

November 6, 2000

The Honorable Shelley Berkley
United States House of Representatives
Washington, D.C. 20515

Dear Congresswoman Berkley:

I am responding to your letter of September 29, 2000, concerning 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). For the reasons outlined in the following paragraphs, the NRC, in consultation with the three other Federal agencies involved, has decided not to grant the request that you and others have made for an extension to the public comment period for the DEIS.

The NRC provided a 90-day public comment period on the DEIS, a period which exceeds the 45-day period generally provided under our regulations and those of the Bureau of Indian Affairs and the Surface Transportation Board and which meets the period generally provided by the Bureau of Land Management. In view of the already expanded opportunities for public comment on the DEIS, earlier staff efforts to solicit public involvement in the environmental impact statement scoping process, and public meetings held during the comment period, we conclude that an extension is not warranted. Literally hundreds of comments were received, from several hundred commenters, in advance of the September 21, 2000 comment period closing date. Additionally, and to the extent practical, it also is NRC's practice to accept and consider comments received subsequent to the comment period closing.

The concerns of local governments and other interested persons also are being addressed before an NRC Atomic Safety and Licensing Board. The State of Utah and four other intervenors were granted status as parties to the adjudicatory proceeding on the Private Fuel Storage, L.L.C., (PFS) license application. The State of Utah and other intervenors raised a number of safety and environmental contentions that were, or are in, the process of being adjudicated. This adjudicatory process began in 1997, shortly after the NRC staff received the license application from PFS. As noted in your letter, hearings on some portions of the safety contentions were held in Salt Lake City in June 2000. Hearings on the remaining safety contentions and environmental contentions are scheduled to be held in Salt Lake City in July and August 2001. Commission action on the PFS application will not occur until after completion of the hearing process.

Your letter also expresses concern with what you refer to as the cask "return-to-sender" policy in the PFS proposal. This concern may involve a substantive matter related to the merits of the license application which is the subject of a contested adjudicatory proceeding. Because the Commission may have an adjudicatory role in this matter, it would be inappropriate for me to

-2-

address your concern at this time. Instead, I have referred this issue to the NRC staff for their consideration.

I want to assure you that the Commission's decision on the application will be guided by our mandate to protect public health, safety, and the environment.

Sincerely,

/RA/

Richard A. Meserve