

American Nuclear Society 708-579-8203 main  
555 N. Kensington Ave 708-579-8295 fax  
La Grange Park, IL 60526 ans.org



September 30, 2013

The Honorable Allison Macfarlane, Chairman  
U.S. Nuclear Regulatory Commission  
Mail Stop O-16G4  
Washington, DC 20555-0001

Re: In the Matter of U.S. DEPARTMENT OF ENERGY (High-Level Waste Repository), Docket No. 63-001

On behalf of over 11,000 men and women of the American Nuclear Society, I offer these comments regarding the resumption of the Yucca Mountain licensing proceeding in response to the NRC request of August 30. Although ANS is not a participant in the Court of Appeals proceeding, we request that you and the Commissioners consider these comments and that the Secretary make this letter part of the record in Docket No. 63-001, as they are intended to reflect the general interest of the American nuclear community.

The ANS supports the development and use of geological repositories for disposal of high-level radioactive wastes and the expeditious processing of the Yucca Mountain license application in an open, technically sound manner. In ANS Position Statement 80-2009, the Society has chosen deliberately not to take a position on “whether the DOE has made an adequate case for the safety of Yucca Mountain as a repository.” Instead, we express our confidence that, “the NRC will make this determination fairly and only after thoroughly reviewing the scientific information in the application.”

Having applied the principles of our position statement to the recent decision of Court of Appeals for the District of Columbia and the availability of appropriated funding, we have reached two conclusions:

**Conclusion #1: With the remaining funds available to it, the Commission should issue the outstanding volumes of its Safety Evaluation Report (SER), beginning with Volume 3.**

It is widely understood that SER Volume 3 exists in a substantially completed form as an internal non-public document in the agency's document management system at the NRC. In addition, according to the March 30, 2010 memorandum by NRC Executive Director of Operations William Borchart to the Commissioners, no additional information from DOE is required to finalize it. The SER represents a significant scientific and regulatory body of work by both the DOE and NRC. It will provide considerable value in informing future repository activities, regardless of whether those activities occur on Yucca Mountain or some other proposed repository site.

Put bluntly, we cannot envision a credible scenario where NRC acts with good faith to comply with the Writ of Mandamus with the resources available to it, yet does not publically release SER Volume 3. Intact publication of the professional staff's findings and conclusions should be Commission's highest priority in complying with the court's orders. Once the remaining SER volumes have been completed and released, we believe the Commission should expend what funding remains to re-establish the docket and direct the Construction Advisory Board (CAB) to restart the suspended proceeding. Furthermore, the Commission should formally deny DOE's request to withdraw the license application and issue an Order directing them to prepare to resume the proceeding on a schedule consistent with the NRC licensing activity plans discussed below.

**Conclusion #2: The Commission should establish budget requirements and plans to complete the project as directed by the courts, and include them the FY 15 budget request it submits to the White House Office of Management and Budget.**

It is clear that the remaining level of appropriations available for Yucca Mountain activities is insufficient to complete the licensing process. As such, it is our opinion that the Commission, in order to comply with the court's direction, should submit a reasonable, enumerated licensing activity plan in its proposed FY 15 Congressional Budget Justification. If the Commission has not already done so in its initial request, it should submit a supplemental request to OMB as soon as possible, and not wait for the passback process to address the issue. We would also recommend that the Commission actively encourage the administration and OMB to include funding in its final budget request, as its omission would reflect badly on the Commission and its intent to comply with the Writ of Mandamus.

In closing, you have done a commendable job restoring civility to the Commission's operations during your tenure as Chairman. The actions you and your fellow commissioners take in the next few months to comply with the court's decision can sustain this positive trajectory for years to come. Prompt issuance of SER Volume 3 and a reasoned funding request for additional licensing activities will remove NRC from the political firefight over Yucca Mountain and shift the focus back to Congress, where it belongs.

Thank you for providing the opportunity to provide our comments.

Respectfully submitted,

A handwritten signature in black ink that reads "Donald R. Hoffman". The signature is written in a cursive, flowing style.

Donald R. Hoffman, President  
American Nuclear Society

CC: Commissioners  
NRC Secretary  
Dr. Ernest Moniz, Secretary of Energy