

November 18, 2013

MEMORANDUM FOR: Mark A. Satorius
Executive Director for Operations

Margaret M. Doane
General Counsel

Brooke D. Poole, Director
Office of Commission Appellate Adjudication

FROM: Annette L. Vietti-Cook, Secretary /RA/

SUBJECT: STAFF REQUIREMENTS - AFFIRMATION SESSION, 11:25
A.M., MONDAY, NOVEMBER 18, 2013, COMMISSIONERS'
CONFERENCE ROOM, ONE WHITE FLINT NORTH,
ROCKVILLE, MARYLAND (OPEN TO PUBLIC ATTENDANCE)

I. SECY-13-0113 – MEMORANDUM AND ORDER CONCERNING RESUMPTION OF
YUCCA MOUNTAIN LICENSING PROCESS

The Commission¹ approved a Memorandum and Order (as attached), which sets a course of action for the Yucca Mountain licensing process, consistent with the decision of the U.S. Court of Appeals for the District of Columbia Circuit in *In re Aiken County*, and with the resources available. The Order directs the NRC staff to complete and issue the Safety Evaluation Report (SER) associated with the construction authorization application and requests that the Department of Energy prepare the supplemental environmental impact statement (EIS) that the staff has determined is needed for purposes of the review of this application under the National Environmental Policy Act. The Order continues to hold this adjudication in abeyance. The Order declines to direct the staff to reconstitute the Licensing Support Network (LSN) but does direct that all documents be loaded into non-public ADAMS promptly and acknowledges that documents used as references in the SER and EIS supplement will be made publicly available. Finally, the Order grants in part and denies in part requests for relief filed by Nye County and the State of Nevada, and declines to decide at this time the Timbisha Shoshone Tribal Council's renewed motion for recognition.

(Subsequently, on November 18, 2013, the Secretary signed the Memorandum and Order.)

The activities directed in the Order should be considered an agency priority; however, these activities should not detract from the staff's activities related to waste confidence. In carrying out the actions directed in the Order, the staff should adopt work previously completed as a first principle, to the maximum extent possible, and should undertake original investigation or inquiry

¹ Commissioner Apostolakis did not participate in this matter.

only as necessary to account or adjust for new information. Clear guidance should be developed to assist the staff in implementing this direction, with particular emphasis on staff newly assigned to the project. Further, the staff should look for efficiencies as they work to complete the SER, such as utilizing rehired annuitants with previous work experience on Yucca Mountain, engaging former agency staff that may be available as contractors and assigning or reassigning the most appropriate subject matter experts to support this effort, with due consideration of other high-priority agency activities.

The staff should continue working to accelerate de-obligation of high-level waste program contract funds to enable public access of documents sooner rather than later, as well as support any future Commission direction.

The staff should keep the Commission fully informed of the status of the activities in the Order and SRM through brief (i.e. 1-2 page) monthly progress reports, which include accomplishments, updated schedules for remaining activities, the cost of remaining activities, and stakeholder communications and interactions. The initial monthly report should include the staff's plan for implementing the Commission's decision on the path forward. To the extent possible, the staff should maintain cognizance of DOE's progress in developing and completing the supplemental EIS and should keep the Commission informed of this progress. The Chief Financial Officer should provide the Commission with monthly reports on Nuclear Waste Fund expenditures. If at any point the staff becomes concerned that any part of the Commission's direction will not be able to be implemented with the available Nuclear Waste Fund monies, staff should immediately notify the Commission.

The staff should alert the Commission promptly and seek guidance should any issue arise that may require Commission intervention.

cc: Chairman Macfarlane
Commissioner Svinicki
Commissioner Apostolakis
Commissioner Magwood
Commissioner Ostendorff
EDO
OGC
CFO
OCAA
OCA
OIG
OPA
Office Directors, Regions, ACRS, ASLBP (via E-Mail)
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