



POLICY ISSUE **(Information)**

April 15, 1991

SECY-91-100

For: The Commissioners

From: Lloyd J. Donnelly
LSS Administrator

Subject: LSS ADMINISTRATOR - QUARTERLY REPORT

Purpose: To inform the Commission of the status of the design and development of the Licensing Support System (LSS) and the activities of the Office of the LSS Administrator (LSSA) for the calendar quarter ending March 31, 1991.

Background: On August 25, 1989, the Commission approved Manual Chapter NRC-0109 for the LSSA which required that status reports be sent to the Commission on a quarterly basis.

Discussion: LSS Design and Development

Early in the reporting period, DOE's Office of Civilian Radioactive Waste Management (OCRWM) informed me that DOE may not be able to fulfill its LSS design and development responsibilities due to budget limitations, competition from higher priority programs, and language in the FY 1992 OMB budget passback. On February 21, 1991, Chairman Carr sent a letter to Secretary Watkins requesting that DOE verify the above information and describe the extent to which DOE is willing to help support the future costs of the LSS program. As of this date, DOE's response has not been received.

In the interim, my office has been developing information for the Commission to use in evaluating what should be done if DOE confirms it will no longer be designing and developing the LSS.

Contact: M. Rood, LSSA
492-4030

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We have spent considerable time examining and refining the long-term costs and schedule for the LSS, through the year 2001. We have also been examining potential contractors to either help us consult with DOE on LSS design and development activities or to provide acquisition support/technical support to my office, if the Commission should decide to assume DOE's responsibility for LSS design and development.

We have also coordinated a review of LSS needs and functionality with NRC's LSS Internal Steering Committee. This review is nearly complete. The final results will be included in the paper I will send to the Commission after the Chairman hears from DOE.

In the course of doing the above work, we developed a summary of the benefits afforded by the LSS (enclosed). I believe this is the first time such a summary has been produced, and I thought the Commission would find it of interest.

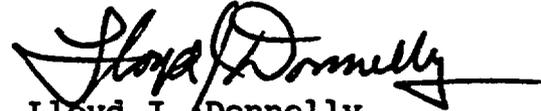
Technical Data Contract with the Center for Nuclear Waste Regulatory Analyses (CNWRA)

As discussed in a previous quarterly report, we have contracted with the CNWRA to explore a number of issues related to electronic storage and retrieval of graphic-oriented material known as "technical data." During this reporting period, we received the first contract deliverable entitled "Definition of Technical Data and Analysis of Infrastructure Within Participant Organizations for Providing LSS Access." The report is currently under review by the LSSA staff.

Contract on Compliance Requirements and Evaluation Program

Also, as discussed in a previous report, we have contracted with Labat-Anderson, Inc./Price Waterhouse to help develop standards and guidance for the identification, preparation, and submission of documents to the LSS and to provide recommendations for the compliance evaluation program I will be responsible for administering. During this reporting period, the contractor completed its

background work and will soon be developing Quality Management Plans which will include alternative strategies for evaluating LSS participants' compliance with the LSS rule.



Lloyd J. Donnelly
LSS Administrator

Enclosure:
LSS Benefits (Draft)

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BENEFITS OF THE LICENSING SUPPORT SYSTEM (LSS)

There are many benefits afforded by the LSS. DOE's cost benefit analysis for the system shows that approximately \$200 million can be saved (primarily by avoiding additional spent fuel storage costs at reactors) for each year of licensing delay eliminated through use of the LSS. Beyond this significant cost avoidance, there are many user-related benefits provided by the system. This document identifies these benefits and provides a brief description of each. The benefits are grouped into three broad areas - those that contribute to an efficient hearing schedule, those supporting a timely and thorough license review and those promoting economies of administration. In addition, the LSS contributes substantially to meeting the Commission's Principles of Good Regulation, particularly "openness" and "efficiency".

EFFICIENT HEARING SCHEDULE**1. Allows document discovery to begin prior to notice of hearing**

The "discovery" process permits parties to an adjudication to learn the nature of their opponents' case prior to a hearing. In the NRC, this time-consuming process traditionally starts after an application is docketed and the parties to the proceeding and the issues have been determined. For the HLW repository, the LSS rule requires that all discoverable documents be entered into the LSS before DOE's license application is docketed. Thus, by searching and retrieving documents electronically from the LSS database, the parties will complete almost all document discovery during the pre-docket period. By significantly advancing the time during which document discovery will occur, the time needed to carry out this activity is removed from the three year hearing period.

