

September 8, 2008

Mr. Edward F. Sproat, III, Director
Office of Civilian Radioactive Waste Management
U.S. Department of Energy
Washington, DC 20585

SUBJECT: NOTICE OF ACCEPTANCE FOR DOCKETING OF THE DEPARTMENT OF ENERGY'S LICENSE APPLICATION FOR AUTHORITY TO CONSTRUCT A GEOLOGIC REPOSITORY AT A GEOLOGIC REPOSITORY OPERATIONS AREA AT YUCCA MOUNTAIN, NEVADA

Dear Mr. Sproat:

On June 3, 2008, the U.S. Department of Energy (DOE) submitted a license application to the U.S. Nuclear Regulatory Commission (NRC) seeking authorization to construct a geologic repository at a geologic repository operations area at Yucca Mountain, NV, in accord with provisions of 10 CFR Part 63. A notice of receipt of this application was published in the *Federal Register* on June 17, 2008 (73 FR 34348, corrected in 73 FR 40883). The license application has not been amended, supplemented, or otherwise changed since it was submitted to the NRC. In accord with Section 114(f)(1) of the Nuclear Waste Policy Act, as amended, and the provisions of 10 CFR 63.21, the license application was accompanied by the "*Final Environmental Impact Statement for a Geologic Repository for the Disposal of Spent Nuclear Fuel and High-Level Radioactive Waste at Yucca Mountain, Nye County, Nevada.*" On June 16, 2008, under separate cover, DOE submitted the "*Final Supplemental Environmental Impact Statement for a Geologic Repository for the Disposal of Spent Nuclear Fuel and High-Level Radioactive Waste at Yucca Mountain, Nye County, Nevada,*" the "*Final Supplemental Environmental Impact Statement for a Geologic Repository for the Disposal of Spent Nuclear Fuel and High-Level Radioactive Waste at Yucca Mountain, Nye County, Nevada – Nevada Rail Transportation Corridor,*" and the "*Final Environmental Impact Statement for a Rail Alignment for the Construction and Operation of a Railroad in Nevada to a Geologic Repository at Yucca Mountain, Nye County, Nevada.*"

The NRC staff completed an initial examination of the license application and determined that the application contains sufficient information to meet the requirements of 10 CFR 2.101 and 10 CFR 63.21, and that the application can be docketed. The NRC staff will now begin a detailed technical review of the license application. The Docket Number established for this application is 63-001.

Pursuant to 10 CFR 2.101(e)(5), no additional copies of the license application are required by the Office of Nuclear Material Safety and Safeguards, and we understand that copies of the

license application and all final environmental impact statements have been served on the chief executive of Nye County, as well as the appropriate Federal, State, Indian Tribe, and local officials. Please certify within 10 days, pursuant to 10 CFR 2.101(e)(6), that distribution of copies to Federal, State, Indian Tribe, and local officials has been completed.

In accord with Section 114(f)(4) of the Nuclear Waste Policy Act, as amended, the NRC must adopt, to the extent practicable, any environmental impact statement prepared by DOE in connection with the proposed repository. The NRC staff reviewed DOE's Final Environmental Impact Statement (FEIS) and its supplements, and finds that it is practicable to adopt, with further supplement, the FEIS and supplements prepared by DOE. The staff concludes that neither the 2002 FEIS nor the 2008 Final Supplemental Environmental Impact Statement (Repository Supplemental EIS) adequately address all of the impacts on groundwater, or from surface discharges of groundwater, from the proposed action. The staff concludes that additional supplementation is needed to ensure the 2002 FEIS and the 2008 Repository Supplemental EIS are adequate. The basis for the staff's position is presented in the *U.S. Nuclear Regulatory Commission Staff's Adoption Determination Report for the U.S. Department of Energy's Environmental Impact Statements for the Proposed Geologic Repository at Yucca Mountain*, a copy of which is enclosed. This report is also available in ADAMS, under accession number ML082420342. Please inform us, within 30 days, of your proposed plan for preparation of a supplement to the 2002 FEIS and 2008 Repository Supplemental EIS, as discussed in the report.

In addition, we have enclosed, for your information, a copy of the Notice of Docketing related to the license application, which was forwarded to the *Federal Register* for publication. The Commission will publish a separate Notice of Hearing in the *Federal Register*, in accord with provisions of 10 CFR 2.104.

