

WM Record File

109

WM Project 1

Docket No. \_\_\_\_\_

PDR

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- 1 -

JAN 29 1986

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109  
~~SUGGESTED TOPICS~~  
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MEMORANDUM FOR: *encl. already in the RDR*  
John G. Davis, Director  
Office of Nuclear Material Safety  
and Safeguards

FROM: Robert E. Browning, Director  
Division of Waste Management

SUBJECT: LIST OF SUGGESTED TOPICS FOR RUSCHE MEETING (NMSS 860082)

Below is a list of suggested topics which may be appropriate for discussion with Ben Rusche.

High-Level Waste Repository

o Program Schedule Delays:

- NRC/DOE budget impacts from program delays
- NRC suggests DOE submit another draft Project Decision Schedule after site nomination and recommendation.

o Milestones for NRC/DOE pre-licensing consultation need to be scheduled.

o Possible efficiencies in NRC's licensing process to meet the three year licensing period:

- FFRDC and possible conflicts of interest
- Streamlining of licensing: rulechange to reduce discovery process
- Licensing Support System (Enclosure 1)
- Procedures for dealing with allegations involving DOE as a licensee
- Six items covered in October 24, 1985 letter from Palladino to Rusche (Enclosure 2)
- Items covered in Purcell's letter to Browning dated September 3, 1985 (Enclosure 3)

Transportation (Safety and Safeguards)

- o Status Report on NRC's rulemaking on physical protection requirements for spent fuel shipments
- o Clarification of DOE commitments for cask certification, physical protection requirements, and prenotification for transport under NWPA (including commercial spent fuel, commercial high-level waste, and defense waste.)

|      |           |             |            |             |   |   |   |
|------|-----------|-------------|------------|-------------|---|---|---|
| OFC  | :WMPC     | :WMPC       | :WMPC      | :WM         | : | : | : |
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| DATE | :86/01/29 | :8604170425 | :860129    | :           | : | : | : |
|      |           | PDR WASTE   |            |             |   |   |   |
|      |           | WM-1        |            | PDR         |   |   |   |

SUGGESTED TOPICS

- 2 - JAN 29 1986

CONTRIBUTION:

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- o Safeguards requirements for the NWPA programs -- particularly NRC's role in licensing transportation to storage sites.

Original Signed by  
Robert E. Browning

Robert E. Browning, Director  
Division of Waste Management

|                 |                       |                       |              |   |   |   |
|-----------------|-----------------------|-----------------------|--------------|---|---|---|
| OFC : WMPC      | : WMPC <del>WPC</del> | : WMPC <del>WPC</del> | : WM         | : | : | : |
| NAME : AHale    | : MKearney            | : JOBunting           | : REBrowning | : | : | : |
| DATE : 86/01/29 | : 86/01/29            | : 86/01/29            | : 86/01/29   | : | : | : |

**NRC/DOE Discussion  
Concerning the Proposed  
LSS Interagency Coordinating Committee  
14 January 1986**

**Points of Agreement**

**Possible points for Rusche/Davis to report to the NRC Commissioners (alternatively, possible points of agreement between DOE and NRC relative to proceeding with development of the Licensing Support System (LSS)):**

- 1. DOE and NRC have concluded that a joint effort is required to develop a licensing document management system to accomplish a three year or shorter licensing hearing for a high level radioactive waste repository as mandated by the Nuclear Waste Policy Act of 1982. (DOE has requested a 27 month licensing hearing.)**
- 2. The LSS would be used by DOE, NRC, the states, Indian tribes, and other parties to the repository licensing hearings. The goal is to make documents and other information pertinent to repository licensing available well before the license application is submitted, thus reducing the need to rely on discovery.**
- 3. A Coordinating Committee will be established to facilitate development of the LSS. Initially, membership will consist of DOE and NRC staff, but the membership is planned to be expanded to include a state and an Indian tribe representative.**
- 4. DOE will have the responsibility of designing and implementing the LSS, incorporating on-line, full text storage and retrieval techniques. NRC will participate jointly with DOE in defining the requirements for and procedures for operation of the system.**
- 5. All organizations using the LSS will be responsible for following a mutually agreed upon specification defining the requirements for providing data entry to the system. This specification will cover topics such as the scope of and completeness of information to be provided to the system, timeliness for providing the information, quality control of the information provided to the system, the procedures to be used to collect the information to ensure that all appropriate information is collected, and the format of the information.**

