



AGENCY FOR NUCLEAR PROJECTS  
NUCLEAR WASTE PROJECT OFFICE

Capitol Complex  
Carson City, Nevada 89710  
(702) 885-3744

April 5, 1988

Mr. Stephen H. Kale  
Associate Director for Geologic  
Repositories  
Office of Civilian Radioactive  
Waste Management  
U.S. Department of Energy  
Washington, DC 20585

Dear Mr. Kale:

Thank you for your letter of March 18, 1988 acknowledging receipt of Jerry S. Szymanski's report and your description of the ongoing internal "peer review" process that is now being conducted within the Department of Energy (DOE).

I would like to note that in your letter you attempt to describe, through Dr. Donald Vieth's testimony, that the DOE had fully informed Congress of the issues and concerns raised by Mr. Szymanski when Dr. Vieth testified in June of 1987. As enclosures to your letter, you included pages 5 and 6 of his testimony which, indeed, do describe in very general terms some of the issues which Mr. Szymanski included in his report. However, I would also like to direct your attention to the exchange of questions between Chairman Johnston and Dr. Vieth that occurred during that same hearing. When asked about the degree of confidence that he has regarding the suitability of the Yucca Mountain site, Dr. Vieth replied, with full knowledge of the Jerry Szymanski concerns and issues, "It is not conceivable to me that we would discover something of a major nature that would cause us to change our mind about it (Yucca Mountain)." It seems obvious to me, from statements such as these, that the Department has, indeed, been engaged in a process designed to downplay or diminish any technical issues which raise questions regarding the suitability of the Yucca Mountain site. Indeed, in Mr. Robert Browning's letter to you of March 7, 1988, he states;

"The Nuclear Regulatory Commission staff's most fundamental technical concern with the SCP/CD is the failure to recognize the range of alternative conceptual models of the

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Yucca Mountain site that can be supported by the existing limited data base. The uncertainties in the data available and the gaps in the existing data base allow interpretations of the data that lead to a range of possible conceptual models that need to be considered in the development of site characterization programs. The NRC has previously raised this concern in connection with both the draft and final Environmental Assessments for the Yucca Mountain site. Although efforts have been made in the SCP/CD to identify more than one conceptual model of the Yucca Mountain site, the site characterization program presented appears primarily designed to gather evidence in support of a preferred conceptual model rather than to obtain a thorough understanding of the site and the data necessary to reduce uncertainties about which conceptual model best portrays the Yucca Mountain site."

As you are aware, these are the same concerns that the State of Nevada has been voicing for a number of years, and has yet to see any substantive attempt at their resolution by the DOE. Our concerns were noted in comments on the 1984 Draft Environmental Assessment for the Yucca Mountain site, the 1986 Final Environmental Assessment, and most recently in a January 29 and 29, 1988 workshop with you and your staff in regard to the 1988 SCP/CD for the Yucca Mountain candidate site.

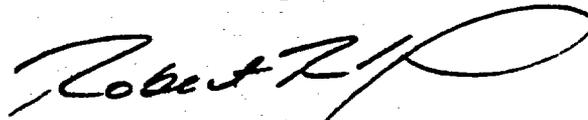
Additionally, as you well know, the State of Nevada has been in receipt of many components of the current draft SCP within the past two years. During that time, of course, we have reviewed the document and have concluded, in general, that the Plan is not specific enough for us to gain a thorough understanding of the site characterization program in which the DOE intends to engage. As a result, we proposed to Mr. Gertz, the Nevada Program Manager, in the Fall of 1987, that in addition to participating and attending various DOE and Nuclear Regulatory Commission (NRC) meetings regarding the SCP and our respective review of the document that the DOE would provide the State with draft study plans (the plans for implementation of the SCP) for review and that these study plans, along with the SCP, would be the subject of a series of workshops that the State of Nevada, not the DOE, proposed. Our understanding with Mr. Gertz was that at the time of the release of the Consultative Draft SCP the DOE would make available appropriate study plans in addition to all of the other accompanying plans, such as the Environmental Program Plan, the Environmental Field Activities Plan, etc. As you now know, it was your Office that directed Mr. Gertz not to make those plans available to us and, as a result, the State of Nevada does not feel it has enough information about the DOE's planned site characterization program to proceed with the workshops that we proposed to you.

Furthermore, you state that the DOE has chosen the SCP/CD as its primary instrument for consultations with the State of Nevada and the NRC. While we appreciate the release of this preliminary draft of the SCP, it in no manner provides the level of detail regarding the description of site characterization activities expected of the SCP required to be released for review and comment pursuant to Section 113(b) of the Nuclear Waste Policy Act. About our knowledge of specific studies and tests proposed, the capability to carry out planned "activities" cannot be evaluated and commented upon by us in an orderly and scientifically rigorous way. For example, it is well documented, and you are well aware, that the available technology for needed geophysical testing at the site, as proposed, is not capable of providing the data anticipated by the DOE in its SCP/CD. These data are critical to the study of the site's suitability for waste isolation, and the SCP/CD relies upon their collection, yet the ability to collect such data is in considerable question at this time.

We have been dutifully attending and participating in DOE and NRC meetings that we have been aware of throughout the NWPA program. Therefore, rest assured that we will continue, as we have in the past, to participate fully in the consultation process to the extent that it is productive to the national program and serves our mandate for rigorous scientific and technological oversight of the DOE's plans and activities.

Again, thank you for your letter and the opportunity to clarify your misunderstanding of the State's role in reviewing the SCP/CD.

Sincerely,



Robert R. Loux  
Executive Director

RL/gjb

cc: Nevada Congressional Delegation  
Nevada Commission on Nuclear Projects  
Nevada Legislative Committee on High-Level Radioactive Waste  
Robert Browning, NRC