

**ALLIANCE FOR NUCLEAR ACCOUNTABILITY · CITIZEN ALERT · FRIENDS OF THE EARTH ·
NATURAL RESOURCES DEFENSE COUNCIL · NEVADA DESERT EXPERIENCE ·
NEVADA NUCLEAR WASTE TASK FORCE · NUCLEAR INFORMATION AND RESOURCE SERVICE ·
PHYSICIANS FOR SOCIAL RESPONSIBILITY · PUBLIC CITIZEN ·
U.S. PUBLIC INTEREST RESEARCH GROUP · SIERRA CLUB**

January 26, 2004

Re: Yucca Mountain high-level waste repository

Dear Member of Congress:

As national environmental and public interest organizations, we are writing to update you on the most recent developments regarding the proposed high-level nuclear waste repository at Yucca Mountain, Nevada. The Department of Energy (DOE) intends to submit its license application to the Nuclear Regulatory Commission (NRC) by the end of this year, but as the following issues indicate, numerous fundamental questions remain regarding the suitability of the site to safely and permanently isolate high-level radioactive waste. ***Due to the doubts and uncertainties plaguing the Yucca Mountain project, we urge that its budget not be increased and that no changes be made to the funding practices.***

- 1. Oral arguments in Yucca Mountain lawsuit heard in court.** On January 14, 2004, the U.S. Court of Appeals for the District of Columbia heard oral arguments on a slate of lawsuits filed against the Yucca Mountain project. Last September, the six cases were consolidated and deemed "complex," allowing the three-judge panel more time to review them and lawyers more than the usual amount of time to argue them. The lawsuits were brought by public interest and environmental groups and the State of Nevada against the Environmental Protection Agency (EPA), and by the State of Nevada against the DOE, NRC and U.S. government. As the attached news articles demonstrate, the judges were particularly interested in the case against the EPA, which charges that the EPA's radiation release standards are not consistent with the recommendations of the National Academy of Sciences as ordered by Congress in the 1992 Energy Policy Act. The primary inconsistency is in the important area of whether the regulatory period includes the time of the expected peak dose from the repository.

The decisions, which are expected as early as this spring, could potentially force a significant reassessment of the Yucca Mountain project that would necessarily take years, and perhaps even permanently derail it. Therefore, it would be inappropriate and irresponsible to make any increases in the project's funding or changes in funding practices, such as taking the project "off-budget," pending the court's decisions.

- 2. Chairman of the Nuclear Waste Technical Review Board resigned over conflict-of-interest charges.** On December 30, 2003, Michael Corradini, chairman of the Nuclear Waste Technical Review Board (NWTRB), resigned following persistent criticism that he was biased in favor of the Yucca Mountain repository. The NWTRB was formed by Congress to be an independent body to review the DOE's research at Yucca Mountain

and to ensure the government's decisions are supported by scientific evidence. Corradini's bias in favor of Yucca Mountain was apparent even before his appointment in June 2002. In 2001, he testified before the Senate Committee on Energy and Natural Resources that Yucca Mountain was "safe and solid" and that a stalemate over nuclear waste disposal "is primarily a political rather than a technical issue." Last October, Corradini co-authored an op-ed in a Madison, Wisconsin newspaper, stating that nuclear waste "can be stored safely at Yucca Mountain." The other nine board members, recognizing that the panel's credibility and effectiveness were in jeopardy, called for his resignation in April 2003.

The resignation of Corradini from the NWTRB is a welcome measure to keep the continued role of the NWTRB as an impartial and objective panel. *As President Bush appoints a new chairman and fills other existing and upcoming vacancies to the NWTRB this year, Congress should call on the President to ensure that the integrity and credibility of the Board is preserved.*

3. **NRC says DOE is not providing enough information on key technical issues.** The DOE announced in December that it would answer all but one of the remaining key technical questions about Yucca Mountain by August 2004, much sooner than originally planned. Later that month, however, the NRC informed DOE that they cannot evaluate the answers to questions that DOE has already submitted, because DOE has not supplied all the necessary technical documents. In a December 23, 2003 letter to DOE, Janet Schlueter, chief of the NRC's High-level Waste Branch, wrote that "DOE has not routinely provided supporting information, most of which is also not publicly available. NRC expects DOE to provide NRC with all information requested in the original agreements."

The DOE has been working since September 2001 on answering 293 scientific questions, or key technical issues, that revolve around Yucca Mountain's ability to keep radiation from contaminating the surrounding environment. So far, answers to 83 questions have been completed and accepted by the NRC. Of the 53 responses submitted to the NRC since September 2003, only 14 "appear to have adequately addressed" the original question, while 39 of the responses reviewed "do not appear to fully satisfy the agreements." The letter lists about 50 documents it still needs from the DOE to move ahead with its review of water movement in the mountain and possible volcanic activity. Water is a key issue for the site, because it could not only transport radiation faster than expected, but also could lead to corrosion of the waste containers holding the irradiated fuel.

Again, we urge that the budget for Yucca Mountain not be increased and that no changes be made to the funding practices. Please contact Michele Boyd with Public Citizen at (202) 454-5134 or Kevin Kamps with NIRS at (202) 328-0002 ext. 14 if you have any questions.

Sincerely,

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