

LOUX 9/1/89 HOLONICH

- 1 -

SEP 2 8 1989

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

Dear Mr. Loux:

I am responding to your August 4, 1989 letter to me identifying two concerns you have with positions recently taken by the U.S. Nuclear Regulatory Commission (NRC) staff. One is with the staff's review of the U.S. Department of Energy's (DOE) quality assurance (QA) programs and the other is with the staff's consultations with DOE in technical areas. In particular, you are concerned that the staff's approach to reviewing DOE's QA programs is being relaxed, and that the staff's approach to reviewing the exploratory shaft facility (ESF) design process is inconsistent with the NRC staff's role.

The staff has not held the position that the entire QA program must be in place prior to beginning work in any area. Rather, the staff position has been that site characterization activities in any specific program area could be conducted if they were done in accordance with acceptable QA controls that fully covered the activities to be undertaken if those activities were to be important for the licensing review. However, the entire QA program for a particular DOE organization or contractor's organization does not have to be in place, nor do all of the DOE and DOE contractors' programs have to be in place, before work can start at any one organization.

This position was first taken in August 1987 in connection with the hydrologic drilling at the Basalt Waste Isolation Project Site and is the position currently embodied in the Yucca Mountain Site Characterization Analysis (SCA) objection on QA. To quote the Director of the Office of Nuclear Material Safety and Safeguards in his July 31, 1989 letter transmitting the SCA:

"Once the agreed upon steps have been satisfactorily accomplished, for each of the participants involved in a given area, the NRC has no QA related concern with DOE proceeding with that area of its site characterization program while it continues to complete the steps needed for other areas of the site characterization program."

Such an approach will achieve the objective of ensuring that data are qualified for licensing while at the same time allowing DOE to develop and implement its program in a practical and realistic manner.

8909290032 890928
PDR WASTE
WM-11

PDC

102.2
NH16
wm-11

You also noted that the staff is utilizing observations of DOE audits for accepting QA programs, rather than independent NRC audits. We believe this is an appropriate position, which is consistent with the findings of the "Ford Study" (NUREG-1055) of reactor QA problems, that puts the responsibility for finding and correcting deficiencies on DOE, rather than on the NRC staff. The staff will be conducting its own audits once baselined programs are in place and found to be acceptable.

With respect to your concern on early consultations, the staff's actions are consistent with the Nuclear Waste Policy Act (NWPA). The NRC is obligated to review and to comment on DOE's Site Characterization Plan. On several occasions, the Commission has taken the position that the staff must be involved early in understanding the DOE technical work to ensure that regulatory concerns are appropriately considered. The most recent position was taken in the Commission's comments on the DOE Mission Plan Amendment. In his September 16, 1988 letter transmitting the comments, then NRC Chairman Lando W. Zech stated:

"The NRC staff is prepared to meet as early and as often as needed in order to ensure DOE understands and is resolving NRC's concerns that need to be addressed during the pre-licensing application phase so that a complete and high-quality license application can be submitted."

It is my understanding that your concern regarding early consultations between the staff and DOE resulted from the staff position taken at the July 6 and 7, 1989 meeting. Your concern is that the DOE/NRC consultations would be limited to just the two agencies and not involve other participants in the program. As stated at the meeting, and recorded in the minutes, the staff intended that the consultations would follow our standard practice for all meetings on technical subjects and would be open to the participation of the State and affected units of local and tribal governments. In summary, the NRC's approach for conducting early consultations is consistent with its role under the NWPA and with the Commission's regulations allowing prospective applicants to informally confer with the staff prior to filing an application.

I trust that this letter helps to clarify any misunderstandings you may have on the staff's positions on QA and consultations with DOE.

Sincerely,

ORIGINAL SIGNED BY

Robert E. Browning, Director
Division of High-Level Waste Management
Office of Nuclear Material Safety and
Safeguards

DISTRIBUTION AND CONCURRENCE: SEE NEXT PAGE

DISTRIBUTION:

Central File
LSS
CNWRA
LPDR
J. Moore
S. Gagner
J. Taylor, EDO
H. Thompson, EDO
EDO R/F

B. J. Youngblood
J. Linehan
NMSS R/F
ACNW
BBordenick
T. Combs

R. E. Browning
R. Ballard
HLPD R/F
PDR
J. Kennedy

J. Bunting
On-Site Reps
J. Holonich
E. Tana
R. Virgilio

OFC :HLPD	:HLPD	:HLPD	:GPA	:DHLWM	:DHLWM	:NMSS

NAME:JHolonich:JKennedy:JLinehan:FCombs	:BYoungblood:	RCB	RBrowning:	GArlotto		

DATE:09/18/89	:09/18/89:	09/18/89:	09/18/89:	09/18/89	:09/18/89	:09/19/89

OFC :NMSS	:EDO	:EDO	:NRC	:	:	:

NAME:RBernero:	HThompson:	ST	JTaylor:	KCarr	:	:

DATE:09/19/89	:09/21/89:	09/21/89	:09/26/89	:	:	: