

December 22, 2010

The Honorable Jerry Lewis
Ranking Member, Committee on Appropriations
United States House of Representatives
Washington, D.C. 20515

Dear Congressman Lewis:

This letter is in response to your letter of October 20, 2010, in which you expressed concern about the agency's high-level waste program execution during the period of the Continuing Resolution. I appreciate your interest in this issue and respect the important constitutional role the U.S. House of Representative's Committee on Appropriations has in providing funding and oversight.

I want to assure you that the approach the U.S. Nuclear Regulatory Commission (NRC) is taking is consistent with the terms of the Continuing Resolution, the Commission's Fiscal Year (FY) 2011 budget guidance, the general principles of appropriations law, and past NRC practice. When the NRC is operating under a Continuing Resolution, the Executive Director of Operations and the Chief Financial Officer issue guidance to staff on activities to be carried out until a full year appropriation is approved. Therefore this year's guidance issued on October 4, 2010, was consistent with the agency's FY 2011 budget that was approved by the Commission and provided to the Congress by the President in February.

Neither the text of the FY 2010 Energy and Water Development and Related Agencies Appropriations Act and its underlying committee reports, nor the FY 2011 Continuing Resolution provide the Commission with direction on how it is to expend its appropriations from the Nuclear Waste Fund for Yucca Mountain activities. Rather, the President's budget requests \$10 million for the closeout of the high-level waste program. In the absence of direction from Congress and with the context outlined above, the agency was left to decide on the most appropriate path forward within the framework of the law and based on adherence to established Commission policy.

Under the FY 2011 guidance, therefore, the staff is beginning to transition to an orderly close-out of the high-level waste program. This action was taken only after discussions with the Commission and senior staff, and after the NRC General Counsel reviewed the budget guidance and determined that the agency's approach was consistent with appropriations law. To provide you with further assurances about the specific actions we have taken, orderly closure of this program entails knowledge capture and management to ensure that the staff's technical work to date is preserved. This comprehensive effort is expected to take about a

year and include documenting the staff's review and other knowledge concerning the program by means such as comprehensive technical reports and videotaped interviews of technical staff. By thoroughly documenting the staff's technical review and preserving it as appropriate for publication and public use, the agency will be able to respond to direction from the Congress or the Courts.

Thank you again for your correspondence. I would be happy to discuss this matter further with you or your staff and I will continue to keep you informed of NRC activities related to the high-level waste program.

Sincerely,

/RA/

Gregory B. Jaczko

Identical letter sent to:

The Honorable Jerry Lewis
Ranking Member, Committee on Appropriations
United States House of Representatives
Washington, D.C. 20515

The Honorable Rodney P. Frelinghuysen
Ranking Member, Subcommittee on Energy
and Water Development
Committee on Appropriations
United States House of Representatives
Washington, D.C. 20515

The Honorable Zach Wamp
Member, Subcommittee on Energy
and Water Development
Committee on Appropriations
United States House of Representatives
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The Honorable Michael K. Simpson
Member, Subcommittee on Energy
and Water Development
Committee on Appropriations
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The Honorable Dennis R. Rehberg
Member, Subcommittee on Energy
and Water Development
Committee on Appropriations
United States House of Representatives
Washington, D.C. 20515

The Honorable Ken Calvert
Member, Subcommittee on Energy
and Water Development
Committee on Appropriations
United States House of Representatives
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The Honorable Rodney Alexander
Member, Subcommittee on Energy
and Water Development
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