Transcript of Proceedings

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BEFORE THE

DEPARTMENT OF ENERGY
AND
NUCLEAR REGULATORY COMMISSION

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In the Matter of:

PUBLIC INFORMATION MEETING

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UNITED STATES OF AMERICA

DEPARTMENT OF ENERGY
AND
NUCLEAR REGULATORY COMMISSION

PUBLIC INFORMATION MEETING

Room 6E069
1000 Independence Avenue, S.W.
Washington, D. C.

Monday, December 17, 1984

APPEARANCES:

FOR THE DEPARTMENT OF ENERGY:

ROBERT PURPLE
CHARLES HEAD
DONALD ALEXANDER
JAY RHODERICK
RALPH STEIN
WILLIAM J. DENNISON
MARK FREI
VIRGIL LOWERY

FOR THE NUCLEAR REGULATORY COMMISSION:

REGIS BOYLE
SETH COPLER
CHIP CAMERON
HUBERT MILLER
SYLVIE OLNEY
JAMES WOLF

whd-3

1 P R O C E E D I N G S

2 MR. STEIN: I'd like to welcome you all here this
3 morning to this meeting between the Department of Energy
4 and the Nuclear Regulatory Commission, to discuss the
5 Commission's comments on the Department's mission plan.
6 The purpose of the meeting is to receive from
7 the Commission amplification and explanation on certain of
8 their comments regarding the mission plan, and any other
9 information that they would like to provide us so that we
10 could better understand the extent of their comments, and
11 can incorporate their comments to the degree appropriate
12 in the preparation of the final mission plan.
13 I'd like to introduce the DOE people that are here
14 today, and who will participate in this meeting with the
15 NRC.
16 On my left is Doctor Donald Alexander; next to him
17 is Jay Rhoderick. Mr. Charley Head on my right. Bill
18 Dennison on Mr. Head's left -- I'm sorry; Mr. Head is on my
19 left. Excuse me.
20 And, let's see: Mr. Frei is not here, so Mr. Virgil
21 Lowery is on Mr. Dennison's left, and Mr. Frei will be
22 immediately to Mr. Dennison's left when he arrives.
23 The status of the Mission Plan at the present time
24 is that the Department is preparing its comments to the --
25 its response to the comments that have been received on the

whd-4

1 Mission Plan, and also revising the Mission Plan as appro-
2 priate, based on the comments. We expect to have the final
3 Mission Plan available in March, and issued to the public
4 in its final form.
5 Mr. Head will be the DOE discussion leader today,
6 and I would like to ask that the audience hold any comments
7 that they might have until the very end of the discussion,
8 and at that time I will be glad to have the audience com-
9 ment as they see appropriate on the discussion today.
10 So with that as an introduction to the opening of
11 this discussion between DOE and NRC, I'd like to turn the
12 meeting over to the discussion leader, Mr. Charles Head.
13 MR. HEAD: Thank you, Ralph.
14 The last week we sent to NRC an agenda for this
15 meeting that was labelled the "Draft Agenda;" we would like
16 to use the agenda without change, and that agenda basically
17 goes down the list of questions that we had asked in the
18 earlier letter of November 29th which we had sent to the
19 NRC.
20 So if it's satisfactory to the NRC representatives,
21 we'd just like to go down the list of questions that we had
22 in our letter.
23 The first --
24 MR. MILLER: I'd like to make a few remarks here
25 from the NRC side, and also introduce the people who are

whd-5

1 participants -- or, the participants in the discussion.

2 My name is Hubert Miller; I'm the Chief of the

3 Projects Branch, and with me today are Jim Wolf, from our

4 Executive Legal Director's Office, on the far left; Sylvie

5 Olney, who is in my Branch, is to my left.

6 To my right is Chip Cameron, of the Office of

7 Executive Legal Director's Office; Seth Copler, who is the

8 Section Leader of the Nevada Test Site Project in my Branch,

9 and Regis Boyle, who's head of the Regulations Section within

10 my Branch.

11 Also in the audience is Neil Numark, who is a

12 key staff member in preparing our comments to the DOE on

13 the Mission Plan.

14 And we also welcome the opportunity to discuss

15 here today the questions that DOE has on our comments.

16 Our objective, near-term here, is of course to

17 work with DOE as needed to hopefully have a final Mission

18 Plan which has really no errors in it or problems that we

19 from the NRC side -- or anything from our side that would

20 be a problem.

21 Our long-term objective, of course, is to try to

22 work with the Department of Energy to have as clear an under-

23 standing as possible of what information, what specific

24 data, what specific ,analyses, what quality of data will be

25 necessary in the license application to have a hearing

whd-6

1 process which can come to closure within the timeframes that
2 the law calls for.
3 So we're effectively scoping the license applica-
4 tion as kind of the way we look at it, so Charley, I guess
5 with that introduction, we'll have no problem just marching
6 down the list.
7 MR. HEAD: Okay.
8 MR. STEIN: Excuse me, Charley. I would like to
9 mention in regard to what you had said, that the scope of
10 the discussion today is centered on the geological positories.
11 I recognize that your comments to the Department
12 were broader than just mthe geological positories, but as
13 we both recognize, the purpose of today's meeting is to just
14 focus on those questions that the geological positories
15 have in regard to your comments.
16 MR. HEAD: All right.
17 The first question that we had sent to the Nuclear
18 Regulatory Commission concerns information heeds. And let
19 me just read it briefly:
20 "Objection No. 7 of the NRC comments states that
21 the Mission Plan does not provide sufficient discussion of
22 the information necessary to permit decisions to be made
23 concerning the primary scientific engineering and technical
24 information needed, including systems integration, to support
25 a license application.

whd-7

1 DOE concludes that this type of information is
2 more appropriately documented in a site characterization
3 plan. NRC seems to indicate in its discussion of the objec-
4 tion, at Paragraph 1, page 9, that this approach is appropri-
5 ate, but should be identified as such in the Mission Plan.
6 Does the NRC agree with this position, or is more
7 expected in the Mission Plan?"
8 MR. MILLER: The answer is: the NRC does agree
9 with that position. It's the simple answer.
10 MR. HEAD: All right. Well, that's certainly
11 straightforward. Is there any need to expand on that?
12 MR. MILLER: I think that all I can say, really,
13 is that we thought it necessary, or important, to state
14 what the limitations of the Mission Plan are.
15 We hear people who -- and I'm sure you do, too,
16 who would read the law and might think that the Mission Plan
17 -- if they didn't read it, was covering a lot more than it
18 really does cover in terms of detailed technical plans. And
19 I guess it was with the feeling that we ought to be clear
20 on what its limitations are, we made that comment.
21 But certainly, the details on site characteriza-
22 tion planning have to come in the site characterization
23 plan itself. And the documents, I might add, that will even
24 supplement that plan, because I think even the SCP will be
25 somewhat of a summary if you look at the total picture of

whd-8

1 things that will be done during site characterization.

2 Does that help you?

3 MR. HEAD: Yes, it does.

4 Are there any other follow-up questions from anyone

5 on the DOE side?

6 MR. COPLER: I don't have a follow-up question,

7 but I would like to comment that we have received a number

8 of comments from interested reviewers of the Mission Plan

9 who asked us to provide more details in the Mission Plan,

10 and the draft that you commented on was an attempt to be

11 more responsive in that area, and we intend to be as respons-

12 ive as possible in providing more information in the Mission

13 Plan, but of course, we agree that the true details on our

14 plan for site characterization, and addressing the issues,

15 will appear in the Site Characterization Plan.

16 MR. HEAD: All right; let's go on to the next

17 question, then. It concerns the use of rule-making to

18 resolve licensing issues.

19 "Comment No. 2 of the NRC comments states that

20 the Mission Plan should identify rule-making as a mechanism

21 for resolving certain potential licensing issues prior to

22 the beginning of formal proceedings.

23 DOE is interested in using this mechanism as a way

24 to resolve, early on, major licensing issues.

25 DOE would like NRC to address the following

whd-9

1 questions on this topic:

2 1. What kind of licensing issues does NRC foresee

3 could be resolved through this process?

4 2. What type of documentation by DOE would be

5 necessary to implement this procedure?

6 3. How long would it take to go through the rule-

7 making process?"

8 MR. MILLER: We've got a couple of viewgraphs here;

9 I'm not sure if that would be really of any help to try to

10 put these up, but basically, they bulletize a number of

11 points relative to your questions.

12 Let me just try it verbally here, and if it seems

13 like it would be necessary or useful to put this up, we can

14 use it, but --

15 MR. STEIN: Feel free to use the viewgraph pro-

16 jector if you want, if you think it will be helpful. We

17 would like to get as much information as we could --

18 MR. MILLER: Okay; let me just go back and set the

19 -- get a little bit of background on our comment here, again.

20 I think, as everyone knows, the Department of

21 Energy and NRC staff have been working during this pre-

22 licensing period to identify what are the potential issues

23 that will have to be resolved in the licensing hearing, and

24 to get some agreement on at least what kind of information

25 will be needed to make a finding one way or another on

whd-10

1 those issues.

2 Most of this ends with some sort of a position
3 documented by the NRC staff on what we think the issues are
4 and what information is needed. However, in terms of --
5 from a strictly legal point of view, the issues that are
6 taken up and resolved at the staff level are not closed,
7 from a formal legal standpoint.

8 Those issues can be -- and since we're taking up
9 important issues, probably will be -- issues that will be
10 heard during the hearing and litigated.

11 The one mechanism that can be used, however, to
12 reduce the scope of the licensing hearing is, in fact, to
13 go through a formal rule-making, which would legally resolve
14 issues. That is to say, take issues and make them not sub-
15 ject to litigation, or -- yeah, litigation in the hearing.

