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From: John Cordes : OGC
To: Bradley Jones; Kathryn Winsberg; Margaret Doane; Roger Davis
Date: 7/23/04 11:42AM
Subject: Telephone conversation with EPA on Yucca Mountain case

Confidential Attorney Work Product/Attorney Client Communication

NOTE TO LEGAL ASSISTANTS

This morning, we (Steve Crockett, Neil Jensen, Jared Heck, and I) had a telephone conversation with Keith Mathews, the EPA lawyer chiefly responsible for the Yucca Mountain case. Here is what we discussed - -

1. EPA is meeting in-house on Monday to discuss whether to ask DOJ to seek further judicial review on the "10,000 year issue." At the meeting will be EPA's General Counsel, other EPA lawyers, and technical folks from EPA's radiation office. EPA hopes to give DOJ a recommendation by the end of next week. (A petition for rehearing is due on August 23. The Solicitor General must approve a petition for rehearing *en banc*.)

5. I indicated that the NRC remained in a "piggy back" position. We cannot seek further judicial review on our own or make a move to establish a new NRC compliance period until we see what EPA plans to do. That's because EnPA requires our standards to mirror EPA's. We remain in a "watchful waiting" mode.

6. EPA (and DOJ in a separate conversation) promised to keep us advised on further developments.

Not that there are any dramatic disclosures in this e-mail, but the points discussed above emerged during a lawyer-to-lawyer conversation between us and EPA. They are not for public consumption or for dissemination outside the NRC. I've forwarded the information to lawyers only (including Bill Reamer, who of course now is with the staff).

John Cordes

CC: els; enj; Janice Moore; Jared Heck; Joseph Gray; Karen Cyr; Lawrence Chandler; Stephen Burns; Steven Crockett