

Dr. John W. Bartlett, Director
 Office of Civilian Rad. Active Waste Management
 U. S. Department of Energy, RW-1
 Washington, D.C. 20585

89001485

Dear Dr. Bartlett:

NOV 8 1991

SUBJECT: COMMENTS ON REVISION 1 TO THE PROJECT DECISION SCHEDULE
 AND THE DRAFT MISSION PLAN AMENDMENT

By letter dated August 7, 1991, the U.S. Department of Energy (DOE) provided Revision 1 of the Project Decision Schedule (PDS). Also in August 1991, DOE announced, in the Federal Register, the availability of its draft Mission Plan Amendment (DMPA) for public comment. The U.S. Nuclear Regulatory Commission (NRC) staff has reviewed both documents and is providing its comments in the enclosures to this letter.

Based on its review of Revision 1 of the PDS, the NRC staff believes that DOE has addressed several of the comments that the staff provided in its October 1, 1990, letter, to Mr. Rousso commenting on the final draft of the PDS. Specifically, the comment on quality assurance and the comments related to revising a series of inaccurate milestone dates have been addressed. However, it appears that the comments have not been fully addressed in the areas of: (1) the Licensing Support System (LSS) and (2) the monitored retrievable storage facility. The staff's specific comments on these two areas are presented in Enclosure 1.

The staff's comments on the DMPA are presented in Enclosure 2. Please contact me or Mr. Joe Holonich, of my staff, if you have any questions regarding the staff's comments on these two documents. I can be reached at (301)/FTS 492-3352. Mr. Holonich can be reached at (301)/FTS 492-3387.

Sincerely,

(Original Signed by

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

Enclosures:

1. Staff Comments on Revision 1 of DOE's PDS
2. Staff Comments on DOE's DMPA

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U.S. NUCLEAR REGULATORY COMMISSION (NRC)
STAFF COMMENTS ON THE U.S. DEPARTMENT OF ENERGY (DOE)
PROJECT DECISION SCHEDULE (PDS)

1. In the October 1990 letter, the NRC staff had commented on the lack of a schedule for the Licensing Support System (LSS). On page E-3 of Revision 1, DOE states that this comment was not adopted due to a lack of funding for the LSS. While the NRC staff is aware of the complexities related to funding and development of the LSS, it cannot accept a lack of consideration in the PDS of this integral part of the licensing process. Until a definitive LSS development schedule is known, as a minimum, the following LSS Milestone should be included: March 2001 - LSS Substantially Loaded. It could also be noted that NRC and DOE have established a technical working group to reexamine the LSS design options and develop recommendations.

2. Also in its October 1990 letter, the staff stated that its concerns about DOE's ability to accept limited wastes by 1998 were related to: "(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." The NRC staff is still concerned about the lack of discussion in the PDS of the legislative events that need to take place before the monitored retrievable storage (MRS) facility schedule would be achievable. Furthermore, the staff can only commit to schedules and deadlines for the MRS, that reflect the legislative interrelationships of MRS and repository licensing.

3. In the October 1990 letter, the NRC staff also commented on the need for more accurate milestones that speak to DOE's determination of the MRS transportation/storage development technology. DOE appears to have attempted to respond to the NRC staff's concern by deleting milestones pertaining to the MRS transportation/storage system from the PDS. However, the NRC staff believes that its recommended approach of revising milestone (7b) as "DOE Determines Type of Technology to be Developed" remains a preferable approach.

U.S. NUCLEAR REGULATORY COMMISSION (NRC)
STAFF COMMENTS ON THE U.S. DEPARTMENT OF ENERGY (DOE)
DRAFT MISSION PLAN AMENDMENT (DMPA)

Pages 43, 45, and 54

Throughout Chapter 4, allusions are made to the use of formal decision analysis, including the use of expert judgment. Although the staff recognizes that expert judgment will be widely used in a repository performance assessment, it does not consider it to be an acceptable substitute for analyses, field or experimental data, or other more technically rigorous information that is reasonably available or obtainable. The staff believes that, in the Mission Plan Amendment, DOE should adopt this same position.

