

OFFICE OF THE SECRETARY
CORRESPONDENCE CONTROL TICKET

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ACTION OFFICE: SECY / *OGC*

AUTHOR: GOV Bill Richardson

AFFILIATION: NM

ADDRESSEE: Nills Diaz

SUBJECT: Concerned that the NRC had decided not to allow consideration of important issues raised by the New Mexico Environment Department (NMED) in the review of the nuclear enrichment facility pro for Eunice, NM

ACTION: Signature of Secretary

DISTRIBUTION: RF

LETTER DATE: 08/27/2004

ACKNOWLEDGED No

SPECIAL HANDLING: SECY coord response with OGC...

NOTES: Exparte communication, however, state could meet with NRC staff

FILE LOCATION: ADAMS

DATE DUE: 09/28/2004 **DATE SIGNED:**



State of New Mexico

Office of the Governor

Bill Richardson
Governor

August 27, 2004

The Hon. Nils Diaz
Chairman
Nuclear Regulatory Commission

Dear Chairman Diaz:

I am writing to express, in the strongest terms, my concern that the Nuclear Regulatory Commission (NRC) has decided not to allow consideration of important issues raised by the New Mexico Environment Department (NMED) in the review of the nuclear enrichment facility proposed for Eunice, New Mexico.

This decision deprives the State of New Mexico of an important opportunity to assure that critical environmental and national security issues, such as the management and disposal or deconversion of wastes from the facility and the adequacy of proliferation safeguards related to foreign ownership, receive comprehensive analysis in the review process. The NRC's decision on this procedural matter prevents the State from commenting on and influencing license requirements, bonding for closure and removal of wastes, and other major issues. Such a decision, particularly on procedural grounds, is regrettable, and may indicate absurdly misplaced emphasis and content in the NRC's own regulatory process.

As significantly, the NRC decision deprives the NRC of state information and involvement that by all rights should be considered crucial to its decision process. A recent US Circuit Court decision regarding the Yucca Mountain proposal supports the argument that governmental agencies deserve standing and deference in such proceedings, and I believe the NRC puts its own decisionmaking and the LES project in peril by ignoring this precedent.

I hereby request that you meet with NMED Secretary Ron Curry to discuss the State's concerns regarding the NRC decision.

Sincerely,

A handwritten signature in black ink, appearing to read "Bill Richardson".

Bill Richardson
Governor

cc: Secretary Ron Curry, NMED