

From: Vietti-Cook, Annette
To: Echols, Stan
cc: Jaczko, Gregory; Magwood, William; Apostolakis, George;
Ostendorff, William; McCrary, Cheryl; Burns, Stephen; Docket, Hearing
Subject: RE: Yucca Mountain Appeal
Date: Wednesday, August 25, 2010 5:37:00 PM

Dear Mr. Echols:

I am responding to your email dated August 17, 2010, addressed to members of the Commission as well as the General Counsel and director of the Office of Investigations, related to the pending adjudicatory proceeding associated with the U.S. Department of Energy's (DOE) application for the proposed Yucca Mountain high-level waste repository. Among other things, you express concern that there is a perception that the Commission may be biased against the Construction Authorization Board's recent ruling denying DOE's request to withdraw its license application.

As you may be aware, Commissioner Apostolakis recently recused himself from the *Yucca Mountain* proceeding, and in separate decisions, Commissioners Magwood and Ostendorff declined to do so. Each of these decisions is available in ADAMS, and on the Electronic Hearing Docket for the proceeding (go to: <http://www.nrc.gov/about-nrc/regulatory/adjudicatory.html> - EHD-High Level Waste; HLW-EHD, HLW License App 63-001 All CABs, CAB04_HLW, Orders_CAB04).

Communications between the NRC Staff and the Commission regarding ongoing adjudicatory matters are subject to the separation of functions rule, 10 C.F.R. § 2.348. Therefore, given the pendency of the adjudicatory proceeding, the Commission cannot discuss or comment on issues involved in this matter, including those raised in your email. However, please be assured that the Commission, in its adjudicatory capacity, will make a decision with all due consideration to applicable law.

A copy of your email and this response will be served on the participants in the *Yucca Mountain* proceeding.

Annette L. Vietti-Cook, Secretary
U.S. Nuclear Regulatory Commission