Enclosure I

## NRC/DOE POINTS OF AGREEMENT

6. DOE supports NRC's efforts in considering a negotiated rulemaking for licensing records management to facilitate the hearing process. Topics that could be considered in such a negotiated rulemaking include:
  - a. Standard format for input to the LSS (bibliographical information and ADP format);
  - b. Provisions for joint use of the LSS by all parties to the repository licensing hearings (with DOE serving as the LSS operating agency); and
  - c. Requirements for document discovery to be conducted through the LSS data base.
7. NRC will carry out a pilot project to demonstrate document storage and retrieval capabilities and to develop processes that could lead to an interim system for use within the NRC (and possibly by others) until the full LSS is implemented by DOE. The experience gained from the pilot project will be made available to DOE for use in expediting the definition of requirements for the LSS. Elements of the LSS that ~~that~~ are developed by DOE and accepted by the other parties to the LSS will be integrated into the NRC pilot project for trial operation, to the extent allowed by the NRC pilot project budget and schedule, and system capability. The NRC will provide on line access to the pilot project by DOE.

### Establishment of the LSS Coordinating Committee

1. Committee Membership - Initially DOE and NRC. Depending on the results of the negotiated rulemaking, or other decisions fostering more detailed coordination, representatives of the states (in which an exploratory shaft is being constructed), associated Indian tribes, and other parties who are very likely to be involved in the licensing hearings (and technical experts within DOE and NRC if needed) could be added. The NRC and DOE representatives to the committee would be the first line supervisors in each organization who are responsible for system development and operation. The next level of DOE/NRC management will be Ad Hoc members.

**NRC/DOE POINTS OF AGREEMENT**

**2. Purpose and Responsibilities -**

**a. Oversee DOE's LSS development activities -**

1). Review and agree upon LSS design description documentation, operating specifications and procedures, and the technical scope of procurement documents.

- What goes in
- What comes out
- How is appropriate data kept privileged
- Retention times
- Access

2) Review progress being made in carrying out LSS implementation tasks.

- Design progress
- Procurement progress
- Preparation of data bases
- Phase in of system

3) In the process of carrying out the tasks above, identify mutual needs and problems, and interface processes.

**b. Monitor NRC's Pilot Project**

**c. Identify Mutual Needs/Problems**

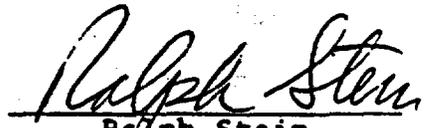
**3. Frequency of Meetings -**

a. Management meetings on an as needed basis; estimated to be at least quarterly.

b. At least one or two public meetings a year to discuss the development status and plans.

  
Joseph O. Bunting

1/4/86

  
Ralph Stein



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D. C. 20555

October 24, 1985

Mr. Ben C. Rusche, Director  
Office of Civilian Radioactive  
Waste Management  
U.S. Department of Energy  
Washington, D.C. 20585

Dear Mr. Rusche:

This responds to your request of July 18, 1985, for the Commission's comments on the Department of Energy's draft Project Decision Schedule (PDS). These comments are based on the Commission's understanding that the PDS is the central organizing document for the Federal agencies involved in the National High Level Waste Program.

As DOE recognizes, the schedules are aggressive ones. The Commission's comments on its activities are directed to an effective and efficient discharge of its responsibilities based on the premise that, in the absence of unresolved safety concerns, and assuming adequate resources, the NRC regulatory program will not delay implementation of the Executive Branch's program as reflected in the DOE Project Decision Schedule. The Commission believes that to accomplish this goal DOE and NRC must cooperate in the following two ways.

