

FEB 5 1993

Mr. Philip A. Niedzielski-Eichner  
 Acting Program Manager  
 Nye County Nuclear Waste Project Office  
 P.O. Box 1767  
 Tonopah, NV 89049

Dear Mr. Niedzielski-Eichner:

**SUBJECT: PRELICENSING INTERACTIONS AND ISSUE RESOLUTION PROCESS**

Thank you for your September 4, 1992, letter regarding issue resolution in the high-level waste repository program. It is a good example of the process of continuing dialogue taking place among the concerned parties involved in this program.

You state in your letter that Nye County would be opposed to the NRC staff "signing off" on various issues during the process of reviewing iterations of the Department of Energy's (DOE's) annotated outline for a repository license application (AO). The staff's position remains that issue resolution during prelicensing is at the staff level and simply means that there are no further questions and no more disagreement on a particular issue at a point in time. As issues become resolved at the staff level throughout the process, it is important that the bases for such positions be recorded in an open or public manner such that all stakeholders may participate in the process. Further, the staff always has both the right and the responsibility to reopen any issue, or to request further information on any issue, at any time during the prelicensing period when warranted by new information or analysis.

We believe we share similar views with respect to NRC staff guidance. We recognize an obligation to communicate to DOE from time to time our understanding of the regulations and our views with respect to compliance. This is a part of the site characterization review process described in 10 CFR 60.18. Review of DOE's annotated outline is one mechanism that can be used, in this connection, for considering questions of regulatory interpretation and compliance and for developing appropriate comments to DOE. However, the responsibility for developing a design strategy and writing the application, as you correctly note, is DOE's alone.

A related area of concern discussed in your letter is your belief that regulatory flexibility is needed in the high-level waste repository program. The NRC staff agrees with you on the need for regulatory flexibility. However, maintenance of regulatory flexibility is not antithetical to reduction of regulatory uncertainty. It is the staff's belief, and an NRC goal, that NRC regulations should be as clear and understandable as possible. To this end, the staff has used the term "regulatory uncertainty" to refer to various types of potential uncertainty in its regulations. The staff will continue to analyze the regulations in an attempt to identify and, where necessary, undertake to remove such uncertainties when they are believed to be sources of possible misunderstanding. The staff believes that the regulatory

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policies and objectives of 10 CFR Part 60 are quite clear. Nevertheless, elimination of ambiguities in the rules that reflect those policies and objectives would benefit all parties.

I hope that this letter responds to your concerns.

Sincerely,

*/s/*

B. J. Youngblood, Director  
Division of High-Level Waste Management  
Office of Nuclear Material Safety  
and Safeguards

(See attached list for cc's)

\*See previous concurrence

OFC:	HLPD <i>MD</i>	:HLPD*	:OGC*	:HLPD*	:HLPD	:HLPD
NAME:	MDelligatti	:RJohnson	:STreby	:JHolonich	:JLinehan	:BJYoungblood
Date:	02/10/93	: 0 / /93	: 0 / /93	: 0 / /93	: 0 / /93	: 02/15/93

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CC'S FOR LETTER TO P. A. NIEDZIELSKI-EICHNER FROM B. JOE YOUNGBLOOD, SUBJECT: "PRELICENSING INTERACTIONS AND ISSUE RESOLUTION PROCESS," DATED 2/5/93

- cc: R. Loux, State of Nevada
- T. J. Hickey, Nevada Legislative Committee
- C. Gertz, DOE/NV
- S. Bradhurst, Nye County, NV
- M. Baughman, Lincoln County, NV
- D. Bechtel, Clark County, NV
- D. Weigel, GAO
- B. Mettam, Inyo County, CA
- V. Poe, Mineral County, NV
- F. Sperry, White Pine County, NV
- R. Williams, Lander County, NV
- L. Fiorenzi, Eureka County, NV
- L. Vaughan II, Esmeralda County, NV
- C. Shank, Churchill County, NV
- L. Barrett, DOE/OCRWM
- W. Offut, Nye County, NV
- M. Murphy, Nye County, NV
- E. Holstein, Nye County, NV
- Nye County Commissioners
- John Roberts, DOE

HLWM TKT. #:92-12

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