



UNITED STATES  
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

July 30, 2010

SECRETARY

The Honorable F. James Sensenbrenner, Jr.  
United States House of Representatives  
Washington, D.C. 20515

Dear Congressman Sensenbrenner:

I am responding to your letter to Chairman Jaczko, dated July 15, 2010, relating to the pending adjudicatory proceeding that is associated with the U.S. Department of Energy's (DOE) application for the proposed Yucca Mountain high-level waste repository. You request, among other things, that the Commission leave in place the decision of the Construction Authorization Board to deny the U.S. Department of Energy's motion to withdraw its request for authorization to construct a high-level nuclear waste repository at Yucca Mountain, Nevada.

Your letter addresses matters which the Commission has under advisement in its adjudicatory capacity, and which it will decide with due consideration to applicable law. Given the pendency of the adjudicatory proceeding, therefore, the Commission cannot discuss or comment on issues involved in this matter, including those raised in your letter.

A copy of your letter and this response will be served on the participants in the Yucca Mountain proceeding. In addition, we will keep you informed of the Commission's decisions in this matter.

Sincerely,

A handwritten signature in black ink, which appears to read "Annette L. Vietti-Cook", is written over a horizontal line.

Annette L. Vietti-Cook

cc: Service List

Identical letter sent to:

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The Honorable Bob Inglis  
United States House of Representatives  
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The Honorable Joe Wilson  
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The Honorable Gresham Barrett  
United States House of Representatives  
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The Honorable Cathy McMorris Rodgers  
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Dear Congresswoman Rodgers:

The Honorable Doc Hastings  
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The Honorable John Shimkus  
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The Honorable Jo Bonner  
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# Congress of the United States

Washington, D.C. 20515

July 15, 2010

Chairman Gregory Jaczko  
Nuclear Regulatory Commission  
11555 Rockville Pike  
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Dear Chairman Jaczko:

We are writing to express our support of the June 29, 2010 decision by the Atomic Safety and Licensing Board (Board) to deny the Department of Energy's (DOE) motion to withdraw the license application to construct a high-level nuclear waste repository at Yucca Mountain, Nevada.

As clearly expressed in the Board's decision, DOE does not have the authority to withdraw the license application simply as a matter of policy. At no point in DOE's motion to withdraw did the agency fault any scientific or technical portions of the license application. This omission highlights the shaky grounds on which DOE rested its argument to shutter Yucca Mountain.

We agree with the Board's observation that congressional intent was clear in the Nuclear Waste Policy Act (NWPA). NWPA was specific with the associated procedures to prepare Yucca Mountain for waste storage. Congress did not pre-approve the license application; however, once the license application was initially submitted, the Nuclear Regulatory Commission (NRC) was required consider it. Congress has repeatedly voted in support of locating a national high-level waste repository at Yucca Mountain. DOE cannot short change proper examination of the repository because of political preferences.


The massive investment in both time and taxpayer dollars warrant proper consideration of the license application by the NRC. Over the course of thirty years, approximately \$10 billion have been spent on Yucca Mountain. Throwing away this investment due to a campaign-pledge is not acceptable. Should the Commission overturn the Board's decision, DOE and Congress will be forced to start anew to address spent fuel, which will only cost more taxpayer dollars, increase the government's liability, and burden facilities that are currently storing waste on-site.


Further, we are concerned that some Commissioners have pre-judged the outcome of this decision. In their February 9, 2010 confirmation hearing, Senator Boxer, Chairwoman of the Environment and Public Works Committee, which is the oversight committee of jurisdiction said, "I have a question here for all three of you from Senator Reid. You can just answer it yes or no. If confirmed, would you second guess the Department of Energy's decision to withdraw the license application for Yucca Mountain from NRC's review?" Commissioners Apostolakis, Magwood, and Ostendorff all answered "no." We think it was an inappropriate commitment and as nominees, the commissioners should not have faced intense pressure both from Environment and Public Works Chairwoman Boxer and Senate Majority Leader Reid. The Commission should examine each case on its merits, rather than pre-judging an argument. We hope the entire Commission considers the Board's decision in an objective manner.


Lastly, we call for the Commission to make all relevant documents related to DOE's motion to withdraw public. Given the significant ramifications of DOE's actions, it is in the public's interest to be fully informed of the entire decision-making process.


With these thoughts in mind, we urge you to leave the Board's decision in place.


Sincerely,

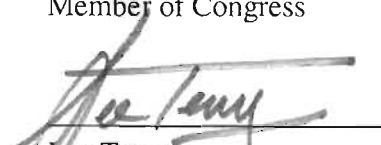
  
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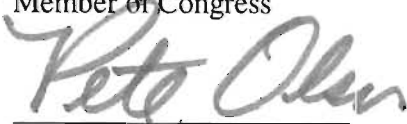
  
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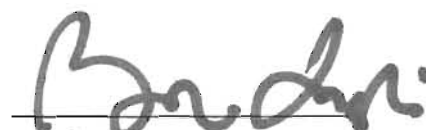
  
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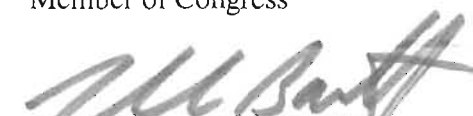
  
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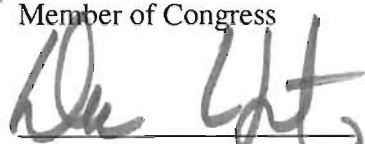
  
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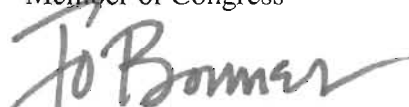
  
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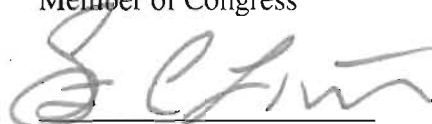
  
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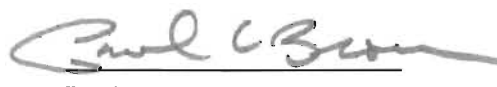
  
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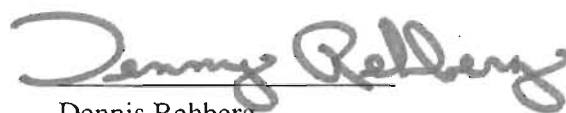
  
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Commissioner William C. Ostendorff

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of )  
 )  
U.S. DEPARTMENT OF ENERGY )  
 )  
(High-Level Waste Repository) )  
 )

Docket No. 63-001-HLW  
ASLBP No. 09-892-HLW-CAB04

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **Letter from the Secretary to the Honorable F. James Sensenbrenner, Jr., et al**, dated July 30, 2010, have been served upon the following persons by Electronic Information Exchange.

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U.S. DEPARTMENT OF ENERGY (High Level Waste Repository) Docket No. 63-001-HLW  
**Letter from the Secretary to the Honorable F. James Sensenbrenner, Jr., et al**

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U.S. DEPARTMENT OF ENERGY (High Level Waste Repository) Docket No. 63-001-HLW  
**Letter from the Secretary to the Honorable F. James Sensenbrenner, Jr., et al**

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U.S. DEPARTMENT OF ENERGY (High Level Waste Repository) Docket No. 63-001-HLW  
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U.S. DEPARTMENT OF ENERGY (High Level Waste Repository) Docket No. 63-001-HLW  
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U.S. DEPARTMENT OF ENERGY (High Level Waste Repository) Docket No. 63-001-HLW  
**Letter from the Secretary to the Honorable F. James Sensenbrenner, Jr., et al**

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[Original Signed by Linda D. Lewis]  
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Dated at Rockville, Maryland  
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