

December 11, 2015

The Honorable Harry Reid
United States Senate
Washington, DC 20510

Dear Senator Reid:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am responding to your letter of October 29, 2015, in which you request additional information arising from recent public meetings seeking comment on the NRC's draft supplement to the U.S. Department of Energy's environmental impact statement (EIS) for the proposed Yucca Mountain geologic repository.

Following the decision of the U.S. Court of Appeals for the District of Columbia Circuit in *Aiken County*, 725 F. 3d 255 (D.C. Cir. 2013), directing the agency to resume the licensing proceeding, the Commission directed the NRC staff to develop and issue the EIS supplement with the monies remaining in the Nuclear Waste Fund. The NRC staff previously reported to the Commission that it had determined that one aspect of its environmental review — the post-closure impacts of a repository on groundwater — required supplemental analysis. Because the scope of supplementation was limited to this discrete issue, the NRC staff focused the public meetings on the groundwater impacts of the proposed repository.

In your letter, you requested information on packages that the NRC has approved for transportation of spent nuclear fuel and high-level radioactive waste. Our responses to your requests 1, 2, and 4 are enclosed with this letter. Information responsive to your requests 3, 5, and 6 will take additional time to prepare. We will provide you that additional information as soon as possible.

The NRC currently has 19 packages under review or certified for transportation of spent nuclear fuel and high-level radioactive waste. The U.S. Department of Energy has not decided whether any of these would be used to transport spent nuclear fuel to Yucca Mountain should that facility be licensed. The Department of Energy's Division of Naval Reactors (Naval Reactors) designed two of the 19 packages. While Naval Reactors has the authority to approve packages for transport of spent nuclear fuel and does not use NRC certificates to ship spent nuclear fuel, it has requested that the NRC perform an independent safety review of these packages and issue certificates of compliance. An Executive Directive signed by President Kennedy (National Security Action Memorandum No. 51, dated May 8, 1961) directed Naval Reactors to seek an independent safety review of its activities. Naval Reactors has chosen to seek this safety review from the NRC. The information provided by Naval Reactors to the NRC for review is classified as "Confidential – Restricted Data"; therefore, at this time, the NRC is not including information on these two packages in our response, but the NRC staff is available to brief appropriately cleared individuals on your staff regarding this information.

You also raised the question of whether the draft EIS supplement, or any other environmental review, considers the impacts on public health, safety, and the environment if

titanium drip shields are not installed at the proposed repository. This issue is beyond the scope of the limited supplemental environmental review that is under way. The public has been afforded the opportunity to challenge the scope of the environmental review by raising contentions in the adjudication before the agency's Atomic Safety and Licensing Board. Several contentions pertaining to the proposed drip shields have been admitted for litigation. As you may know, the adjudication is currently suspended. However, participants in the adjudication may continue to pursue those contentions before the Licensing Board, or raise new issues in the form of new or amended contentions, should the adjudication resume.

I appreciate your patience while we collect the remainder of the requested information. If you have any questions about the enclosed materials, please contact me or Eugene Dacus, Director of the Office of Congressional Affairs, at (301) 415-1776.

Sincerely,

/RA/

Stephen G. Burns

Enclosure:
As stated

Identical letter sent to:

The Honorable Harry Reid
United States Senate
Washington, DC 20510

The Honorable Dean Heller
United States Senate
Washington, DC 20510