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FEB 26 1993

Mr. Brad Mettam
Yucca Mountain Project Coordinator
Inyo County Planning Department
Yucca Mountain Repository Assessment Office
Inyo County
Drawer L
Independence, CA 93526

Dear Mr. Mettam:

SUBJECT: RESPONSE TO QUESTIONS ON THE CIVILIAN RADIOACTIVE WASTE MANAGEMENT SYSTEM MANAGEMENT AND OPERATING CONTRACTOR

This letter is in response to your letter of February 1, 1993, in which you requested the U.S. Nuclear Regulatory Commission staff's position regarding the Civilian Radioactive Waste Management System Management and Operating Contractor's (M&O) quality assurance (QA) program. Your inquiry resulted from your attendance at the January 20, 1993, Yucca Mountain Site Characterization Project Office Technical Project Officer's meeting. Your letter indicates that at this meeting you were informed that the Exploratory Studies Facility (ESF) design work had been transferred to the M&O, and that the M&O was operating under the U.S. Department of Energy's (DOE) approved QA plan.

Your general concern appears to be "... whether such an arrangement fulfills ..." the organizational structure requirements of Title 10 Code of Federal Regulations (CFR), Part 60.152 which references 10 CFR Part 50, Appendix B. Specifically, you request a statement of the NRC's position on the following questions:

(1) Does the proposed organizational structure and application of QA requirements to the M&O fulfill both the letter and the spirit of the applicable regulations?

(2) Are there potential licensing implications in the DOE's refusal to submit the M&O QA program for NRC approval prior to starting ESF design work?

In response to your first concern, the NRC staff believes that the organizational structure and application of the M&O's program is acceptable to the extent that it has been reviewed by the NRC staff. In addition, some aspects of the M&O work are being conducted under the DOE QA program. The NRC staff position is that this is also an acceptable approach because the DOE QA program has been previously accepted by the NRC staff. The process for NRC acceptance of the M&O QA program is that first DOE and then the NRC must

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determine that the development and implementation of the M&O QA program meets the requirements of the DOE Quality Assurance Requirements Document and 10 CFR Part 60, Subpart G. In order for these determinations to be made, the M&O Quality Assurance Program Description (QAPD), and implementation of the M&O QA program, must be found acceptable. Although DOE has taken the position that it will not request NRC acceptance of the M&O QAPD or QA program implementation, as discussed below, the NRC staff will ensure that the M&O QAPD and QA program implementation undergo the same basic review as the other program participants. To date, the M&O QAPD has been approved by DOE as meeting the requirements of the DOE program.

The NRC staff has reviewed the M&O QAPD to determine whether it meets the applicable criteria of 10 CFR Part 50, Appendix B, and has provided comments to DOE, none of which dealt with the organizational aspects of the M&O QA program. There has not been a sufficient number of audits to allow the NRC staff an opportunity to determine how well the M&O QA program is being implemented.

With respect to your second concern, the NRC staff does not believe that there are any potential licensing implications from DOE's declining to submit the M&O QAPD for NRC staff review and acceptance. In a June 29, 1992, letter, at the NRC staff's request, DOE provided its rationale for not requesting NRC staff review and acceptance of the M&O QAPD. The NRC staff evaluated the DOE rationale and notified DOE in a July 28, 1992, letter, that because of the significance of the M&O program, the same steps for QA program review and acceptance that applied to the DOE high-level waste (HLW) program participants should also be applied to the M&O QA program. Therefore, the NRC staff intends to conduct the same level of review for the M&O QAPD as it has for the other participant QAPD's, and will provide DOE comments from its review. DOE reiterated in its November 5, 1992, letter from J. Roberts to J. Holonich, that it has, and will continue to provide the NRC staff with access to M&O QA documents and DOE audits and surveillances of the M&O. In a May 8, 1992, letter from R. Bernero to R. Loux of the State of Nevada (which included Inyo County on the distribution list), the NRC staff also emphasized its position on the review and acceptance of the M&O QA program.

The NRC staff also recommended in its July 28, 1992, letter, that DOE should audit significant portions of the M&O quality-affecting activities, especially those that could affect site characterization activities, as early as possible. In addition, the NRC staff has and will continue to observe DOE audits and surveillances of the M&O Contractor, as it has done for other DOE HLW program participants, to verify that the M&O is properly implementing the requirements of its QA program. The NRC staff will conduct the same level of review of the M&O QAPD and QA program implementation that it has and continues to conduct for DOE and the other HLW program participants.

I hope the above information clarifies the NRC staff position and provides the necessary information in response to your concerns. Please feel free to contact me or Mr. Joseph Holonich of my staff, if you have any further questions. I can be reached at (301) 504-3352 or Mr. Holonich at (301) 504-3387.

Sincerely,
Original signed by
Robert M. Bernero

Robert M. Bernero, Director
Office of Nuclear Material Safety
and Safeguards

cc: D. Shelor, DOE
R. Loux, State of Nevada
T. J. Hickey, Nevada Legislative Committee
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