



CHAIRMAN

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

July 19, 2018

The Honorable Catherine Cortez Masto
United States Senate
Washington, DC 20510

Dear Senator Cortez Masto:

I am responding to your letter dated May 18, 2018, which poses several questions regarding possible hearing facilities associated with the Yucca Mountain construction authorization application. By way of background, in 2013 the U.S. Court of Appeals for the District of Columbia Circuit in the case *In re Aiken County* directed the NRC to "promptly continue with the legally mandated licensing process" for the Department of Energy's application to construct a geologic repository for high-level waste at Yucca Mountain, Nevada. Since then, using funds previously appropriated by the Congress for the purpose of conducting that licensing process, the NRC has been taking steps to comply with the court's direction. Responses to your specific questions are enclosed.

Please feel free to contact me or have your staff contact Eugene Dacus, Director of the Office of Congressional Affairs, at (301) 415-1776 if you have questions or need additional information.

Sincerely,

A handwritten signature in blue ink, appearing to read "Kristine L. Svinicki".

Kristine L. Svinicki

Enclosure:
As stated

**Response to Request for Information
Senator Catherine Cortez Masto
Letter of May 18, 2018**

- 1. Describe the location and details of the previous hearing facility in Las Vegas, Nevada including the communications and security requirements necessary for the operation of the facility.**

The former hearing facility was located at 3250 Pepper Lane in Las Vegas, Nevada. This 16,500-square foot, two-story facility housed a 300-person capacity hearing room along with conference space for participants and offices for the administrative judges and staff of the Construction Authorization Boards assigned to conduct the adjudication. The facility was a build-to-suit leased property, developed by the General Services Administration (GSA) for the agency. As a Federal administrative hearing facility, it was classified as a GSA Level III/IV secure facility with commensurate security features and guard response. It also had the communications and information technology infrastructure onsite necessary to support the proceeding. The facility was decommissioned and returned to the property owner in October 2011. It has since been sold to a private company and is no longer available for lease or use as a hearing facility.

- 2. Confirm the time and cost estimates to lease and equip the previous facility in Las Vegas, beginning at the time the NRC began leasing the facility in 2005 until its closure, as referenced in the April 2017 GAO report.**

The time (24 months), leasing cost (approximately \$440,000 annually), and construction/equipping estimates (approximately \$2.4 million) referenced in the April 2017 GAO report are accurate. The NRC occupied the facility from spring 2005 through the end of September 2011.

- 3. Confirm the time and cost estimates to dismantle the previous facility, as referenced in the April 2017 GAO report.**

The April 2017 GAO report accurately described the facility decommissioning, which took place from March to September 2011.

- 4. Have any actions been undertaken by the NRC staff, or on behalf of the NRC staff, in regards to a "survey of potential Nevada hearing sites," as referenced by the July 31, 2017 NRC memorandum?**

Yes. In response to the Commission's direction in the July 31, 2017, Staff Requirements Memorandum, agency staff conducted preliminary high-level market research focused solely on properties currently leased or owned by GSA in the Las Vegas, Pahrump, and Reno, Nevada, areas. No comparable space was identified that is large enough to house a hearing room and attendant space.

5. **Describe to what extent any and all work that may have been undertaken thus far on potential Nevada hearing sites, how NRC staff would evaluate functional requirements in the survey of such hearing sites (for example: needs of NRC-ASLBP judges and staff, admitted parties and other participants, members of the public and media, etc.), how costs would be evaluated for potential Nevada hearing sites, and what costs and expenditures have thus far been determined.**

Agency staff has examined whether existing Federally owned or leased space suitable to serve as a hearing facility was available for use in the Nevada locations indicated in question 4 and found none are currently available. Given the dynamic nature of the commercial real estate market and the limited remaining appropriated Nuclear Waste Fund monies available to the agency, no further investigation of Federal or commercial real estate options for this purpose is contemplated at this time. Should an appropriation for resuming the Yucca Mountain licensing process be provided, agency staff would follow Commission direction and draw on previous operating experience and GSA marketing research and cost estimates, coupled with cost estimates generated through the agency's budget formulation process, to evaluate possible hearing locations.

6. **Describe all interactions with Nye County and other Nevada local governments regarding evaluation of Nevada hearing sites.**

The only interaction with Nye County or other Nevada local governments regarding Nevada hearing sites was a March 5, 2018, meeting, referenced in your letter, Chairman Svinicki held with representatives of Nye County at their request. The circumstances surrounding that meeting are set forth in her March 15, 2018, letter to Nevada Agency for Nuclear Projects Director Robert J. Halstead (ADAMS Accession No. ML18074A048). Thereafter, in an April 12, 2018, letter to Nye County (ADAMS Accession No. ML18102A767), Atomic Safety and Licensing Board Panel (ASLBP) Chief Administrative Judge Roy Hawkens informed the Chairman of the Board of County Commissioners that ASLBP staff may contact him "at some appropriate point in the future when funding permits" to learn more about infrastructure developments in the county and asked that any questions in the interim on this topic be directed to the ASLBP staff. To date the ASLBP has not received any additional communications.

7. What assumptions and findings regarding the reorganization of a hearing facility in Las Vegas (or elsewhere in Nevada) have been established thus far?

Please be assured that with respect to proceedings on the Yucca Mountain construction authorization application, the NRC intends to follow its longstanding practice that adjudicatory proceedings be held in the general area of the proposed facility to the extent practicable

Regarding a hearing facility in Nevada, the only assumptions or findings established thus far have been that, if the agency wishes to procure a facility having a size and capabilities similar to the previous Pepper Lane location, Federally owned or leased space comparable to the former hearing facility currently does not exist in the Las Vegas, Pahrump, or Reno, Nevada, areas. In general, the development of a hearing facility would be guided by pragmatic considerations (e.g., nearby hotel space, internet connectivity, ease of access to the location via airport/automobile and public transportation, budget, availability of party representatives and witnesses, and security).

If the Yucca Mountain administrative adjudication is re-commenced, then the Commission will make a decision on a hearing venue based on its existing regulations and policies, input from ASLBP, and other pertinent agency offices as well as the adjudicatory participants.

8. What assumptions and findings regarding the use of an existing or new hearing facility in Rockville, Maryland, in regards to a Yucca Mountain licensing effort, have been established thus far?

No assumptions or findings have been established regarding the use of an existing or new facility in the Rockville, Maryland, area. A decision regarding the hearing facility would be expected if and when appropriations are received and the adjudication is restarted.

9. What assumptions and findings regarding the use of virtual hearings technology at a facility in Las Vegas (or elsewhere in Nevada) and/or an existing or new hearing facility in Rockville, Maryland have been made thus far?

No assumptions or findings have been established regarding the use of virtual technology. A decision regarding the use of this technology likewise would be expected if and when appropriations are received and the adjudication is restarted.