

EDO Principal Correspondence Control

FROM: DUE: 05/29/03

EDO CONTROL: G20030260

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FINAL REPLY:

Robert R. Loux  
State of Nevada  
Agency for Nuclear Projects

TO:

Chairman Diaz

FOR SIGNATURE OF :

\*\* PRI \*\*

CRC NO: 03-0317

Chairman Diaz

DESC:

ROUTING:

DOE's Total System Performance Assessment -  
Proposed High-Level Radioactive Waste Repository  
at Yucca Mountain

Travers  
Paperiello  
Kane  
Norry  
Dean  
Lohaus, STP  
Merschhoff, RIV

DATE: 05/19/03

ASSIGNED TO:

CONTACT:

NMSS

Virgilio

SPECIAL INSTRUCTIONS OR REMARKS:

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E-RIDS: SEC4-01

OFFICE OF THE SECRETARY  
CORRESPONDENCE CONTROL TICKET

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**PAPER NUMBER:** LTR-03-0317 **LOGGING DATE:** 05/16/2003  
**ACTION OFFICE:** EDO

**AUTHOR:** Robert Loux  
**AFFILIATION:** NV NWPO  
**ADDRESSEE:** Nils Diaz  
**SUBJECT:** Concerns DOE's Total System Performance Assessment (TSPA)....request clarification from the NRC that would ensure NV's access to information essential to its scientific reviews

**ACTION:** Signature of Chairman  
**DISTRIBUTION:** OGC, RF, SECY to Ack

**LETTER DATE:** 05/06/2003  
**ACKNOWLEDGED:** No  
**SPECIAL HANDLING:** EDO coord response with OGC  
**NOTES:** Commission Correspondence  
**FILE LOCATION:** Adams

**DATE DUE:** 06/02/2003 **DATE SIGNED:**

EDO --G20030260



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May 6, 2003

The Honorable Nils J. Diaz,  
Chairman  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

Dear Chairman Diaz:

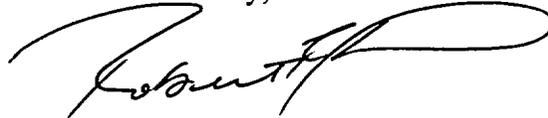
The Nuclear Regulatory Commission (NRC) is already reviewing intensively the core of the Department of Energy's ("DOE's) application for a construction authorization for the proposed high-level radioactive waste repository at Yucca Mountain, Nevada: DOE's Total System Performance Assessment or "TSPA." This is an extraordinarily complex computer model that is supposed to provide the radioactive dosage to nearby populations for the next 10,000 years and beyond. Nevada needs to begin its review of the DOE model and the NRC's Staff's counterpart model *now* so that Nevada's scientific reviews can be made available to the citizens of Nevada, DOE, and the NRC on a timely basis. It may take a good two years for Nevada's technical experts to get sufficiently familiar just with DOE's enormous model—the culmination of DOE's many year and billion-dollar effort—to review it competently.

Section 117 of the Nuclear Waste Policy Act of 1982, as amended, requires the NRC to provide Nevada with "timely and complete information regarding determinations or plans made with respect to the ... licensing [or] regulation" of Yucca Mountain. However, in our recent dealings with the NRC staff on this subject, we have found that the Staff appears to be apprehensive over Nevada's efforts to obtain this detailed model information on a timely basis. For example, in trying to set up a meeting on the Staff's counterpart to DOE's TSPA model--which we still have not been able to arrange--the Staff said they would prefer not to talk to us about DOE's model, even in a public meeting. But NRC Staff obviously talks to DOE about DOE's model and, given Nevada's obvious interest in this matter, there is no basis for treating Nevada any differently. And

there is no reason why NRC Staff's counterpart model cannot be provided to Nevada so that it, like NRC Staff, may use it in assessing DOE's model.

It is vital that the Commission step in to clarify the situation, and to ensure Nevada's access to information essential to its scientific reviews. I look forward to hearing from you. Should you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert R. Loux", with a large, sweeping flourish at the end.

Robert R. Loux  
Executive Director

cc: NRC Commissioners  
Executive Director for Operations  
Director, Nuclear Materials Safety and Safeguards  
Office of General Counsel  
Nevada Congressional Delegation  
Governor Guinn  
Attorney General Sandoval  
Joseph Egan