



NUCLEAR WASTE REPOSITORY PROJECT OFFICE

P.O. BOX 1767 • TONOPAH, NEVADA 89049

(702) 482-8183 • FAX (702) 482-9289

November 22, 1994

Joseph J. Holonich, Chief
High-Level Waste and Uranium
Recovery Projects Branch
Division of Waste Management
Office of Nuclear Material Safety
and Safeguards
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

RE: NWRPO Quality Assurance Manual

Dear Mr. Holonich:

This is in response to your letter to me of November 17, 1994. In that letter, which I am attaching for your ready reference, you responded to my request of November 11th for NRC staff informal review of the Nye County Nuclear Waste Repository Project Office (NWRPO) Draft Quality Assurance Manual. I must tell you that I am confused by your response.

In was my understanding, based on direct conversations between you and both Mal Murphy and Phil Niedzielski-Eichner some months ago, that you understood and were in agreement with Nye County's approach to quality assurance in our Independent Scientific Investigation Program, and would be glad to make you staff available, on an informal and time available basis, to review our proposed Quality Assurance Manual as a courtesy to the County. It was also our understanding, based on those conversations, that you agreed that the County was not subject to the same stringent QA requirements of the NRC regulations as DOE. Your letter of November 17th, on the other hand, indicates that it is "inappropriate" for your staff to provide us informal comments, citing the Review Plan for High-Level Waste Repository Quality Assurance Program Descriptions and the License Application Review Plan (NUREG-13232). More disturbingly, your letter goes on to say: "In order for the data collected under the NWRPO Independent Scientific Investigation Program to be acceptable, it should be collected under a QA program that meets and implements Title 10 of the Code of Federal Regulations (10 CFR), Part 60, Subpart G (which references 10 CFR, Part 50, Appendix B)." That quoted statement, I must frankly say, is absolutely incorrect.

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10 CFR 60, Subpart G, by its own terms, applies only to the Department of Energy. 10 CFR 60.152, for example, states: "DOE shall implement a quality assurance program based on the criteria of Appendix B of 10 CFR, Part 50, as applicable, and appropriately supplemented by additional criteria as required by Section 60.1.5.1." Likewise, 10 CFR 50, Appendix B, by its own terms applies only to an "applicant". Nye County is not, and never will be, an applicant for a construction authorization or an operating license for a high-level nuclear waste repository. Nye County is the situs jurisdiction, having specially recognized status in the repository program under the Nuclear Waste Policy Act. We conduct our activities only in oversight of DOE's program. Our Independent Scientific Investigation Program is not aimed at characterizing Yucca Mountain. The purpose of the program, as I indicated in my letter of November 11th, is to collect verification data in order to assess the credibility of DOE's program.

In any potential future licensing proceeding for the Yucca Mountain repository, the Nye County Nuclear Waste Repository Project Office will not be presenting evidence as an "applicant". We will rather, as you know, be before the Commission as an intervenor under 10 CFR 2.714, or as an interested county under 10 CFR 2.715(c). In order to be "acceptable" any evidence which we propose to submit to the licensing panel must meet only the test for admissibility expressed in 10 CFR 2.743(c); that is, it must be "relevant, material, and reliable." In order to ensure that there will be no question as to the reliability of any scientific data or information which we generate in our Independent Scientific Investigation Program, and which we might desire to offer as evidence in a future licensing proceeding, we have from the outset committed to gather that data in a manner which would ensure its quality. To further assure ourselves in this regard, we asked if you would be willing to offer your staff's comments on our proposed QA program. It was our understanding that you had agreed to do so, in a way, certainly, which would not be binding on either the NRC staff or on Nye County.


I certainly appreciate the second problem which your letter points out you have in meeting our request. Working to close the NRC comments regarding DOE's QA program, as expressed in the Bernero letter to Dreyfus of October 13, 1994, is of major regulatory significance to all parties, including Nye County. We in no way expect your staff to divert their attention from that effort.

Under the circumstances, I think it best that I simply withdraw my request for NRC staff informal review and comment. Our Independent Scientific Investigation Program is essentially already underway, as you are probably aware. We are preparing, in coordination with DOE, to place a scientific instrumentation package in drill hole NRG-4, and we anticipate beginning to drill our own hole (UE-25 ONC#1) on or about December 1st. We feel very comfortable with the QA program which will govern the data collection and analyses activities, as expressed in the draft NWRPO

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Quality Assurance Manual. We have no doubt that scientific data and analyses generated under those procedures will meet any test of reliability in a potential future licensing proceeding. We would certainly welcome any comments you might have on our QA program, however, if your staff has time in the future to take a look at it. In the meantime, I hope this letter serves to clear up any confusion as to the reason Nye County is implementing this QA program, and the lack of any regulatory requirement that we do so.

Very truly yours,
NYE COUNTY, NEVADA


Les W. Bradshaw, Manager
Nuclear Waste Repository Project Office

LWB:fd
Att.

cc: R. Loux, State of Nevada
T.J. Hickey, Nevada Legislative Committee
J. Meder, Nevada Legislative Counsel bureau
R. Nelson, YMPO
M. Murphy, Nye County, Nevada
M. Baughman, Lincoln County, Nevada
D. Bechtel, Clark County, Nevada
D. Weigel, GAO
P. Niedzielski-Eichner, Nye County, Nevada
B. Mettam, Inyo County, California
V. Poe, Mineral County, Nevada
F. Mariani, White Pine County, Nevada
R. Williams, Lander County, Nevada
L. Fiorenzi, Eureka County, Nevada
J. Hoffman, Esmeralda County, Nevada
C. Schank, Churchill County., Nevada
W. Barnard, NWTRB
R. Holden, NACI
E. Lowery, NIEC
S. Brocoum, YMPO
William L. Offutt, Nye County Manager
Stan Sims, Nye County Assistant Project Administrator
Nick Stellavato, Nye County On-Site Geotechnical Representative