

United States Senate

WASHINGTON, DC 20510-2803

February 18, 2004

The Honorable Elaine Chao
Secretary of Labor
U.S. Department of Labor
200 Constitution Avenue NW
Washington, DC 20210

Dear Secretary Chao:

I am deeply concerned about the health of workers on the Yucca Mountain project in Nevada. I have recently learned that two current workers have contracted silicosis and that their illness may have been caused by inhaling silica while working for a private contractor of the Department of Energy in tunnel boring at the Yucca Mountain site.

As you know, silicosis is a disabling, nonreversible, and sometimes fatal lung disease which causes scar tissue to form in the lungs, reducing the lungs' ability to extract oxygen from the air. The Department of Labor has had respirable silica on its regulatory agenda, and I understand that the Occupational Health and Safety Administration is currently considering a comprehensive standard for silica exposure.

As the Secretary with jurisdiction over both the Occupational Health and Safety and Mine Safety and Health Administrations, I urge you to investigate this situation immediately. According to a February 17, 2004 letter from the Department of Energy to me, the DOE was aware that silica was present in the Yucca Mountain rock. The dangers of consistent exposure to silica are well-documented, making silicosis a completely preventable disease. The DOE's policy of self-regulation, to the extent it enforced worker health standards, has apparently failed to ensure the proper safety of its contractor workforce. In particular, I would appreciate you answering the following questions:

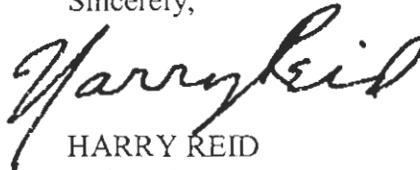
1. What statutory authority and responsibility do OSHA and MSHA currently have to regulate activities at the Yucca Mountain and other DOE sites? What legal limitations, if any, prevent MSHA from fully protecting the health and safety of workers performing mining related functions at Yucca Mountain?
2. Have there been and are there currently any Memorandum of Agreement(s) between DOE and MSHA outlining authority and responsibility for worker safety and health at DOE-owned facilities? If so, please provide copies of all Memorandum of Agreements.
3. Has OSHA or MSHA ever put forward any recommendations or requirements for worker health measures at Yucca Mountain? Please provide a copy of such recommendations.

4. Does OSHA or MSHA currently assist the DOE in monitoring air quality and other worker health issues at the Yucca Mountain site? Please provide all agreements and monitoring reports related to such oversight.
5. Besides respiratory protection, what engineering controls can be used to prevent silica exposure in a tunneling operation like that conducted at Yucca Mountain?
6. What forms of respiratory protection were available in 1992 – 1996? Are paper dust masks considered a sufficient form of protection against silica exposure?

Workers at the Yucca Mountain project apparently were exposed by the DOE to harmful levels of silica, despite ample evidence that this preventable risk existed. I would appreciate your responding to these questions as soon as possible to help determine the best course of action for the exposed workers and their families. If you have any questions, please contact me or have your staff contact Sara Mills in my office at (202) 224-3542.

I appreciate your prompt consideration of my request and look forward to hearing from you.

Sincerely,

A handwritten signature in black ink, appearing to read "Harry Reid". The signature is fluid and cursive, with the first name "Harry" being more prominent than the last name "Reid".

HARRY REID
United States Senator