

PDS.RFT/

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OCT 01 1990

Mr. Samuel Rousso, Associate Director
 for Program Administration and Resources Management
 Office of Civilian Radioactive Waste Management
 U.S. Department of Energy
 Washington, D.C. 20585

Dear Mr. Rousso:

SUBJECT: COMMENTS ON THE FINAL DRAFT OF THE PROJECT DECISION SCHEDULE

By letter dated August 31, 1990, the U.S. Department of Energy (DOE) provided the final draft of the Project Decision Schedule (PDS). In the letter, DOE noted that it had considered the comments provided by other federal agencies and had provided a proposed disposition of the comments. In addition, DOE stated that the final draft PDS would serve as the U.S. Nuclear Regulatory Commission's (NRC's) commitment to the activities, schedules, and deadlines contained therein.

Based on its review of the proposed dispositions, the NRC staff believes that DOE has not adequately addressed some of its original comments. In particular, the staff has found that DOE may not have completely considered or addressed comments in the areas of (1) quality assurance (QA), (2) the Licensing Support System (LSS), and (3) the monitored retrieval storage facility (MRS).

In the area of QA, the staff's comment noted that there may be some misunderstanding on the meaning of milestone (19c), "Accept OCRWM [Office of Civilian Radioactive Waste Management] QA Program." The staff expressed concern that the milestone could be misinterpreted as the date by which the NRC would lift its Site Characterization Analysis (SCA) objection. In its response, DOE acknowledged that its interpretation of the milestone was consistent with the NRC's, and that milestone (19c) did not represent lifting the SCA objection. Although DOE has clarified its understanding of the milestone, it did not provide this clarification directly in the PDS, but rather provided it in the summary of comment responses. Without changing the PDS to clarify the meaning of the milestone, the milestone may still be misinterpreted. Therefore, the staff recommends that the milestone be broken into two separate milestones. Revised milestone (19c) would be "Determine OCRWM QA Program is Procedurally Adequate and in Selected Areas Acceptable to Begin Site Characterization" with a completion date of January 1991. A new milestone (19d) would be "Determine QA Implementation is Effective and NRC Removes SCA Objection." The completion date for this milestone would be "TBD" until DOE provides a better schedule of its own actions to accept the QA program.

In its response to the lack of a schedule for the LSS in the PDS, item (2), DOE noted that it was committed to the development of an LSS but that the absence of LSS milestones in the PDS is due to significant budget cuts and delays in the program. However, in a recent action, OCRWM and the NRC's Office of the LSS Administrator have agreed on an LSS development schedule that would result

in the acquisition of an LSS pilot system available for testing and evaluation in the 1993 time frame. Therefore, DOE should revise the PDS to include a schedule for the LSS and reflect the results of the NRC/DOE agreement.

For Item (3) covering the MRS, the staff raised a number of concerns about DOE's ability to accept limited wastes by 1998. The bases for these concerns were (1) the fact that, through legislation, the MRS is presently tied to the progress on the repository and (2) the selection of a site for the MRS. Before DOE could have an operational MRS by 1998, legislation would have to be enacted to remove this coupling of the MRS and repository, or a state volunteers a site. Although DOE acknowledged in its response that there is uncertainty in the MRS schedule contained in the PDS, it did not change any of the information in the PDS. Therefore, the staff believes that without providing a discussion of the major obstacles facing the MRS, the PDS may in fact be too optimistic in its presentation. Hence, DOE should provide a discussion of the legislative and political events that need to take place before the MRS schedule would be achievable. Because of the speculative nature of some of the activities, the NRC cannot commit to the schedules and deadlines listed, but will use them as guidance as to what the response times DOE desires for various activities.

Also in the area of MRS, the staff stated in its comment on original milestone (7b) that the milestone should reflect an NRC review of the MRS transportation storage system development technology not approval. In responding to this comment, DOE expanded original milestone (7b) into three milestones covering (1) submittal of a DOE application for the system, (2) an NRC review, and (3) NRC approval. Based on discussions with OCRWM representatives, the staff was informed that at this time, DOE is not certain what the technology will involve and is also uncertain what type of action will be required by the NRC staff. If it involves developing reports on the types of technology that will be used, the appropriate NRC activity would be to review and comment. On the other hand, if it involves the development of a dual purpose cask, the NRC action would involve certification of the cask. Therefore, a more appropriate milestone would be to revise milestone (7b) as "DOE Determines Type of Technology to be Developed," with no further milestones. This is because the future milestones would be dependent on the results of milestone (7b).

Besides its concerns on DOE's disposition of the staff's comments, the staff has identified four milestones that need to be updated. First milestone (1a), "Issue Final Format and Content Guide," has a tentative completion date of September 1994. Hence the present "TBD" for milestone (1a) can be changed to September 1994. The second milestone that needs to be changed is milestone (3b), "Review of the Commission's Findings under the 1984 Waste Confidence Decision." This action has been completed. Therefore, it can be moved to Table I-B with a completion date of September 18, 1990. Milestone (19b), "Issue Safety Evaluation Report for the QA Requirements/QA Program Description," needs to have its June 1990 proposed completion date changed to December 1990. The reason for this change is a late submittal by DOE of the necessary information plus additional time needed by DOE to respond to staff questions raised on that material. The fourth milestone that needs to be changed is milestone (13a), "NEPA/Review Procedures for Geologic Repositories for HLW," in Table I-B. For milestone (13a), Table I-B DOE should add that the final rule was issued on July 3, 1989.

Finally, the staff has identified an issue that it had inadvertently omitted in its original review. In Table II-A, items (5b) and (5c) identify the granting of a construction authorization by NRC for a simple receipt facility and a spent fuel handling building. With respect to these milestones, DOE should understand that licensing under 10 CFR Part 72 is a one-step process, and that the NRC only issues a materials license not a construction authorization and then an operations authorization. Therefore, the milestones should be revised to reflect this.

As was stated in its April 9, 1990 comments on the PDS, the staff agrees with DOE's three-year scheduling horizon for critical milestones because it allows for needed flexibility in adjusting later milestones in order to implement contingency plans to address unexpected program developments as they arise. I hope you find the staff's comments beneficial in finalizing the PDS.

Sincerely,
(Signed) Robert M. Bernero

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

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