

EDO Principal Correspondence Control

FROM: DUE: 02/24/06 EDO CONTROL: G20060126  
DOC DT: 01/17/06  
FINAL REPLY:

Robert R. Loux  
State of Nevada

TO:

Chairman Diaz

FOR SIGNATURE OF :

\*\* GRN \*\*

CRC NO: 06-0058

Strosider, NMSS

DESC:

ROUTING:

Yucca Mountain

Reyes  
Virgilio  
Kane  
Silber  
Dean  
Cyr/Burns  
Mallett, RIV  
Ryan, ACNW  
Dixon-Herrity,  
OEDO  
Miller, OEDO

DATE: 02/06/06

ASSIGNED TO:

CONTACT:

NMSS

Strosnider

SPECIAL INSTRUCTIONS OR REMARKS:

EDO and Commission to review prior to dispatch, add  
EDO and OCM on for concurrence.

Template: SECY-017

E-RIDS: SECY-D1

OFFICE OF THE SECRETARY  
CORRESPONDENCE CONTROL TICKET

Date Printed: Feb 06, 2006 15:17

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PAPER NUMBER: LTR-06-0058                      LOGGING DATE: 02/02/2006  
ACTION OFFICE: EDO

AUTHOR: Robert Loux  
AFFILIATION: NV NWPO  
ADDRESSEE: Nils Diaz  
SUBJECT: Concerns Dec. 22, 2005 ltr rpt to the Comm from ACNW regarding Yucca Mountain

ACTION: Direct Reply  
DISTRIBUTION: RF, SECY to Ack, ACNW

LETTER DATE: 01/17/2006

ACKNOWLEDGED No  
SPECIAL HANDLING: OCM #8326

NOTES: Commission should review response prior to dispatch

FILE LOCATION: ADAMS

DATE DUE: 02/28/2006                      DATE SIGNED:

EDO --G2006012C



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January 17, 2006

The Honorable Nils J. Diaz, Chairman  
U.S. Nuclear Regulatory Commission  
Washington DC 20555-0001

Dear Chairman Diaz:

This letter is prompted by the December 22, 2005 letter report to the Commission from its Advisory Committee on Nuclear Waste (ACNW). The December 22 letter offers a brief summary of the ACNW's 165<sup>th</sup> meeting, but the format chosen for the letter (one in a series of "Summary Reports") apparently did not permit the ACNW to offer more than very brief summaries of what various interested stakeholders had advised about the pending Nuclear Regulatory Commission (NRC) and Environmental Protection Agency (EPA) rules for Yucca Mountain.

At the meeting, the ACNW received a presentation from its former chairman, Dr. Dade Moeller, in which he explains that the EPA got things very wrong in calculating radon-caused radiation doses. These calculations underlay the EPA's choice of proposed new radiation standard for Yucca Mountain. In that same meeting, Dr. Thomas Tenforde, President of the National Council on Radiation Protection, also criticized the proposed EPA Yucca Mountain rule. The full presentations (transcript and slides) are available and should be considered carefully by the Commission

The State recognizes that the ACNW did not intend its December 22 letter to be the means to communicate its independent advice and recommendations about the merits of the NRC's and EPA's proposed Yucca Mountain rules, and that the ACNW will be receiving further briefings on this important matter. However, the State is concerned that the Commission proceeded to publish its proposed Yucca Mountain rule, and to cooperate in the drafting of the proposed EPA rule, without receiving any advice and recommendations from the ACNW. The presentations received by the ACNW at its 165<sup>th</sup> meeting illustrate what could have been learned had more stakeholders been involved in the rule drafting process. Had the ACNW been able to


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CHAIRMAN REC'D  
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hear from people like Drs. Moeller and Tenforde and to advise the Commission before the proposed rule were published, it is possible that some of the grave technical errors in the proposed rules could have been avoided.

The State would like the Commission's assurance that NRC Staff will make no recommendation to the Commission about publication of a final Yucca Mountain rule, and that neither it nor its Staff will offer views to EPA or OMB about an EPA draft final rule, until it has received and considered public advice from its ACNW.

Sincerely,

A handwritten signature in dark ink, appearing to read "Robert R. Loux", with a long horizontal flourish extending to the right.

Robert R. Loux  
Executive Director

RRL:njc