



UNITED STATES
NUCLEAR REGULATORY COMMISSION
 WASHINGTON, D.C. 20555

JUN 25 1991

Mr. Dwight E. Shelor, Acting Associate Director
 for Systems and Compliance
 Office of Civilian Radioactive Waste Management
 U. S. Department of Energy, RW 30
 Washington, D.C. 20585

Dear Mr. Shelor:

SUBJECT: RESPONSE TO YOUR LETTER OF JUNE 6, 1991 CONCERNING APPENDIX 7 VISITS

I am writing to respond to your letter of June 6, 1991 wherein you indicated that, based upon our telephone conversation of May 21, 1991, you considered I had advanced a proposal that "abrogates the notice provisions of Appendix 7" of the site-specific agreement implementing the U.S. Nuclear Regulatory Commission (NRC)/U.S. Department of Energy (DOE) Procedural Agreement. That concern, as well as a number of other statements in your letter, indicates a fundamental misunderstanding of NRC's positions regarding the Appendix 7 agreement and, in particular, Appendix 7 visits. This letter is intended to clarify those positions.

First of all, NRC is, and always has been, in total agreement with DOE's position that continued adherence to the provisions of Appendix 7 is the best way for NRC and DOE to structure and conduct Appendix 7 visits. Nothing that I said during the May 21, 1991 telephone conversation should be construed as proposing any deviation from the Appendix 7 provisions as they now exist.

The purpose of Appendix 7 is to enable NRC's On-site Representative (OR) to have essentially unfettered and timely access to DOE information concerning activities taking place during the site investigation and characterization program. Because the NRC OR cannot be a technical expert in all the scientific and engineering disciplines pertinent to the high level waste repository program, NRC headquarters assigns one or more NRC and/or NRC contractor personnel to the OR's office for short periods of time so that NRC can benefit appropriately from the access to DOE information afforded by Appendix 7 visits.

Appendix 7 visits are one means of providing NRC timely access to DOE technical information so that the NRC staff can better accomplish its task during this pre-licensing phase of identifying potential licensing concerns early. As such, Appendix 7 visits usually consist of either individual or small-group, focused, informal discussions between the NRC technical staff and DOE and DOE contractor technical staffs about information currently being developed by DOE investigations. The purpose of these visits is for information exchange only, and not to discuss NRC and DOE positions and policy matters. Appendix 7 visits

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and discussions are in no way intended to take the place of interactions such as technical meetings and technical exchanges, one purpose of which is to assure that all program participants have appropriate access to licensing information.

Contrary to statements in your June 6 letter, NRC has no objection to DOE (whether DOE Headquarters or the Yucca Mountain Site Characterization Project [YMPO]) sending licensing staff members on Appendix 7 visits. The concerns that I expressed regarding the presence of licensing staff members were the desirability of keeping the size of the group small enough so that effective and free-flowing technical discussions could occur, and the need for the licensing staff members to appreciate that in the informal setting of an Appendix 7 visit, technical discussions should be allowed to proceed without undue controls being exerted by the licensing staff. The NRC staff understands that official NRC and DOE technical positions and policy matters are not the proper subject matter of Appendix 7 visits, and the NRC OR has the responsibility for assuring that the NRC staff members adhere to the provisions of Appendix 7.

In your letter, you state that without DOE licensing staff members present, "NRC reviewers would have the opportunity to 'wander the halls' calling upon whomever they choose without prior notice to the cognizant DOE official..." and that NRC reviewers of specific parts of the Mined Geologic Disposal Site license application would have access to DOE contractors without corresponding DOE licensing representation. These statements do not reflect situations that NRC has sought or considers desirable. Furthermore, NRC is unaware of situations arising in past Appendix 7 visits that have created problems of the sorts suggested by these statements.


Your discussion of the quality assurance (QA) aspects of Appendix 7 visits was of particular concern to me. I do not agree that informal discussions of recently obtained information, even if it has not yet received all of the necessary QA checks, constitutes "transmission of raw data." NRC staff members do not request, nor will they accept, for retention, copies of material related to the informal discussions unless such materials have been released by DOE. This condition is clearly specified in Appendix 7, and NRC is unaware that any major problems have arisen regarding compliance with this provision in past Appendix 7 visits.

In conclusion, NRC has found past Appendix 7 visits, all of which have been conducted in accordance with the written provisions of Appendix 7, to be useful small-group, focused, informal discussions between the NRC and DOE/DOE

contractor technical staffs. We are interested in continuance of these visits under the same conditions, and hope that this letter has cleared up the misunderstandings in NRC's positions contained in your June 6 letter.

If you have any questions concerning this letter, please contact me at FTS/(301)-492-3406.

Sincerely,


John J. Linehan, Deputy Director
Division of High-Level Waste Management
Office of Nuclear Material Safety
and Safeguards

cc: R. Loux, State of Nevada
C. Gertz, DOE/NV
S. Bradhurst, Nye County, NV
M. Baughman, Lincoln County, NV
D. Bechtel, Clark County, NV
D. Weigel, GAO
P. Niedzielski-Eichner, Nye County, NV
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for (Original Signed by *B. J. Youngblood*)
 John J. Linehan, Deputy Director
 Division of High-Level Waste Management
 Office of Nuclear Material Safety
 and Safeguards

- cc: R. Loux, State of Nevada
- C. Gertz, DOE/NV
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- D. Bechtel, Clark County, NV
- D. Weigel, GAO
- P. Niedzielski-Eichner, Nye County, NV
- C. Thistlethwaite, Inyo County, CA

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