16 Of course, in the rule-making process, you go
17 through a public process that is much akin in a way to the
18 licensing review process, so there is, of course, ample
19 opportunity for all potential parties to participate in the
20 rule-making.

21 But the thought is that if there are certain
22 issues that ripen sometime during site characterization,
23 and it's before the hearing, it may be prudent to go to
24 rule-making, to formally close them out.

25 What kind of issues are these? I think there are

whd-11

1 two kinds of issues. There is, first of all, an issue
2 over methodology, if you will, and data.
3 That is to say, what kind of -- what specific
4 kind of information is going to be needed in the licensing
5 hearing? And what are acceptable means for gathering that
6 data and analyzing that data?
7 If you look at a hearing of almost any kind of
8 facility, you'll see that there are many questions which
9 come up over:
10 "Did you use the right means of analyzing?"
11 take almost any technical issue and you have to go through
12 a technical analysis, with the models -- acceptable models.
13 "Did you have enough data to support use of those
14 models?"
15 That's one kind of issue.
16 The second kind of issue is:
17 "All right; now that you've got the information,
18 you make a finding on some feature of a site, or on some
19 feature of the design. It does or it does not meet the
20 criteria or the requirements of the rule."
21 For the most part, during this pre-licensing
22 consultation that's going on now, we are taking up issues
23 of the first sort; that is, we're trying to establish what
24 methods, what kind of data is going to be needed to make
25 the findings. For example, what kind of a hydrologic test

whd-12

1 program at Hanford, or in Nevada or at one of the salt sites
2 makes sense when you look at the rule and realize that
3 you've got to make a finding on ground-water travel time.
4 You know, how many bore-holes spaced at what distance, and
5 so on, using what models, hydrologic models, would be
6 necessary and sufficient to be able to make those findings?
7 That's one kind of issue.
8 Now, maybe at some of these sites, during site
9 characterization, you will come across -- you will reach the
10 point where you feel as if you've got enough information.
11 You think you've characterized the seismic conditions at a
12 site, or have gathered enough information on the geology or
13 hydrology to close out some of the questions that have to
14 be addressed in Part 60.
15 Now, if you feel as if you've reached that point,
16 and you've got enough data and your analyses are sufficiently
17 complete, then it may be possible to take an issue like
18 that and go to rule-making on it. And actually close it
19 out. And I hesitate to pick a specific issue, because it
20 might sound like I'm thinking that -- I'm favoring that
21 issue, but the idea would be to take the information that
22 you've gathered at a certain point in site characterization
23 and proceed to try to close that issue out.
24 I'm not sure -- maybe we ought to discuss this
25 a little bit; I don't know what else I can say beyond what

whd-13

1 I've said here.

2 MR. STEIN: I do have a question that I would like

3 to explore a little bit more, if we can.

4 The types of information that you refer to is

5 information that one might gather during site characteriza-

6 tion. Site characterization itself is a relatively long

7 process, and it takes a while to gather that information.

8 I have no personal experience in rule-making, but

9 I'm told that that also can be a relatively long procedure.

10 If at the end of some period of time of site characteriza-

11 tion we felt that we had gathered sufficient data, so that

12 we would like to close out that particular issue, based on

13 the data we gather, what would concern me is that once we

14 have gone to NRC and asked for closure on that particular

15 item, in terms of rule-making, we would have probably, by

16 the time we got the rule, been well into the review process

17 at the licensing application.

18 And it doesn 't seem to me, then, that the rule-

19 making would be very productive. I believe that, based on

20 our schedule now, what would be most helpful to us is if

21 you could identify, at least, if not everything -- which of

22 course I don't expect you to do -- but at least some of the

23 areas that you think rule-making could be addressed to, so

24 that we could at least have a chance of having that closed

25 before we go into the licensing -- the formal licensing

whd-14

1 process.

2 MR. MILLER: Your reservations -- or, your ques-
3 tions, I think, are good ones, and I think that we might
4 ask: why do we make that comment to start with? Why do we
5 even pose rule-making as a possible way to reduce the scope
6 of the hearing?

7 I think the answer is simple; it is that we very
8 often get pressed on how do we close out issues as we go
9 along? And we think we've got a mechanism in place, through
10 the procedural agreement between the DOE and NRC which
11 will close them out at the staff level.

12 Now, for some folks that's still not good enough.
13 How do we close out the issues? And so in a sense, our
14 comment was intended to point out the only way, by existing
15 procedure at least, by existing NRC rule, you can do that
16 in a formal way, legal way.

17 But you're right. Rule-making can take some time,
18 and I think that whether or not you choose to proceed on a
19 certain issue or not has got to be -- you've got to weigh
20 what it's going to cost you in terms of resources; we would
21 have to weigh that, because there is a research cost.

22 It's hard to say how long a rule-making is going
23 to take, because it's highly dependent upon the issue that
24 you're trying to deal with. B ut it's not unreasonable to
25 assume that if the facts are there, and you've got -- and

whd-15

1 you don't have a lot of uncertainty in what you're dealing
2 with, that you could expect to do a rule-making in two,
3 maybe three years, from the very beginning all the way
4 through to a final rule.
5 But if you really haven't closed out the issue,
6 if the data is equivocal, and the technical work isn't
7 really done, then I think you can talk about rule-making
8 being an obstacle, and it could be something that would
9 actually hinder progress.
10 Maybe I could just put on the overhead here this
11 one chart which --
12 MR. HEAD: I think you twist that little knob,
13 the knob on top -- that thing, yeah.
14 MR. MILLER: Maybe -- there's one other chart that
15 we frequently show; I can put that one on.
16 This is kind of a description of the program that
17 we're operating under today, where, starting with part 60,
18 and knowing the kind of findings that we have to make in
19 licensing, we are trying to get guides to quote a site-
20 specific and a generic basis, and hopefully after these
21 issues that we attack through this informal process have
22 matured, and have been well-ventilated -- that is to say,
23 have been commented on by the potential parties or States
24 or other folks that are following NWPA, we can feel suffic-
25 iently confident to take some of these things to rule-

whd-16± 1 making.

2 I think an important part of this current process
3 that we're going through is that it's a very open process,
4 and this meeting here is an open meeting; all of the tech-
5 nical meetings are open meetings. All of our positions
6 are documented, and we make an effort -- at least -- well,
7 I'm sure as you do -- we make an effort to circulate our
8 positions for comment.

9 So it might be that through this early and more
10 informal process, that we can talk about some of these
11 thins maturing.

12 If you focus on just a site-specific box on the
13 previous slide, of course, the principal mechanism for
14 identifying issues and getting settled on what information
15 would be needed for licensing, is the SCP, and our review
16 of that.

17 But we have also documented positions on selected
18 issues through what we call site-technical positions, and
19 even our meetings with you, and technical letters that we
20 write, address certain topics.

21 Now, some of the topics that we've taken up are
22 -- the one I mentioned before, hydrologic testing at Hanford.
23 That's an acceptable methodology for gathering data to make
24 licensing final.

25 We have technical positions out on what will be

whd-17

needed in the underground test facility during site characterization, and so those are a couple of the kinds of topics that might be taken up.

But then back to this side, I think that the thing that you have to weigh is the issue -- is the issue ripe enough to be able to proceed through a rule-making?

And a second one, under the -- criteria is that you're going to have to be able -- we're going to have to be able to effectively decouple any issue that we're going to try to do the rule-making on, from the overall systems performance finding that will have to be made in the licensing proceeding.

Effectively, what we would be doing by going to rule-making is piecemealing a part of the overall licensing finding. The Part 60 rule is, of course, allows DOE to make trade-offs between one component of the system and another within certain limits, and one of the chief findings in the hearing process, or in the licensing review process, will be: does the repository or does it not, meet the overall performance objectives set by the EPA standards?

And whatever issue that is being taken up has got to be shown not to affect that later decision.

The question is, simply: can you piecemeal the problem? If you don't feel as though you can, then going to rule-making won't accomplish anything.

whd-18

1 It may require DOE, if you want to try to close
2 out an issue, to commit -- make some very specific commitments
3 about how they would allocate performance to various com-
4 ponents of the repository.
5 If you wanted to show, for example, that, let's
6 say techtonics at a given site was not an issue, you'd have
7 to somehow show that the projected techtonic events would
8 not impact that finding of an overall repository performance.
9 I think I've covered pretty much the points that
10 you have asked for, except I haven't gone into great detail
11 on what kinds of issues, and that's because I think it's
12 going to be largely the DOE that would decide what they feel
13 would be sufficiently closed by their site investigations
14 to pursue this. It's unlikely that the NRC -- in fact, I
15 don't think you could envision NRC on our own initiative
16 tackling an issue and wanting to go to rule-making, you
17 know, on it, prior to hearing.
18 MR. HEAD: Are there any other issues other than
19 site issues that you can see might lend itself to rule-
20 making, besides some specific technical site issue? Is
21 there anything else that NRC could identify that might lend
22 itself to rule-making that could be identified early, and
23 is not related to site characterization, procedural or any-
24 thing of that sort that would be helpful to us in identifying
25 early?

