

OFFICE OF THE SECRETARY  
CORRESPONDENCE CONTROL TICKET

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**AUTHOR:** Brian Sandoval  
**AFFILIATION:** NV  
**ADDRESSEE:** Nils Diaz  
**SUBJECT:** Concerns NRC's meetings with the Department of Energy (DOE) on Yucca Mountain issues

**ACTION:** Signature of Chairman  
**DISTRIBUTION:** Chairman, Comrs, EDO, RF, SECY to Ack

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CHAIRMAN REC'D

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ANN WILKINSON  
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December 2, 2003

VIA FEDERAL EXPRESS

Honorable Nils J. Diaz, Chairman  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555-0001

Dear Chairman Diaz:

I am writing to object, in the strongest terms possible, to the Nuclear Regulatory Commission (NRC) staff conducting secret meetings with Department of Energy (DOE) officials on key Yucca Mountain issues that are of great interest to the State of Nevada and its citizens. During the week of November 17-21, NRC staff conducted meetings with DOE officials and specifically closed the meetings to the State and the public. The subject matter and issues scheduled for discussion have been previously addressed in public on numerous occasions.

Now we are informed that NRC staff has scheduled another week-long meeting (December 8-12) with DOE officials on Yucca Mountain related matters. Once again, the meeting is closed to the State and the public. Other than matters concerning classified materials or homeland security issues, I cannot conceive of any reason that these meetings should be closed. Furthermore, existing agreements between the two agencies regarding the conduct of meetings do not contemplate any closed meetings other than for the above-mentioned reasons.

As you know, this is not the first time that Nevada has objected to being excluded from meetings between NRC staff and DOE officials. Just last year, these concerns resulted in an NRC Inspector General investigation. Ironically, in a recently released draft NRC Strategic Plan for FY 2004-2009, the NRC emphasized that NRC's goal is to achieve openness and recognized that "the public must be informed about, and have a reasonable opportunity to participate meaningfully in, the regulatory process." The draft Strategic Plan even cites public meetings at NRC headquarters and in Nevada as examples of important activities that support NRC's "Openness Strategies."

Further, earlier this year, NRC rejected a petition for rulemaking that the State of Nevada submitted to clarify and formalize the relationships between NRC, DOE and the

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State of Nevada so that public confidence in NRC's Yucca licensing proceeding will not be undermined. As I am sure you are aware, secret meetings between a prospective license applicant and the NRC will further undercut public confidence in NRC as an independent regulatory agency. This is especially true in Nevada where the public is already convinced that the NRC is working hand-in-glove with DOE to build a repository at Yucca Mountain.

In light of the above, pursuant to 10 CFR 63.63, I am formally requesting that the Commission direct that all future meetings between NRC staff and DOE officials regarding any subject matter, except those listed previously, be open to the public and to the State. In any event, there should be a verbatim transcript kept of any meeting closed for any purpose.

In a related development, NRC has not yet responded to the State's longstanding request for an open meeting in early December between NRC staff's Yucca Mountain reviewers and Nevada's experts on Yucca Mountain hydrology. Similar meetings on performance assessment and on research sponsored by Nevada on waste package corrosion were very successful. The State hoped for a series of comparable open meetings between NRC and Nevada for the purpose of sharing detailed safety issues and concerns about Yucca Mountain to facilitate a better understanding of the scope and progress in NRC Staff's pre-application safety reviews. Until now, Nevada believed that NRC shared its belief that open exchanges on detailed safety issues such as these are in the public interest. Again, I renew this request for a meeting and ask that the Commission direct its staff to schedule it as soon as possible.

I look forward to your prompt response to this letter. Please direct any questions either to me or to Marta Adams of my staff. She can be reached at 775-684-1237.

Sincere regards,

A handwritten signature in black ink, appearing to read "Brian Sandoval", written in a cursive style.

Brian Sandoval  
Attorney General

cc: Commissioner Edward McGaffigan, Jr.  
Commissioner Jeffrey S. Merrifield  
Dr. Margaret S. Y. Chu, DOE