



Department of Energy
Washington, DC 20585

JUN 06 1991

Mr. John J. Linehan
Deputy Director
Division of High-Level Waste
Management
Office of Nuclear Material
Safety and Safeguards
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Dear Mr. Linehan:

I am writing to follow up on our telephone conversation of May 21, 1991, where you expressed a concern that the Department of Energy (DOE) was sending so many people to accompany the Nuclear Regulatory Commission (NRC) to an Appendix 7 site visit. Specifically, you were concerned that the Yucca Mountain Site Characterization Project (YMPO) was sending licensing people along on such site visits. You wished to have the practice of sending licensing people on site visits stopped. This would be a reduction in DOE flexibility regarding contacts with the regulator and is contrary to the express language contained in Appendix 7 of the August 20, 1984, site specific agreement implementing the NRC/DOE Procedural Agreement.

One of the guiding principles of licensing is that communications should be clear, effective, frequent and open with formal controls to ensure appropriate dissemination of licensing information to all the program participants. It is the responsibility of both DOE and NRC management to ensure that this happens.

Appendix 7 of the NRC/DOE site specific agreement (paragraph number 1) provides for notification of the cognizant DOE project representative. It is the option of DOE or the person contacted by the on-site representative (OR) as to whether or not a supervisor or third party is to be present (paragraph number 2).

Although Appendix 7 provides for the OR (including persons assigned to the OR) to attend site visits, NRC has, in the past broadened this to include NRC headquarters staff who fly into the site (e.g., Los Alamos National Laboratory, Lawrence Livermore National Laboratory). This has previously not posed a problem for DOE maintaining knowledge of contractor activities and technical information provided by contractors to NRC, since DOE (YMPO) personnel have attended the site visits. The presence of

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YMPO licensing personnel has allowed DOE to maintain an overall perspective with regard to information provided, i.e., place the information provided in context of the overall DOE technical effort when necessary. To do as NRC has requested would delete this perspective and reduce the DOE knowledge base.

To refrain from sending YMPO personnel on site visits would allow NRC reviewers of specific parts of the Mined Geologic Disposal Site license application to have access to DOE contractors without corresponding DOE licensing representation. This is inappropriate from the standpoint of a license applicant.

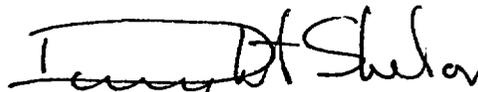
The quality assurance aspects of not sending along YMPO technical or licensing staff are uncertain. The informal discussions between NRC headquarters personnel (temporarily assigned to the OR for a site visit) and the DOE contractor (including laboratory) staff can be seen as transmission of raw data without review or cognizance of DOE project staff, especially where the person visited either voluntarily or by NRC staff request makes a copy of material which is related (or not related) to the informal discussion, and then gives the material to the NRC personnel. Under Appendix 7 (paragraph 3) records are available for review, but not to copy or to receive a copy for retention, at any stage of completion, unless quality assurance checks and peer reviews have been completed and DOE approves. It is the DOE licensing personnel who are most likely to have the knowledge to make this distinction.

In addition, there is the concern that without the YMPO licensing personnel being present NRC reviewers would have the opportunity to "wander the halls" calling upon whomever they choose without prior notice to the cognizant DOE official, who might wish a YMPO person to be present.

In conclusion, NRC's proposal abrogates the notice provisions of Appendix 7. With regard to NRC's concern regarding the presence of DOE licensing staff, NRC's High Level Waste Management staff are licensing review staff. In light of the principle stated in the second paragraph, we believe that continued adherence to the provisions of Appendix 7 of the site specific agreement best serve to protect proper regulatory relations between DOE and NRC.

Please call me at 202-586-6046 if you wish to discuss this.

Sincerely,



Dwight E. Shelor
Associate Director for Systems
and Compliance
Office of Civilian Radioactive
Waste Management

cc:

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