

# Congress of the United States

Washington, D.C. 20515

July 15, 2010

Chairman Gregory Jaczko  
Nuclear Regulatory Commission  
11555 Rockville Pike  
Rockville, MD 20852

Dear Chairman Jaczko:

We are writing to express our support of the June 29, 2010 decision by the Atomic Safety and Licensing Board (Board) to deny the Department of Energy's (DOE) motion to withdraw the license application to construct a high-level nuclear waste repository at Yucca Mountain, Nevada.

As clearly expressed in the Board's decision, DOE does not have the authority to withdraw the license application simply as a matter of policy. At no point in DOE's motion to withdraw did the agency fault any scientific or technical portions of the license application. This omission highlights the shaky grounds on which DOE rested its argument to shutter Yucca Mountain.

We agree with the Board's observation that congressional intent was clear in the Nuclear Waste Policy Act (NWPA). NWPA was specific with the associated procedures to prepare Yucca Mountain for waste storage. Congress did not pre-approve the license application; however, once the license application was initially submitted, the Nuclear Regulatory Commission (NRC) was required consider it. Congress has repeatedly voted in support of locating a national high-level waste repository at Yucca Mountain. DOE cannot short change proper examination of the repository because of political preferences.

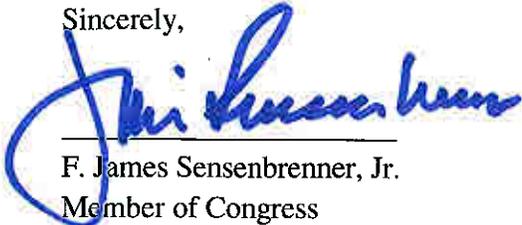
The massive investment in both time and taxpayer dollars warrant proper consideration of the license application by the NRC. Over the course of thirty years, approximately \$10 billion have been spent on Yucca Mountain. Throwing away this investment due to a campaign-pledge is not acceptable. Should the Commission overturn the Board's decision, DOE and Congress will be forced to start anew to address spent fuel, which will only cost more taxpayer dollars, increase the government's liability, and burden facilities that are currently storing waste on-site.

Further, we are concerned that some Commissioners have pre-judged the outcome of this decision. In their February 9, 2010 confirmation hearing, Senator Boxer, Chairwoman of the Environment and Public Works Committee, which is the oversight committee of jurisdiction said, "I have a question here for all three of you from Senator Reid. You can just answer it yes or no. If confirmed, would you second guess the Department of Energy's decision to withdraw the license application for Yucca Mountain from NRC's review?" Commissioners Apostolakis, Magwood, and Ostendorff all answered "no." We think it was an inappropriate commitment and as nominees, the commissioners should not have faced intense pressure both from Environment and Public Works Chairwoman Boxer and Senate Majority Leader Reid. The Commission should examine each case on its merits, rather than pre-judging an argument. We hope the entire Commission considers the Board's decision in an objective manner.

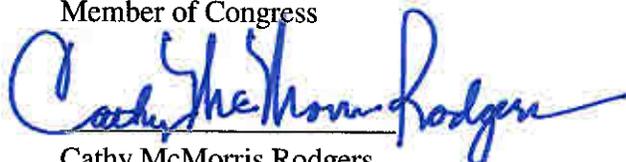
Lastly, we call for the Commission to make all relevant documents related to DOE's motion to withdraw public. Given the significant ramifications of DOE's actions, it is in the public's interest to be fully informed of the entire decision-making process.

With these thoughts in mind, we urge you to leave the Board's decision in place.

Sincerely,

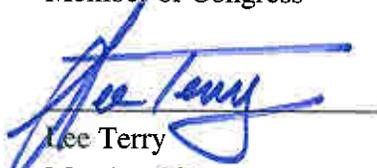
  
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Joe Wilson  
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Cathy McMorris Rodgers  
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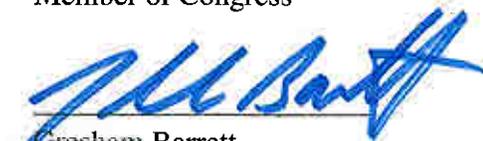
  
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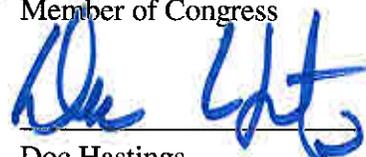
  
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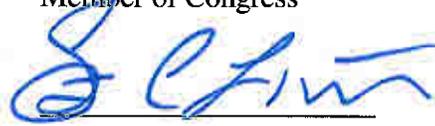
  
Pete Olson  
Member of Congress

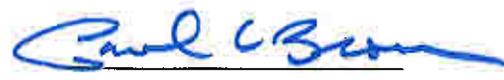
  
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Cc: Commissioner Kristine L. Svinicki  
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Commissioner William D. Magwood, IV  
Commissioner William C. Ostendorff