

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY

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March 10, 2011

The Honorable Gregory B. Jaczko
Chairman
Nuclear Regulatory Commission
11555 Rockville Pike
Rockville, MD 20852

Dear Chairman Jaczko:

We write to follow-up to your March 4, 2011 response to our February 10, 2011 letter requesting the 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).

You state in your letter that you will not release the document because its review has not been completed. However, as we noted in our original letter, the reason the report may not be considered complete is because you unilaterally and arbitrarily terminated work on the final review process shortly before its scheduled November 2010 release.

We have repeatedly expressed our concern regarding your directive to halt work on SER Volume III and close down the High-Level Waste Program (HLW).¹ These actions, coupled with the U.S. Nuclear Regulatory Commission's (NRC) deafening silence in response to the Atomic Safety and Licensing Board's (Board) June 29, 2010 denial of the Department of Energy's (DOE) motion to withdraw the License Application, reveal a process driven by a systematic and politically-driven effort to terminate NRC responsibilities on Yucca Mountain, rather than an objective pursuit to resolve the scientific and technical questions associated with the site's suitability.

Accordingly, we reiterate our call for delivery of an unredacted copy of SER Volume III in order to fulfill our oversight responsibilities under House Rule X to review and study, on a continuing basis, laws, programs, and Government activities relating to non-military research and development, and ultimately to inform the legislative process. Absent an immediate production of the document, please cite the exemption you are claiming along with an explanation of the claim. Furthermore, please provide to the Committee in its entirety, including all non-concurrences, the February 4, 2011 memorandum titled "Update on the Yucca Mountain Program," as referenced by Commissioner Ostendorff.² Please deliver these materials by March 17, 2011.

¹ Letter from Reps. Ralph Hall, Jim Sensenbrenner, Joe Barton, and Doc Hastings to NRC Chairman Jaczko, October 13, 2010. Also, letter from Reps. Ralph Hall, Jim Sensenbrenner, Paul Broun and Andy Harris to NRC Chairman Jaczko, February 10, 2011.

² Letter from Commissioner Ostendorff to Reps. Ralph Hall, Jim Sensenbrenner, Paul Broun and Andy Harris, February 23, 2011.

Additionally, we repeat our request for all documents and communication from you relating to the completion and release of SER Volume III. Should you withhold documents, please provide to the Committee an indexed list of documents withheld and the reason for doing so.

In addition, please respond to the following questions.

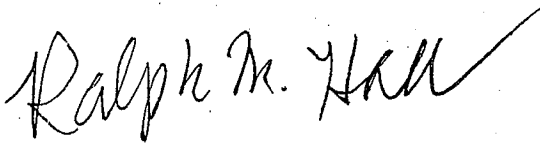
- 1.) Is your decision to bring the HLW program to a close the only hindrance to timely review of SER Volume III? If not, please identify and explain the other barriers to timely review?
- 2.) What work was undertaken on SER Volume III between its delivery to the Director of the Office of Nuclear Material Safety and Safeguards in July 2010 and October 2010, when you unilaterally halted work on the HLW program?
- 3.) Please explain your reasoning behind your refusal to participate in Commissioner Ostendorff's proposal for the full Commission to consider your October decision to halt work on the HLW program?
- 4.) What specific communication did you or your staff have with NRC Staff relating to the schedule, review or approval of SER Volume III?
- 5.) What ongoing reviews of the draft SER Volume III were in progress at the time of the NRC Staff Notification Regarding SER Schedule on November 29, 2010, as described in the Staff's March 3, 2011 reply to the Board?³
- 6.) In October, you noted "No specific actions have yet been taken to terminate the program."⁴ Since then, what specific actions have been taken or will be taken to terminate review of the license application, including all actions related to Staff review of the application?

Lastly, we once more strongly urge you to allow NRC Staff to complete review of SER Volume III and make a full, final document publicly available. Please respond to the above questions by March 24, 2011. Should you have any questions, please contact Mr. Andy Zach, with the Energy and Environment Subcommittee, or Mr. Tom Hammond, with the Investigations and Oversight Subcommittee, at (202) 225-6371.

³ NRC Staff, NRC Staff Response to February 25, 2011, Board Order, Docket No. 63-001-HLW ASLBP No. 09-892-HLW-CAB04 (March 3, 2011) at p. 8

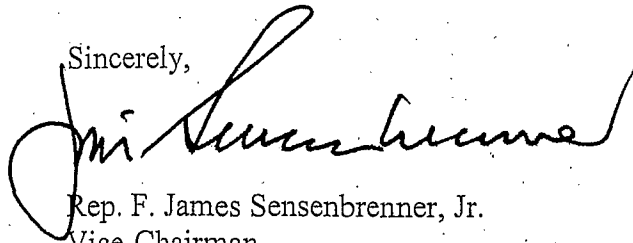
⁴ Letter from Chairman Jaczko to Reps. Ralph Hall, Jim Sensenbrenner, Doc Hastings and Joe Barton, October 27, 2011.

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March 10, 2011
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Rep. Ralph M. Hall
Chairman
Committee on Science, Space,
and Technology

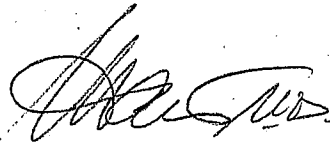
Sincerely,



Rep. F. James Sensenbrenner, Jr.
Vice-Chairman
Committee on Science, Space,
and Technology



Rep. Paul Broun, M.D.
Chairman
Subcommittee on Investigations
and Oversight
Committee on Science, Space,
and Technology



Rep. Andy Harris
Chairman
Subcommittee on Energy and Environment
Committee on Science, Space,
and Technology

cc: The Honorable Steven Chu
Secretary of Energy

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

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

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

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