

March 4, 2011

The Honorable Ralph M. Hall
Chairman, Committee on Science,
Space, and Technology
United States House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

Thank you for your Committee's interest in the Nuclear Regulatory Commission's (NRC) actions regarding the Yucca Mountain license application. I am providing the agency's response to your letter dated February 10, 2011, requesting the public release of Volume III of the Safety Evaluation Report Related to Disposal of High-Level Radioactive Wastes in a Geologic Repository at Yucca Mountain, Nevada (SER Volume III). I am pleased to inform you that in response to an earlier Freedom of Information Act request, the NRC released redacted versions of SER Volumes II and III on February 17, 2011.

These SER volumes were in a draft stage when the agency transitioned to closure activities associated with the Yucca Mountain license application five months ago. Because the review of these documents had not been completed by pertinent NRC staff, portions related to preliminary staff findings and conclusions were appropriately redacted as pre-decisional material prior to their public release consistent with FOIA law.

Because of the Commission's role as an appellate body for decisions made by the NRC's Atomic Safety and Licensing Board during hearings on the application that would focus on findings in the SER, not even my colleagues and I have had access to these predecisional draft staff documents in their unredacted form. Release of those portions not already made public through the FOIA process would complicate and extend an already complex proceeding involving more than three hundred admitted contentions. It would create confusion associated with any changes between the draft and potential final versions and could thus be expected to invite a stream of needless litigation regarding the basis for any changes. Historically, members of Congress and its committees have rarely requested these types of pre-decisional draft documents which pertain to license applications that are related to an adjudication.

I can assure you that the NRC staff is currently working to thoroughly document its technical review so that the work of the agency is well documented and available to the public.

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Thank you for your interest in the NRC and our work. I understand that the Office of Congressional Affairs and your staff have regular discussions and we will continue to update them about our work. I would be happy to discuss this matter with you directly, either by phone or in person as your schedule allows. Please feel free to contact me.

Sincerely,

/RA/

Gregory B. Jaczko

cc: Representative Eddie Bernice Johnson

Identical letter sent to:

The Honorable Ralph M. Hall
Chairman, Committee on Science,
Space, and Technology
United States House of Representatives
Washington, D.C. 20515
cc: Representative Eddie Bernice Johnson

The Honorable F. James Sensenbrenner, Jr.
Vice-Chairman, Committee on Science,
Space, and Technology
United States House of Representatives
Washington, D.C. 20515
cc: Representative Eddie Bernice Johnson

The Honorable Paul Broun, M.D.
Chairman, Subcommittee on Investigations
and Oversight
Committee on Science, Space, and Technology
U.S. House of Representatives
Washington, D.C. 20515
cc: Representative Donna Edwards

The Honorable Andy Harris
Chairman, Subcommittee on Energy
and Environment
Committee on Science, Space, and Technology
U.S. House of Representatives
Washington, D.C. 20515
cc: Representative Brad Miller