First, during the pre-licensing period, the NRC-DOE staff discussions must be effective in identifying major licensing questions and must be scheduled sufficiently early so that NRC comments can be resolved by DOE to the satisfaction of both agencies with enough lead time so as not to delay DOE activities nor the NRC licensing process. Such effectiveness is contingent on DOE identifying where consultation is needed and arranging meetings with us sufficiently early in the planning process so that NRC comments are taken into account in DOE plans and programs before DOE decisions and commitments are made. While the NRC stands ready to meet with DOE, the NRC's ability to interact in a timely manner is dependent on DOE's scheduling such discussions at an early stage. Early planning will assure that NRC comments are received at a time when they can be included in DOE planning in the most efficient manner and also will maximize the time available to agree on a resolution of issues, with minimum impact on DOE schedules.

Second, all activities that might be referenced in licensing must be covered by an acceptable DOE quality assurance program. We are encouraged by commitments made in the Mission Plan to have quality assurance programs in place by the start of site characterization and believe that implementation of such commitments will help ensure that the data on which licensing decisions are

Enclosure 2

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based are of high quality. NRC is ready to continue its review of DOE's quality assurance programs at the earliest possible stage so that agreed-on quality assurance measures are in place and appropriate at all levels of the DOE program prior to the start of site characterization.

There are two areas that we wish to highlight in these comments.

1. Concerning the timing of the preliminary determination [NWSA Section 114(f)]: As you are aware, the Commission concurrence decision on the siting guidelines reflected an agreement between DOE and NRC that the preliminary determination would be made after site characterization rather than before site characterization, as now indicated in the PDS. However, the Commission has agreed that DOE's modified position does not require any change in NRC's prior concurrence in DOE's siting guidelines. A public statement is currently being prepared to restate the Commission's concurrence.

Commissioner Asselstine disagrees with the Commission's position on this issue. He believes that DOE must either conform the Project Decision Schedule to the agreement on the timing of the preliminary determination which is contained in the NRC's concurrence decision on the DOE site selection guidelines, or submit for Commission concurrence a formal request to modify the site selection guidelines to incorporate DOE's new position on the timing of the preliminary determination. He will provide further views on this issue in the Commission's public statement.

2. Concerning DOE's 9-month reduction in the statutory duration of the NRC review of the repository license application: The NRC is committed to making the licensing review as efficient as possible. However, the Commission continues to believe that the three year period provided by the NWSA is a very optimistic estimate for the time required to reach a licensing decision on repository construction. The adequacy of a 36-month review period is dependent on the submittal by DOE of a complete and high-quality application for a repository license. Meeting this review schedule might be possible if DOE completes, in a timely and exemplary fashion, the following key actions: (1) lay out a systematic set of milestones requiring consultation with NRC staff on site characterization issues; (2) develop an information retrieval system to allow easy access to documents which support the license application; (3) implement an effective quality assurance program at an early stage; (4) adopt a conservative approach in the treatment of uncertainties in geotechnical investigations; (5) establish design parameters for the repository at an early date; and (6) resolve State and Indian tribe contentions at an early stage in order to minimize the NRC hearing requirements. Such measures have already been identified and discussed by NRC and DOE staff as

necessary requirements to meet the 36-month schedule. We believe that the last item is of critical importance and should receive careful and thorough attention.

We suggest that both NRC and DOE continue their efforts to identify and implement ways to help make the license process more efficient. Should DOE identify additional measures to facilitate the licensing process, NRC will consider them and seek ways to shorten the Construction Authorization review process while still fulfilling its responsibility to protect the public health and safety. NRC will continue to seek a more precise estimate for the Construction Authorization review period and to identify measures that can facilitate a timely closure of Commission licensing proceedings.

Until it is clearly demonstrated that the licensing process can be shortened, the Commission believes the Project Decision Schedule should be revised to reflect 36 months for licensing review.

We have noted the new requirement for the review of the statutes, regulations, and permits that are listed in Section 10. The staff will provide the requested report covering those statutes, regulations, and permits under our purview by the end of the year.

In view of the applicable regulations of the Council on Environmental Quality, we believe it would be desirable to have an early determination of the scope of the issues that will be addressed in the environmental impact statement prepared in connection with repository construction. In our detailed comments, we recommend that DOE add a milestone for this activity near the beginning of site characterization.