whd-19

1 MR. MILLER: If, in attacking the rule -- in
2 attacking site characterization, I should say, which is
3 -- has to be done mindful of what will have to be proved in
4 the hearing process, it becomes clear that one of the pro-
5 visions of the rule are sufficiently ambiguous, or just don't
6 make sense for some reason, as we learn more about sites,
7 I think it is conceivable to take and add more clarifica-
8 tion on a particular provision, let's say on how you make
9 this finding of ground-water travel time, or what does the
10 "disturbed zone" mean, or a number of things that, during
11 the technical work in site characterization might become
12 clear to you, need to be clarified.
13 Or if you project into the hearing, you can
14 envision a lot of disruption over a point. Maybe that kind
15 of thing is something which could be resolved in rule-making.
16 MR. HEAD: Are there any particular experiences
17 from the licensing process that NRC has gone through in the
18 past that you would suggest might give us a hint as to where
19 we could use rule-making?
20 MR. WOLF: Well, I think the case that comes
21 clearly to mind, the first case that comes clearly to my
22 mind, anway, is the use the Commission has made of rule-
23 making to establish for purposes of EPA compliance, the
24 environmental impacts associated with the operation of
25 nuclear reactors, and that's something that's done on a

wd-20

1 generic basis , it involves lots of analysis of a large data
2 base and some drawing of conclusions about it, some weigh-
3 ing of it and consideration of policy issues.
4 And it involves mammoth effort, and also involved
5 mammoth challenges and so forth, but eventually the princi-
6 ple was established that this was an appropriate way for
7 the Commission to approach the handling of this body of
8 data, so that it doesn't have to be litigated, and may not
9 in fact be litigated thereafter in the individual licensing
10 proceeding.
11 Similarly, that's the sort of thing that we are
12 thinking could be done here, if you can identify a body of
13 data.
14 Let me make one additional point. As a personal
15 view, I think it's most likely to be successful if in fact
16 -- and if it is perceived, in fact -- to be an alternative
17 means for resolution of an issue that affords equal or better
18 opportunities for anybody who is interested in the issue
19 to participate in the process.
20 That's, I think, a critically important element,
21 and I think one can anticipate that in the scientific and
22 technical communities, there are likely to be -- there is
23 likely to be a sense, often, that a peer review kind of
24 informal mechanism for arriving at the truth is a more
25 effective way to establish ground rules than the highly-

whd-21

1 formalized structure of an adjudicatory process.

2 And it's where you have a situation where those

3 who are interested in the outcome will view the rule-making

4 as a more efficient and effective means for arriving at

5 the result, that it is most likely to be a viable thing to

6 do.

7 But I think that that potentially covers a large

8 area of activities, but if it's perceived to be a way to

9 cut people out, which I'm not suggesting it is, I don't

10 think it's likely to be very productive.

11 If you're talking about various aspects of our

12 rule, from which different people could argue it means

13 different things, and it would be applied in the hearing

14 process in different ways, because of the apparent ambigui-

15 ties of the language that we've used in our rule, let's

16 identify what that issue is and let's identify how you

17 and the NRC ought to come to grips with that issue in a way

18 that is responsive to people's concerns, and a way that

19 allows them to get their voice heard.

20 Then we can make some progress, and we can do it

21 in a way that ultimately will expedite the decision rather

22 than hold it up.

23 That's very vague, I recognize, and it's talking

24 more or less, you know, on a principles kind of thing, but

25 I think that's largely what you have in mind.

whd-22

1 MR. DENNISON: Is it understood in NRC's rule-
2 making process what kind of procedures will be employed in
3 the way of a hearing?
4 Can we assume that it's going to be -- that it
5 would be a single hearing of the informal type rather than
6 an adjudicatory trial-type hearing, or does NRC tend to
7 judge case by case what kind of procedures to use?
8 MR. MILLER: That's our rule-making?
9 MR. DENNISON: Yes.
10 MR. MILLER: How we go about rule-making?
11 MR. DENNISON: If DOE were to request a rule-making
12 on a particular issue.
13 MR. MILLER: Quite likely it would be case by case.
14 There is a general procedure, which is the notice of comments,
15 but that does not exclude the possibility in appropriate
16 cases that the Commission would go to something more formal,
17 some sort of hearing process, and could in fact, where
18 appropriate, even formalize it more than that, with at least
19 a limited amount of cross-examination.
20 But the general principle is that we have notice
21 and comment, and that's it, but that doesn't mean that you
22 couldn't do something more if that seemed to be the desir-
23 able thing to do on the particular case.
24 MR. MILLER: Our rule-makings so far in the high-
25 level waste area have not involved hearings, aside from the

whd-23

1 confidence rule-making.

2 I think the -- from our side, I think that -- going
3 back to Ralph's question about what do you really gain, I
4 think you've got to get past a pretty high threshold of
5 confidence about your ability to have an issue closed out,
6 and from our perspective, that includes having ventilated
7 the issue through these informal processes that we're going
8 through right now, quite extensively, so that you didn't
9 have the feeling that there were groups out there that had
10 a case that could shoot down anything that you would try
11 to go through rule-making on with a high probability.

12 MR. DENNISON: I thought I understood you to say
13 earlier that your best guess was that a rule-making proceed-
14 ing would take two to three years?

15 Would that run from the time DOE came to the
16 Commission with a request for rule-making? From that time
17 you think it would likely take two to three years to issue
18 a final ruling?

19 MR. MILLER: Yes, and the reason why I say that
20 is because it won't be like we'll be hitting -- as Ben said
21 just a moment ago, we will have already cycled that issue
22 through this informal process.

23 MR. BOYLE: The two to three years, that would
24 assume an informal hearing, or something more detailed?

25 That doesn't assume a hearing; that would be

whd-24

1 putting out a proposed rule, I believe a 90-day comment
2 period on the proposed rule, and then putting out a final
3 rule.
4 MR. DENNISON: Okay; so then even if there were
5 an informal notice and comment type hearing, that would slow
6 the process down somewhat further?
7 MR. BOYLE: You say "if there were"?
8 MR. DENNISON: If there were any type of a hearing
9 then, not merely an adjudicatory hearing, but even an
10 informal hearing.
11 MR. BOYLE: I'm not sure it would necessarily
12 slow it down substantially. It has the potential of slowing
13 it down, but just because there's a hearing, I don't think
14 you could assume that those schedules would have to be
15 expanded.
16 MR. WOLF: It's theoretically possible, if all
17 the homework has been done, at open meetings and so forth,
18 and it's expected that what you're going to be doing is
19 documenting something that's well understood, it could go
20 quickly. Really, it's become a non-controversial item,
21 and that may be overoptimistic.
22 MR. BOYLE: Does any of it ever go quicker?
23 MR. ALEXANDER: What about closing out on some
24 of the definitions that have been plaguing us all, like the
25 edge of the engineered barriers system, disturbed zone that

whd-25

1 Hub brought up earlier.

2 MR. WOLF: Those are kinds of things that are

3 possible to consider in this context.

4 MR. MILLER: I think it's important to recognize

5 that there's a heck of a lot that went behind those defini-

6 tions; there was an extensive rule-making process that led

7 to those.

8 And there is inherent ambiguity in a lot of those

9 terms. I don't think we should tackle any of those again

10 until there is good confidence that you can come up with

11 something better.

12 But yes, those are good things to talk about. As

13 you struggle through site characterization and learn more

14 about how, in the practical sense, these things would be

15 applied, and would have to be applied, I think with that

16 as background, I think it might be possible.

17 We have in this process already plans -- I think

18 you understand -- for staff technical positions on almost

19 every important point in the rule. We've issued a number

20 of these; in fact, one on the "disturbed zone," we plan

21 to issue within the year.

22 So if we think about this as a multi-tiered pro-

23 cess here, I think you'd have to consider building on one

24 of those technical positions.

25 MR. STEIN: But they don't represent a legal

whd-26

1 position.

2 MR. MILLER: That's correct.

3 MR. STEIN: So that the issue could come up again

4 from essentially the beginning, during the licensing process.

5 MR. MILLER: Yeah, that's true, but the one thing

6 that I think we've got to ,keep in mind is that, you know,

7 if you take that argument to the extreme, you could argue

8 that it really doesn't pay at all tobe going through this

9 process. I know you're not suggesting that, but I think

10 some people do draw the conclusion from the statement that

11 this process -- informal process, up to the point before

12 rule-making, you're not buying anything from a legal point

13 of view, but you're very definitely buying a whole lot.

14 In fact, you can't even think of going through a

15 hearing process, or through an NRC licensing review without

16 this early pre-licensing consultation process. It's a must,

17 and I think you buy hopefully a lot by the way we're proceed-

18 ing, by making our technical positions so widely available,

19 trying to get peer groups to comment on what we're doing,

20 actively -- not passively, but actively -- trying to get

21 involvement on these issues.

22 MR. CAMERON: One thing you have to keep in mind

23 in regard to that point also is that the technical basis

24 on which the staff technical position is based is going to

25 be the same information that would be introduced at hearing,

whd-27

1 if that particular point is disputed, to back it up.

2 So in a sense it does have some merit, some valid-
3 ity behind it; it's not like it's just a worthless exercise.
4 It's the point that-we're trying to make, that your tech-
5 nical approach is always open to challenge at the hearing
6 unless it's been closed down through a rule-making in
7 advance.

8 And it may well be that most of the issues that
9 we're dealing with are going to have to wait until we go to
10 hearing to be litigated, but we thought that it might be
11 useful for you to at least think, if there were any issues
12 that might be amenable to rule-makihg, that would make the
13 hearing process go more efficiently.'

14 MR. STEIN: The staff technical positions that
15 we have seen so far have been very helpful, and I want to
16 make sure that we all understand that, and that the question
17 that I had merely related to the -- how legal is that posi-
18 tion in the licensing process, and I do appreciate the
19 feedback that you make on those positions. Very helpful.

