

9/90 QPR TO BARTLETT

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NOV 24 1990

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

Dear Dr. Bartlett:

SUBJECT: TRANSMITTAL OF THE QUARTERLY PROGRESS REPORT ON THE
PRE-LICENSING PHASE OF THE CIVILIAN HIGH-LEVEL
RADIOACTIVE WASTE MANAGEMENT PROGRAM

Enclosed for your information is a copy of SECY-90-032C, the "Quarterly Progress Report on the Pre-Licensing Phase of the U.S. Department of Energy's (DOE's) Civilian High-Level Radioactive Waste Management Program." The U.S. Nuclear Regulatory Commission (NRC) staff prepares Quarterly Progress Reports in order to provide the Commission with an assessment of progress being made on key aspects of the NRC and the DOE pre-licensing consultation program. This report covers the period from July 1990 through September 1990.

Previous Quarterly Progress Reports have noted the staff's concern in regard to the number of NRC-DOE interactions that were missed. However, since our respective staffs discussed this concern during the July 19, 1990, monthly management meeting, there has been a significant improvement in holding the interactions as scheduled. In addition, since the reorganization of the Office of Civilian Radioactive Waste Management, the quality of the interactions has been steadily improving as DOE has become more candid in discussing how it is addressing the challenges it faces in site characterization. Finally, the enclosed Quarterly Progress Report notes a significant improvement in DOE's efforts towards resolving quality assurance related concerns.

During the next quarter, my staff is looking forward to receiving DOE's response to the issues identified in our Site Characterization Analysis. This feedback will be extremely useful in helping us to determine where future NRC-DOE

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Dr. John W. Bartlett

interactions should be focused. Although there has been much improvement in our abilities to hold more productive interactions, DOE and NRC management should ensure that this trend continues.

Please feel free to contact John J. Linehan, of my staff, if you have any questions. Mr. Linehan can be reached on (301) 492-3387 or FTS 492-3387.

Sincerely,

(Signed) Robert M. Bernero

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

Enclosure: As stated

- cc: R. Loux, State of Nevada
- C. Gertz, DOE/NV
- S. Bradhurst, Nye County
- M. Baughman, Lincoln County
- D. Bechtel, Clark County
- D. Weigel, GAO
- P. Neidzielski-Eichner, Nye County, NV.

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POLICY ISSUE

(Information)

SECY-90-032C

November 6, 1990

For:

The Commissioners

From:

James M. Taylor
Executive Director
for Operations

Subject:

QUARTERLY PROGRESS REPORT ON THE PRE-LICENSING PHASE OF
THE U.S. DEPARTMENT OF ENERGY'S (DOE'S) CIVILIAN HIGH-LEVEL
RADIOACTIVE WASTE MANAGEMENT PROGRAM

Purpose:

To provide the Commission with a Quarterly Progress Report
(July 1990 through September 1990) on the pre-licensing
phase of DOE's civilian high-level radioactive waste
management program.

Background:

In the Quarterly Progress Reports on the pre-licensing
phase of DOE's program, the U.S. Nuclear Regulatory
Commission (NRC) staff discusses key aspects of the
NRC-DOE pre-licensing consultation program that deserve
Commission attention. The previous Quarterly Progress
Report, SECY-90-032B, discussed activities that occurred
between April and June 1990.

Discussion:

1. DOE Implementation of Scheduled and Systematic
Consultations

A problem identified in the last Quarterly Progress
Report was that most of the scheduled NRC-DOE formal
interactions did not take place, mainly because of
DOE's lack of readiness to participate in them. This
problem was discussed in a July 19, 1990, NRC-DOE
management meeting. Since that discussion, all the
formal NRC-DOE technical interactions scheduled for this
quarter did transpire. These interactions included
technical exchanges in the areas of performance
assessment, geochemistry, and hydrology. The quality of
the interactions has been steadily improving as DOE has
become more candid in discussing how it is addressing the
challenges it faces in the site characterization program.

Contact:
Ken Kalman, NMSS
492-0428

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During this reporting period, DOE and the U.S. Environmental Protection Agency did not have any interactions on issues concerning high-level radioactive mixed waste and the Resource Conservation and Recovery Act.

2. Early Implementation of a Quality Assurance (QA) Program

In the last Quarterly Progress Report, the staff committed to report on DOE QA workshops on problems associated with the implementation of QA programs by the other participants in the DOE high-level waste repository program. To date, none of the problems identified are due to NRC QA requirements. On August 7, 1990, the staff observed the first of these workshops. The State of Nevada, Clark County, Nevada, and the Edison Electric Institute also sent observers. One significant concern that the DOE program participants raised had to do with DOE's excessive management and administrative requirements which had been mislabeled as QA requirements. There was also concern expressed about the difficulty in changing participant program QA procedures due to the need to obtain approvals for such changes from within DOE. A general need for better education in QA program development and successful methods of implementation was perceived by the NRC staff.

