

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

August 18, 2010



SECRETARY

The Honorable Doc Hastings
United States House of Representatives
Washington, D.C. 20515

Dear Congressman Hastings:

I am responding to your letter dated August 17, 2010, addressed to Chairman Jaczko, related 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 that the Commission "decide on the merits of the claim that DOE acted illegally in seeking to withdraw its license application without delay."

Given the pendency of the adjudicatory proceeding the Commission cannot discuss or comment on issues involved in this matter. However, please be assured that the Commission, in its adjudicatory capacity and with due consideration to applicable law, is moving with all due haste in arriving at a decision relative to review of the Atomic Safety and Licensing Board decision LBP-10-11.

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 that reads "Annette Vietti-Cook". The signature is written in a cursive style with a long horizontal stroke at the end.

Annette L. Vietti-Cook

cc: Service List



Congress of the United States

House of Representatives

August 17, 2010

Chairman Gregory B. Jaczko
U.S. Nuclear Regulatory Commission
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Dear Chairman Jaczko:

I write today regarding the delay in the release of the Nuclear Regulatory Commission's decision on the Department of Energy's (DOE) move to withdraw the license application for Yucca Mountain with prejudice.

As you know, earlier this year several parties challenged the Obama Administration's decision to abandon the Yucca Mountain project as the site for permanent disposal of high level nuclear waste. These actions have been consolidated in the U.S. Circuit Court of Appeals for the D.C. Circuit, and were set for argument on September 23, 2010.

At the same time, DOE filed to withdraw the license application for the Yucca Mountain project from consideration by the NRC. The NRC directed the Atomic Safety and Licensing Board to consider the motion immediately. On June 29, 2010, the ASLB unanimously rejected DOE's motion and found that DOE must move forward with the application. The very next day, the NRC issued an order directing the parties to submit briefs by July 16 as to whether it should review the ASLB's decision.

Based on the NRC's action of requesting the parties provide briefs, the Department of Justice asked the D.C. Circuit to postpone the September 23 argument on the broader issue of abandoning the site, pending a decision by the NRC.

This matter has now been pending before the NRC since July 16, when all briefs were to have been filed. Although the NRC acted quickly in taking the case, and the D.C. Circuit postponed argument based on the NRC's response to the ASLB's opinion, the Commission has yet to act. I am also concerned that it took two commissioners almost a month to deny motions to recuse themselves, while a third commissioner decided to recuse himself in a matter of just six days of when the motions were filed, albeit for different reasons. I believe that every day of delay creates serious harm to the project. DOE continues to dismantle the Yucca Mountain project at great cost to taxpayers and in total disregard of the ASLB's decision that DOE has no authority to do so.

I would encourage you to decide on the merits of the claim that DOE acted illegally in seeking to withdraw its license application without delay. Thank you for your timely consideration and I would ask that you notify me when a decision will be reached.

Sincerely,

A handwritten signature in black ink, appearing to read "Doc Hastings". The signature is written in a cursive, flowing style.

Doc Hastings
Member of Congress

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 Doc Hastings**, dated August 18, 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 Doc Hastings

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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]
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