End T1A

Bdgn T1B

20 MR. HYDE: Okay; the way I interpreted that, and
21 maybe I'm not interpreting it right, was that you were
22 suggesting the -- that there's a winnowing process that
23 could be used to identify issues that are really appropriate
24 for rule-making, and possibly to develop the groundwork that
25 would make the rule-making process more workable, to actually

whd-28

1 resolving an issue, that would be to work up discussions
2 between DOE and NRC, and then development of staff technical
3 positions, et cetera, just to walk through that chart.
4 Is that what you had in mind?
5 MR. MILLER: Well, yes, in a sense, but I think
6 the criteria are very easily stated, and that is that you've
7 got to -- it seemed to us -- pick an issue that was import-
8 ant enough, that you thought would be sufficientliy conten-
9 tious or very disruptive in a hearing if you didn't close
10 out the rule-making, weigh that against the costs that you
11 would incur -- of course, we would incur some also -- of
12 going through rule-making, and that's about the only guide
13 that I can think of using in a winnowing process.
14 Maybe a lot of the issues are so bound up in the
15 overall decision on the performance of the repository that
16 the Department just concludes it can not move on that par-
17 ticular issue, so it might be that you'll be going to rule-
18 making on less important issues than those that will be
19 raised in the hearing, but some sense of importance, it
20 would seem to me, would have to be associated with anything
21 that you would want to try to go to rule-making on.
22 That's about the only criteria I can think of
23 here.
24 MR. STEIN: The question that I have on the staff
25 technical positions: have you ever thought about taking the

whd-29

1 staff technical positions to rule-making?

2 MR. MILLER: Well, I think that's what I've been
3 trying to say here, is that yes, we would take a number of
4 those issues. Those would be the kinds of things that we
5 would probably take to rule-making, things that fall in
6 the area of clarification on the ruling.

7 Things that I talked about earlier -- that is, if
8 you want to dispose of a specific issue at a specific site,
9 I think that's something that you folks have to take the
10 initiative on.

11 But let me repeat that I don't think we can go to
12 rule-making on any of these unless we've gone through this
13 earlier process, which involves having ventilated the issue
14 through these informal technical positions processes.

15 One of the things I should point out again about
16 the value of the process up even before rule-making is
17 that judgments have got to be made by the Hearing Board and
18 the -- in the hearing, and if there's a clear record of
19 many years of open comment, and progress on development of
20 these staff technical positions, I think they do count for
21 something, and they do help the Hearing Board make a decision
22 that yes, that is enough information.

23 These guys went through a process of developing
24 a staff position on that, and widely circulating it for
25 comment, and there were no major disagreements, or there

whd-30

1 were no issues that weren't resolved in some manner or
2 another, and in the development of technical positions,
3 that's got to count for something.
4 MR. HEAD: Okay; one specific point that we
5 haven't covered yet is specifically, how would we start
6 rule-making on an issue if we wanted to? Do we simply write
7 you a letter saying:
8 "Here's the issue we'd like to take to rule-making,"
9 and let's go?
10 MR. WOLF: Well, it can be done a couple of differ-
11 ent ways, and most productively and likely, it would evolve
12 out of the discussions between the staffs that would per-
13 suade us as well as you that it's an appropriate topic as
14 to which NRC is likely to feel that the expenditure of its
15 own funds --
16 MR. HEAD: I'm really assuming that we've some-
17 how done that, but we've settled the issue, and just really
18 the procedural question.
19 MR. WOLF: I think it's likely in that case that
20 we would probably run with the ball without anything fur-
21 ther; that's at least one very feasible scenario.
22 The other scenario is that you would take the
23 initiative and be more formal, and in effect submit a peti-
24 tion for rule-making.
25 But that's -- it's something that the respective

whd-31

1 staffs think is something that's worthwhile doing, and I
2 don't think there is any -- we might, for purposes of the
3 record, we might want to have it documented on your part
4 what it is that you'd like to accomplish.
5 We might do it in a way in which it gets the label
6 of a petition for rule-making, or we might rather say:
7 "Well, here's the information we've received from
8 DOE, and the staff believes it's appropriate for..."
9 I don't think we can cut across that bridge precisely as
10 to what the rubric would be at this point, but there are a
11 variety of mechanisms, and I don't think it has to be a
12 highly formal thing.
13 There might be cases in which we'll want to do it.
14 MR. HEAD: All right. I'd like to move on to the
15 next question that we asked NRC; it concerns the construc-
16 tion authorization application, and the question itself is
17 rather lengthy. Rather than read the whole thing, I'll
18 just paraphrase it briefly to say that:
19 "Comments that NRC has made to the Department,
20 both on the working draft Mission Plan in December of '83,
21 and in our more recent formal draft Mission Plan, questioned
22 the process that we were expecting to go through in licens-
23 ing.
24 We had been using the term 'construction authoriza-
25 tion application' and had in fact been considering a process

whd-32

1 where you would first go in for a construction authorization
2 application and later make a license application, and NRC
3 comments pointed out to us that that's not the way 10 CFR 60
4 reads right now.
5 Our questions related to whether you have con-
6 sidered other licensing processes which might serve to get
7 the job done more expeditiously, and how you would view
8 the potential pursuit of a licensing process that would be
9 more streamlined?"
10 MR. MILLER: Well, I think that the Commission
11 thinks that the rule-making proces -- or, the licensing
12 review process and the licensing process as it's laid out
13 in Par 60 is in fact the most efficient way to proceed.
14 And I think if you look at the kind of things that
15 went wrong in reactor licensing, it was that, in part,
16 things weren't complete before the Commission did some of
17 its licensing -- designs, in some cases, and I think that
18 the concept of Part 60 is very simple; it is that prior to
19 making the large commitments that are made when you start
20 to construct a facility like a repository, findings about
21 the reasonable assurance that the repository at that site
22 is not going to endanger public health and safety ought to
23 be made prior to making those commitments.
24 I think the law endorses that same concept, of
25 a construction authorization, a hearing and a decision

whd-33

1 before you make commitments to a site.

2 Now, we don't know of any viable alternative to
3 the process laid out by Part 60; you can imagine feeding
4 less than a full design in at the time, or submitting less
5 than what's needed to make that -- or less than a full
6 design at the time of the license application, construc-
7 tion authorization, but almost any scheme that you can con-
8 ceive of that tends to shortcut will really, in the long-run,
9 get you behind. Because you'll try to go through a licens-
10 ing proceeding piecemealing the thing.

11 MR. STEIN: It might be helpful to us if you
12 could describe te process a little bit more fully. In the
13 approach that we were planning, we had looked at it as a
14 two-step process, with a construction authorization applica-
15 tion, and then followed some time later on, before we actu-
16 ally started up the facility, to submit an application for
17 a license, to receive and possess the material.

18 What I'm trying to understand is what are the
19 implications of going forward with a license application
20 right at the beginning? What is NRC's viewpoint as to the
21 requirements when we submit our license application ini-
22 tially?

23 How much information is it that you believe might
24 be needed at that point? And what would we receive from
25 you? An authorization to initiate construction? What would

whd-34

1 happen later on?

2 In other words, I'm looking for some information

3 as to just what the process is as you see it; looking back

4 through 10 CFR 60 really wasn't all that clear to me, even

5 looking at 10 CFR Part 2, it still wasn't quite clear what

6 you had in mind.

7 MR. MILLER: Well, let me ask Jim and Chip to

8 help me out on this, but I think first of all it's important

9 to say that our comment on the Mission Plan, I think, was

10 best characterized as pointing out an important technical-

11 ity; that is, we didn'tsee that the description of the

12 licensing processes presented in the Mission Plan, the sub-

13 stance of it, was flawed, and I think it had more to do with

14 the fact that technically speaking, Part 60 -- I'm not cer-

15 tain of the section -- but it calls for a license applica-

16 tion, and I think you had called it a "construction author-

17 ization request," or something like that.

18 Isn't that fair to say?

19 MR. CAMERON: Yeah; maybe I could give you a

20 little bit of the history and Jim could chime in with some

21 additions on it.

22 Our licensing framework in 10 CFR 60 is based

23 on Section 202 of the Energy Reorganization Act, of course,

24 and on our nuclear materials licensing authority in the

25 Atomic Energy Act.

whd-35±

1 The Atomic Energy Act did not explicitly provide
2 for a two-step process for materials licensing as it did for
3 reactors; in other words, come in and get a construction
4 permit, okay, which is a license, and then come in for your
5 operating license.
6 The Commission provided for a construction author-
7 ization in 10 CFR Part 60, so that we could make a complete
8 safety and environmental review before DOE expended a lot
9 of resources on a particular site, and the history of this
10 is pretty well laid out in the development of the procedural
11 provisions of 10 CFR Part 60.
12 Although the Act, as you pointed out in your
13 letter, talks about construction authorization application,
14 there is no explicit Congressional intent to set up a two-
15 step process such as there is in reactor licensing. So
16 what we have now, under 10 CFR Part 60 is that you file a
17 license application.
18 As a first step, the Commission will look at the
19 information that was developed in site characterization,
20 which we feel has to develop the information needed to make
21 the findings to grant the construction authorization.
22 If those findings can be made, if the Commission
23 has reasonable assurance, then we will authorize construc-
24 tion on the repository, with a license to issue later on
25 to receive and possess waste at tne repository, and we

whd-36

1 haven't considered changing that basic licensing framework,
2 because we do feel that it's the most efficient way, with
3 maximum protection to public health and safety, that we
4 can come up with at this time.
5 Jim, do you want to answer anything?
6 MR. WOLF: Only one other thought about it, and
7 that is, the precise issue that I think you've raised is
8 that we have to put everything conceivable in this package
9 initially.
10 It was raised at the time that our procedural
11 amendments were published, and the Commission response, I
12 think, is worth perhaps reading. It referred to a provision
13 in 60.24, I think, which says it must be as complete as
14 is reasonably possible at the time of documenting, or words
15 to that effect.
16 Well, that was intended, at least in my judgment,
17 to convey to you that if a particular element of informa-
18 tion clearly has no bearing upon a reasonable person's
19 being able to arrive at a judgment early on, that through-
20 out the long history of the facility the matter is clearly
21 in hand and can be accomodated in a detailed design, or what
22 have you, so that it really -- reasonable people wouldn't
23 need to know that information in evaluating safety over
24 the entire process, then an argument can be made that it's
25 not reasonably possible to produce it, or at least it wouldn't

