

May 14, 2008

Robert R. Loux, Executive Director
Agency for Nuclear Projects
Office of the Governor
State of Nevada
1761 E. College Parkway, Suite 118
Carson City, Nevada 89706

SUBJECT: CONSIDERATION OF THE U.S. DEPARTMENT OF ENERGY USE OF DRIP SHIELDS, AND PLANS FOR RETRIEVAL, IN AN APPLICATION FOR THE PROPOSED YUCCA MOUNTAIN REPOSITORY

Dear Mr. Loux:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am responding to your letters, dated April 15 and April 23, 2008, to Chairman Dale E. Klein. These letters requested, respectively, that NRC should not accept for review a license application from the U.S. Department of Energy (DOE) for a geologic high-level waste repository at Yucca Mountain, Nevada, if DOE relies on performance of drip shields as part of an engineered system, or if DOE does not have a comprehensive plan for retrieval of spent fuel.

Nevada has expressed similar concerns in previous letters. For example, your letter of April 19, 2007, addressed DOE's use of drip shields in performance assessment. NRC's reply to your 2007 letter, dated May 21, 2007, from Dr. Janet Kotra, described the licensing process set forth in NRC's regulations, and stated that, if an application is submitted and accepted for review, NRC staff will evaluate if the Yucca Mountain system, including DOE's proposed design, will comply with the performance requirements in NRC's regulations.

Your current letters specifically refer to NRC's acceptance of a license application for review. Under 10 CFR 63.21 (a), NRC will determine if a submitted application is complete, in light of information that is reasonably available at the time of docketing. Staff technical review will begin if the application is determined to be sufficiently complete. Information about performance of barriers identified as important to waste isolation, and plans for retrieval, would be key parts of the technical review.

Sincerely,

/RA/

Michael F. Weber, Director
Office of Nuclear Material Safety
and Safeguards

cc: See attached list

Letter to R. Loux from M. Weber dated: May 14, 2008

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
J. Birchim, Yomba Shoshone Tribe	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
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S. Lynch, State of NV	J. Kennedy, Timbisha Shoshone Tribe
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G. Hernandez, Las Vegas Paiute Tribe

K. Finfrock, NV Congressional Delegation

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S. Rayborn, Sen. Reid's Office

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J. Leeds, Las Vegas Indian Center

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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

D. Crawford, Inter-Tribal Council of NV

I. Zabarte, Western Shoshone National Council

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Michael F. Weber, Director
Office of Nuclear Material Safety
and Safeguards

cc: See attached list

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