Following the workshop, DOE informed the NRC staff by letter dated September 24, 1990 that future workshops with program participants would cover four areas of concern. These areas dealt with: (1) a lack of flexibility in the application of the QA program during scientific research; (2) the complexity of the computer software QA program; (3) data submittal requirements; and (4) communication needs among DOE and the participants. The NRC staff has been requested to participate in these future interactions, and will continue to report to the Commission on them in future Quarterly Progress Reports.

On September 12, 1990, DOE sent a letter to the NRC staff stating that it had accepted the QA programs for six of its Office of Civilian Radioactive Waste Management (OCRWM) contractors and requesting that the NRC staff accept the programs. Of the six, DOE had accepted four of the

contractors programs with exceptions. The exceptions were based on open issues pertaining to procurement procedures, software QA, and objective verification of personnel qualifications.

The staff reviewed DOE's letter and enclosures and concluded that DOE had provided an adequately documented basis for NRC review and evaluation. The staff has determined it will be able to accept the six programs subject to satisfactory resolution of the exceptions noted by DOE. This action shows significant progress in resolving one of the NRC staff's objections to DOE's Site Characterization Plan. DOE has to accept two more participants' QA programs as well as the QA programs for OCRWM and the Yucca Mountain Project Office before the staff will lift its overall Site Characterization Analysis (SCA) objection.

3. Early Establishment of Repository Design Parameters

Previous Quarterly Progress Reports noted that the NRC staff had documented significant concerns, in the SCA, that relate to performance assessment. Although the staff has not met with DOE on the specific SCA performance assessment concerns, it has continued to interact with DOE in other areas related to performance assessment. These interactions help give DOE insight on what constitutes an acceptable approach for performing a performance assessment and, in turn, will help DOE address the SCA concerns.

The NRC staff developed a report entitled "Phase 1 Demonstration of the Nuclear Regulatory Commission's Capability to Conduct a Performance Assessment for a High-Level Waste (HLW) Repository," a copy of which was transmitted to DOE in June 1990. On July 30, 1990, the staff and DOE discussed this report in a technical exchange. Another technical exchange that will focus on DOE's performance assessment program and the integration of performance assessment into site characterization is scheduled for November 1990.

4. Early Resolution of State and Tribal Concerns

Previous Quarterly Progress Reports (SECY-90-032 and SECY-90-032A) have discussed the actions the State of Nevada has taken to disapprove Yucca Mountain as a potential repository site. One of these actions included filing a suit on December 27, 1989, in the Ninth Circuit seeking a declaratory judgment that its

actions constituted an effective "Notice of Disapproval," under the Nuclear Waste Policy Act (NWPAA). However, on September 19, 1990, the Court rejected Nevada's challenge in a unanimous 3-0 ruling. The Court held that Nevada's attempted legislative veto of DOE's site characterization activities is preempted by the 1987 NWPAA amendments.

5. Adoption of the Policy of Conservatism

Previous Quarterly Progress Reports noted that the SCA had identified the need for DOE to be sufficiently conservative in its approaches to treating uncertainty in its investigations and analyses. During this reporting period, there were no new issues, related to the need for conservatism, deserving Commission attention.

6. Early Resolution of Issues

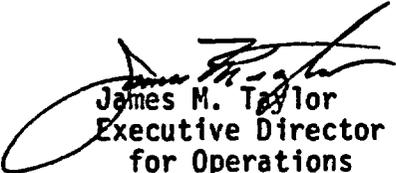
During this reporting period, the staff briefed the Advisory Committee on Nuclear Waste (ACNW) on the draft regulatory guide on "Format and Content for the License Application for the High-Level Waste Repository." The ACNW's comments were given to the staff after the briefing and have been addressed. Therefore, the staff still anticipates publishing a notice of availability of the draft, for public comment, in the Federal Register, by the end of November 1990.

7. DOE Reorganization

The previous Quarterly Progress Report noted that DOE had announced a reorganization of OCRWM. The new OCRWM structure consists of five major offices and an independent QA office. The new organization is based on the two functions assigned to OCRWM, waste storage and transportation, and waste disposal at the Yucca Mountain site, rather than a matrix organization. Waste storage and transportation are assigned to one office, the Office of Storage and Transportation, and waste disposal at Yucca Mountain is assigned to a second office, the Office of Geologic Disposal. In addition, OCRWM will have a systems engineering and compliance office responsible for the overall OCRWM program. It will be responsible for developing the high-level strategy whereas the functional offices will be responsible for implementing the strategy. The QA office will consolidate all the QA functions presently assigned to OCRWM and the Nevada site, under one director reporting directly to the OCRWM Director.

The remaining major offices will handle the OCRWM administrative support. Besides the five major offices and the QA office, there are two support offices, for international activities and external relations.

As noted in the previous Quarterly Progress Report, under this reorganization, DOE was appointing a permanent QA Director who had a significant amount of QA experience with nuclear reactor technology. Since the reorganization, the staff has noted significant progress, on the part of DOE, in resolving QA related concerns. Furthermore, as noted elsewhere in this report, the past problem concerning missed interactions seems to have been resolved. During this reporting period, all interactions were held on schedule and DOE has been much more open in discussing how it is addressing its challenges.



James M. Taylor
Executive Director
for Operations

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