DOE should note that for several key events our comments provide additional time for Commission involvement, which includes possible involvement of an oversight group such as the Advisory Committee on Reactor Safeguards. Also, our comments provide for additional turnaround time in several key milestones for consultation with host States and affected Indian tribes.

We appreciate the opportunity to contribute to the development of the Project Decision Schedule, and we hope you find these comments useful.

Sincerely,

/s/

Nunzio J. Palladino

Attachment:  
As Stated

ATTACHMENT

NRC COMMENTS  
ON THE JULY 1985  
DRAFT PROJECT DECISION SCHEDULE  
U.S. DEPARTMENT OF ENERGY  
OFFICE OF CIVILIAN RADIOACTIVE WASTE MANAGEMENT

OCTOBER 1985

## INTRODUCTION

The NRC comments are arranged according to how soon the activity they address will stand to impact both DOE and NRC's programs and budgets. The first section (I) covers the period from the present through FY88, which is NRC's present budget period. This period has received considerable planning, enabling us to predict our activities and lead times with some certainty. The second section (II) covers events scheduled to take place beyond FY88, which are less certain and which can be addressed more meaningfully in the annual updates to the PDS which DOE plans to make. The third section (III) covers general comments on events that are independent of schedule.

### I. Comments Concerning Activities Through FY88

1. P. 12, Paragraph 1: It is not clear what is meant by "the overall program schedule which will be issued by the Office of Civilian Radioactive Waste Management as a separate document." DOE needs to clarify the nature of this document and its expected date of publication.
2. P. 21, and P. C-21, NRC Comment 025, Secretarial Preliminary Determination: The Commission's concurrence decision on the DOE Siting Guidelines reflected an agreement between DOE and NRC that the timing of the preliminary determination should be made after site characterization rather than the timing indicated in the draft PDS. However, the Commission has agreed that DOE's modified position does not require any change in NRC's prior concurrence in DOE's siting guidelines. A public statement is currently being prepared to restate the Commission's concurrence. This comment also refers to p. 50, Table 1, (16).
3. P. 21, Phase 2 - Site Characterization: There is no milestone in the draft PDS that shows when DOE plans to have implemented its formal Quality Assurance (QA) program. In the Mission Plan, DOE commits to having QA programs in place and implemented before site characterization. The PDS should reflect this commitment. Also, given the importance of QA, NRC recommends that a milestone be identified before site characterization begins, which commits NRC to review the QA programs after DOE considers they are in place and implemented. This milestone should be left as TBD until DOE lays out its plans and schedules for completing and implementing these QA programs.
4. P. 49, Table 1, (13b), and P. 79, Table 4.9, I-13b, NRC Revise Requirements and Criteria, if Necessary, to be Consistent with the Provisions Of The NWPA and EPA Standards: NRC believes a time period of three months to revise NRC regulations after EPA issues its final standards is not realistic. NRC estimates that 6 months is needed to issue a proposed

amendment to conform 10 CFR Part 60 to EPA standards. (NRC staff has committed to forward proposed revisions to the Commission for consideration within 120 days of publication of the final EPA standard). The reference schedule should be changed to provide 6 months after issuance of the EPA standards to propose an amendment and an additional 18 months to issue a final amendment. In any event, the EPA standard will be effective when it is promulgated and will provide necessary guidance to DOE technical programs. The preliminary view of the NRC staff is that no substantive changes in Part 60 technical criteria will be necessary to conform to the EPA standards. Accordingly, this should not be shown as a critical activity in the PDS.

5. P. C-17, NRC Comment 001 Licensing Process: The schedules contained in the PDS assume that potential licensing issues are addressed and resolved early, at staff levels, as DOE's program develops. Because of the long planning and procurement lead times associated with site characterization activities, such as shaft construction, DOE will be making many decisions and commitments on program direction well before these are described in such documents as the SCP's. In the interagency procedural agreement on the repository program, the necessity was established for NRC and DOE to consult early on potential licensing issues before decisions and commitments are made by DOE. These discussions were to be "held sufficiently early so that any changes that NRC comments may entail can be duly considered by DOE in a manner not to delay DOE activities."

