

ONE HUNDRED TWELFTH CONGRESS  
**Congress of the United States**  
**House of Representatives**  
COMMITTEE ON ENERGY AND COMMERCE  
2125 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-6115

Majority (202) 225-2927  
Minority (202) 225-3641

May 9, 2011

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

Dear Chairman Jaczko:

We request your immediate assistance in connection with our investigation, commenced March 31, 2011, relating to the pending license application for construction of a high-level waste repository at Yucca Mountain, Nevada.

In connection with this investigation, at our direction, Committee investigators may interview employees of the Nuclear Regulatory Commission (NRC) and other witnesses in preparation for potential hearings on this matter in the near future. We intend to conduct this investigation so as to cause minimal disruption to the orderly function of the NRC and the important work of its employees. At the outset of this phase of the investigation, however, we believe that added steps should be taken to ensure the full cooperation of all NRC employees who may have information critical to the inquiry.

Accordingly, we request that you immediately notify all NRC employees of their right to communicate with Congress and that it is against the law to deny or interfere with their rights to furnish information to Congress. Specifically, 5 U.S.C. § 7211, provides that:

The right of employees, individually or collectively, to petition Congress or a Member of Congress, or to furnish information to either House of Congress, or to a committee or Member thereof, may not be interfered with or denied.

We also request that you remind all Commission officials that, pursuant to 5 U.S.C. § 2302(b)(8), it is a violation of federal law to retaliate against whistleblowers. That law states:

Any employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority... take or fail to take, or threaten to take or fail to take, a personnel action with respect to any employee or applicant for employment because of....

(A) any disclosure of information by an employee or applicant which the employee or applicant reasonably believes evidences--

- (i) a violation of any law, rule, or regulation, or
- (ii) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, any disclosure to the Special Counsel, or to the Inspector General of an agency or another employee designated by the head of the agency to receive such disclosures, of information which the employee or applicant reasonably believes evidences a violation of any law, rule, or regulation..."

In addition, pursuant to 18 U.S.C. § 1505, it is against federal law to interfere with a Congressional inquiry:

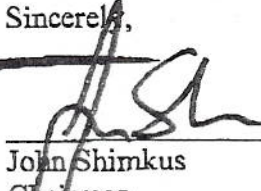
Whoever corruptly, or by threats or force, or by any threatening letter or communication influences, obstructs, or impedes or endeavors to influence, obstruct, or impede the due and proper administration of the law under which any pending proceeding is being had before any department or agency of the United States, or the due and proper exercise of the power of inquiry under which any inquiry or investigation is being had by either House, or any committee of either House or any joint committee of the Congress....

To demonstrate your good faith cooperation with our investigation and compliance with the aforementioned laws, we ask that you provide unedited and unredacted copies of this letter to all employees and contractors of the NRC. Further, we request that you confirm that these documents have been promptly transmitted to all Commission employees as we have requested.

Should you have any questions, please contact Todd Harrison, Chief Counsel of Oversight and Investigations, at (202) 225-2927.

Sincerely,

  
Fred Upton  
Chairman

  
John Shimkus  
Chairman  
Subcommittee on Environment and the Economy

cc: The Honorable Henry A. Waxman, Ranking Member

The Honorable Gene Green, Ranking Member  
Subcommittee on Environment and the Economy

The Honorable Kristine L. Svinicki

The Honorable George Apostolakis

The Honorable William D. Magwood, IV

The Honorable William C. Ostendorff