



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

July 7, 1995

Mr. Ronald A. Milner, Director
for Program Management and Integration
Office of Civilian Radioactive Waste Management
U.S. Department of Energy, RW 30
1000 Independence Avenue, S.W.
Washington, D.C. 20585

SUBJECT: RESPONSES TO STUDY PLAN COMMENTS

Dear Mr. Milner:

I am responding to the June 19, 1995, letter that I received from Dr. Stephen Brocoum of the U.S. Department of Energy's (DOE's) Yucca Mountain Site Characterization Office. In that letter, Dr. Brocoum makes three main points:

- DOE believes that the U.S. Nuclear Regulatory Commission is no longer tracking study plan comments as open items in the NRC's Open Item Tracking System.
- DOE will be responding to outstanding NRC study plan comments for information purposes only.
- DOE will be returning responses to comments on several study plans listed in the letter.

The purpose of this letter is to clarify the NRC position on the future review of study plans, and to emphasize the importance to DOE of addressing all open items currently identified. As I stated during the May 4, 1995, Technical Exchange on the NRC Licensing Process, the NRC staff does not plan to continue the formal review and comment process previously used to evaluate study plans. This does not mean that the NRC will be eliminating the review of study plans or that it will no longer provide comments to DOE. Rather, the NRC staff anticipates that it would review, as necessary, study plans related to the key technical issues. These reviews would be done in preparation for other staff activities conducted under the existing procedural and project-specific agreements. The staff fully expects to identify issues through these activities, and would identify any concerns as either objections, comments, or questions. The only change in the NRC approach is that the staff will no longer review all study plans, and provide unique comments as part of an independent review of a single study plan. Instead, the NRC staff will be providing comments on study plans as part of its comments from activities. The comments on a study plan would be included along with any other concerns the staff identified as part of its efforts.

With respect to the second issue raised in the DOE letter, I would like to reiterate the need for DOE to work to resolve all open items identified by the NRC staff. Open items are defined as objections, comments, or questions related to the DOE program. A full definition of these terms is included in Appendix C to NUREG-1495: "Overall Review Strategy for the Nuclear Regulatory Commission's High-Level Waste Repository Program," which has been previously

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provided to DOE. The NRC staff will be tracking all comments and questions regardless of their origin or changes in the NRC approach to providing pre-licensing consultation. Furthermore, if comments are not resolved in a timely manner, they might evolve into License Application objections which would prevent the staff from beginning its review of DOE's application for a construction authorization. Therefore, in order for DOE to prepare a high quality and complete license application, it should ensure that all comments and questions are acceptably addressed before a License Application is submitted.

Regarding the final point, the staff requests clarification of what DOE intends by the statement. If DOE means that it will continue to work on outstanding responses to NRC Open Items, then the staff has no further concern. If it means something else, please clarify and amplify.

I hope this information helps DOE better understand the change in how NRC would be reviewing and commenting on study plans. If you have any questions please contact me at 301-415-7238.

Sincerely,

(Original signed by Joseph J. Holonich)

Joseph J. Holonich, Chief
High-Level Waste and Uranium
Recovery Projects Branch
Division of Waste Management
Office of Nuclear Material Safety
and Safeguards

Enclosure: As stated

cc: See next page

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APPENDIX C

DEFINITIONS OF STAFF CONCERNS WITH DOE'S PROGRAM

Start-Work Objection: A concern with the U.S. Department of Energy (DOE) program related to either:

1. potential adverse effects on repository performance;
2. potential significant and irreversible/unmitigatable effects on characterization that would physically preclude obtaining information necessary for licensing;
3. potential significant disruption to characterization schedules or sequencing of studies that would substantially reduce the ability of DOE to obtain information necessary for licensing; or
4. inadequacies in the quality assurance (QA) program that must be resolved before work begins.

Start-work objections are reserved primarily for concerns with activities that, if started, could cause significant and irreparable adverse effects on the site, the site characterization program, or the eventual usability of the data for licensing (programmatic fatal flaws). Because of this irreparable nature of objections, the Nuclear Regulatory Commission would recommend that DOE not start work until the objections are satisfactorily resolved.

License Application (LA) Submittal Objection: A concern with the DOE program critical to the staff's LA review because lack of acceptable DOE resolution would prevent NRC from conducting a meaningful review and making a decision regarding construction authorization within the 3-year statutory time period. Concerns that would need a

long time to resolve, such as new or additional testing or developing new or revised analytical methods, are examples of this type of objection.

Comment: A concern with the DOE program as presented in any DOE document that would result in a significant adverse effect on licensing if not resolved, but would not cause irreparable damage if site characterization started before resolution. The DOE program could be modified in the future, with some risk to not having the necessary information for licensing; the adverse effects would be primarily related to the program schedule. Therefore, for these concerns, DOE could start work at its own risk before resolving such concerns with NRC. NRC would recommend timely resolution of comments. If resolution is not achieved in a timely manner, comments might evolve into LA submittal objections.

Question: A major concern with the presentation of the DOE program in any DOE document, such as missing information that should be in the documents, level of detail, contradictions, and ambiguities that preclude understanding a part of DOE's program, thereby preventing the staff from being able to comment. NRC would recommend DOE clarify such questions. If a question is related to a potential start-work objection, satisfactory resolution should be accomplished before work begins. If a question is not related to a startwork objection, then DOE could choose to proceed with work at its own risk, and resolve the questions in future reports. Questions should be reserved for major items; minor inconsistencies should not be included.

Enclosure