

February 7, 2007

The Honorable Richard H. Bryan, Chairman
Nevada Commission on Nuclear Projects
1761 College Parkway, Suite 118
Carson City, Nevada 89706

Dear Mr. Bryan:

I am writing to address certain inaccurate statements about the U.S. Nuclear Regulatory Commission (NRC) made in the Nevada Commission on Nuclear Projects' 2006 report to the Governor and Legislature of the State of Nevada. These statements mischaracterize proper and necessary interactions between the U.S. Department of Energy (DOE) and NRC, during the prelicensing stage of the Yucca Mountain Project.

For example, on page 41 is a discussion on the State's access to DOE's licensing documentation, that includes a statement about "...DOE's refusal to provide the State with the draft license application it has already shared with NRC...." DOE has not provided a copy of the draft license application with NRC staff nor has the staff requested it. We will not see or review a DOE license application unless DOE presents it formally to NRC under the rules of our licensing proceedings. At that time, the license application will become available to all potential parties and to the public.

Also, on page 19, your report states that "...there has been a history of inappropriate contacts by NRC staff and DOE in the prelicensing phase of the project." NRC's interactions with DOE during the prelicensing period are consistent with NRC responsibilities under the Nuclear Waste Policy Act of 1982, as amended. They are controlled by NRC regulations, policies, and a publicly available prelicensing agreement between NRC and DOE (enclosed). These interactions allow for early identification of potential licensing issues and enhance staff's ability to complete its licensing review in the timeframe contemplated by Congress. These interactions are conducted in accordance with the NRC's policy on regulatory interaction and support NRC's strategic goal of openness in its regulatory process. We believe these interactions contribute to NRC's ability to serve as an informed, impartial, regulator in deciding whether to grant DOE a construction authorization or a license for a repository at Yucca Mountain.

R. Bryan

NRC will base any decision on a potential license application for a repository at Yucca Mountain on a comprehensive and independent safety review. Following that review, NRC will conduct a full and fair public hearing that will follow formal, well-established rules to ensure an open, objective decision. If you have any questions, please contact Jack Parrott, of my staff, at 702-794-5047.

Sincerely,

/RA/

Lawrence E. Kokajko, Director
Division of High-Level Waste Repository Safety
Office of Nuclear Material Safety
and Safeguards

Enclosure:

"Agreement Between DOE/OCRWM
and NRC/NMSS Regarding
Prelicensing Interactions"

cc: See attached list.

Letter to R. Bryan from L. Kokajko dated: February 7, 2007

cc:

A. Kalt, Churchill County, NV	A. Elzeftawy, Las Vegas Paiute Tribe
R. Massey, Churchill/Lander County, NV	J. Treichel, Nuclear Waste Task Force
I. Navis, Clark County, NV	W. Briggs, Ross, Dixon & Bell
E. von Tiesenhausen, Clark County, NV	R. Murray, DOE/OCRWM
G. McCorkell, Esmeralda County, NV	G. Runkle, DOE/Washington, D.C.
R. Damele, Eureka County, NV	S. Bokhari, DOE/RW
L. Marshall, Eureka County, NV	S. Gomberg, DOE/Washington, D.C.
A. Johnson, Eureka County, NV	D. Curran, Harmon, Curran, Spielberg & Eisenberg, L.L.P.
S. Schubert, Sen. Reid's Office	R. Dyer, DOE/OCRWM
M. Yarbrow, Lander County, NV	J. Espinoza, GAO
J. Donnell, DOE/OCRWM	A. Gil, DOE/OCRWM
M. Baughman, Lincoln County, NV	W. Boyle, DOE/OCRWM
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M. Simon, White Pine County, NV	A. Benson, DOE/OCRWM
E. Sproat, DOE/OCRWM	N. Hunemuller, DOE/OCRWM
D. Cornwall, NV Congressional Delegation	P. Harrington, OPM&E
T. Story, NV Congressional Delegation	M. Mason, BSC
R. Herbert, NV Sen. Reid's Office	S. Cereghino, BSC
M. Murphy, Nye County, NV	B. Gattoni, Burns & Roe
R. Lambe, NV Congressional Delegation	E. Mueller, Esmeralda County, NV
K. Kirkeby, NV Congressional Delegation	J. Gervers, Clark County, NV
R. Loux, State of NV	D. Beckman, BSC/B&A
S. Frishman, State of NV	J. Raleigh, SNL
S. Lynch, State of NV	J. Kennedy, Timbisha Shoshone Tribe
P. Guinan, Legislative Counsel Bureau	B. Durham, Timbisha Shoshone Tribe
R. Clark, EPA	R. Arnold, Pahrump Paiute Tribe
R. Anderson, NEI	J. Birchim, Yomba Shoshone Tribe

cc: (Continued)

R. McCullum, NEI

S. Kraft, NEI

J. Kessler, EPRI

D. Duncan, USGS

K. Skipper, USGS

W. Booth, Engineering Svcs, LTD

C. Marden, BNFL Inc.

J. Bacoeh, Big Pine Paiute Tribe of the Owens Valley

P. Thompson, Duckwater Shoshone Tribe

T. Kingham, GAO

D. Feehan, GAO

E. Hiruo, Platts Nuclear Publications

G. Hernandez, Las Vegas Paiute Tribe

K. Finrock, NV Congressional Delegation

P. Johnson, Citizen Alert

M. Williams, DOE/OCRWM

J. Williams, DOE/Washington, DC

A. Robinson, Robinson-Seidler

M. Plaster, City of Las Vegas

S. Rayborn, Sen. Reid's Office

L. Lehman, T-REG, Inc.

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M. Urie, DOE

J. Brandt, Lander County

R. Holland, Inyo County

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R. Warther, DOE/OCRWM

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J. Leeds, Las Vegas Indian Center

J. C. Saulque, Benton Paiute Indian Tribe

C. Bradley, Kaibab Band of Southern Paiutes

R. Joseph, Lone Pine Paiute-Shoshone Tribe

L. Tom, Paiute Indian Tribes of Utah

E. Smith, Chemehuevi Indian Tribe

D. Buckner, Ely Shoshone Tribe

V. Guzman, Walker River Paiute

D. Eddy, Jr., Colorado River Indian Tribes

M. Boyd, Public Citizen

J. Wells, Western Shoshone National Council

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I. Zabarte, Western Shoshone National Council

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P. Golan, DOE

M. Rice, Lincoln County, NV

G. Hellstrom, DOE

S. Joya, Sen. Ensign's Office

M. Gaffney, Inyo County

L. Desell, RW/DOE

R. List, Esmeralda County

B. Neuman, Carter Ledyard & Milburn L.L.P.

E. Bonano, SNL

P. Nair, SNL

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