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FINAL REPLY:

Judy Treichel, Nevada Nuclear Waste
Task Force, Inc.

TO:

Chairman Klein

FOR SIGNATURE OF : ** GRN ** CRC NO: 06-0424

Strosnider, NMSS

DESC:

Comments on NRC's Letter of 8/10/06 to DOE
Regarding Transport, Aging and Disposal Canister
for Spent Nuclear Fuel Management

ROUTING:

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DATE: 08/24/06

ASSIGNED TO: NMSS CONTACT: Strosnider

SPECIAL INSTRUCTIONS OR REMARKS:

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AUTHOR: Judy Treichel (NV Nuc. Waste Task Force)
AFFILIATION: NV
ADDRESSEE: CHRM Dale Klein
SUBJECT: Concerns NRC's letter to DOE regarding Transport, Aging, and Disposal Canister for Spent Nuclear Fuel Management

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August 17, 2006

Dr. Dale Klein, Chairman
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Dear Chairman Klein:

The Nevada Nuclear Waste Task Force has been actively participating in meetings and exchanges regarding Yucca Mountain and related issues since 1987. We are the primary public interest organization attending technical and policy decision making interactions.

I recently reviewed NRC's letter to the Department of Energy (DOE) dated August 10, 2006, regarding: Transport, Aging and Disposal Canister for Spent Nuclear Fuel Management. The letter "provides comments from the U.S. Nuclear Regulatory Commission (NRC) staff on regulatory criteria and other possible areas on consideration for the development of TAD canister designs and performance specifications." In addition to the text, the letter included charts showing the applicable regulatory criteria.

In early 2004 DOE presented a revised repository design that included an "aging" facility. At a Technical Exchange between the NRC and DOE in February 2004 there was a diagram of the facility and it looked very much like an independent spent fuel storage installation (ISFSI). During the public comment portion of the meeting I asked the DOE presenter what an "aging" facility was and I was told that it was the same as aging facilities all over the country. I asked if he was referring to dry cask storage at reactor sites and he said "yes." I then asked the NRC participants at the meeting if this new aging/dry cask storage facility would be licensed under 10 CFR Part 72. Bill Reamer, the Director of the Division of High-Level Waste Repository Safety Office of Nuclear Material Safety and Safeguards, told me that it would depend on whether or not the facility was "integral to repository operations." Mr. Reamer said that if or when a license application was submitted, the NRC staff would review it and make a determination about how it would or would not be licensed. It appears now that NRC has made a decision about the aging facility without any such consideration.

The charts that are part of the August 10, 2006 letter show that ISFSIs are licensed under Part 72 and that a repository at Yucca Mountain would be reviewed under Part 63 -- with a footnote. Footnote 2 states: "Aging at proposed Yucca Mountain Repository will be governed by 10 CFR Part 63." How was that determination made?

According to the recently released DOE repository schedule, the submission of a license application is more than two years away. There is no final standard from the Environmental Protection Agency (EPA) yet so 10 CFR Part 63 is not yet finalized. At a time when both the repository design and the TAD canister are merely conceptual, NRC has made a firm decision on how they will be considered in possible future licensing proceedings.

The NRC and DOE have been meeting for many years for technical exchanges, management meetings, quality assurance reviews and other interactions. As issues are discussed, action items are identified, and pre-licensing decisions are reached through a continuum. For more than ten years I have raised concerns with the NRC regarding "issue resolution" and public fears and suspicion that decisions are made between DOE and NRC outside of public view. That certainly seems to be the case regarding the possible licensing of an aging facility at Yucca Mountain. To have come to this conclusion, after giving me assurance during a public meeting that the decision would only be made after NRC had all of the elements of a complete license application is disingenuous and dismissive.

As DOE and NRC prepare to embark on a new and extensive series of Technical Exchanges it is essential that all participants and concerned members of the public know that decisions are being made based on careful consideration of sound data. People and organizations that communicate with this office are concerned about the objectivity and independence of the Commission regarding licensing and regulation of a repository. For years NRC has talked about the need for traceability and transparency. The decision regarding the "aging" facility at Yucca Mountain has neither.

Sincerely



Judy Treichel
Executive Director