

**WOMEN'S ACTION FOR NEW DIRECTIONS • U.S. PUBLIC INTEREST RESEARCH GROUP •
SOUTHERN ALLIANCE FOR CLEAN ENERGY • SNAKE RIVER ALLIANCE • SIERRA CLUB •
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NEVADA DESERT EXPERIENCE • NATURAL RESOURCES DEFENSE COUNCIL •
NATIONAL ENVIRONMENTAL TRUST • MOTHERS FOR PEACE • FRIENDS OF THE EARTH •
CITIZEN ALERT • CITIZENS ACTION COALITION OF INDIANA • AMERICAN RIVERS •
ALLIANCE FOR NUCLEAR ACCOUNTABILITY**

July 15, 2004

Re: Court decision on Yucca Mountain lawsuit

Dear Senator:

On July 9, 2004, the DC Circuit Court of Appeals released its decision on the Yucca Mountain lawsuits filed by environmental and consumer groups, the State of Nevada, and the nuclear industry. The court ruled that the U.S. Environmental Protection Agency (EPA) illegally set its 10,000-year compliance period for groundwater radiation standards at the proposed high-level radioactive waste dump at Yucca Mountain, N.V.

The appellate court's ruling does more than set the Yucca Mountain Project back. The Department of Energy (DOE) simply cannot proceed with its license application until both the EPA and the Nuclear Regulatory Commission (NRC) reissue standards based on the National Academy of Sciences' (NAS) recommendations. Then the DOE must show that it can prevent groundwater contamination above drinking water standards at the compliance boundary for hundreds of thousands of years. But DOE's own analysis shows that the Yucca Mountain site cannot meet this standard.

In the 1992 Energy Policy Act, Congress wisely mandated that the EPA determine public health and safety standards for Yucca Mountain "based upon and consistent with" the NAS' findings and recommendations. The NAS recommends a compliance period that extends to the time of peak radiation doses from the site, which studies show are not likely to occur for 300,000 years or more.

The EPA blatantly ignored the findings of the NAS by requiring only a 10,000-year compliance period. According to the court's decision, "Only in a world where 'based upon' means 'in disregard of' and 'consistent with' means 'inconsistent with' could EPA's adoption of a 10,000-year compliance period be considered a permissible construction" of the Energy Policy Act. The NAS found that "there is no scientific basis for limiting the time period of an individual risk standard to 10,000 years or to any other value." The report recommends "[t]hat compliance with the standard be measured at the time of peak risk, whenever it occurs." EPA's current standard simply would not protect the health of future generations.

Given that the court vacated the 10,000-year compliance period in both the EPA standard and the NRC repository licensing rule, there is no regulatory standard for evaluation of a DOE Yucca Mountain repository license application. ***We urge you to deny funding for a Yucca Mountain repository license application in the FY05 Energy and Water Appropriations bill.***

Sincerely,

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