



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

July 30, 2010

SECRETARY

The Honorable Jerome Delvin
Washington State Senate
201 Irving R. Newhouse Building
P.O. Box 40408
Olympia, Washington 98504-0408

Dear Senator Delvin:

I am responding to your letter to Chairman Jaczko, dated June 9, 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. Among other things, you question DOE's authority to discontinue consideration of its application 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.

Sincerely,

A handwritten signature in cursive script that reads "Annette Vietti-Cook".

Annette L. Vietti-Cook

cc: Service List



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June 9, 2010

Chairman Gregory B. Jaczko
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Dear Chairman Jaczko and Commissioners:

I am writing to express my serious concern over the Obama administration's announcement it will seek to permanently remove from consideration America's only Congressionally-approved high-level nuclear-waste repository at Yucca Mountain, Nevada.

As you know, it took 20 years for Congress to agree on this location. In 2002, after seemingly endless scientific study, Congress designated Yucca Mountain as the nation's only repository site for deep geological disposal of high-level radioactive waste and spent nuclear fuel. Since then, more than \$14 billion has been poured into the project. Across America, U.S. citizens have paid more than \$21 billion into a Department of Energy fund, which by contractual obligation, must deliver a national nuclear-waste storage facility.

As a Washington state senator representing the Tri-Cities area and the Hanford Nuclear Reservation, I can tell you that my constituents are counting on Yucca Mountain.

Since 1944, Hanford has hosted nearly two-thirds of America's defense-related radioactive waste. We currently have 53 million gallons of nuclear waste stored in 177 large underground tanks. Nearly 150 of them are 42 years past their expected 25-year design life. More than one-third of these are now leaking. A major river—the Columbia—is nearby and its waters flow past major metropolitan regions in both Washington and Oregon. We have been patiently waiting for decades for Yucca Mountain to open, so that we can safely store this waste. Our \$12.3 billion Waste Treatment Plant has been designed to Yucca Mountain's specifications. As a result, waste storage at Yucca will be exponentially safer than it is here.

We have done our part for America. We need help now – not tomorrow or in another 10 or 20 years. President Obama's irresponsible and arbitrary decision has no scientific basis – it's clearly political. That's why it's up to you to do the right thing by the Americans who have sacrificed for decades to deliver our national security.

In truth, the Department of Energy simply does not have the authority to close down Yucca Mountain. It was authorized by Congress and only Congress can take it off the table. A federal court has already held that the United States has breached its obligation to remove the wastes from power plants: Each year a decision is deferred, the liability climbs. By 2020, experts estimate the DOE may face \$11 billion in damages for continued failure to provide this service and it will have to somehow return the \$21 billion paid so far by electricity users. With the federal government going further into debt each day, this is hardly something our country can afford.

Committees: Economic Development, Trade & Innovation • Environment, Water & Energy • Transportation

Millions of Americans are watching your decision. The citizens of Washington, particularly those surrounding Hanford, have waited much too long. I ask you to help us now. Do not allow the DOE to shut down Yucca Mountain after all the work and money we've all invested. We believed that if we relied on scientific criteria, the safest site—Yucca Mountain—would be selected.

Thank you in advance for your consideration. Please don't hesitate to contact me for further information or clarification.

Sincerely,



Sen. Jerome Delvin
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Richland, WA

Cc: Spiros C. Droggitis
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U.S. Nuclear Regulatory Commission

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Enc: http://seattletimes.nwsourc.com/html/editorials/2012015811_edit03yucca.html

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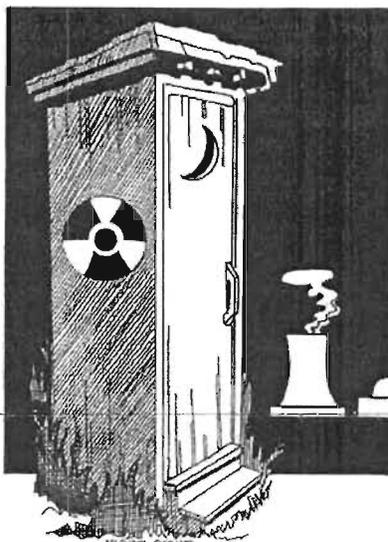
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Hoping for a fair hearing on Yucca Mountain

A board of the Nuclear Regulatory Commission will consider an Obama administration request to withdraw permanently a permit application for the Yucca Mountain nuclear repository. The Times editorial board says the administration's action is premature, wasteful and disingenuous.

WE hope the Nuclear Regulatory Commission's board hearing Thursday on whether the Obama administration can unilaterally withdraw its permit application for the nation's nuclear-waste repository is a fair one.

There is not much that does not stink about President Obama's decision to squander 30 years and \$10 billion of study of Nevada's Yucca Mountain site and flout an act of Congress. The 1997 law designated Yucca Mountain as the longterm site to hold the nation's commercial nuclear waste now stacking up around the country and the nation's high-level nuclear-defense waste. Hanford in Southeastern Washington has two-thirds of the nation's defense waste.



enlarge

Washington and South Carolina are seeking to intervene in the administration's action, both before the NRC and in federal lawsuits.

The Department of Energy applied for the Yucca permit in 2008. Two years later, Senate Majority Leader Harry Reid, a Democrat, struggles for re-election. Obama comes to the rescue, zeroing out Yucca Mountain's budget and creating a blue-ribbon commission to consider where the waste should go instead — but the data-rich Yucca option is off the table. The Obama administration's request to withdraw the permit "with prejudice" would preclude any further consideration.

But why not keep Yucca as a possible alternative while others are studied?

Energy Secretary Steven Chu, a Nobel laureate scientist, could not answer the scientific question posed at a hearing by Sen. Patty Murray, D-Wash, who opposes the federal action. That is because the answer is political. Washington U.S. Reps. Norm Dicks, Jay Inslee and Doc Hastings also oppose the move.

The NRC board that will decide whether the administration could withdraw its application previously delayed its proceeding, deferring to the federal courts. But, in April, the four sitting commission members, including three Obama appointees and a fourth whom Obama designated as chair, voted unanimously to overrule the board's decision and made it take up the issue.

Interestingly, the three newest members of the commission, William Magwood, George Apostolakis and William Ostendorff, at their February confirmation hearings all agreed they would not challenge Obama's Yucca decision.

Meanwhile, the administration's scheme proceeds. Last month, the Energy Department ordered the project's main contractors to terminate most work and prepare for laying off more workers.

These moves are clearly premature, certainly wasteful and obviously disingenuous. Sure, go ahead and study alternatives. But if this was an earnest effort to find the best solution, Yucca Mountain would remain among the possibilities.

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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 Jerome Delvin**, dated July 30, 2010, have been served upon the following persons by Electronic Information Exchange.

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Letter from the Secretary to the Honorable Jerome Delvin

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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 Jerome Delvin

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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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[Original Signed by Linda D. Lewis]

Office of the Secretary of the Commission

Dated at Rockville, Maryland
this 4th day of August 2010