2. Eliminates the traditional form of document discovery

Traditionally, interrogatories and document production requests require the physical identification and reproduction of materials that parties need for a proceeding. This starts with a request from one party to another for the identification of all documents on a particular subject, followed by the inspection and copying of the identified documents by the requesting party. There are many such requests. This process is time-consuming, highly labor

intensive and inefficient. Information produced in connection with the development of the LSS rule showed that 30% to 50% of a typical reactor OL hearing (which has, on the average, taken five years to complete) has been occupied by traditional document discovery. While one cannot predict either the number or scope of potential discovery requests during the HLW proceeding, it is generally recognized that there will be several times the amount of documentary material than for a typical reactor case. The availability of the LSS database will eliminate the many months that would otherwise be expended in performing traditional discovery during the hearing period.

3. Expedites motions practice

Motions and similar adjudicatory filings are the vehicles by which parties submit disputes to the hearing judges for resolution through decisions and orders. The allowance for service of filings by first-class mail is 5 days. The use of E-mail for the immediate (same day) electronic transmission of all filings will eliminate this mail time from the hearing schedule. For the HLW repository hearing, the mandatory schedule contains at least 20 actions that will generate filings and, for the appeal phase, another six. Thus, the use of E-mail in the repository hearing will eliminate roughly one hundred days of mail transmission time.

4. Permits on-line access to docket material by judges/attorneys during hearing

After the HLW repository license application is docketed, the LSS will contain a separate searchable file for all the official adjudicatory record material. Absent good cause, all hearing exhibits must be entered into the LSS prior to the hearing. As the hearing progresses, exhibits will be marked (in the LSS) as to whether they have been either received into evidence or rejected. Also, transcripts will be entered into the LSS on a daily basis to provide next day availability at the hearing. Judges and attorneys will have immediate on-line access to all the above information during the hearing and will be able to rapidly access documents and transcripts related to specific issues. The LSS will also eliminate most of the time traditionally used to manually process exhibits and locate transcripts and other official record material.

5. Increases ability to formulate timely and meaningful contentions

Relevant and potentially relevant documentary material will be stored in the LSS database before the license application is submitted and will be accessible using the LSS's search and retrieval capabilities. Because of this early availability of substantial amounts of information, parties will have no excuse for poorly crafted contentions. Thus, the board can reduce hearing delays by readily rejecting or otherwise disposing of either unfocused or unsupported contentions.

6. Permits higher threshold for late contentions

The LSS rule places tighter restrictions on either amending or adding contentions late in the hearing. These restrictions are justifiable because, in contrast to present practices, the parties will have early access to all potentially relevant documents through use of the LSS, thus permitting them to raise/resolve issues earlier than is normally possible. The early resolution of issues and this new higher standard for contentions will make the repository hearing process more efficient.

7. Simplifies and expedites process of handling "privileged" information

"Privileged" material may be exempt from disclosure due to its content, e.g., it might contain proprietary information. LSS participants will submit bibliographic indexes (but not text or images) for documentary material for which they claim a privilege. These indexes will be submitted on the same schedule as "non-privileged" documentary material. The early identification of "privileged" material will permit timely rulings on disputes relating to privilege, most of which should be resolved prior to the hearing. If assertion of a privilege is denied, contested material will be quickly entered into the LSS database.

8. Permits mandatory hearing schedule

The recent final rule amending the Commission's rules of practice adopts a compulsory hearing schedule for the HLW repository proceeding (56 FR 787, February 26, 1991). Ready access to the LSS database, especially prior to the filing of the application, facilitates the adoption of the procedural efficiencies described in 1-7 above, which in turn, makes the mandatory hearing schedule possible. Such a schedule is expected to help the Commission complete the HLW hearing

within the three year time frame mandated by the NWSA. By comparison, reactor OL hearings have averaged about 5 years, with highly contested cases taking up to 9 years to complete.

TIMELY AND THOROUGH LICENSING REVIEW

9. Provides confidence that the licensing information base is current and complete

LSS users must have high confidence that the repository licensing information base in the LSS is current and complete. Otherwise, they would need to use traditional discovery techniques and other methods to satisfy themselves that they have had access to all the information relevant to their interests. The LSS rule requires that the database be as current as possible. LSS participants must submit documents that fall within the Topical Guidelines to the LSS reasonably contemporaneous with their creation. Moreover, the LSS Administrator will establish a priority loading schedule for historical material to ensure that backlogged documents of the most interest are loaded first. The LSS rule also contains provisions to assure completeness of the LSS database. LSS participants must ensure and certify the completeness of their document submissions. In addition, the LSS Administrator will make periodic and independent evaluations of LSS participants' submissions and put in place controls to ensure the integrity of the LSS database.

