



**OFFICE OF THE GOVERNOR
AGENCY FOR NUCLEAR PROJECTS**

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April 14, 1998

Dr. Carl Papariello
Director, Office of NMSS
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Dear Dr. Papariello:

On March 11, 1998, representatives of the Nuclear Regulatory Commission (NRC) gave a presentation to the State of Nevada Legislative Council Bureau in Las Vegas, Nevada. In that presentation, the NRC representatives expressed concerns regarding the Department of Energy's (DOE) quality assurance (QA) program for the high-level nuclear waste repository program. After reviewing the information from that presentation and from research performed by my QA manager, I am concerned not only about DOE's QA program but also about a perceived lack of regulatory oversight on the part of the Nuclear Regulatory Commission (NRC) regarding the effectiveness of the Department of Energy's (DOE) quality assurance (QA) program. It is readily apparent from observations made from the State of Nevada's participation in past performance-based audits, from review of DOE QA documents, and from review of past NRC On-site Representative (OR) reports that DOE's QA program is in trouble. It is also apparent that NRC headquarters no longer considers QA to be an important issue in the repository program since the

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meeting in March was the first time that this information was presented, although it had been noted numerous times in previous NRC OR reports.

The following is a list of problems with the DOE QA program that have been found through the reviews of these documents or participation in DOE audits. Most, if not all, of these problems have been documented in NRC OR reports sent to NRC headquarters in the past, or were discussed in the March 11th meeting.

- Some deficiencies have been open for more than 2 years. This is not timely corrective action. Participants complain about the lack of staff and resources to close out these deficiencies; DOE does not appear to be allocating the resources necessary to verify corrective action or help close out these deficiencies. This problem was documented in the NRC OR report dated March 13, 1998. Discussions with DOE's QA Director indicated that DOE does not consider some of the deficiencies to be "important enough" to close in a timely manner.
- The suppliers of various types of services to DOE and its participants have had numerous, major problems for some time. The Management and Operating contractor (M&O) began the problem by allowing suppliers to be classified as "supplemental" or "augmented" staff who were supposed to perform work according to M&O or other appropriate procedures. Unfortunately, M&O QA did not check to verify that the suppliers were actually performing the work according to the procedures or that the appropriate requirements were documented in the procurement documents. In fact, in one instance, a member of the M&O staff verbally told a supplier "not to worry about the QA requirements." DOE has identified these problems in a CAR (Corrective Action Request) that was initiated in October 1997 but not finally issued until February 1998. This CAR brings into question the quality and adequacy of a large amount of data and services supplied to DOE and its participants. These problems were documented in NRC OR reports dated August 5, 1997, November 19, 1997, and March 17, 1998.
- It has been apparent for some time that there are increasing numbers of deficiencies found in the use of scientific notebooks. Many scientists associated with the project have always disliked using scientific notebooks. Consequently, when there is no one around to make sure that the notebooks are used properly, some scientists no longer use them or do not follow the necessary procedures

when they do use them. Research performed by this office indicates that this problem has been ongoing since 1994. This problem was documented in the NRC OR report dated March 17, 1998.

- The trending program has been inadequate for quite a while. The State was told at a past meeting that if the same person did not make the same mistake on the same procedure, then it was not a trend, even though the same or similar mistakes were made by different people on the same or similar procedures. Fortunately, DOE appears to be finally correcting this problem. However, this area should be kept under observation to verify that the problem is corrected. This problem was documented in the NRC OR reports dated July 12, 1996, August 8, 1996, November 19, 1997, February 4, 1998, and March 17, 1998.
- There have been increasing instances where the QA program has been placed on the back burner in order to spend the money for QA on the "actual work". As this indicates, there is still, at this stage of the program, the belief that QA is not an integral part of the work being performed. As has always been the case in this program, more emphasis is placed on producing the document on time as opposed to producing a document that can be used. An example of this problem, dated 1995, is still documented on the NRC OR's Open Items List.

The State of Nevada considers these problems to be significant. More and more, DOE and its participants are having to "backfit" the QA program to work that was supposed to be performed under the QA program. Consequently, more and more data will have to be qualified for use in licensing by DOE to cover these instances. However, it is apparent that the management at NRC headquarters either does not understand the significance of these problems or does not care. It took the NRC well over a year to fill the vacancy created when the Washington-based QA oversight person left the program. The NRC also has stopped observing any type of DOE audit, either compliance or performance-based. These audits, especially the performance-based audits, give an opportunity to observe, first-hand, the type and extent of implementation of the QA program at the participant being audited. The NRC should take full advantage of observing these activities to enable them to keep more up-to-date on the work taking place.

I do realize that DOE is not a licensee at this time, has not even submitted a license application and, therefore, is not formally under NRC jurisdiction. However, for the high-level

waste program, the NRC has, in the past, been vigilant in indicating to DOE when there were apparent problems with the program that could potentially affect the licensing process. The State believes that the concerns described above constitute very real problems with the DOE QA program and that the NRC can no longer choose to ignore these problems. The NRC is still the regulatory agency for the high-level waste program. The NRC still has a responsibility to oversee DOE's high-level waste program and actively participate in order to protect public health and safety. Until Congress changes the law, this will continue to be the case. That oversight includes the QA program.

If the NRC does not consider the problems noted to be significant, then I would appreciate a written justification of that position. If the NRC does consider these problems to be significant, then I would appreciate a response as to what the NRC plans to do.

Thank you for your attention to this matter. If you have any questions regarding this letter, please feel free to contact me or Susan Zimmerman, my QA manager at (702) 687-3744.

Sincerely,

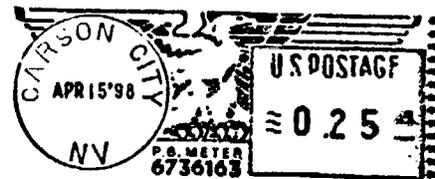


Robert R. Loux
Executive Director

RRL:swz

cc: Shirley Jackson, Chairman, NRC
Hugh Thompson, NRC
Lake Barrett, DOE
NWTRB members

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