whd-37

1 be so important to produce it, and it wouldn't be critical
2 at the construction authorization stage.
3 There are a lot of "if's" in what I've said, and
4 I don't want to convey the meaning that I'm saying: well,
5 you know, disregard it. But, the important point is that
6 it can be disregarded because it is a "no-never mind" for
7 any reasonable person's evaluation of safety implications
8 with respect to any part of the process.
9 The other thing that is conveyed in the same set
10 of words, "reasonably possible," is if you've got a long-
11 term performance confirmation program going on, and you are
12 on a plateau of information and the incremental information
13 is not expected to -- is not likely to change what you
14 already know, but is nevertheless important to obtain in
15 order to verify what you think you know, you can make the
16 argument that it's not reasonably possible to include it in
17 the license application prior to construction authorization
18 because it's going to take you five to ten years to get it.
19 And it's not practical to have it within the sense of the
20 program as it's developed.
21 So those are a couple of additional concepts that
22 go into what is necessary, but the important thing is that
23 the Commission has stated what it needs to know before author-
24 izing construction; it needs to know a helluva lot to be
25 able to make findings of reasonable assurance with respect

whd-38± 1 to the waste isolation and safety aspects of this facility
2 over the long-term, and whatever is reasonably possible for
3 you to put in that bears upon those findings should be.
4 MR. MILLER: There are two distinct parts to this
5 question, really. There's one question of what will it take
6 to resolve the specific comment that we made on your use
7 of "construction authorization application" as opposed to
8 "license application," and I think that one should be easily
9 disposed of by, I think in the way we suggested in our com-
10 ment, which was to perhaps even footnote one time in the
11 Mission Plan the difference between what's in Part 60 and
12 what's in the law, and then adopt one way of talking about
13 it or another throughout the rest of the Mission Plan, and
14 I think that would resolve the legal question that was
15 raised in our comment.
16 But the more important question, the more diffi-
17 cult question, of course, is: what do you have to have in
18 the license application? How much is enough? You know,
19 that old question.
20 And I like to think -- describe our activities
21 during this pre-licensing consultation period as aimed at
22 no other question than that one, and that is that we're
23 scoping the license application.
24 Some of the points that Jim was getting into, we
25 had a fair amount of discussion in our last meeting on the

whd-39

1 Mission Plan. There are some points that we can make about
2 how far along in the site investigation process we think
3 you're going to need to be before you do submit a license
4 application, because as you note in your questions, you will
5 continue to gather information as you construct the facility.
6 In other words, we're not going to have 100% cert-
7 ainty at the time of license application. We could go into
8 that discussion, and we have some of the same charts we
9 had last time, which convey this threshold, if you will, or
10 what we think is the threshold for license application, but
11 that's up to you.
12 MR. STEIN: You say you have that information
13 with you? Charts? That you can present the information on
14 viewgraphs?
15 MR. MILLER: Okay. This is the discussion we
16 had last time, and I'm not sure if all of you were present
17 for that.
18 If you want, we can take a few minutes to do
19 that.
20 MR. RHODERICK: I'd like to address Jim's comment
21 about the level of information and using what the rule says
22 about other information not being completed.
23 The section that you referenced was a section
24 that deals with the updated application, and I think that's
25 where the confusion has really come. We looked at the

whd-40

1 updated application part of the rule, and it still identifies
2 that there will be outstanding issues even at the license
3 to receive and emplace, and now it seems that the construc-
4 tion authorization application will need to address that
5 instead of addressing it at the license to receive and
6 emplace waste.
7 MR. MILLER: I think the rule is written the way
8 it is, multi-stages in the licensing process, because it's
9 recognized by everybody that even as you close the reposi-
10 tory, there's going to be some uncertainty, and that all
11 of the things that you're doing during this time leading up
12 to closure are of course improving your understanding of the
13 site, reducing those uncertainties.
14 But I think the way to look at it, maybe, is the
15 thing to look at in the slide we used last time to try to
16 convey -- this is a chart which intends to show how the
17 uncertainties about repository performance will vary over
18 time.
19 And what it shows is that as you proceed through
20 site characterization, through construction, through even
21 a performance confirmation program that we go on even as
22 we go through the licensing review, through the operation
23 of the repository, that our level of the uncertainties will
24 be reduced at a continuing rate.
25 Now, we would like to think that after a sufficient

whd-41±

1 period of site characterization, you will begin to reach a
2 point of diminishing returns. You will have reached a
3 point where you can make, after you've constructed the
4 shaft and gotten down to the horizon where you would want
5 to put the waste, it's our belief that from the technical
6 point of view you can argue you will reach a point where
7 further investigations are only going to make a marginal
8 dent in your understanding.
9 Our feeling is: you can not be on the steep part
10 of that curve when you submit a license application. If
11 you do, you're asking for trouble; it's only going to be a
12 more difficult licensing than an easier one.
13 However, I think the break-point, as is shown
14 there where the line kind of plateaus again, is at the
15 point of license application. We would expect that you
16 will learn more later, but not the same rate as during site
17 characterization. At operating license time you'll know
18 more.
19 MR. STEIN: So it looks like there is a very high
20 percentage of information that would be available to you at
21 the time of license application from your point of view?
22 I mean, the way I look at that, that looks like
23 there is hardly anything between LA and Operating License.
24 MR. MILLER: You can draw a new curve; this curve
25 is only intended to demonstrate a concept. I would not say

whd-43

1 very high, because I don't know what "very high" is.

2 MR. STEIN: I'm picking up on what you said when

3 you talked about the steep part of the curve. You said you

4 would expect us to be off of the steep part of the curve.

5 And yet if the curve is tracking in a straight line, and

6 you have information that says that all you're doing is

7 extrapolating information, you don't expect any surprises;

8 it seems like you could still be on the steep part of the

9 curve and demonstrate reasonable compliance with 10 CFR

10 Part 60.

11 MR. MILLER: I don't think that it's hard to argue

12 that before you start to construct the shaft, before you

13 begin detailed site characterization on the site, even

14 though you are gathering data, you are not making a big

15 dent in your understanding of the site.

16 During site characterization, when you construct

17 the shaft, the folks who look at this from the technical

18 point of view, mining people, the geologists, say, I think,

19 you can look into it and it holds up, that you are making a

20 substantial dent in your understanding of the site, and in

21 fact, that's short of this line, and I would not character-

22 ize that line as a -- as high or low; it's what we think

23 of as adequate or necessary to make reasonable assurances.

24 But until you do that work, you're left with very

25 profound uncertainties about the performance. You can not

whd-44

1 proceed to the point where you can reasonably make findings.
2 You can't make a reasonable assurance then.
3 Now, whether this is oriented more that way,
4 Ralph, or what way, I can't say. But most technical people
5 say -- people we've had working at the site, say that the
6 general shape of the curve will be like this. It's what
7 leads us to -- what led us several years ago to, under most
8 cases, require a shaft during site characterization.
9 I think the only way to put the answer to the
10 question that you -- if you're asking a general question as
11 to how much is needed, there is only a general answer that
12 we can give. And that's the general -answer.
13 Now, you've got to take that, and you've got to
14 look at a specific site, and you've got to look at specific
15 issues and you've got to ask how much specific kinds of
16 testing would meet that test, and that's the process we'll
17 be going through.
18 MR. STEIN: It appears pretty subjective to me,
19 when you look at it. Is that a fair statement?
20 MR. MILLER: In the abstract, yes, Ralph. But
21 when you look at specific issues at specific sites, I don't
22 think it is so much up for grabs. And I think there's a --
23 MR. ALEXANDER: Can you use a concrete example of
24 one of these issues, that might show us where we'll reach
25 sufficient understanding that we could go into licensing?

whd-45

1 MR. COPLER: What he's saying is that you show a
2 curve, and you show the steep part of the curve, and then
3 it levels off at the top, and at what point on a particular
4 issue might we have enough information so that we are at the
5 -- I don't know if you could answer that.
6 MR. MILLER: That's an impossible question to
7 answer in the abstract. I think you've got to look at a
8 specific issue, and you've got to look at how it relates to
9 overall performance, and meeting the EPA standard and the
10 other performance objectives of Part 60, and you've got to
11 do the perfornance assessment that you know have got to be
12 performed, and you have got to approach it from that point
13 of view.
14 And there's no way to give an answer here. I
15 think the point is that the technical people, the mining
16 people, you know, who make it a business of developing under-
17 ground, have repeatedly said for the past two or three years
18 that unless you get underground, you're just not going to
19 have the information you need to make a reasonable assurance
20 finding.
21 That's judgmental, but I think it's backed up by
22 -- you know, quite a bit of technical experience.
23 Some of these issues may come to the top earlier;
24 they may come to -- they may ripen earlier than the point
25 where you'll have all of the things you need to make an

wd-46±

1 overall assessment against Part 60.

2 So Don, there might be some narrower issues; I
3 don't know that you can make a case on beforehand. We were
4 talking about that earlier.

5 But I guess it's easy to ask, and in a sense, it's
6 easier to answer the question: how much information is needed
7 for licensing. There's the general answer, and there's not
8 a whole lot more we can say.

9 MR. PURPLE: Could I ger some clarification on the
10 procedural part again? I'm not sure that I really do under-
11 stand.