If you have any questions or comments concerning this matter, you may contact Mr. Brian Benney, Licensing Project Manager, at 301-492-3193.

Sincerely,

/RA/

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

Docket No.: 63-001

Enclosures: As stated

cc: Attached List

Letter to E. Sproat from M. Weber dated: September 8, 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
A. Johnson, Eureka County, NV	S. Gomberg, DOE/Washington, D.C.
J. Van Niel, Nye County, NV	D. Curran, Harmon, Curran, Spielberg & Eisenberg, L.L.P.
L. Pitchford, Consultant	R. Dyer, DOE/OCRWM
C. Trummell, Consultant	J. Espinoza, GAO
J. Donnell, DOE/OCRWM	A. Gil, DOE/OCRWM
M. Baughman, Lincoln County, NV	W. Boyle, DOE/OCRWM
L. Mathias, Mineral County, NV	R. Murthy, DOE/OCRWM
J. Saldarini, BSC	S.A. Wade, DOE/OCRWM
V. Prothro, Rep. Heller's office	D. Cherry, Rep. Berkley's office
C. Simkins, Lincoln County	T. Gunter, DOE/OCRWM
M. Simon, White Pine County, NV	A. Benson, DOE/OCRWM
E. Sproat, DOE/OCRWM	N. Hunemuller, DOE/OCRWM
G. Facchiano, Rep. Heller's office	P. Harrington, OPM&E
T. Story, Rep. Berkley's office	S. Cereghino, BSC
R. Makley, White Pine County, NV	B. Gattoni, Burns & Roe
M. Murphy, Nye County, NV	E. Mueller, Esmeralda County, NV
S. Meade, Rep. Porter's office	J. Gervers, Consultant
K. Kirkeby, Sen. Ensign's office	D. Beckman, BSC/B&A
R. Loux, State of NV	J. Raleigh, SNL
S. Frishman, State of NV	J. Kennedy, Timbisha Shoshone Tribe
S. Lynch, State of NV	B. Durham, Timbisha Shoshone Tribe
S. Scholley, Legislative Counsel Bureau	E. Lent, Timbisha Shoshone Tribe
R. Clark, EPA	R. Arnold, Pahrump Paiute Tribe
R. Anderson, NEI	D. Lacy, Nye County, NV

cc: (Continued)

R. McCullum, NEI

S. Kraft, NEI

J. Kessler, EPRI

D. Duncan, USGS

K. Skipper, USGS

M. Plinksj, BSC/BSC

C. Marden, BNFL Inc.

J. Bacooh, Big Pine Paiute Tribe of Owens Valley

P. Thompson, Duckwater Shoshone Tribe

D. Silverman, Morgan, Lewis & Bockius LLP

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

L. Lee, City of Las Vegas

S. Raborn, Sen. Reid's Office

L. Lehman, T-REG, Inc.

B.J. Garrick, NWTRB

T. Feigenbaum, BSC

M. Urie, DOE

J. Brandt, Lander County

R. Holland, Inyo County

B. Sagar, CNWRA

J. Min, Rep. Porter's office

R. Warther, DOE/OCRWM

S. A. Orrell, SNL

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R. Tully, Sen. Engisn's office

R. Holden, NCAI

Moapa Paiute Indian Tribe

C. Dahlberg, Fort Independence Indian Tribe

D. Vega, Bishop Paiute Indian Tribe

Egan, Fitzpatrick, Malsch, PLLC

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

D. Crawford, Inter-Tribal Council of NV

I. Zabarte, Western Shoshone National Council

S. Devlin

G. Hudlow

D. Irwin, Hunton & Williams

J. Holtrith, DOE

M. Rice, Lincoln County, NV

G. Hellstrom, DOE

S. Joya, Sen. Ensign's Office

M. Gaffney, Inyo County

L. Desell, RW/DOE

A. McDonough, Sen. Reid's office

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

E. Bonano, SNL

R. List, Armstrong Teasdale LLP

D. Cristinzio, Sen. Reid's Office

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K. Carunchio, Inyo County, NV

A. Lembke, Inyo County, NV

P. Thiessen, Sen. Ensign's office

M. Nakashima, Rep. Heller's office

A. Moses, Rep. Heller's office

S. Olsen, Rep. Porter's office

C. Guedry, Sen. Ensign's office

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Sincerely,

/RA/

Michael F. Weber, Director
Office of Nuclear Material Safety
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Docket No.: 63-001

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