10. Allows users to quickly identify relevant information from a large database

For users to identify relevant documents within a very large document collection, they must first locate materials that are likely candidates and then screen the content of the candidate documents to verify which ones are relevant to their needs. With several hundred documents, this is not a major problem. However, as a document collection grows, the problem of relevancy determination becomes increasingly difficult and time consuming. Users experience difficulty recalling which previously read documents are relevant to the topic of current interest. Screening newly released materials is also a challenge when hundreds of documents are added to the collection each day. Hardcopy bibliographic indexes are often inadequate because while they describe documents, they tell the user little about content, which is often needed to determine relevancy. Using the powerful search capability of the LSS, users will be able to identify relevant information from a database with thousands of documents in a matter of minutes, rather than days or weeks. Users will be able to

readily examine the content of a document by searching its full text and/or its subject key terms. In addition, they will also be able to rapidly view document images to confirm relevancy that is not apparent from performing a search as described above.

11. Reduces need to acquire information from multiple sources

Without a centralized database, people acquire information from many organizations, using whatever means are available to them, e.g., letter requests, searches of separate records management systems, file room searches, phone calls to colleagues, FOIAs and interrogatories. These inquiries can be difficult because each providing organization has its own document availability practices, publishes bibliographic indexes of holdings in varying ways and on different schedules and has a unique records management system. The LSS will provide users with the ability to sit at their desks and use one comprehensive database to examine and download selected material. Furthermore, if users need copies of large documents, it is anticipated that they will be able to order them on-line through the LSS, and receive copies within 24 hours of placing the order.

12. Provides rapid access to document images including "technical data"

LSS users will frequently use the full text search capabilities to locate relevant documents. However, the exact format of the original document is lost in the electronic full text. In addition, any handwritten notes, letterhead, signatures, formulas, pictures, maps, etc. cannot be seen in the text. For these reasons, and to eliminate the need for users to suspend work to obtain copies of documents, the electronic image of document pages will be stored in the LSS and will be rapidly accessible for viewing and printing at user workstations. Having electronic images available is especially important in the case of "technical data" because very little of this material has text that can be electronically captured and stored in the LSS. "Technical data" is largely raw data compiled during scientific investigations. While not all "technical data" can be stored in electronic format due to its size or other characteristics, the LSS will contain special bibliographic indexes for this material that will describe its content and tell users how to gain access to it.

13. Cost-effective way for users to stay abreast of newly available materials

Over 16,000 pages of documentary material will be added to the LSS database daily for a period of about five years. Without an electronic database that permits a comprehensive search on document date and subject matter, users would have to screen multiple hardcopy bibliographic indexes from several sources, and often only be able to guess about the relevancy of the new material. Given the size of the LSS, this would be an extremely time consuming, if not impossible task. The LSS will have a feature that will allow users to examine all additions to the system since their last query. The LSS will allow the user to apply a previously used and saved search strategy to the new records added to the database. By doing so, the system will not only quickly identify all new documents since the last query, it will also identify all relevant new documents as well.

14. Supports earlier identification/resolution of technical issues

The NRC staff intends to employ a number of mechanisms to identify and close out technical issues prior to receiving the repository license application. During the pre-license application period, generic and site specific issues will be identified through consultation with DOE, States, and Tribes, and through staff review of information bearing on the repository program. By providing access to a common and current database in advance of the submission of the license application, the LSS will greatly facilitate the active and effective participation of all parties in the pre-license consultation process. All the information bearing on an issue can be quickly identified and examined. Portions of this information can be easily downloaded into the user's word processing system and then incorporated into regulatory work products. In addition, every party will have access to the same information and will be able to formulate positions and consult using a common frame of reference.

15. Provides long-term database for licensing beyond the construction permit

Assuming the NRC issues a construction permit for the HLW repository, the LSS will be used to help review proposed amendments to the construction permit and later to review the license application to receive and possess HLW. Once construction has begun and amendments to the construction permit are requested, the NRC staff must review LSS documentation to determine whether the changes requested should be approved and members of the public must be given an

opportunity to review a proposed amendment and seek a hearing. The public can use the LSS for this review. If a hearing is granted in response to any request resulting from an amendment application, the LSS can be used in the hearing process, just as it was used in the construction permit hearing. The same would hold true for the subsequent license review to receive and possess HLW.