The NRC is committed to provide timely guidance to DOE and, absent unresolved safety issues, to support DOE schedules. However, to achieve this the NRC is dependent on DOE's ability to identify potential licensing issues and to schedule effective interactions with NRC sufficiently early in the planning process, before commitments and decisions are made, so that resolution of NRC comments that is satisfactory to both agencies can be made by DOE with sufficient lead time so as not to delay DOE activities. We suggest that DOE re-examine the schedules for the series of technical meetings DOE has identified as necessary to support near-term schedules to ensure that they meet this goal.

6. P. 51, Table 1, (21b), P. 59, Table 1, (50b), P. 79, Table 4.9, I-21b, and P. 80, Table 4.9, I-50b, Review and Comment on SCP: The PDS should not indicate that NRC will be reviewing and commenting on the SCP within 90 days of issuance. The NRC's review and comment of the SCP will be documented in our site characterization analysis (SCA) which will be completed within the time period indicated in the PDS. We recognize as indicated in the previous comment that many potential licensing questions related to shaft construction (a critical path activity) must be addressed

well before the start of shaft construction and, in some instances, even before SCP issuance. The NRC's ability to provide timely comments and guidance to DOE on shaft-related activities is contingent on DOE scheduling effective interchange with NRC before commitments and decisions are made on these activities, so that DOE can consider and develop satisfactory resolution of any NRC comment in a manner not to delay DOE's schedules.

7. P. 51, Table 1, (22a), (22b), and P. 79, Table 4.9, I-22a, I-22b;  
Issue Draft and Final SCA: Add one month to each date for the performance and completion of NRC's action, to accommodate additional direct Commission involvement.
  
8. P. 52, Table 1, (23a), and P. 60, Table 1, (52a), P. 79, Table 4.9, I-23a, P. 80, Table 4.9, I-52a, and P. C-7, NRC Comments 007,  
Radioactive Material Use: The NRC's finding of necessity for use of radioactive materials in site characterization would occur in the NRC's analysis of DOE's SCP (SCA). Therefore this milestone must have the same reference schedule as the SCA. However, as noted in the draft PDS, under the proposed amendment to the procedures in 10 CFR 60, there would be no draft SCA and the final SCA would be completed 6 months after issuance of the SCP.  
  
NRC recommends that this milestone be footnoted to show its relation to the SCA.
  
9. P. 52, Table 1, (25), P. 79, Table 4.9, I-25a, I25b, and P. C-14,  
NRC Comments 013, Provide Detailed Guidance for License Application: The central reason for ongoing pre-license application interactions between DOE and NRC is to establish what detailed and specific information must be provided in the license application to assure that it is complete and of adequate quality. From the NRC perspective the site characterization plans, for example, may be viewed as scoping documents for the license application. Thus, NRC continues to consider preparation of a standard format and content guide similar to Regulatory Guide 1.70, "Standard Format and Content of Safety Analysis Reports for Nuclear Power Plants," is not appropriate or necessary for the repository license application. However, the NRC is planning on a draft format guide for the repository license application being developed in the FY88/89 period. This milestone should be modified accordingly.

10. P. 55, Table 1, (29a), and Figure 4, p. 24, DOE Perform Site Characterization Activities: The 12/86 start date for site characterization activities under this milestone should be made consistent with the 1/86 date shown in Figure 4 (p. 24) for the start of site characterization activities.
11. P. 56, Table 1, (34a), Pursuant to Section 1501.6 of the CEQ NEPA regulations, 40 CFR Parts 1500-1508, DOE as the Lead Agency will request certain other affected Federal agencies to serve as cooperating agencies. DOE should specify which Federal agencies it anticipates requesting to serve as "cooperating agencies" and whether these agencies are the ones listed in 34C who provide comments on the Draft EIS. Under the NWA, and taking into account the independent licensing responsibilities of NRC, it would be more appropriate for NRC to be a commenting agency rather than a cooperating agency. NRC's present review is based upon the assumption that NRC will comment.
12. P. 65, Table 3, (1c), and P. 81, Table 4.9, III-1c, Review and Comment on Draft MRS Proposal: Add one-half month to dates for the performance and completion of NRC's action, to accommodate additional direct Commission involvement.
13. P. C-24, Response to NRC Comment on In-Situ Testing in Salt: The PDS presently calls for a total of only 8 months for in situ testing for salt. This is not consistent with information provided by DOE in the June 18, 1985 management meeting with NRC, where DOE indicated that the salt in-situ testing program will consist of 11 months of testing prior to the EIS and 10 months of additional testing prior to submittal of the licensing application. This 21 month testing program needs to be reflected in both the PDS and Mission Plan.