12 MR. STEIN: Would you introduce yourself, please?

13 MR. PURPLE: Yes; I'm Bob Purple, from the Program
14 Integration Division.

15 Part 60 procedural system is as it's now in exist-
16 ence, and we have no plans to be changing that with respect
17 to the application, and the findings and all that. I think
18 I heard you say that.

19 If I understand what I read in Part 60, we make
20 one application, and only one application. You take two
21 actions out of that application, one of which is that you
22 issue an authorization to construct the facility, and later
23 on we update that application and on the basis of that up-
24 date -- three, four, five, six years later or whenever it
25 is, you issue then a operating license, or you issue some

whd-47

1 thing that authorizes us to possess and store fuel?

2 Everybody is nodding their heads. So that's it;

3 we make one application, you do two things on it; we do

4 update the application before you do the second thing.

5 Could you speak a little bit to hearings? Will

6 there be hearings at both stages of your actions, or only a

7 hearing at the first stage, and if there are two hearings,

8 what's the scope of the first hearing? Will that exclude

9 the things that deal with operation, or -- I don't remember

10 seeing much of that.

11 MR. MILLER: There's a mandatory hearing for the

12 construction authorization, and the scope of that is basic-

13 ally what is identified in Part 60, and I can't, in a general

14 way describe it; there are specific findings that have to

15 be made.

16 There is not a mandatory hearing for the second

17 stage; that is, for the actual license, the decision on the

18 operation.

19 But there is, of course, the opportunity to peti-

20 tion for a hearing.

21 MR. PURPLE: That's a parallel with operating

22 reactors.

23 MR. MILLER: I think that's right. That's right.

24 MR. PURPLE: Where you don't have to have a hear-

25 ing at the second unless there's an intervention, but if

whd-48±

1 you do have intervention you do hold a hearing.

2 MR. MILLER: Yes, and I think that while we're

3 trying to emphasize that it's important to recognize that

4 that license application for construction authorization has

5 to be completed. If it's not complete, then hearings are

6 going to go very badly; the licensing review is going to go

7 badly.

8 While saying that, there are some things that we

9 recognize will likely be available in more detail, and not

10 submitted until the second stage, but they will not be any-

11 thing that would be reasonably needed to make a fxnding

12 about suitability of the site and the design to perform and

13 meet EPA performance objectives.

14 There are a lot of things you might argue that

15 have to do with details of operation, and allow for occupa-

16 tional safety, and things like that, which will be within

17 the purview of the NRC in its reviews, but are more detailed

18 than what will be needed to make that first finding.

19 And I think that we have always said, when asked

20 the question:

21 "Well, what does that mean specifically?"

22 and particularly with respect to design:

23 "How much design? Is Title I, Title II enough?

24 Well, what do you need?"

25 You have to look systematically at the performance

whd-49

1 objectives of Part 60, and specifically at those findings
2 that have to be made, and you have to answer the question
3 "Yes" or "No" over and over again, as you look at each
4 aspect of the design. Is it needed to make that finding, or
5 isn't it?
6 And as you can rationalize and justify, not includ-
7 ing certain details. You know, using that question, you
8 don't have to add -- you don't have to provide in the license
9 application that detail.
10 And I think our position has always been also
11 that our technical people always stand ready to take up
12 specific cases with you, walk through your Title I designs,
13 or whatever you're talking about having available at the
14 time you submit a license application, and answer the ques-
15 tion along with you, at least take a position on that.
16 So you can't talk about a difference in the kind
17 of information, but you've got to look at the specific
18 findings that are made at that stage in order to determine
19 what that means specifically in terms of content.
20 I guess there is even an opportunity to have a
21 hearing at the time of final Commission action, which is
22 to grant closure.
23 MR. CAMERON: Which would be done through a license
24 amendment.
25 MR. MILLER: That's correct.

1 MR. WOLF: Another chance at license termination.

2 MR. MILLER: That's right.

3 MR. PURPLE: But it was clear as it was described,
4 and as Part 60 was formulated, that the NRC was heading
5 more toward a one-step licensing on this licensing than it
6 does on nuclear powerplants; is that not so? I mean, the
7 expectation is that you'd have essentially gone over designs
8 of everything there, and that it would only be a very
9 limited scope of issues expected to be present at the time
10 we update the application to get the permit.

11 I mean, it's not as if you're approving -- "Yes,
12 we will follow your criteria." Type CP application.

13 MR.MILLER: No, that's a mistake we don't want
14 to make.

15 MR. PURPLE: Yeah; the intent I'm gathering, the
16 general approach was: let's try to get as close to a one-
17 step licensing process on this procedure as we can, recog-
18 nizing that you really do have to come back and take a look
19 at it before you actually let us put fuel in the ground.

20 MR. MILLER: That's correct, but I think if you
21 -- it's all relative, I suppose; if you look at the MRS,
22 which in fact A-1, what the folks who are responsible for
23 licensing the MRS have developed is a procedure that is
24 much like the procedure for licensing spent fuel storage
25 facilities, and that is in fact a one-step process.

1 There you don't have the same kind of a project
2 as you do with a repository; it's a more conventional tech-
3 nology, and the site issues won't be nearly the same as
4 they are for the repository.
5 So for the MRS, the idea is to have a truly one-
6 step process, with everything complete. The repository, I
7 think you have to recognize, or we would recognize, that
8 there would be some things that you would even learn during
9 construction of the repository itself which would cause
10 those designs, details of designs to be changing as you went
11 from the construction authorization to the last stage.
12 MR. PURPLE: Is there any distinction made in Part
13 60 to the surface facilities of the repository which them-
14 selves look more like an MRS? Are they separated out and
15 could be one-step, or is it not that clean?
16 MR. MILLER: The way it would proceed by Part 60
17 is that there would still be the same two-step process.
18 Now, I think that for the most part, since the
19 surface facility is conventional technology, I think most
20 of the licensing review would focus on the underground --
End T1B 21 performance of the underground facility.
Bgn T2A 22 One additional point I would make, and I would
23 propose to go through the other points that we talked
24 through in the last meeing, but we did take some time, and
25 I would urge people to read the transcript of the last

1 meeting and look at the slides that we showed, but we did
2 take about 15 or 20 minutes and we walked through some dia-
3 grams showing the various scales that we thought were going
4 to have to be characterized during site characterization --
5 the far field, and then the near field; what you were
6 expecting to be done in the in situ test facility, for
7 example, and there was a fairly lengthy discussion there,
8 and there were some diagrams which attempted to address
9 questions like how much non-invasive techniques as compared
10 to invasive techniques --
11 MR. STEIN: At what meeting was that, specifically?
12 There wasn't -- the last meeting was a Q-A meeting.
13 MR. MILLER: We held a meeting, Bill Bennett and
14 me --
15 MR. STEIN: Oh, you're talking about the last
16 Mission Plan meeting.
17 MR. MILLER: Yeah, the last Mission Plan meeting.
18 MR. SEEIN: I see; okay. Fine.
19 MR. MILLER: And there's a transcript of that
20 meeting also; I'm not sure of the date of that.
21 But I think there was a fair amount of discussion
22 there, and a fair amount of detail; we went into more than
23 we've attempted to here, to answer the question of how much
24 is going to be enough.
25 That was April 11th, was the date of that meeting.

1 MR. HEAD: Ralph was just pointing out that
2 especially in this discussion in this last question, you
3 have used some slides, which of course don't show up on
4 these tapes. If you could get copies of those to the
5 gentleman who's making our transcript, then we can try to
6 get those into the record.
7 All right. I think we're ready to move on to the
8 next question. And it relates to several specific comments
9 primarily about details of the site characterization process,
10 which we consider to be more appropriately addressed in
11 site characterization plans, and several examples are given,
12 so the specific question to NRC is whether NRC expects DOE
13 to address all of those items such as these represent in
14 the Mission Plan, or is it sufficient to just put them in
15 the site characterization plan?
16 MR. MILLER: We commented on those details that
17 were provided in the Mission Plan. It was our feeling that
18 some of that information didn't have to be there, but where
19 it was there, we did choose to make comment on it.
20 I think your -- it was wrong to infer by our
21 making those comments that we think that it's needed in the
22 Mission Plan. As we talked earlier, a lot of what was in
23 the Mission Plan can be in the SCP's, and it's just that
24 when the detail was provided, we -- the staff took to comment-
25 ing asking questions on it.

whd-d4

1 It was not our idea that you had to resolve that
2 in the Mission Plan itself; it's just that --
3 MR. HEAD: So for comment resolution, if we speci-
4 fically pointed out that this information would be provided
5 in the site characterization plan, that would be considered
6 satisfactory?
7 MR. MILLER: Yes.
8 MR. HEAD: All right. Okay, let's move on down
9 to Item 5 in our series of points to NRC.
10 And this is an area which is a little bit differ-
11 ent than the questions that we had asked earlier; specific-
12 ally we had stated that we would discuss with you how we
13 are handling a couple of points that you raised in comments,
14 and see if you have any further problems with the way we're
15 approaching the issues.
16 In Item 5, we brought up quality assurance, and
17 also the question of how to allocate performance goals for
18 repository systems components, and I'd like to just take
19 those in order.
20 Relative to quality assurance, the discussion in
21 the Mission Plan is being substantially expanded; the prob-
22 lem, of course, when we put out the earlier draft Mission
23 Plans was that our own internal Q-A organization was in an
24 early state, and we've been getting our act together sub-
25 stantially since then.