ECONOMIES OF ADMINISTRATION

16. Reduces redundancy among records management systems

Current document handling practices lead to a duplication of many records within and among agencies. Outgoing requests for information and the associated responses become formal (duplicate) records of both the requesting and responding agencies. Also, an estimated one fifth of the documents in most records systems have attachments or enclosures that are duplicates of previously stored documents. Finally, agencies sometimes introduce copies of official records from other agencies into their records management systems to make them more accessible to their users. Because the LSS will make all LSS related information readily and universally accessible, most of the duplication described above can be eliminated.

17. Reduces paper storage

By the time the license application is docketed, 20 million pages will be in the LSS. About one cubic foot of space is required to store 3,000 pages of paper. Twenty million pages equates to about 7,000 cubic feet, which in turn equates to about 4,500 drawers of standard size file space. Certainly, only a portion of this material would be stored by any LSS participant organization if the LSS were not available -- yet, across all participant organizations, a very large quantity would be stored. Storage needs go far beyond that needed to house a single copy of the material because when documents are received by participant organizations, many copies are reproduced and distributed, as enumerated in paragraph 18 below. Having the documentary material available in electronic form through the LSS is expected to greatly reduce the amount of paper stored by each LSS participant. In addition, because paper copies will be generated from electronic images stored on optical disk, the LSS Administrator will not have to maintain a large file room to support paper copy reproduction and distribution.

18. Reduces paper copying and distribution

Each LSS participant has a procedure for distributing HLW material. In the NRC, the standard internal distribution for HLW documents is 22 copies. Some documents are also reproduced and distributed to a service list which includes all parties to the proceeding. Without this material being readily accessible through an electronic database, each party would have to reproduce and distribute a large amount of HLW documents. While the number of pages they would copy and distribute would be far less than the 20 million pages projected to be in the LSS at the time of DOE's license submission, it would still be substantial. For example, if only 10% of the LSS documents required standard NRC distribution, NRC would reproduce and distribute about 45 million pages of material, over twice the size of the LSS database itself. DOE and the other participants would also copy and distribute a large volume of HLW documents. Much, if not most, of this copying and distribution can be eliminated by virtue of the LSS making the information universally available and accessible in electronic form.

19. Reduces need for and simplifies processing of the Freedom of Information Act (FOIA) requests

Currently, DOE and NRC expend significant administrative, technical and legal resources reacting to requests for agency records under the FOIA. Some requests are document specific while others reference broad subject areas. The latter often require several organizational components to review their potentially relevant records. With the LSS, the burden on the FOIA process will be reduced. Because the LSS rule requires each LSS participant to release all discoverable material in a timely manner, the public will have access to an LSS database that will contain a wider scope of relevant materials than would normally be available. Using the LSS, they will not only be able to screen documents for relevancy and thereby narrow their requests, but their requests for information can be focused on the agency which originated the information. Also, DOE and NRC can use the LSS to effectively and efficiently respond to broad subject area FOIAs. Bibliographies of released agency documents can be easily generated for review by requestors so they can select which documents they desire.

20. Reduces travel time and travel costs

If the LSS were not available, document examination would often require travel to file rooms of the organization(s) having the documents. This would involve travel to DOE (East and West coasts) and NRC locations and the expenditure of considerable time reviewing files. In addition to the costs of travel and per diem for each LSS participant, each day individuals spent away from their offices reviewing documents, would interfere with their ability to complete other work.

21. Permits easy and efficient public access

Under current practices, any member of the public desiring HLW repository information would either travel to public document rooms (PDRs)/information facilities or request materials under FOIA. All participants in the HLW program handle their public information programs differently. The depth of the released document collections and the scope of services and user access tools vary significantly. More importantly, there is overlap in the records maintained in these various collections. It can be frustrating and time consuming for the public to gain access to information in this environment. By having access to the full LSS database through NRC and DOE PDRs located in Washington and in several locations in Nevada, the public will be able to readily search for and monitor the release of all HLW repository documentation using a single mechanism. While public access will be limited initially to the LSS database containing descriptive information about documents, the public will be able to search the full-text and view images of LSS documents after the application is docketed. This will enhance the public's ability to more precisely identify needed information.