

September 27, 2000

The Honorable Robert F. Bennett
United States Senate
Washington, DC 20510

Dear Senator Bennett:

This letter is to supplement our telephone conversation on September 21 concerning your request for a 120-day extension to the public comment period (and additional public meetings) on NUREG-1714, "Draft Environmental Impact Statement for the Construction and Operation of an Independent Spent Fuel Storage Installation on the Reservation of the Skull Valley Band of Goshute Indians and the Related Transportation Facility in Tooele County, Utah" (DEIS). The availability of the DEIS was noticed in the Federal Register on June 23, 2000 (65 FR 39206). The DEIS was developed by the staff of the Nuclear Regulatory Commission (NRC) and three other Federal agencies [Surface Transportation Board (STB), U.S. Bureau of Indian Affairs (BIA), and U.S. Bureau of Land Management (BLM)] that also are considering the proposal by Private Fuel Storage, L.L.C. (PFS) to construct and operate an independent spent fuel storage installation on the Reservation of the Skull Valley Band of Goshute Indians. The NRC is acting as the lead Federal agency for the development of this DEIS.

As noted in my calls to you and Senator Hatch, I regret that we are unable to grant an extension of the public comment period for the DEIS. The information below provides the basis for our not granting an extension of the public comment period, but also identifies other opportunities for public involvement in the environmental review of the application after closure of the comment period on the DEIS.

The NRC provided a 90-day comment period on the DEIS, a period which exceeds the 45-day period generally provided under our regulations and those of STB and BIA and which meets the period generally provided by BLM. In this regard, I am informed that hundreds of comments have already been received, from several hundred commentors -- some well in advance of the September 21, 2000, comment period closing date. In addition, I understand that, to the extent practical, comments received after the close of the comment period will be considered.

I also would note that the NRC staff solicited public involvement in the DEIS development process. As part of the environmental impact statement scoping process, several public DEIS scoping meetings were held in Salt Lake City (1998 and 1999) and Tooele (1999), Utah, at which the NRC staff discussed its proposed schedule and provided contact information for parties interested in further information or discussions. The scoping meetings were noticed in the Federal Register (63 FR 24197; 64 FR 18491) and were advertised in local newspapers. In addition, the four Federal agencies held a series of public meetings in Salt Lake City and Grantsville, Utah, during July and August of this year, to receive oral public comments on the DEIS. These meetings, too, were noticed in the Federal Register (65 FR 39206; 65 FR 49029), and received substantial notice in the Salt Lake City area media.

Public participation in the environmental review of the application will continue even after the comment period on the DEIS closes. The State of Utah and four other parties have been admitted to the formal licensing proceeding on the application before an NRC Atomic Safety and Licensing Board. The State and other parties have raised a number of safety and environmental contentions which have been, or are in the process of being, adjudicated. A first round of hearings on some of the safety contentions was held in Salt Lake City in June 2000. Hearings on remaining safety contentions and environmental contentions are scheduled to be held in Salt Lake City in July and August 2001. The Atomic Safety and Licensing Board will render a licensing determination on the PFS application following completion of the hearing process, and that decision will be subject to Commission review.

In light of the substantial opportunities for public comment that have already been provided, we are concerned about the impact of any further extensions on the staff's review and preparation of the FEIS. Because the timing of the hearing is linked to issuance of the FEIS (scheduled for February 2001), a delay in issuing the FEIS will likely delay the hearing schedule. The hearing schedule was set in consideration of the interests of the various parties.

Mindful of the criticism by the Congress in recent years of unduly protracting its licensing reviews and proceedings, as well as of the legitimate interests of the license applicant in a reasonably timely determination of its application, the Commission has emphasized to its Licensing Boards and all parties in NRC adjudicatory proceedings the importance of a disciplined review and hearing process and the need to avoid delays. In view of the substantial opportunity already afforded for public comments on the DEIS, the efforts that have been made to obtain such comments from the public, and the public hearings already scheduled for 2001, we are unable to grant an extension of the public comment period.

Although the Commission is not able to grant your request, I want to assure you that the Commission's decision on the application will be guided solely by the governing standards for protection of public health, safety and the environment.

Sincerely,

/RA/

Richard A. Meserve

September 27, 2000

The Honorable Orrin G. Hatch
United States Senate
Washington, D.C. 20510

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