

David C. Boyd, Chairman
Commissioner, Minnesota Public Utilities Commission

Renze Hoeksema, Vice Chairman
Director of State Affairs, DTE Energy

Greg R. White, Membership
Commissioner, Michigan Public Service Commission

Robert Capstick, Finance
Director of Government Affairs, Yankee Atomic

Lauren "Bubba" McDonald, Jr., Communications
Commissioner, Georgia Public Service Commission

David A. Wright, Ex-Officio
Principal, Wright Directions



September 3, 2013

The Honorable Allison M. Macfarlane, Chairman
The Honorable Kristine L. Svinicki, Commissioner
The Honorable George Apostolakis, Commissioner
The Honorable William D. Magwood, IV, Commissioner
The Honorable William C. Ostendorff, Commissioner
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Dear Chairman Macfarlane and Commissioners Svinicki, Apostolakis, Magwood & Ostendorff:

The Nuclear Waste Strategy Coalition (NWSC)ⁱ – an ad hoc organization representing the collective interests of member state utility regulators, consumer advocates, tribal governments, local governments, electric utilities, and other government and industry experts on nuclear waste policy matters – is encouraged by last Friday’s news that the Nuclear Regulatory Commission (NRC) is seeking input over the next month on “how to restart the Yucca Mountain licensing process,” a request that “will help the Commission ensure the most efficient and productive use of the approximately \$11 million the agency has left to resume the licensing process, which was suspended in September 2011.”ⁱⁱ Despite several opportunities for review of the U.S. Court of Appeals for the District of Columbia Circuit’s August 13th mandamus ruling in *Aiken County v. NRC*, you have properly decided to forego them.

The NRC’s independent and well-advanced scientific review of the Department of Energy’s (DOE) license application for a geologic repository at Yucca Mountain, Nevada is a critical next step in carrying out the important statutory requirements of the Nuclear Waste Policy Act (NWPA). In accordance with the NWPA, consumers of electricity generated by the nation’s nuclear reactors have contributed nearly \$35 billion in fees and interest to date to for the federal government’s used nuclear fuel management and disposal program, which includes NRC’s review of the Yucca Mountain license application. Clearly, these consumers deserve to know once and for all whether Yucca Mountain is a safe site for the permanent disposal of used nuclear fuel.

Therefore, the NWSC strongly supports the timely resumption of the Yucca Mountain licensing process, and we urge the NRC’s immediate action toward a final decision granting or denying the license application. To meet this goal in the most efficient and productive way given the current funding challenges, the NWSC respectfully calls upon the NRC to:

1. ensure the timely completion and publication of the unfinished volumes of the Safety Evaluation (SE) as the top priority for the agency’s use of the approximately \$ 11 million in unobligated carryover funds;
2. reimburse the Nuclear Waste Fund (NWF) monies that were appropriated to the NRC for the license review but were instead spent on shutting down the licensing process without Congressional authorization; and
3. immediately seek appropriate funding to facilitate completion of the NRC’s license application review.

The NRC's first order of business should be the timely completion and publication of the unfinished volumes of the SE on the proposed Yucca Mountain design. The SE contains the NRC technical staff's independent assessment regarding compliance with public health, environmental, and safety standards and was reportedly only months away from completion when work was stopped. Completion of the SE is the logical next step in the license application review process. With limited resources immediately available the SE should be finished prior to resuming the adjudicatory hearings, which will require far more resources and which will be informed by the SE. Underscoring that these funds have been collected from electric consumers for a specific purpose to include the NRC's license review, we urge that the approximately \$11 million in unobligated carryover funds be spent wisely and that issuance of the SE should be the NRC's top priority.

As explained in Nye County's August 23, 2013, Motion for Lifting Suspension, the NRC's use of funds appropriated for the license review process – but instead used to terminate that process – was not authorized by Congress and constitutes misuse of the fees paid by millions of electric consumers into the NWF. Therefore, our members call on you to effectively make the NWF whole by effectively reimbursing the Yucca Mountain appropriation, where funds are available, from other appropriations that are proper funding sources (i.e., NRC's overall administrative budget) and *not* from the approximately \$11 million available for the license review.