## II. Comments Concerning Activities After FY88

1. P. 22, 6.4 Phase 3 - Site Selection: DOE should clarify that the "Site Selection Report" referred to in the first paragraph is the "comprehensive statement of the basis of such recommendation" required by 114(a)(1) of NWA.
2. P. 51-55, Table 1, (27) and (28), Land Acquisition Procedures (If President Approves Site): The reference schedule dates do not provide for land control (10 CFR 60.121) at the time of the license application. Some assurance at the time of the license application would be needed that DOE would be able to comply with 10 CFR 60.121.

3. P. 56, Table 1, (34c), P. 80, Table 4.9, I-34c, and P. C-25, NRC Comment 012, Review and Comment on Draft EIS: In comments on the Preliminary Draft PDS, NRC requested four months in order to review and comment on the DEIS (as well as provide the preliminary comments on the sufficiency of site characterization). The Draft PDS only allows three months for review and comment on the DEIS.

The NRC now estimates that a review and comment on the DEIS and development of a position on the sufficiency of site characterization will require five months, provided there is a thorough review and consultation process throughout the site characterization phase. The additional time is needed to accommodate additional direct Commission involvement, and for consultation with host States and affected Indian tribes.

4. P. 56, Table 1, (35a), and P. 80, Table 4.9, I-35a, NRC Preliminary Sufficiency Comments: DOE should clarify whether the "Characterization Analysis" referred to in (35a) will be a separate document or part of the EIS. DOE should add one month to the dates for the performance and completion of NRC's action, to accommodate additional direct Commission involvement and for consultation with host States and affected Indian tribes.
5. P. 58, Table 1, (44a), P. 62, Table 1, (68a), P. 80, Table 4.9, I-44a, P. 81, Table 4.9, I-68a, and P. C-21, NRC Comment 014, NRC Adopting DOE FEIS, to Extent Practicable: NRC views the adoption of the EIS as part of the licensing process. At this point, the date specified should be the same as that for the issuance of the CA. The specific event which constitutes adoption will be defined when the Commission promulgates the regulations for implementation of its NEPA responsibilities with respect to the licensing of the repository. It should be indicated that, regardless of the specific NRC process or mechanism for adopting the EIS, the process will not be on the critical path. We recommend however, that a milestone be added near the beginning of site characterization for determining the scope of issues to be addressed in DOE's EIS, and for identifying the significant issues under NEPA related to the repository.
6. P. 58, Table 1, 43c, P. 80, Table 4.9, I-43c Issue Construction Authorization:

We note that the reference assumption in the Mission Plan and the draft PDS is a 27 month period for the review of a repository license application and issuance of authorization for construction. The NRC is committed to making the licensing review as efficient as possible but continues to believe that the 36 months provided in Section 114(d) of the

Nuclear Waste Policy Act of 1982 is a very optimistic estimate for the time required to reach a licensing decision on repository construction.

The adequacy of a 36-month review period is dependent on the submittal by DOE of a complete and high-quality application for a repository license. Meeting this review period might be possible if DOE completes, in a timely and exemplary fashion, the following key actions: (1) lay out a systematic set of milestones requiring consultation with NRC staff on site characterization issues (2) develop an information retrieval system to allow easy access to documents which support the license application; (3) implement an effective quality assurance program at an early state; (4) adopt a conservative approach in treating uncertainties in geotechnical investigations; (5) establish design parameters for the repository at an early date, and (6) resolve major state and Indian tribe contentions at an early stage in order to expedite the NRC hearing process. Actions (1) through (5) have already been identified and discussed by NRC and DOE staff as necessary requirements to meet the 36-month schedule. We believe that the last item is very important and should receive careful attention. These key actions involve the following tasks:

Implementation by DOE of Scheduled and Systematic Consultations: DOE would meet with NRC staff to lay out all current planned activities and milestones for site characterization (including preparations for characterization) to provide a detailed and systematic basis for determining the appropriate points for consultation. Timely consultation will become increasingly important given the long lead times for the development of plans and procedures, and for the timely procurement of essential services and equipment.

