

March 5, 2012

The Honorable Mark Kirk
United States Senate
Washington, D.C. 20510

Dear Senator Kirk:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am responding to your letter of December 22, 2011, regarding the retention and availability of records associated with the NRC's Yucca Mountain license review activities, and the agency's ability to reconstitute the necessary organization to resume the licensing process.

On October 1, 2010, at the beginning of fiscal year 2011, the NRC began an orderly closure of its Yucca Mountain activities, which included an array of knowledge capture and management activities. As part of this process, the staff prepared three technical evaluation reports. These reports provide the staff's technical review of the Department of Energy's Yucca Mountain license application in the areas of pre-closure and post-closure repository safety, as well as the staff's assessment of administrative and programmatic areas related to repository operations. These reports, published between July and September 2011, are the staff's primary public record of its technical review of the DOE Yucca Mountain repository license application.

The NRC staff and its contractor, the Center for Nuclear Waste Regulatory Analyses, also developed 46 additional reports that capture important technical or regulatory information, insights, and lessons learned from more than 25 years of work during the pre-licensing and licensing phases of the Yucca Mountain Program. These materials supplement the technical evaluation reports, as well as Volume 1 of the Safety Evaluation Report for the Yucca Mountain Repository that was issued in 2010, and the many reports and other documents generated over the NRC's multi-decade high-level waste program.

Yucca Mountain-related documents, including Volume 1 of the Safety Evaluation Report and the three technical evaluation reports, are available to the public in the NRC's Agencywide Documents Access and Management System, which is accessible through the NRC website. The NRC documents relating to the Yucca Mountain Program, including materials regarding the licensing review and adjudicatory proceedings, will continue to be retained as permanent records, as required under National Archives and Records Administration regulations.

The agency does not have a formal contingency plan for resuming the licensing process. The Fiscal Year 2012 Energy and Water Development Appropriations Act provided no funds to the NRC to support work on the Yucca Mountain repository license application. In addition, on October 1, 2011, the agency's Division of High-Level Waste Repository Safety was realigned into a three-branch division and renamed the Division of Spent Fuel Alternative Strategies. The Division is now focused on extended spent fuel storage, alternative disposal approaches, and related topical areas. The contractor staff previously supporting the Yucca Mountain license application review also has transitioned to technical activities in other areas.

Should the NRC be directed and funded to resume the Yucca Mountain review, we would identify and acquire, if needed, the appropriate staffing, contractor, and physical resources required to restart the licensing review, with additional resources likely needing to be added over time. Although the adjudicatory proceeding has been suspended, judges from the Atomic Safety and Licensing Board Panel could resume assigned duties or replacements appointed, if necessary. With the continuing passage of time our ability to promptly re-engage in this work becomes more limited.

If you need any additional information, please contact me or Rebecca Schmidt, Director of the Office of Congressional Affairs, at (301) 415-1776.

Sincerely,

/RA/

Gregory B. Jaczko

Identical letters sent to:

The Honorable Mark Kirk
United States Senate
Washington, D.C. 20510

The Honorable Mike Crapo
United States Senate
Washington, D.C. 20510

The Honorable John McCain
United States Senate
Washington, D.C. 20510

The Honorable John Barrasso
United States Senate
Washington, D.C. 20510

The Honorable James M. Inhofe
United States Senate
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The Honorable John Cornyn
United States Senate
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The Honorable Kay Bailey Hutchison
United States Senate
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The Honorable James E. Risch
United States Senate
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The Honorable Jeff Sessions
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