February 4, 2002

The Honorable Spencer Abraham
Secretary of Energy
Washington, D.C. 20585

Dear Secretary Abraham:

On behalf of the U.S. Nuclear Regulatory Commission (NRC) I am providing comments on the Department of Energy's (DOE's) final environmental impact statement (FEIS) for the Yucca Mountain site. Under Section 114(a)(1)(D) of the Nuclear Waste Policy Act of 1982, as amended, any recommendation by the Secretary of Energy to the President with regard to a repository for the disposal of spent nuclear fuel and other high-level radioactive waste (HLW) at the Yucca Mountain site is to include "... a final environmental impact statement prepared for the Yucca Mountain site ... together with comments made concerning such environmental impact statement by ... the Commission...." This letter constitutes NRC's comments in fulfillment of the statutory provision.

These comments were developed on the basis of reviews by the NRC staff of DOE's draft environmental impact statement (DEIS) for Yucca Mountain (Enclosure 1), the supplement to the DEIS (Enclosure 2), and the FEIS. These reviews were supported by extensive pre-licensing interaction among the NRC staff, DOE, and various stakeholders, including the State of Nevada, Indian Tribes, affected units of local government, representatives of the nuclear industry, and interested members of the public. These interactions also supported our comments on DOE's Viability Assessment (Enclosure 3) and our recent comments on the adequacy of at-depth site characterization analysis and waste form (Enclosure 4).

Based on the knowledge gained from these activities, the NRC believes that the FEIS contains sufficient information regarding the environmental impacts of the Proposed Action as to provide a foundation for a site recommendation for the following reasons.

1. The FEIS addresses comments the staff made in conjunction with its reviews of the DEIS and the supplement to the DEIS.

2. Based on the current knowledge of the details of the Proposed Action in the FEIS, including transportation, the analyses provided in the FEIS appear to bound the range of impacts. Staff expects that DOE's commitment to refine the repository design and to define transportation modes and routes will allow for more precise estimates of impacts, which of course could result in revisions to the National Environmental Policy Act (NEPA) analyses.

3. We agree with DOE that in some areas additional NEPA reviews may be necessary. We expect that these additional reviews will be completed in support of the submission of a license application for a geologic repository at Yucca Mountain.

If DOE decides to proceed with a site recommendation for the Yucca Mountain site and if the President and Congress approve, NRC would continue to interact with DOE to resolve outstanding technical and environmental issues, as needed. Nonetheless, the Commission has not reached any conclusion concerning the suitability of the site and any final determination of the acceptability of the Yucca Mountain site can only be made after completion of the licensing process by the NRC.

If you have any questions or comments, please contact me.

Sincerely,

/RA/

Richard A. Meserve

Enclosures: 1) Letter from Bill Kane, NRC, to Ivan Itkin, DOE, February 22, 2000
2) Letter from Martin Virgilio, NRC, to Lake Barrett, DOE, June 29, 2001
3) Letter from Carl Paperiello, NRC, to Lake Barrett, DOE, June 2, 1999
4) Letter from Richard Meserve, NRC, to Robert Card, DOE, November 13, 2001

cc: Robert G. Card