Development of an Information Retrieval System: DOE would develop an information retrieval system with the capability to assure that all relevant documents will be readily available when needed. The production of documents to support an application is typically a time consuming step in the licensing process, and it can be shortened with the proper type of text storage and retrievability, and a sufficient degree of accessibility for the information management system. Potential host states and affected tribes and other interested parties should also have the same degree of access to this system, since they will also be raising issues that DOE and NRC will need to be prepared to address in licensing.

Early Implementation of a Quality Assurance Program: DOE would implement a quality assurance program as soon as possible, but not later than the beginning of site characterization. NRC is

prepared to review DOE's QA programs once DOE considers that they are in place and implemented. The implementation of DOE's QA programs at all appropriate levels should be reviewed by NRC staff prior to starting site characterization.

Adoption of Conservatism: DOE would be more conservative in the treatment of uncertainty in geotechnical investigations. We believe this is the best way to provide reasonable assurance that the Mission Plan's site characterization schedules will be met. The uncertainties inherent in investigations can be compensated for by incorporating more conservatism into initial designs. A conservative design can be made less restrictive if the information from site characterization clearly warrants a relaxation in design criteria. Any such change would be far less costly than a discovery late in the program that the design for a critical system component was not conservative enough.

Early Establishment of Repository Design Parameters: In order to establish specifically what information site characterization activities will have to produce to meet PDS schedules, DOE would select tentative values for the contributions that each of the natural and engineered barriers can reasonably be expected to provide to the overall waste isolation performance of each site. Design requirements for the waste package and underground facility, for example, determine much of the information that site characterization will have to produce. Neither NRC nor DOE can determine with the requisite timeliness and detail what tests will be needed for a particular design, nor how much testing will be enough, if the basis for that design -- the expected performance of each component of the waste isolation system -- is not clear at the start.

Early Resolution of State and Indian Tribe Contentions: We believe that the greatest uncertainty in the estimate of the time required for the CA review is related to the hearing process. You may recall that the May 12, 1982, letter from NRC's Director of the Division of Waste Management to DOE's Deputy Assistant Secretary for Nuclear Waste Management and Fuel Cycle Programs estimated the hearing process (including discovery, the hearing, and Commission review of the Atomic Safety and Licensing Board decision) to be 18 to 38 months. Adding this to the 21 to 27 month estimate for safety reviews gives a total CA review period of 39 to 65 months. The states have substantial resources available to them, and appear to be willing to strongly contest any unresolved issues which they believe significantly impacts them.

We believe the magnitude of the uncertainty in the hearing period will continue to be large until the more significant states' contentions are resolved.

The importance of each of these measures for timely licensing must be considered in the light of our licensing review procedure itself. The first step in that procedure is an acceptance review of the application to determine whether the application is complete and can be docketed for formal consideration. We intend to conduct that review as a critical check against the risk of finding out at a later, more critical stage, that important safety-related information is missing.

A free and open exchange between DOE and the NRC is essential for the achievement of a mutual understanding of the kind of information that will be needed for a repository license application. It is also essential that NRC be kept abreast of information and data as it is developed at sites being characterized. While the staff has not identified any way in which the license review period can be reduced from its original 36 month estimate, we recommend that NRC and DOE continue their efforts to identify and implement ways to make the licensing process more efficient.

Should DOE identify additional measures to facilitate the licensing process, NRC will consider them and seek ways to shorten the CA review process while still fulfilling its responsibility to protect the public health and safety. NRC will continue to seek a more precise estimate for the CA review period and to identify measures that can facilitate a timely closure of Commission licensing proceedings. Until it is clearly demonstrated that the licensing process can be shortened, we believe the PDS should be revised to reflect 36 months for a license review.