Finally, we recognize that even if the NRC takes such action to replace misused NWF monies, future Congressional appropriations will likely be necessary to complete the license application review process. Therefore, we seek your leadership in requesting the necessary funds from Congress to facilitate timely completion. Strong, bipartisan support remains for carrying out the provisions of the NWPA as passed by Congress decades ago, and your input about NRC funding needs would be valued and helpful in making more timely progress.

* * * * *

Used nuclear fuel and high-level radioactive waste should be removed as soon as possible from existing and decommissioned reactor sites across the country, and a permanent repository is both necessary and required by law. In addition, some states are precluded from using nuclear as a generation source until a repository is operational, and thus, from pursuing an all-of-the-above energy strategy as recommended by the Administration. By taking the actions outlined above, you have an opportunity to break the logjam, support the rule of law, facilitate energy options for states, protect millions of electric consumers and all taxpayers from additional unnecessary costs, and make progress toward resolving this national dilemma for generations to come. It is time for the NRC to provide answers to the public, and the NWSC stands ready to work with you, the DOE, the Administration, and Congress to ensure that happens.

Sincerely,



David C. Boyd, Chairman, Nuclear Waste Strategy Coalition
Commissioner, Minnesota Public Utilities Commission

cc: Annette L. Vietti-Cook, Secretary of the Commission

ⁱ The NWSC is an ad hoc organization representing the collective interests of member state utility regulators, consumer advocates, tribal governments, local governments, electric utilities, and other government and industry experts on nuclear waste policy matters. Our primary focus is to protect electric consumer payments into the Nuclear Waste Fund and to support the removal and ultimate disposal of used nuclear fuel and high-level radioactive waste currently stranded at numerous sites across the country. Therefore, the matters resolved by the DC Circuit's August 13, 2013 mandamus ruling are of considerable interest to our diverse membership and those they represent.

ⁱⁱ NRC Press Release, "Nuclear Regulatory Commission Seeks Input on Resumption of Yucca Licensing Review," August 30, 2013.

Docket, Hearing

From: CMRSVINICKI Resource
Sent: Tuesday, September 03, 2013 10:59 AM
To: Docket, Hearing
Subject: FW: NWSC Letter re Yucca Mountain Licensing Process Resumption
Attachments: NWSC Ltr to NRC -- 090313.pdf

From: Katrina McMurrian [<mailto:katrina@thenwsc.org>]

Sent: Tuesday, September 03, 2013 10:45 AM

To: CHAIRMAN Resource; CMRSVINICKI Resource; CMRAPOSTOLAKIS Resource; CMRMAGWOOD Resource; CMROSTENDORFF Resource

Cc: Vietti-Cook, Annette; Niedzielski-Eichner, Phillip; Astwood, Heather; Vrahoretis, Susan; Sharkey, Jeffrey; Bielecki, Jessica; Sosa, Belkys; Davis, Roger; Bubar, Patrice; Bupp, Margaret; Tappert, John; Sexton, Kimberly

Subject: NWSC Letter re Yucca Mountain Licensing Process Resumption

Dear Chairman Macfarlane and Commissioners Svinicki, Apostolakis, Magwood & Ostendorff:

Please see the attached letter from the Nuclear Waste Strategy Coalition (NWSC), signed by our Chairman & Minnesota Public Utilities Commissioner David Boyd, regarding the resumption of the Yucca Mountain licensing process. The NWSC is not a party to the relevant NRC docket.

Thank you for your consideration of our input. If there are any questions, please contact me at the number below.

Best regards,

Katrina

Katrina J. McMurrian
Executive Director
Nuclear Waste Strategy Coalition (NWSC)
337.656.8518 office
888.526.6883 fax
katrina@theNWSC.org
www.theNWSC.org
www.Twitter.com/NWSCoalition