

MAY 08 1992

Mr. Robert R. Loux, Executive Director
Agency for Nuclear Projects
Nuclear Waste Project Office
State of Nevada
Capitol Complex
Carson City, Nevada 89710

Dear Mr. Loux:

SUBJECT: RESPONSE TO STATE OF NEVADA COMMENTS ON THE LIFTING OF SITE
CHARACTERIZATION ANALYSIS OBJECTION 2

This letter is in response to your letter of March 4, 1992, in which you expressed a concern that the Nuclear Regulatory Commission is prematurely lifting Site Characterization Analysis (SCA) Objection 2. The bases for your concern are that the NRC has not reviewed and accepted the U.S. Department of Energy (DOE), Office of Civilian Radioactive Waste Management (OCRWM), Management and Operating Contractor (M&O) quality assurance (QA) program, and that there has been insufficient implementation of OCRWM participant QA programs to determine whether the QA programs are effective.

After determining that each of the participants which were in place when the SCA Objection was initiated and currently involved in site characterization activities had developed and are implementing QA programs which meet NRC requirements, NRC notified DOE, by letter dated March 2, 1992, that the objection was removed. The NRC believes that its decision to lift SCA Objection 2 was correct because OCRWM has demonstrated that it can:

- (1) develop and implement a QA program acceptable to the NRC;
- (2) oversee the development of acceptable QA program plans for its participants; and
- (3) audit participant QA programs effectively, identifying deficiencies and verifying the effectiveness of corrective actions.

As noted in your letter, OCRWM has indicated that it does not plan on submitting the M&O QA Program Description (QAPD) to the NRC for acceptance. During the February 18, 1992, NRC/DOE QA meeting, DOE stated that the NRC will not be requested by DOE to accept either the M&O QAPD or the M&O QA program. DOE also stated that it will not perform any implementation audit of the M&O prior to permitting it to perform quality affecting work. This appears inconsistent

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with the process agreed upon by the NRC and DOE at the July 7, 1988 QA meeting. During that meeting, the staff and DOE agreed that NRC acceptance would be requested for all DOE and DOE contractor programs. This request would not be made until DOE first accepted the QAPD, conducted an implementation audit, and accepted the program itself.

Although the M&O was not involved in the program at that time, the staff believes that due to the significance of the M&O program the same basic process and steps need to be applied. However, the NRC will evaluate the DOE position for not applying this agreed upon process. Before the NRC staff can conduct this evaluation, DOE will need to provide a detailed justification for not requesting NRC acceptance of the M&O QAPD and QA program. At the February 18, 1992, meeting, the NRC requested DOE to state its positions and the rationale for the positions in a letter to the NRC. DOE agreed to this request, and also agreed to provide an information copy of the M&O QAPD to NRC as part of its standard practice. The NRC staff will be unable to evaluate the acceptability of the M&O QA program until the staff has received and evaluated the M&O QAPD and determined that it is acceptable. Subsequently, NRC's ongoing reviews and observations of audits will provide the necessary confidence as to whether the M&O QA program is being effectively implemented over time.

With respect to your second concern on program implementation, the NRC staff has documented that each of the participants which were in place when the SCA Objection was initiated and currently involved in site characterization activities have developed and are implementing QA programs which meet NRC requirements. This documentation was based on the NRC staff's review of the QAPDs as well as observations of over 60 audits and surveillances since 1988. Although some portions of participants' QA programs have been identified as ineffective, or indeterminate due to a lack of work in that area, the DOE audits and surveillances have shown that overall, the QAPDs are being effectively implemented through the development and use of QA procedures. Therefore, the NRC staff is confident that the participants' QAPDs are being effectively implemented by qualified individuals at this time. It is our understanding that, at present, any site characterization activities being done by the M&O are being conducted under OCRWM's QA program plan and procedures.

Although the NRC staff agrees that there has been limited implementation of the participant's QAPDs to date for actual on-site activities, there has been no evidence presented in audit reports which indicates that implementation for future work will not be effective. The lifting of SCA Objection 2 acknowledges OCRWM and participants' progress to date, but in no way lessens the OCRWM responsibility to develop and implement appropriate QA programs, or the NRC responsibility to review, evaluate and comment on these programs. The NRC would suspend its QA program acceptance for OCRWM and any or all participants should such action become necessary in the future.

Please feel free to contact me or Mr. Joseph Holonich of my staff, if you have any questions. I can be reached at (301) 504-3352, or Mr. Holonich can be reached at (301) 504-3391.

Sincerely,

Original signed by
Guy A. Arlotto

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

- cc: J. Roberts, DOE
- 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
- C. Thistlethwaite, Inyo County, CA
- V. Poe, Mineral County, NV
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