### III. Significant General Comments

#### A. DOE Response to Previous Comments

The DOE has included a comment-response section in the draft PDS (Appendix C). Of the 35 NRC comments submitted in the preliminary draft PDS, DOE did not agree or concur with six NRC comments, (NRC Comments 012, 013, 014, 022, 025, and 027), and answered five NRC comments by eliminating the pertinent section from the draft PDS. (NRC comments 023, 024, 029, 030, and 033). The six unresolved comments are cited again. (See also, comments: I-2, I-9, II-3, II-5.)

1. P. C-5, NRC Comment 027: NRC believes the likelihood exists for confusion between the 5 phases of the First Geologic Repository and the two construction phases of Phase 5 - Construction (p. 25 and 26). NRC suggests again that DOE rename the 2 phases of construction in Phase 5 - Construction, to (for example) stage 1 construction and stage 2 construction.
2. P. C-16, NRC Comment 022: DOE states that they agree with this comment and the Draft PDS reflects this change. However, Figure 5, p. 27, fails to show "DOE submit application to amend license to NRC 6/98." This is stated correctly in Table 1, p. 62, (65).

B. Comments Concerning Section 10, P. 39-45, Draft PDS

NRC believes that this section is incomplete and in some cases, incorrect. DOE should ensure that this section is revised to reflect all relevant statutes and regulations, as well as the specific provisions of those laws and regulations that are applicable to the siting and operation of the repository. In addition, DOE should clarify that Section 10 does not include the relevant requirements of the NWPA as these are addressed in other portions of the PDS. It would also be useful if DOE concisely summarized the requirements of each of the relevant citations. While the NRC will provide the requested report by the end of the year, we can recommend now that 10 CFR Chapter 1 be included.

C. Update Table 4.9, P. 79-81

1. P. 79, I-18a: DOE should specify what "regulations and permit requirements" the Commission is supposed to report under this task. This also applies to p. 50, Table 1, (18a).
2. P. 79, I-22a: DOE should add a footnote concerning the new rule and its effect on these dates, should it become the final rule. See footnote p. 51, Table 1.
3. P. 79, I-22b: NRC suggests "Issue Final SCA" under action required in order to be consistent with p. 51, Table 1, (22b).

D. Miscellaneous Comments

1. P. 1, #2: NRC suggest that "the system" be clarified. Does this mean the Radioactive Waste Management System?

2. P. 8, Figure 1: Figure 1 indicates that Site Characterization phase continues to 5/91, whereas Figure 3, p. 19 indicates that the site characterization phase will end 12/89. DOE should clarify these two dates and reflect consistency between the Figures and the text.
3. P. 20, Paragraph 2: It is unclear whether the reference to the "Preliminary Decision" is to the preliminary determination required by Section 114(f) of the NWPA, or to the nomination and recommendation of sites for characterization under 112(b). Whichever is intended, the citation needs to be corrected.
4. P. 25, Paragraph 4, and Figures 3 & 5: The fact that NRC licensing activities do not terminate with the issuance of the CA should be reflected in Figures 3 and 5. Not only will NRC staff review continue, but the licensing board may also be active.

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UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D. C. 20555

January 24, 1986

NOTE TO: R. E. Browning  
R. F. Burnett  
R. E. Cunningham

FROM: John G. Davis

SUBJECT: MEETING WITH DOE

On 1/29, I will be meeting with Rusche. He has indicated he would like to discuss:

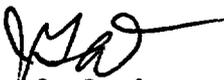
- o Transportation
  - Rule modification
  - Specific cask review
- o Safeguards
  - Requirements for Civilian Waste Program facilities

I would like to discuss examples of results of prelicensing consultation and any other issues you believe appropriate. Examples are:

- o Information System
- o Streamlining of license process
- o FFRDC

The number of items we can discuss are limited to about 10. I'd like suggestions.

WM please "lead" this effort. I'd like topics by 1/29, if possible.

  
John G. Davis

cc: D. B. Mausshardt  
R. S. Brown, Jr.