whd-55

1 Gene Langston, who was here earlier -- I guess
2 he's left by now -- is writing a comprehensive description
3 of our QA program for incorporation into the Mission Plan,
4 including discussions of the various levels of QA plans,
5 the organizational structure, and type of procedures that
6 we either have in place or will be putting in place.
7 Nevertheless, I believe that the real operative
8 reaction to your comments is going on in the series of
9 pre-licensing discussions that we have started with NRC
10 in the last week, and that will be being conducted through
11 the next years. Because it's through that process that
12 you're really going to be able to see how the QA program
13 functions.
14 And I guess I'm curious to know what your reac-
15 tion to that approach is.
16 MR. MILLER: Well, it sounds reasonable on its
17 face, and we have to -- we will, I'm certain, review and
18 comment, if need be, on what's written in this substantially
19 expanded section, as you refer to it.
20 But I think we agree that it's necessary to get
21 down to details to resolve even the general principle --
22 in general principle, what's needed for the license appli-
23 cation, and that's what you have to do only through the
24 kinds of visits that are going on.
25 I think we're going to continue to point out --

1 look at quality qssurance; I think it's one of your biggest
2 challenges on the repository, of how do you get into the
3 hearing and be able to demonstrate, have the paper to show
4 -- prove that the quality of the data is what you in fact
5 assert that it is.
6 MR. HEAD: Okay; that's really all I had to say
7 about quality assurance.
8 I'd like Don Alexander to take the next point
9 concerning perfoamcne goals.
10 MR. ALEXANDER: I'd like to open by stating that
11 the allocation of performance to the components of the
12 repository system represents a very important step in focus-
13 ing design efforts and keeping the amount of testing during
14 the site characterization to a tractable level.
15 As many of us know, a whole host of terms have
16 been used in connection with performance allocation of
17 engineering system components, including performance goals
18 and functional criteria, design targets, and design goals.
19 In order to reduce this confusion in terminology,
20 and to develop a coherent approach for the allocation of
21 performance, DOE agreed to consider the development of a
22 position on performance allocation during discussions on
23 November 21st, with the NRC on the draft generic technical
24 position on license assessment methodology.
25 Since then we've been developing this position

WHD_57

with our repository projects, and we intend to reach closure on approach in January or early February.

The approach would be incorporated in an annotated SCP outline which will be discussing with you some time possiblly as early as next month.

In the Mission Plan we feel we can identify what repository components we intend to emphasize for achieving compliance on a site-specific basis.

In the SCP we'll provide our approach for allocating performance, and it would involve first setting tentative performance goals, then collecting the data and developing the models, and developing the scenarios which would be used in an iterative fashion between testing and performance assessment to refine our allocations.

This iterative process will ultimately result in final allocations which will be reported in the construction authorization application.

That's basically my position at the moment. It's kind of an on-going discussion that we have with the NRC staff.

MR. MILLER: I think it's important that what you said there was that you were in fact counting on setting tentative goals in the SCP at that time, and I think that's important.

MR. STEIN: That is our plan, and Don, I think

1 gave you a pretty concise but accurate description of our
2 program to do that.
3 We hope that our first interaction with you on
4 this subject will occur when we talk about the annotated
5 outline for the SCP. At the present time we're expecting
6 to do that near the end of January.
7 MR. HEAD: All right; if we're finished with this
8 one, then I'd like to go on to Item No. 6, which was a
9 briefing by DOE on our efforts to identify the level of
10 information on design necessary for the site characteriza-
11 tion plans, and Mark Frei will discuss that issue.
12 MR. FREI: This responds to your Objection 3 in
13 your comment letter. Let me just give you the status of
14 where we are.
15 On this particular item, along with performance
16 allocation, we intend to close with you as we discuss the
17 annotated outline for site characterization plans. And let
18 me just kind of tell you where we are and the process we've
19 gone through.
20 I discussed with Seth Copler many months ago a
21 process where we were trying to identify the level and
22 the kinds of detail we wanted in conceptual design in the
23 SCP.
24 Basically, the process that we've gone through
25 is using the requirements of the Act in 10 CFR 60, the

1 content that's in 417, as it initially was in the draft, in
2 the latest version, the technical position on design informa-
3 tion requirements -- again the early draft, and now the
4 draft that came out in September. We used that material
5 and had many discussions through the summer with our pro-
6 jects, on what their intentions were, what their interpre-
7 tations were of the various DOE-NRC positions, and then
8 tried to formulate what we think is the right level of design
9 that belongs in the initial SCP.
10 Again, as Don has said, this -- the level of
11 design and our guidance to the projects, what we anticipate
12 in the SCP, will be covered in the annotated outline that
13 we will set commonly with our projects, and we will discuss
14 that with you, as I understand, Mike, in the late January
15 timeframe, to get the details of what we intend to have in
16 the SCP.
17 I can tell you that basically our approach is
18 based on what the Act says, which is to provide a conceptual
19 repository design that takes into account likely site-
20 specific requirements.
21 Now, this isn't, in our minds, the conceptual
22 design that DOE order calls for. That DOE order -- I
23 think it's 64.10 -- calls for a conceptual design, but you
24 need to have a firm basis for cost estimates, so you can
25 proceed into our Title I design, and so you can set functional

1 criteria from Title I. So it's a different conceptual
2 design in our mind on what we're going to put in the SCP.
3 What we're going to put into the SCP is, in broad
4 terms, is a design description that meets the Act in 60,
5 that gives use-efficient information so you can judge the
6 adequacy of the site characterization program. The numbers
7 of tests, kinds of tests; also so you can determine if our
8 exploratory shaft facilities, repository facilities will
9 or will not compromise suitability of site, in terms of
10 isolation and containment.
11 We won't be at a point where you can take that
12 design information and judge the adequacy of the design it-
13 self. We feel that comes with the construction authoriza-
14 tion process.
15 The other thing which it will allow you to do
16 is, given the data we do have on the sites in the SCP and
17 the EA's, check the adequacy of the design requirements.
18 So basically, you can take that design descrip-
19 tion in the data, see if we're headed the right way in terms
20 of the design, and compare it with the site characterization
21 program, and see if everything meshes.
22 As you yourselves have said in the comment, your
23 comments, that the conceptual design may -- may evolve as
24 data as gathered at the site, and that's kind of the way
25 we're going. We'll have a certain level of a conceptual

1 design in the SCP and then that will evolve over the next
2 couple of years as we learn more about the site.
3 So that's kind of where we are right now, and like
4 I said, we'll get into details once we reach closure with
5 our projects on the annotated outline, and then come forward
6 with that to NRC.
7 MR. MILLER: Thank you. That's a very good
8 summary of what I think we would expect in the SCP. I
9 think, though, one thing that would bear repeating about
10 our comment is that your definitions in your current regula-
11 tions may or may not be sufficient for purposes of our
12 licensing process.
13 There is a lot of confusion that sometimes gets
14 stirred up by people thinking that we require Title I or
15 Title II for the conceptual design we call for in our rule
16 for the SCP, which is the same as what's in your procure-
17 ment regulations, and ---
18 MR. FREI: We are trying to decouple that, and we
19 have got an exercise with the projects in trying to identify
20 what design we need for the CAA, or the license application,
21 to use correct terminology.
22 We'd like to know ourselves, so we can scope out
23 what our AE's need, for example.
24 MR. MILLER: The one question that I think it's
25 important to spend at least a bit of time on, and it's

1 really more a procedural thing than anything else, and
2 while Seth and Regis are here, who are apt to take the lead
3 in working out, I think, with you questions that are going
4 to arise in taking up these annotated outlines, and --
5 what is your plan -- your plan is for January, to have this
6 annotated outline pretty much pulled together, and think
7 about some consultation on it.
8 What is the next step? When is your next dead-
9 line in terms of preparation of the SCP's?
10 Why I'm asking this question is that of course
11 we will be in the midst of reviewing nine -- the EA's, and
12 we will be quite busy during that time. We'd like to try
13 to develop some feeling for when you feel as though you
14 have to get some feedback from us on your outline to keep
15 your schedules.
16 MR. SEEIN: Let me answer that.
17 We have at this point a preliminary draft of the
18 annotated outline; we haven't quite closed on certain
19 issues yet, among the projects and headquarters, and we
20 hope to do that by the middle of January.
21 Projecting ahead, we expect to be able to meet
22 with you, or hope to meet with you, some time at the end
23 of January or early February, and we would like to get
24 feedback from NRC at that point on the scope and content
25 of the annotated outline, because once we reach closure with

1 you, we'll use that document to prepare the SCP'S.

2 So the first feedback from NRC, where we'd like

3 you to review our document and give us some feedback is

4 the end of January to the middle of February, in that time-

5 frame. Once we close on that, then we'll move forward in

6 prepartion of the SCP and probably within a couple of months

7 after that we'll expect to meet with you again to give you

8 a status update and to receive back from you any feedback

9 on the document that we're prepared at that point.

10 MR. MILLER: The reason why it's important to

11 come and map this out is that in our schedule of reviewing

12 the EA's, at the end of January, beginning of February is

13 going to become a crucial time in our internal review

14 process, and the question basically would be that if we

15 can not meet then, is later in February okay, and the thing

16 I'd like to hear you react to is just what's your -- when

17 do you feel as though you've got a -- presume you've got an

18 internal schedule, and your internal schedule says: close

19 out the annotated outline and give instructions to the people

20 who would be preparing these things by a certain date.

21 Maybe you don't want to divulge that, but I think

22 what we're worried about is meeting your -- being responsive

23 but also we're worried a little bit about our own internal

24 review.

