

December 18, 2013

The Honorable Fred Upton
Chairman, Committee on Energy
and Commerce
United States House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

On behalf of the Commission¹, I am transmitting the November 2013 monthly status report on the U.S. Nuclear Regulatory Commission (NRC) activities and expenditure of unobligated carryover funds appropriated from the Nuclear Waste Fund. This report describes the NRC actions that were taken in November 2013 to address the remand by the U.S. Court of Appeals for the District of Columbia Circuit in *In re Aiken County*, regarding the licensing process for the Department of Energy's Yucca Mountain license application.

Please feel free to contact me or Rebecca Schmidt, Director of the Office of Congressional Affairs, at (301) 415-1776 if you have questions or need more information.

Sincerely,

/RA/

Allison M. Macfarlane

Enclosure:
As stated

cc: Representative Henry A. Waxman

¹ Commissioner George Apostolakis did not participate.

Identical letter sent to:

The Honorable Fred Upton
Chairman, Committee on Energy
and Commerce
United States House of Representatives
Washington, DC 20515
cc: Representative Henry A. Waxman

The Honorable John Shimkus
Chairman, Subcommittee on Environment
and the Economy
Committee on Energy and Commerce
United States House of Representatives
Washington, DC 20515
cc: Representative Paul Tonko

The Honorable Barbara Boxer
Chairman, Committee on Environment
and Public Works
United States Senate
Washington, DC 20510
cc: Senator David Vitter

The Honorable Thomas R. Carper
Chairman, Subcommittee on Clean Air
and Nuclear Safety
Committee on Environment
and Public Works
United States Senate
Washington, DC 20510
cc: Senator Jeff Sessions

The Honorable Ed Whitfield
Chairman, Subcommittee on Energy
and Power
Committee on Energy and Commerce
United States House of Representatives
Washington, DC 20515
cc: Representative Bobby L. Rush

The Honorable Harold Rogers
Chairman, Committee on Appropriations
United States House of Representatives
Washington, DC 20515
cc: Representative Nita Lowey

The Honorable Mike K. Simpson
Chairman, Subcommittee on Energy
and Water Development
Committee on Appropriations
United States House of Representatives
Washington, DC 20515
cc: Representative Marcy Kaptur

The Honorable Dianne Feinstein
Chairman, Subcommittee on Energy
and Water Development
Committee on Appropriations
United States Senate
Washington, DC 20510
cc: Senator Lamar Alexander

**Monthly Status Report to Congress
Activities Related to the Yucca Mountain Licensing Action
Report November 2013**

Background

The U.S. Nuclear Regulatory Commission (NRC) is an independent regulatory agency whose mission is to license and regulate the Nation's civilian use of radioactive materials, to protect public health and safety, to promote the common defense and security, and to protect the environment. Under the Nuclear Waste Policy Act, the U.S. Department of Energy (DOE) is responsible for developing and submitting to the NRC a license application for the construction of a geologic repository for high-level waste at Yucca Mountain, in Nye County, Nevada. The NRC is responsible for reviewing the application and determining whether to issue a construction authorization to the DOE. The DOE submitted its license application to the NRC on June 3, 2008, and the NRC accepted the application for review on September 8, 2008. The focus of the NRC's review is on whether the DOE has demonstrated that it can construct and operate a repository safely and in compliance with NRC regulations.

On March 3, 2010, the DOE filed a motion to withdraw its license application, which the Atomic Safety and Licensing Board denied on June 29, 2010. The Atomic Safety and Licensing Board suspended the adjudicatory proceeding on September 30, 2011.

On August 13, 2013, a panel of the U.S. Court of Appeals for the District of Columbia Circuit issued its decision directing the NRC to "promptly continue with the legally mandated licensing process" for the DOE's application to construct a geologic repository for high-level waste at Yucca Mountain.

Activities

During the month of November, the Commission staff continued to provide legal advice to the Commission concerning the preparation of an adjudicatory decision identifying a path forward for the licensing process. On November 18, 2013, the Commission¹ issued a Staff Requirements Memorandum 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. The Order directed the NRC staff to complete and issue the Safety Evaluation Report (SER) associated with the construction authorization application and requested that the U.S. Department of Energy prepare the supplemental environmental impact statement (EIS) that the NRC staff has determined is needed for purposes of the review of this application under the National Environmental Policy Act. The Order continued to hold the adjudication in abeyance. The Order declined to direct the staff to reconstitute the Licensing Support Network (LSN) but did direct that all documents be loaded into the non-public version of the Agencywide Documents Access and Management System (ADAMS) (our electronic database) promptly and acknowledged that documents used as references in the SER and EIS supplement will be made publicly available. Finally, the Order granted in part and denied in part requests for relief filed by Nye County and the State of Nevada, and declined to decide at this time the Timbisha

¹ Commissioner Apostolakis did not participate in this matter.

Shoshone Tribal Council's renewed motion for recognition. The staff is working to implement the Commission's direction with a project plan due in December 2013.

Nuclear Waste Fund Expenditures

During this period, the NRC incurred additional obligations of \$6,821 of Nuclear Waste Funds on its actions in direct response to the court's decision, including \$3,990 for responding to the Commission's August 30, 2013, Order and \$2,831 for Federal Court litigations costs. Cumulative obligations since the August 13, 2013, U.S. Court of Appeals decision are \$151,226, including \$125,419 for responding to the Commission's August 30, 2013, Order and \$25,807 for Federal Court litigations costs. Total unobligated Nuclear Waste Funds remaining as of November 30, 2013, are \$10,904,799.

Beginning with the December report, the NRC will separately identify obligations incurred for completion of the SER, loading of LSN documents into ADAMS, adoption of the supplemental EIS, and overall project management.

As noted in last month's report, \$2,493,290 of previously appropriated Nuclear Waste Funds remain unexpended but obligated on contracts with the NRC-sponsored Center for Nuclear Waste Regulatory Analyses (CNWRA). The NRC continues to take actions to deobligate these funds.