2001.
18. All DOE correspondence to and from NRC regarding Yucca Mountain from January 1, 1994, through November 2001.
19. All official minutes of ACNW meetings from January 1, 1994, through November 2001.
20. All NWTRB correspondence to and from NRC regarding Yucca Mountain from January 1, 1994, through November 2001.
21. Transcripts of all NRC meetings with NWTRB regarding Yucca Mountain from January 1, 1994, through November 2001.
22. All DOE presentations/slides/graphics used in presentations to ACNW or NRC regarding Yucca Mountain, up to the present day.
23. NRC comments on DOE’s Draft Site Characterization Plan for Yucca Mountain (prior to DOE’s 1988 adoption of its Site Characterization Plan).
24. Waste Package Materials Peer Review Panel Interim Report (September 2001) (including all Subject Expert Reports).

25. Waste Package Materials Peer Review Panel Final Report (February 2002) (including all Subject Expert Reports).
26. The meeting summaries and associated handouts for all NRC/DOE Technical Exchange meetings from January 1, 1994, through November 2001.
27. All internal NRC e-mails, correspondence, or memoranda addressing the amendment of 10 C.F.R. 60 and/or the implementation of 10 C.F.R. 63 from January 1, 1994, through November 2001.