

OFFICE OF THE SECRETARY
CORRESPONDENCE CONTROL TICKET

Date Printed: Jul 15, 2004 16:06

PAPER NUMBER: LTR-04-0445 **LOGGING DATE:** 07/15/2004
ACTION OFFICE: OGC / EDO

AUTHOR: Mr. Robert Loux
AFFILIATION: NV
ADDRESSEE: CHRM Nils Diaz
SUBJECT: Concerns advance meetings between NRC and DOE on new rulemakings and making them public for the participation of Nevada and others

ACTION: Direct Reply
DISTRIBUTION: RF, SECY to Ack.....PUBLICLY RELEASED IN ADAMS
VIA SECY/DPC

LETTER DATE: 07/14/2004
ACKNOWLEDGED: No
SPECIAL HANDLING: OGC TO PREPARE RESPONSE FOR EDO'S SIGNATURE.....
NOTES: COMMISSION TO REVIEW PRIOR TO DISPATCH
FILE LOCATION: ADAMS
DATE DUE: 08/05/2004 **DATE SIGNED:**



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July 14, 2004

Chairman Nils J. Diaz and Commissioners
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Administrator Michael O. Leavitt
Environmental Protection Agency
Washington, D.C. 20460

Dear Chairman Diaz and Administrator Leavitt:

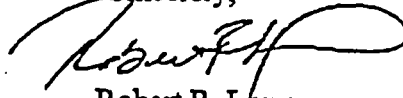
I write in regard to the impact of the July 9, 2004 opinion of the U.S. Court of Appeals vacating those parts of the Environmental Protection Agency (EPA) and Nuclear Regulatory Commission (NRC) Yucca Mountain rules that specified a 10,000 year compliance period. I expect your agencies will be engaged in discussions regarding new rules that meet the Court's decision. In order to maintain the independence of your agencies and avoid suggestions that new rules specifying radiation standards have been trimmed to the fit the needs of the Department of Energy, any discussions about such new rules with persons outside your respective agencies, Nevada believes should be public.

Nevada is especially concerned about any private discussions about new rules that you may have with the Department of Energy (DOE). As a practical matter, DOE is already an NRC license applicant. If there were any questions about that they have been removed by DOE's recent filing of its documents with NRC in advance of a license review and hearing.

It would be highly improper for EPA and NRC to meet privately with the one license applicant/entity to whom the rules would apply on determining its new performance standard. DOE will have a full opportunity to help craft new EPA and NRC rules by participating in any new public rulemakings.

If you are going to meet with DOE in advance of such new rulemakings, Nevada insists on participating in these meetings.

Sincerely,



Robert R. Loux
Executive Director

cc: Governor Guinn
Attorney General Sandoval
Nevada Congressional Delegation
Joseph Egan