

ONE HUNDRED THIRTEENTH CONGRESS  
**Congress of the United States**  
**House of Representatives**

COMMITTEE ON ENERGY AND COMMERCE

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August 23, 2013

The Honorable Allison M. Macfarlane  
Chairman  
U.S. Nuclear Regulatory Commission  
11555 Rockville Pike  
Rockville, MD 20852

Dear Chairman Macfarlane:

On August 13, the U.S. Court of Appeals for the District of Columbia Circuit issued a Writ of Mandamus compelling the Nuclear Regulatory Commission to resume its review of the Department of Energy's license application to construct a repository at Yucca Mountain. In light of this decision, the Committee on Energy and Commerce is continuing oversight of NRC's actions relating to its license review. Accordingly, we write to request your attendance at a hearing before the Subcommittee on Environment and the Economy, scheduled for September 10, 2013, to update the Committee on the Commission's actions to implement the Court's decision.

In a February 28, 2013 hearing before the Subcommittee on Environment and the Economy, you and your fellow commissioners committed to honor the Court's decision concerning resumption of the license review and to provide monthly reports on the staff's progress and expenditure of resources. The Committee will look forward to the monthly reports, beginning in September.

A critical milestone in the license review process is the NRC's public release of its Safety Evaluation Report (SER) on the proposed Yucca Mountain design. The SER documents the NRC technical staff's independent evaluation to determine whether the repository will comply with public health, environmental, and safety standards, including such standards that apply after the repository is closed. We understand from documents and testimony that outstanding volumes of this report may be completed and released within a matter of months. The NRC, in responses for the February 28 hearing record, confirmed that an estimated 6-8 months was needed to complete all volumes of the SER at a cost of \$6.5 million. In a hearing before the House Energy and Water Appropriations Subcommittee, NRC staff testified that the NRC currently has \$11.1 million in unobligated funds available for the purpose of reviewing the license application.

Given these available resources and the progress already made to complete the SER, it is our expectation that the NRC's first action to implement the Court's decision will be to diligently resume its review of the license application, complete the SER, and issue it publicly. Our country has invested 30 years and \$15 billion in determining whether Yucca Mountain would be a safe repository. The NRC is this nation's nuclear safety regulator and its reputation for independence and objectivity rests on its transparency in this matter. As such, NRC's objective, scientific findings regarding the safety of Yucca Mountain would provide the public an independent, authoritative assessment of this important project.

To assist in the Committee's preparation for the forthcoming hearing, please provide the following information no later than September 6, 2013:

- 1) A description of actions already taken to comply with the August 13 Court Order, including any reassignment of staff; and
- 2) NRC's remaining schedule for releasing each volume of the Safety Evaluation Report.

Additional instructions relating to the hearing and the submission of testimony will be provided under a separate cover. If you have any questions or concerns, please contact Annie Caputo of the Energy and Commerce Committee staff at (202) 225-2927.

Sincerely,



Fred Upton  
Chairman  
Committee on Energy and Commerce



John Shimkus  
Chairman  
Subcommittee on Environment  
and the Economy

cc: The Honorable Henry A. Waxman, Ranking Member  
Committee on Energy and Commerce

The Honorable Paul Tonko, Ranking Member  
Subcommittee on Environment and the Economy

The Honorable Allison M. Macfarlane

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cc: The Honorable Kristine L. Svinicki, Commissioner, U.S. Nuclear Regulatory  
Commission

The Honorable George Apostolakis, Commissioner, U.S. Nuclear Regulatory  
Commission

The Honorable William D. Magwood, IV, Commissioner, U.S. Nuclear Regulatory  
Commission

The Honorable William C. Ostendorff, Commissioner, U.S. Nuclear Regulatory  
Commission