



OFFICE OF THE
GENERAL COUNSEL

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

September 15, 2011

Andrew A. Fitz, Esq.
Office of the Attorney General
State of Washington
Ecology Division
2425 Bristol Court, SW (2d Floor)
Olympia, Washington 98502

Dear Mr. Fitz:

We have received your letter dated September 12, 2011. Your letter raises questions about a recent Commission order (CLI-11-07) in the Yucca Mountain licensing proceeding and our filing of that order in *In re: Aiken County*, No. 11-1271 (D.C. Cir.).

As you know, your mandamus petition in No. 11-1271 seeks, among other remedies, a court order "[c]ompelling the NRC to issue its final decision regarding review of the June 29, 2010, ASLB order denying DOE's motion to withdraw the Yucca Mountain license application within 30 days." Petition at 29. The Commission decision in CLI-11-7 addresses its review of the ASLB order; accordingly we filed it with the Court of Appeals.

Your letter also characterizes the Commission decision as "contradictory." But, like judicial decisions, Commission adjudicatory decisions speak for themselves. Concerns about their meaning, correctness, or implementation should be addressed as part of the public adjudicatory process, not in informal correspondence among lawyers. See, e.g., 10 C.F.R. § 2.323(e). The Commission order is now before the Licensing Board and the Board will implement the order exercising its authority under the Atomic Energy Act and NRC regulations.

Your letter also seeks information on "NRC's intended future acts." But the Licensing Board has not yet acted in response to the Commission order. Moreover, your mandamus petition seeks to compel additional future acts by the Commission. We will reserve comments or statements on that point for any pleadings we file in Court.

Sincerely,

A handwritten signature in black ink, appearing to read "Charles E. Mullins", written over a horizontal line.

Charles E. Mullins
Senior Attorney
Office of the General Counsel

cc: Service List