Pages 67, 163, and 171

The staff does not believe that the Licensing Support System (LSS) is properly addressed in the DMPA. The reference to the LSS on the third paragraph of page 163 as "a feature of DOE's computer-indexed records management system should be deleted."

Instead, the following text should be included as the second full paragraph on page 67:

To help meet this licensing mandate and to facilitate technical exchange, the U.S. Nuclear Regulatory Commission promulgated a rule in April 1989, requiring the use of an electronic information management system which will contain all potentially relevant licensing information about the repository. This system, the Licensing Support System, will permit all parties to the licensing proceeding to access this information well before the proceeding begins. The Licensing Support System, through its full text search capability, will eliminate the most burdensome and time consuming aspect of the current system of document discovery, enable the comprehensive and early technical review of millions of pages of material and provide for the electronic transmission of all filings during the hearing.

With the addition of the above paragraph, the LSS rule should be added to the list of references starting on page 171 of the DMPA. It should also be noted that NRC and DOE have established a technical working group to reexamine the LSS design options and develop recommendations.

Page 70

The staff is concerned with the statement made on page 70 that DOE would work with EPA and NRC to "reach consensus...on interpreting the regulatory standards" for the management and disposal of high-level waste. The staff believes that this statement can be interpreted to imply that the interpretation of a regulation is determined by a consensus of DOE, EPA, and NRC whereas this is the responsibility of NRC. A statement should be included to note that the NRC maintains a free and open exchange and will work with DOE, EPA, and other parties in the development of regulations and guidance. It should also be noted that in accordance with the Nuclear Waste Policy Act, EPA is responsible for setting generally applicable environmental standards and NRC is responsible for implementing the EPA standards and providing guidance to DOE. The staff's position is that compliance with 10 CFR Part 60 will satisfy all legal requirements of EPA's standards for management and disposal of high-level waste and that, in any licensing proceeding, further resort to the EPA rule would be neither necessary nor contemplated. The first paragraph of page 70 should therefore be reviewed with the staff's position in mind.

Page 78

The figure on page 78 of this Draft Mission Plan should contain a milestone: March 2001 - LSS Substantially Loaded. This comment was previously raised in staff comments on the PDS (see Enclosure 1).

Pages 121, 143, and 144

Beginning on page 121, there is a discussion of the interactions with parties involved in the high-level waste program, as a basis for building public trust and confidence. Regulatory interactions between NRC and DOE are briefly discussed on pages 143 and 144. The staff believes there should be more emphasis on the early sharing of data and technical information during prelicensing consultation to assist DOE in the development of a complete and high quality license application which is necessary for the NRC to meet the mandated 3-year licensing schedule. Specific reference should be made to the DOE/NRC procedural agreement that provides for effective and publicly accessible mechanisms for early identification and resolution of technical issues.

Page 161

The staff is somewhat concerned with the statement made on page 161 that DOE now has a quality assurance (QA) program in place that meets the requirements of the NRC. DOE has laid out an effective process for developing and implementing QA

programs for itself and its contractors. To date, the majority of QA programs for the participants have been accepted by the NRC. However, there are still programs yet to be accepted and some of the accepted programs still have minor issues to be resolved. For those programs the NRC has accepted, acceptance is based on the evaluation of implementation at that time. However, it should be noted that NRC will continue to monitor the QA program to verify its ongoing adequacy and effectiveness.

Page 165

The staff takes note of the statement on page 165 that, with regards to contracts with waste generators, DOE will establish its own position on what constitutes spent fuel. The staff believes that whatever determination DOE makes, it should not imply that any particular components that DOE classifies as spent fuel will necessarily be treated as high-level waste within the meaning of 10 CFR Part 60.