

The Honorable Frankie Sue Del Papa
Attorney General
State of Nevada
100 N. Carson Street
Carson City, Nevada 89701-4717

December 10, 2002

Dear Attorney General Del Papa:

I am responding to your letter of September 18, 2002, concerning NRC staff's adherence to established practices and policies regarding involvement of the State of Nevada and the public in interactions with the U.S. Department of Energy (DOE) associated with NRC's review of a high-level waste repository at Yucca Mountain. I want to assure you that NRC takes its statutory responsibilities concerning the Yucca Mountain project with the utmost seriousness. Moreover, NRC's Office of the Inspector General was asked to look into the specific concerns identified in your letter and its investigation did not disclose any wrongdoing on the part of NRC staff.

NRC is committed to conducting its business in a manner that is open and transparent to all stakeholders. As such, NRC has conducted many public meetings on DOE's efforts to characterize the site, and on program and technical issues of importance to NRC. Contrary to the suggestion in your letter, interactions between NRC staff and any applicant or prospective applicant, such as DOE, are not governed by the Commission's *ex parte* rule. The NRC's pre-licensing role was established by legislative mandate, as framed in the Nuclear Waste Policy Act, as amended. Our staff's exchanges with DOE are guided by the Joint Agreement between NRC and DOE staffs for meetings with respect to a future application for a repository at Yucca Mountain, as well as NRC's longstanding policy applicable to open meetings. Thus, these meetings are routinely noticed to the public so that interested persons have the opportunity to attend and participate. We plan to continue having such public meetings with DOE, and will continue to keep you and other stakeholders informed of our efforts. Minutes of our meetings are distributed by mail to a service list of organizations and can also be obtained on NRC's website. Nevada's Agency for Nuclear Projects is included on this list, and frequently attends meetings between DOE and NRC.

You also raised six questions about commitments made by Dr. Margaret Chu, Director of DOE's Office of Civilian Radioactive Waste Management. NRC and DOE staffs have frequently discussed the need for specific improvements in DOE's quality assurance (QA) program for the Yucca Mountain project during public quarterly meetings. These meetings are documented in publicly available meeting summaries. Recently DOE made specific commitments for improvements to its QA and other programs as part of a Management Improvement Initiative. NRC discussed these commitments and provided feedback to DOE at public quarterly meetings held on September 6 and 7, 2001; December 5 and 6, 2001; April 18 and 19, 2002; and July 30 and 31, 2002. It is my understanding that a representative of the State of Nevada attended all of these meetings. Also, by letters dated January 31 (Mr. Russell Dyer to Mr. Martin Virgilio), April 5, and July 19, 2002 (Dr. Chu to Mr. Virgilio), DOE submitted management improvement plans to NRC. The public meeting summaries and the DOE letters are available on NRC's

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website. Finally, these issues were discussed at the public quarterly meeting on October 16 and 17, 2002, at DOE's Summerlin, Nevada, offices.

Additionally, the meeting regarding the Preclosure Aircraft Hazard Plan and Map, referred to by Mr. Loux in his August 12, 2002, letter to Dr. Chu had been scheduled for September 17, 2002. This meeting was not held, and has yet to be rescheduled. Public attendance and discussion at all or portions of that meeting may be limited if classified or safeguards information is being discussed.

In closing, we will continue to keep the State of Nevada and other stakeholders apprised of NRC/DOE public meetings on the Yucca Mountain project, and look forward to your continued involvement in these matters. If you have any further questions on this matter, please contact me.

Sincerely,

/RA by Carl J. Paperiello Acting For/

William D. Travers
Executive Director for Operations