

February 20, 2014

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 Commission,¹ I am transmitting the January 2014 monthly status report on the U.S. Nuclear Regulatory Commission (NRC) activities and utilization of unobligated carryover funds appropriated from the Nuclear Waste Fund. This report describes the NRC actions that were taken in January 2014 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 U.S. Department of Energy's Yucca Mountain license application.

Please feel free to contact me or Amy Powell, Acting Director of Congressional Affairs, at (301) 415-1673 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 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
Activities Related to the Yucca Mountain Licensing Action
Report for January 2014**

Background

On August 13, 2013, a panel of the U.S. Court of Appeals for the District of Columbia Circuit issued its decision in the case *In re Aiken County* directing the U.S. Nuclear Regulatory Commission (NRC) to “promptly continue with the legally mandated licensing process” for the U.S. Department of Energy’s (DOE’s) application to construct a geologic repository for high-level waste at Yucca Mountain. The NRC promptly began taking steps to comply with the court’s direction following the issuance of the decision. On November 18, 2013, the Commission approved a Memorandum and Order, which set a course of action for the Yucca Mountain licensing process consistent with the Appeals Court decision, and with the resources available. The Commission also issued a related Staff Requirements Memorandum (SRM) on November 18, 2013.

Accomplishments and Ongoing Work

The NRC staff completed a division reorganization within its Office of Nuclear Material Safety and Safeguards and commenced development of the Safety Evaluation Report (SER). Under a contract with the Center for Nuclear Waste Regulatory Analyses (CNWRA), NRC staff requested technical assistance to develop the SER and to support NRC review activities related to the DOE’s supplement of its Environmental Impact Statement (EIS).

The agency continues to load the Licensing Support Network (LSN) documents into the NRC’s non-public Agencywide Documents Access and Management System (ADAMS) and is progressing ahead of schedule. As of the end of January, over 3.6 million documents have been loaded into non-public ADAMS. Indexing of the loaded document collection is over 75 percent complete.

Agency attorneys have continued their work on Federal court litigation related to the license application, including the petition for review before the District of Columbia Circuit seeking the recusal of Chairman Macfarlane from the licensing process. In addition, agency attorneys have performed work advising the Commission concerning the disposition of motions for reconsideration and clarification of the Commission’s order of November 18, 2013. These motions were denied in the Commission’s order of January 24, 2014. In that order, the Commission also announced that an additional \$2.2 million in Nuclear Waste Fund (NWF) funds had been deobligated and were now available. In an accompanying SRM, the Commission issued a directive governing the potential use of these funds to place the LSN document collection into public ADAMS. Staff is working to develop a cost estimate to convert the LSN documents from non-public ADAMS to public ADAMS. The cost will be reflected in future reports.

Agency attorneys also provided support to staff on program planning and startup activities. Agency attorneys advised staff on issues to help with commencement of SER development and have started reviewing draft chapters of the SER.

Schedule and Cost for Remaining Activities

Completion of the SER is scheduled to take approximately 12 months, ending in January 2015. This schedule assumes that no unforeseen technical or process issues arise. The effort to load the LSN document collections into non-public ADAMS is scheduled to be completed in May 2014, barring any unforeseen technical or process issues. Consistent with the January 24, 2014 SRM, over the next three months staff will collect additional data on actual project expenditures, and if the actual costs are consistent with estimates in the initial months, staff will notify the Commission and allocate appropriate funds to activities necessary for making LSN documents available in public ADAMS.

In its Memorandum and Order dated November 18, 2013, the Commission requested that the DOE complete the EIS supplement. The NRC staff understands that the DOE intends to complete the supplement. The NRC staff's approach and schedule for its potential adoption determination of the supplement is being developed, and is contingent upon the DOE's schedule for completing the supplement.

The projected cost of the remaining activities continues to be the estimate provided by the staff to the Commission in September 2013. At that time, the staff estimated the cost of completing the remaining SER volumes to be approximately \$8.3 million. The staff's estimate for the review and adoption determination of an EIS supplement issued by the DOE is \$625,000. In addition, the agency estimates that \$700,000 is needed to complete the uploading of documents into non-public ADAMS. Therefore, the total estimated cost for these remaining activities is approximately \$9.6 million.

The NRC staff is considering methods to track accomplishments, expenditures, and identify potential challenges.

Nuclear Waste Fund Expenditures

During the month of January, the NRC expended \$286,399 of NWF funds on its actions in direct response to the Court's decision. Cumulative expenditures since the August 13, 2013, U.S. Court of Appeals decision are \$516,767. Total unobligated NWF funds remaining as of January 31, 2014, are \$11,489,257. The following table provides further details regarding NRC's expenditure of NWF funds since August 13, 2013.

Status of NRC NWF Funds Since the August 13, 2013, Court Decision			
Yucca Mountain Licensing Activities	Cost Estimate	January Expenditures	Cumulative Expenditures
Completion of the Safety Evaluation Report	\$8,310,000	\$215,729	\$221,615
Loading of Licensing Support Network Documents into non-public ADAMS	\$700,000	\$6,969	\$14,556
Adoption of the Environmental Impact Statement Supplement	\$625,000	\$186	\$186
Program Planning and Support ¹		\$51,249	\$62,244
Response to the August 30, 2013, Commission Order ¹		\$0	\$137,518
Federal Court Litigation ¹		\$1,487	\$52,505
Support/Advice in NRC Proceedings ¹		\$10,779	\$28,143
Total		\$286,399	\$516,767

¹ Unbudgeted costs chargeable to NWF funds

Previously appropriated NWF funds in the amount of \$257,739 remain unexpended but obligated on contracts with the CNWRA.

Stakeholder Communications and Interactions

The NRC staff has initiated outreach activities with the DOE. The staff has requested a public meeting with DOE to be held in the second quarter of fiscal year 2014 to discuss the DOE's plan for moving forward with development of the EIS supplement and the NRC staff's engagement during this process.