

REQUEST REPLY BY: 10/8/10



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

COMWCO-10-0002

COMMISSIONER

October 06, 2010

MEMORANDUM TO: Chairman Jaczko  
Commissioner Svinicki  
Commissioner Apostolakis  
Commissioner Magwood

FROM: Commissioner Ostendorff *[Signature]*

SUBJECT: COMMISSION DIRECTION ON STAFF BUDGET GUIDANCE  
UNDER FISCAL YEAR (FY) 2011 CONTINUING RESOLUTION

On September 20, 2010, Congress passed a Continuing Resolution making appropriations to fund the federal government through December 3, 2010. The Continuing Resolution appropriates "[s]uch amounts as may be necessary, at a rate for operations as provided in the applicable appropriations Acts for fiscal year 2010 and under the authority and conditions provided in such Acts, for continuing projects or activities ... that are not otherwise provided for in this Act, that were conducted in fiscal year 2010, and for which appropriations, funds, or other authority were made available...."

On October 4, 2010, the EDO and CFO issued a memo to the staff providing direction on the 2011 Continuing Resolution. This memo stated that "[w]ith respect to the High-Level Waste Program, the CR legislation does not include specific restrictions on spending funds. Therefore, the staff should continue its activities on the Yucca Mountain license application in accordance with the Commission's decisions on the FY 2011 budget using available Nuclear Waste Fund resources during the CR." This is a significant policy matter that I believe warrants the Commission's attention, and which requires that the Commission give direction to the staff to avoid confusion on the Commission's intent for operation under the Continuing Resolution.

[ ] the Staff informed the Commission of its schedule for issuance of the SER volumes. [ ] the Staff's statement to the Construction Authorization Board at a hearing in January 2010 that it would complete SER Volumes 1 and 3 no later than August and November 2010, respectively. [ ] it would continue to work on any remaining SER volumes until fiscal year 2010 funds were exhausted, absent further congressional direction to the contrary. [ ]

[ ] It is my view that whatever the ultimate disposition of the High-

[ ]

[ ]

[ ]  
Level Waste Repository activity, complete SER documents are the best and most appropriate way in which to memorialize the Staff's work product.

During the pendency of the Continuing Resolution, the Staff should continue to follow this schedule and issue the remaining SER Volumes accordingly. The Staff should continue to work on the remaining SER volumes, [ ] at the rate for operations appropriate given the proposed fiscal year 2011 budget as augmented by reprogrammed funds remaining from fiscal year 2010 appropriations.

This is a time-sensitive matter, and I believe that the Commission should take action on this proposal no later than October 8th in order to ensure that the Staff has clear guidance on how to operate under the Continuing Resolution.

SECY, please track.

cc: EDO  
CFO  
OGC  
SECY