

ONE HUNDRED TWELFTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115

Majority (202) 225-2927
Minority (202) 225-3641

March 31, 2011

The Honorable Gregory B. Jaczko
Chairman
Nuclear Regulatory Commission
11555 Rockville Pike
Rockville, MD 20852

Dear Chairman Jaczko:

We write to notify you that the Committee on Energy and Commerce and its Subcommittee on Environment and the Economy are investigating the decision-making process related to the pending license application for construction of a high-level waste repository at Yucca Mountain.

At this time, we have questions about certain actions undertaken by you and the Nuclear Regulatory Commission (NRC or Commission) relating to (a) the proposed withdrawal of the license application for authorization to construct a repository at Yucca Mountain currently pending before the NRC; and (b) the defunding and termination of NRC's licensing proceedings of the Yucca Mountain repository license application (including staff technical and safety reviews) at a time when the full Commission has yet to decide the issue or authorize the defunding. We seek information necessary to evaluate the NRC's adherence to its statutory obligations and responsibilities under the Nuclear Waste Policy Act of 1982, as amended. We also seek information necessary to assess whether decisions were made according to NRC procedures and with full information and consideration of the policy, legal, and budgetary impacts of those decisions.

Accordingly, pursuant to Rules X and XI of the Rules of the U.S. House of Representatives, we respectfully ask that you provide written responses to the following within two weeks of the date of this letter. We also ask that you follow the instructions for responding to the Committee's document requests, included as an attachment to this letter. The relevant time period for the following requests is January 1, 2009, to the present.

1. Please provide a detailed chronological description of all NRC actions and decisions relating to the Yucca Mountain construction license application, including, but not

limited to, actions and decisions by the NRC Chairman, the Commission, and the Construction Authorization Board (CAB).

2. Please explain your role in the Administration's decisions concerning the Yucca Mountain license application, including, but not limited to, decisions to begin the closure of Yucca Mountain and to terminate the NRC technical and adjudicatory review of the license application for constructing a repository at Yucca Mountain.
 - a. List the names, titles, offices and roles of individuals, including those within the Office of the Chairman, who participated in deliberations regarding planning, actions, or decisions relating to the Yucca Mountain license application.
 - b. Please provide a list of all meetings and communications that have occurred between the NRC Chairman and the Executive Office of the President or Department of Energy (DOE), including Secretary of Energy Steven Chu, relating to constructing a repository at Yucca Mountain. Please include the dates of all such meetings and communications, the individuals present and a description of the subject matters discussed, and state whether the Commissioners or NRC staff were informed of each such meeting.
 - c. Provide all documents relating to any such meetings or communications.
3. Provide all documents relating to: (a) the development of the proposed FY 2010 budget for license support activities related to the Yucca Mountain license application, (b) any agreement by the Commission about the conditions necessary for terminating the various NRC license review activities, and (c) the decision to terminate Yucca Mountain license review activities in conjunction with FY 2011 Continuing Resolution funding.
4. Provide all documents relating to the April 23, 2010 Commission Memorandum and Order (CLI-190-13) (which vacated the CAB's decision to suspend consideration of DOE's motion to withdraw the license application and ordered the CAB to issue a decision no later than June 1, 2010). This request includes, but is not limited to, all staff memoranda and evaluations.
5. Please describe the specific Commission procedures followed in voting on the appeal (pending before the NRC) of the CAB's decision to deny the motion to withdraw the license application for a repository at Yucca Mountain, including, but not limited to, the dates of each action, vote, and any affirmation of the votes.
 - a. Explain the failure to complete action upon the appeal.
 - b. Provide all documents relating to the scheduling and resolution of the Commission's votes concerning the review of the CAB decision to deny DOE's motion to withdraw its Yucca Mountain license application.
6. Please explain the justification and legal authority for your decision, as NRC Chairman, to direct Commission staff to terminate review of the Yucca Mountain application.
 - a. Provide all documents relating to the direction to cease review of the Yucca Mountain application, including, but not limited to, the memoranda and analyses relating to the justification for the decision or authority to terminate review of the Yucca Mountain application.

- b. Provide all documents relating to the drafting and finalization of the staff Safety Evaluation Reports (SERs) of the Yucca Mountain license application, including, but not limited to, the Safety Evaluation Report Volumes 1 and 3.
7. Has NRC been using the Nuclear Waste Fund (NWF) to fund actions relating to the termination of the NRC's license review?
- a. If so, please explain the basis for using the Nuclear Waste Fund (NWF) to fund actions relating to the termination of the NRC's license review, and state the relevant legal authority upon which you relied to spend sums from the NWF.
 - b. Provide all documents relating to the use of NWF for termination of license review, including, but not limited to, all assessments of the funding necessary to terminate activities and preserve all information captured in the NRC review process.

The term "NRC" refers to the U.S. Nuclear Regulatory Commission and any of its offices, subdivisions, entities, officials, administrators, employees, attorneys, agents, advisors, consultants, staff, or any other persons acting on behalf or under the control or direction of the NRC. Should you have any questions, you may contact Peter Spencer of the Majority Committee staff at (202) 225-2927.

We appreciate your prompt attention to this request.

Sincerely,



Fred Upton
Chairman



John Shimkus
Chairman
Subcommittee on Environment and the Economy

Attachment

cc: The Honorable Henry A. Waxman, Ranking Member

The Honorable Gene Green, Ranking Member
Subcommittee on Environment and the Economy

The Honorable Kristine L. Svinicki

The Honorable George Apostolakis

The Honorable William D. Magwood, IV

The Honorable William C. Ostendorff