

Mr. Brian Hembacher
Deputy Attorney General of the State of California
Department of Justice
300 South Spring Street, Suite 1700
Los Angeles, CA 90013

Dear Mr. Hembacher:

I am responding to your letter of March 16, 2007, by which you submitted to the Nuclear Regulatory Commission (NRC) a petition for rulemaking (PRM) concerning the environmental impacts of the high-density storage of spent nuclear fuel in spent fuel pools. You requested that Title 10 of the *Code of Federal Regulations* (10 CFR), Part 51, be amended. We docketed your petition as PRM-51-12 and published a notice of receipt and request for public comment in the *Federal Register* on May 14, 2007 (72 FR 27068). You filed an amended petition (treated as a supplement to PRM 51-12) on September 19, 2007, to clarify your rulemaking request. We published a notice of receipt for the supplemental petition in the *Federal Register* on November 14, 2007 (72 FR 64003).

PRM-51-12 incorporated by reference the facts and legal arguments set forth in a PRM filed by the Attorney General of the Commonwealth of Massachusetts on August 25, 2006 (docketed as PRM-51-10). Because of the similarities of PRM-51-12 and PRM-51-10, we evaluated the two petitions together.

We received 1,676 public comments on the two petitions, with 1,602 of these being nearly identical form e-mail comments supporting the petitions. Sixty-nine other comments also support the petitions. These comments were submitted by States, private organizations, and members of the U.S. Congress. Two letters from the Nuclear Energy Institute (NEI) oppose the petitions, and three nuclear industry comments endorse NEI's comments.

Based upon our review of the petitions, we have determined that the studies upon which you rely do not constitute new and significant information. We further determined that our findings related to the storage of spent nuclear fuel in pools, as set forth in NUREG-1437, *Generic Environmental Impact Statement for License Renewal of Nuclear Plants*, May 1996, and in Table B-1, of Appendix B to Subpart A of 10 CFR Part 51, remain valid. Thus, the NRC has met, and continues to meet, its obligations under the National Environmental Policy Act. Accordingly, we are denying both PRMs.

B. Hembacher

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Further details are discussed in the enclosed Notice of Denial of Petition for Rulemaking, which will be published in the *Federal Register*. Any questions you may have regarding this matter should be directed to Mark Padovan, by calling 301-415-1423 or by e-mail to imp@nrc.gov.

Sincerely,

Annette Vietti-Cook
Secretary of the Commission

Enclosure: Federal Register Notice