

October 7, 2008

The Honorable Harry Reid
United States Senate
Washington, D.C. 20510

Dear Senator Reid:

I am responding to your letter dated August 27, 2008, in which you enclosed a petition requesting that the Commission reject the U.S. Department of Energy's (DOE's) application seeking authorization to construct a geologic repository at Yucca Mountain, Nevada. The Commission recognizes the significant public interest in the agency's licensing review process for the high-level radioactive waste repository application. In an August 22, 2008, memorandum and order (CLI-08-20), the Commission addressed two similar petitions, including one from the State of Nevada. Both petitions and supplements were dismissed without prejudice to the petitioners' right to pursue identical claims, but in the form of proposed adjudicatory "contentions," when and if the application was docketed and a Notice of Hearing issued.

On September 8, 2008, the NRC staff determined the DOE application contained sufficient information to meet the requirements for docketing. The Notice of Acceptance for Docketing was published in the *Federal Register* on September 15, 2008 (73 FR 53284) and the Staff has now begun a detailed technical review. A Notice of Hearing announcing the opportunity to petition for leave to intervene in the hearing will be published in the *Federal Register* in the near future.

In July 2003, to ensure the openness of its Yucca Mountain activities, the Commission decided it would apply its *ex parte* rules upon the docketing of the DOE application. Thus, the Commission cannot discuss the adequacy of the DOE application outside the confines of the adjudicatory process.

Sincerely,

/RA/

Annette L. Vietti-Cook

cc: Senator John Ensign
Representative Shelley Berkley
Representative Jon Porter
Representative Dean Heller