

April 9, 2014

MEMORANDUM TO: Chairman Macfarlane  
Commissioner Svinicki  
Commissioner Apostolakis  
Commissioner Magwood  
Commissioner Ostendorff

FROM: Mark A. Satorius */RA/*  
Executive Director for Operations

SUBJECT: YUCCA MOUNTAIN PROJECT ACTIVITIES

In this memorandum, the staff requests that the Commission approve the staff's plan to move forward with the Yucca Mountain Project Activities as outlined in the recommendations, and to respond to SRM-SECY-13-0138A/SECY-13-0138 (M140124) – "U.S. Department of Energy (High-Level Waste Repository): State of Nevada Petition for Clarification of November 18, 2013 Restart Order," which directed U.S. Nuclear Regulatory Commission (NRC) staff to collect three months of additional data on actual project expenditures and, if actual expenditures are consistent with estimates, to so notify the Commission and allocate appropriate funds to activities necessary for making Licensing Support Network (LSN) documents available in a public library in the Agencywide Document Access and Management System (ADAMS).

BACKGROUND:

On November 18, 2013, the Commission<sup>1</sup> issued a Staff Requirements Memorandum (SRM) and a Memorandum and Order, which set 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. Among other things, the Order directed the NRC staff to complete and issue the safety evaluation report (SER) associated with the construction authorization application for a geologic repository at Yucca Mountain, NV; directed that all LSN documents be loaded into a nonpublic library in ADAMS; and requested that the U.S. Department of Energy (DOE) prepare the supplement to the environmental impact statement (EIS) that the NRC staff has determined is needed for purposes of the review of this

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<sup>1</sup> Commissioner Apostolakis did not participate in this matter.

application under the National Environmental Policy Act. On January 24, 2014, in SRM-SECY-13-0138A/SECY-13-0138 (M140124), the Commission provided further direction on the use of additional deobligated funds to enable public access to the LSN documents as long as actual expenditures for the Yucca Mountain Project Activities over the first three months of activity were consistent with initial cost estimates.

#### DISCUSSION:

On December 16, 2013, staff transmitted to the Commission a project plan that outlined the process, path forward, and a schedule for the tasks assigned by the Commission in its November 18, 2013 SRM and Memorandum and Order. The project plan focused primarily on issuance of the remaining SER volumes by January 2015. The project plan also summarized the agency's intent to load the LSN document collection into a nonpublic library in ADAMS by May 2014, and the staff's coordination with DOE regarding DOE's efforts to complete the EIS supplement. This project plan assumed DOE would complete the EIS supplement.

Staff continues to make progress on the Yucca Mountain activities directed by the Commission. Work on the SER is well underway with significant progress in all volumes (see the most recent monthly status report for additional details, ML14058A602). On March 11, 2014, the agency completed loading and indexing the LSN document collection into a nonpublic library in ADAMS, which has been made available to agency staff.

On February 28, 2014, staff received a letter from DOE indicating it "defers to the NRC the preparation, to the extent necessary in the judgment of the NRC, of a supplement [to the] EIS." In the letter, DOE stated that it

...respectfully submits that it will provide to the NRC an updated version of the report it provided to the NRC on July 30, 2009, entitled, *Analysis of Postclosure Groundwater Impacts for a Geologic Repository for the Disposal of Spent Nuclear Fuel and High-Level Radioactive Waste at Yucca Mountain, Nye County, Nevada*. This updated analysis will, in the view of Department staff, provide the NRC with substantially all of the technical information necessary to inform a draft EIS.

On March 19, 2014, staff transmitted a letter to DOE requesting a meeting on April 7, 2014, to discuss the February 28, 2014 letter, and DOE agreed to participate.

Staff has reviewed the impact of DOE decisions on the cost and schedule estimates for the EIS supplement. Staff has estimated the resources needed to independently develop and issue the EIS supplement, which, as described in the staff's September 8, 2008, adoption determination report (ML082420342), would address specific groundwater issues and be developed in accordance with NRC regulations in 10 CFR Part 51 "Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions" and agency guidance. Staff estimates that the EIS supplement could be completed in approximately 12 months after staff work on the supplement begins.

Considering all of the Yucca Mountain Project Activities, staff believes that, in the absence of significant expenditures not already identified, the remaining available carryover funding from the Nuclear Waste Fund is sufficient to complete all volumes of the SER, develop and issue the EIS supplement, and complete loading the LSN document collection into a public library in

ADAMS. Completing all of these activities will utilize the majority of the remaining available carryover funding from the Nuclear Waste Fund. Details are provided in the enclosure. As indicated by the Commission in SRM-SECY-13-0138A/SECY-13-0138 (M140124), dated January 24, 2014, the staff continues to hold the completion and issuance of all volumes of the SER as the highest priority action, and publication of the EIS supplement and loading the LSN document collection into a public library in ADAMS as high priority actions of the Yucca Mountain Project Activities.

RECOMMENDATIONS:

Staff recommends that the Commission approve the staff's plan to move forward with the Yucca Mountain Project Activities as follows:

- continue work on the SER as originally scheduled;
- develop and issue the supplement to the EIS within 12 months after staff work on the supplement begins; and
- begin loading the LSN document collection into a public library in ADAMS in September 2014, when work on the SER is substantively complete and staff can assess the remaining available funding from the Nuclear Waste Fund.

Staff will continue to keep the Commission informed through the monthly reports and, consistent with the Commission's direction, staff will notify the Commission of any allocation of remaining funds to the activities necessary for making LSN documents available in a public library in ADAMS. Staff will also continue to support external litigation. If approved by the Commission, staff will update the Project Plan for the Yucca Mountain Review Activities to include developing and issuing the supplement to the EIS.

RESOURCES:

The resource implications associated with the staff's recommendations are addressed in the enclosure.

COORDINATION:

The Office of the General Counsel has reviewed this package and has no legal objection. The Chief Financial Officer reviewed this package and concurs with the financial information.

The Commissioners

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SECY, please track.

Enclosure:  
Resource estimates

cc:    SECY  
       OGC  
       OCA  
       OPA  
       CFO