

**Monthly Status Report to Congress  
Activities Related to the Yucca Mountain Licensing Action  
Report October 2013**

**Background**

The U.S. Nuclear Regulatory Commission (NRC) is an independent regulatory agency whose mission is to license and regulate the Nation's civilian use of radioactive materials, to protect public health and safety, to promote the common defense and security, and to protect the environment. Under the Nuclear Waste Policy Act, the U.S. Department of Energy (DOE) is responsible for developing and submitting to the NRC a license application for the construction of a geologic repository for high-level waste at Yucca Mountain, in Nye County, Nevada. The NRC is responsible for reviewing the application and determining whether to issue a construction authorization to the DOE. The DOE submitted its license application to the NRC on June 3, 2008, and the NRC accepted the application for review on September 8, 2008. The focus of the NRC's review is on whether the DOE has demonstrated that it can construct and operate a repository safely and in compliance with NRC regulations.

On March 3, 2010, the DOE filed a motion to withdraw its license application, which the Atomic Safety and Licensing Board denied on June 29, 2010. The Atomic Safety and Licensing Board suspended the adjudicatory proceeding on September 30, 2011.

On August 13, 2013, a panel of the U.S. Court of Appeals for the District of Columbia Circuit issued its decision directing the NRC to "promptly continue with the legally mandated licensing process" for the DOE's application to construct a geologic repository for high-level waste at Yucca Mountain. On September 10, 2013, Chairman Allison Macfarlane testified before the House Environment and the Economy Subcommittee of the Energy and Commerce Committee that the NRC promptly began taking steps to comply with the court's direction following the issuance of the decision.

**Activities**

Commission attorneys responded to a request by Nye County that the Chairman recuse herself from the Yucca Mountain licensing process. On October 22, 2013, the D.C. Circuit Court denied the petitioners' request for a preliminary injunction and their petition for a writ of mandamus, although the remainder of the case is still pending. The cost of this defense has been charged to the Nuclear Waste Fund.

The Commission is now considering all input received from the participants in response to their August 30, 2013 Order, as well as NRC staff's cost estimates, on the various activities that might compose the agency's response to the court's decision.

Commission staff is providing legal advice to the Commission concerning the preparation of an adjudicatory decision identifying a path forward for the licensing process. The work associated with this legal advice, and the cost of preparing this report, is being charged to the Nuclear Waste Fund.

Enclosure

### **Nuclear Waste Fund Expenditures**

During this period, the NRC obligated \$92,227 of Nuclear Waste Funds on its actions in direct response to the court's decision, including \$22,976 for Federal Court litigation costs. Cumulative obligations since the August 13, 2013, U.S. Court of Appeals decision are \$143,734. Total unobligated Nuclear Waste Funds remaining as of October 31, 2013, are \$10,912,290.

As noted in last month's status report, \$2,493,290 of previously appropriated Nuclear Waste Funds remain unexpended but obligated on contracts with the NRC-sponsored Center for Nuclear Waste Regulatory Analyses. NRC is working to accelerate the deobligation of these funds.