

January 22, 2001

Ms. Judy Treichel, Executive Director
Nevada Nuclear Waste Task Force
Alamo Plaza
4550 West Oakey Boulevard, Suite 111
Las Vegas, Nevada 89102

Dear Ms. Treichel:

I am responding to your letter of October 27, 2000, concerning the resolution of issues related to the potential repository at Yucca Mountain, Nevada. Although the Nuclear Regulatory Commission (NRC) staff is available to discuss your concerns in detail, I will address several of the points you raised: NRC's relationship with the Department of Energy (DOE) during pre-licensing, NRC's issue resolution process including the use of terms such as "closed" or "closed-pending," and the status of the NRC's proposed site-specific rule for Yucca Mountain (10 CFR Part 63).

In your letter, you suggest that NRC is more inclined to work with the DOE than groups representing the public. I can assure you that this is not the case. The NRC values public participation in our regulatory process and we know that we must ensure that issues raised by all parties get fair and meaningful treatment. Nonetheless, under guiding statutes, DOE plays a unique role in the high-level waste program as a potential licensee. In the Nuclear Waste Policy Act of 1982, as amended (NWPAA), Congress directed DOE to be involved with the NRC in prelicensing consultation on site characterization activities. Further, the NWPAA limits the amount of time the NRC will have to evaluate a potential license application. Consequently, the purpose of this prelicensing consultation process is to allow the complex technical issues present at a potential geologic repository site to be addressed early so that potential health and safety issues are identified and receive the attention they deserve. Because DOE is the potential licensee and NRC technical staff would be the initial reviewer, detailed consultation with the NRC staff is necessary. The NRC staff strives to conduct its interactions with DOE in an open and objective manner.

You also express concern about NRC's issue resolution process, including in particular the terms that are used to document the status of technical concerns during prelicensing. In order to document the efforts in prelicensing consultation, the NRC staff maintains a list of Key Technical Issues and denotes their status. The fact that some technical issues are characterized as "closed" or "open" is a matter of NRC technical staff's bookkeeping at this stage of the process. Notwithstanding any such characterization, all issues will remain subject to further consideration during licensing if a license application for Yucca Mountain is received. However, we believe that you have identified a valid concern regarding our use of the term "closed-pending." To those not intimately familiar with the prelicensing program, the term might

be understood to imply that more progress was made in closing an open issue than actually has occurred. Consequently, I have directed the staff to find more opportunities, within the context of its prelicensing issue consideration, to convey the notion clearly and more routinely that the term "closed pending" is merely a bookkeeping term. The term means that DOE has agreed to provide information that, in the NRC staff's view, should close the issue, but, at the same time, this characterization does not imply that the staff has prejudged the outcome of the review of that information.

Finally, you note that the NRC has not yet responded to comments on its proposed site-specific rule for Yucca Mountain. The Commission currently has under consideration the staff's draft final rule and the response to all public comments. In the course of Commission action on the staff's proposal, all comments will be addressed. Of course, as you know, Part 63 will have to be conformed with the final Yucca Mountain standard when promulgated by the Environmental Protection Agency.

If you have any further questions or comments, please contact me.

Sincerely,

/RA/

Richard A. Meserve

cc: See attached list

Letter to J. Treichel from R. Meserve dated: January 22, 2001

cc: Senator Harry Reid
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