25 MR. STEIN: Our schedule is tight on the SCP. We

1 need to have your response on that annotated outline as
2 quickly as possible. We expect it'll take several months
3 of writing to finish up the SCP, at least to be with SCP
4 and go through the process of getting it cleared internally,
5 for internal review prior to issuance.
6 So we need as much time as we can possibly get
7 to prepare that document, and your NRC's review is right
8 on the critical path.
9 MR. MILLER: I assume that the annotated outline
10 is basically adding flesh to what's in the SCP format and
11 content guide, and it's not basically changing the things
12 that are in the format and content guide.
13 MR. STEIN: That's true.
14 We're going to stay with 417.
15 MR. RHODERICK: I think what we'll also be giving
16 you is an outline showing how our annotated outline complies
17 with 4.17 and identify areas where we've moved beyond it.
18 MR. BOYLE: When is it you're going to make that
19 available to us, Ralph?
20 MR. STEIN: We're projecting now by the end of
21 January or first couple of weeks in February.
22 MR. BOYLE: That's when you wanted to meet with
23 us?
24 MR. STEIN: Yes.
25 MR. BOYLE: When are you going to make the outline

1 available to us?

2 MR. STEIN: At that time.

3 MR. BOYLE: At the same time?

4 MR. STEIN: Yes.

5 We'll plan to review it for you at that point,

6 and we'll leave it with you, of course, but we're looking

7 for instant feedback.

8 MR. MILLER: Seth is the main point of contact

9 here on this whole business of trying to work out a total

10 picture of consultation needs, and one of the things that

11 I want to ask him, and then Regis, in this particular

12 issue, to do is to try to work with you to scope out areas;

13 if you can't give us the document ahead of time, at least

14 focus on kinds of things that you'll want to be talking

15 about so that we can make preparations well in advance and

16 make arrangements with the technical people, who will have

17 to, I'm sure, get down into talking specifics with you.

18 So I think that's what Regis was after, is that

19 we need some advance, and then perhaps we can do it without

20 having the document, but I think -- let's try to identify

21 as specific a list of topics and issues as we can, at least

22 a couple of weeks beforehand, if not earlier.

23 And I assume that --

24 MR. STEIN: We ought to be able to do that.

25 Why don't you give us a call, Regis, and we'll be

1 glad to provide you with as much pre-information as I think
2 you need to understand what the scope of it is, the document.
3 Carl Cooley is the lead person on the site charac-
4 terization plan.
5 ± MR. HEAD: Okay. At this point I'd like to deviate
6 briefly from the list of topics that we had in our letter,
7 and bring up a couple of questions that came up subsequent
8 to our sending the letter out, and if you're not prepared
9 to address them, then we quite well understand that, because
10 we didn't in fact put them to you in writing before the
11 meeting.
12 The first question relates to a comment that
13 another Mission Plan commenter made to us, and it pertains
14 to 10 CFR 60, Section 113(a).
15 In that section, the requirements imply that the
16 Commission is going to select the containment period which
17 the interior barrier system has to achieve, and the comment
18 that we received said, in essence, now change the Mission
19 Plan to indicate that DOE won't do anything in this area
20 until NRC comes and tells DOE what the containment period
21 is supposed to be.
22 Now, our interpretation of this requirement is
23 that as for other technical aspects of the repository, it's
24 the Department's job to develop a design which meets the
25 overall performance requirements and present that design

whd-67

1 to the Commission in our license application, and that at
2 that point, in reviewing the license application, the staff
3 of the Commission will determine whether or not we have in
4 fact met the requirements, and that it's through that pro-
5 cess that we would -- that the Commission would be stating
6 what the containment period would be.
7 And I'd like to find out what -- whether you
8 agree with that understanding.
9 MR. MILLER: I think that's essentially correct.
10 I think you have to be looking at, of course, the perform-
11 ance objectives that exist in addition to the overall systems
12 performance objectives.
13 I don't think you were suggesting that you'd kind
14 of ignore that part and just worry about overall perform-
15 ance, and then wherever you come up at the time of licensing
16 is where you come out, in terms of performance of the com-
17 ponents.
18 But the Commission did, in finalizing the rule,
19 add additional flexibility on the components performance
20 objectives, and those are there for you to take advantage
21 of. But you're right; it is the DOE that has the job of
22 proposing what period of years, let's say, the waste package
23 containment requirement for a period of years within the
24 range of, I guess 300 to 1,000, you figure you're going to
25 meet, based upon analysis that shows how the overall

1 repository will perform.

2 And that would be in the license application, and

3 we would pass on it then.

4 MR. CAMERON: I think that's an important refine-

5 ment on what you said, although I think you meant to say

6 what Hub just said; you said something to the effect that

7 the Commission would then decide what specific number of

8 years would be applicable at that point. We would be looking

9 to DOE in the application then to specify.

10 MR. HEAD: All right, and the other point I'd like

11 to bring up relates to the approval of the SCP, and when

12 NRC does that.

13 There were comments that implied that NRC expected

14 to review and approve the SCP before the initiation of

15 shaft sinking, and I understand that that was not actually

16 the intent of -- and I guess we'd like to clarify that point.

17 Could you please do that?

18 MR. MILLER: Yeah. The word "approve" is, of

19 course, the wrong word to use; it suggests some sort of a

20 legal action akin to a licensing action, akin to construc-

21 tion authorization, and of course that is not something that

22 is required by our rules nor by the law.

23 A principle which I think is a very important

24 principle in this pre-licensing consultation and guidance

25 process is the concept of taking up issues before they become

whd-69

1 academic; that is to say, before you go off and do things
2 during site characterization, to identify which issues are
3 essentially on critical path and have some level of consulta-
4 tion before you make commitments to -- to give an example --
5 a certain mode of shaft construction, or a certain type of
6 testing scheme in the shaft that will be constructed during
7 site characterization, because those decisions impact
8 licensing issues, and I would expect that prior to the time
9 that you do proceed with the shaft, that we will, either
10 through the SCP or through the other consultations that are
11 going on, will have at least reviewed with you what your
12 plans are for those things and come to some resolution, at
13 least at staff level, that looks acceptable to us, to avoid
14 situations where you go out and do expensive things and
15 then later have us say it doesn't look good.
16 So you can sort it out into legal, and then what
17 just makes good common sense from an operational or policy
18 point of view. The legal requirement, there isn't one,
19 but as we've talked already, there are a number of issues
20 that are going to be decided even within the next six months
21 or so, if you're going to keep the schedules you're talking
22 about for shaft construction, that probably ought to be
23 taken up and resolved at some level.
24 Which is one of the other things we are going to
25 be working on with you, and that is: what are the specific

whd-70

1 issues and what time do they in fact become on your critical
2 path? Most of them, of course, are associated with your
3 shaft construction, because lead-times for procurement of a
4 contractor and equipment and so on for the shaft are such
5 that you're going to be effectively making decisions well
6 before the time you actually construct or even submit an
7 SCP, and I think we're both in agreement that we would take
8 up those issues prior to the time you actually cement them
9 in effectively in your internal decision-making process.
10 MR. STEIN: Hub, we intend to consult with
11 you prior to the time that the SCP's go out for public com-
12 ment, and hopefully to resolve whatever guidance that you
13 provide us on that consultation process.
14 Following the public review, we will address the
15 comments that pertain to the exploratory shaft, and then our
16 plan is to proceed with the sinking of the shaft as soon
17 as we can satisfactorily resolve the comments pertaining to
18 the exploratory shaft.
19 And we will hope to have sufficient interaction
20 with NRC prior to that time so that whatever issues that
21 we've identified are satisfactorily in hand before we
22 start sinking.
23 Does that sound -- ?
24 MR. MILLER: Yeah, that sounds right. It's not
25 going to be an easy task to identify what those issues are.

1 We sent the letters we've discussed before to you on the
2 kinds of issues we've got with respect to shaft construction
3 we've got those on all of the sites.
4 Seth, again, and Mark Rhodes, who will be working
5 with Seth on this project, will be developing the same kind
6 of thing I would expect you will be developing, and that is
7 a list of specific issues with some sense of about what time
8 we think we ought to be taking them up, because I assume
9 that you'll start at least -- you'll want to operate under
10 the same ground rules for procuring technical assistance
11 that we do, and it takes a long time to put a contract in
12 place, so we expect that you will be cementing specifica-
13 tions on shaft construction well before the time that you
14 even submit an SCP.
15 And in the act of doing that, you are committing
16 yourselves basically to certain things that have licensing
17 significance, whether you blind-bore a shaft or whether you
18 drill or blast a shaft, and we think that it's prudent for
19 us to take that up and document technical positions on
20 those decisions as you make them, as opposed to having the
21 reality or even the perception of you folks making all
22 these decisions and then us kind of passing on it a year
23 later in the SCP.
24 So we suspect -- if it's not just the shaft;
25 there are probably some other things related to your plans

1 for hydrologic testing -- drilling holes, for example. Do
2 you drill with mud or do you drill with air, and those sound
3 like myths, but they have tremendous significance in terms
4 of adequacy and quality of data, and those are things that
5 we think we ought to get on an agenda.
6 MR. FREI: You're saying that the issues that you
7 identified in the letters on the shaft-sinking method, that
8 our responses haven't put those totally to bed, and we
9 can expect some additional interaction?
10 MR. MILLER: Well, we're received one response
11 from Hanford to the letter that was sent out back in January
12 of 1983, and there was response to that but it asked for a
13 lot of -- it was a partial response, and our response to
14 your letter identified what those open issues were, and
15 this was just on Hanford.
16 Since that time, we've sent letters to Nevada and
17 to Salt; we've had virtually no conversation or discussion
18 on the Nevada letter, and we've had one meeting -- I think
19 it was a meeting of very limited scope on Salt.
20 MR. FREI: They did respond to you, however.
21 MR. MILLER: Not in writing, so far as I know.
22 MR. FREI: No, we never got anything either.
23 MR. MILLER: We understand that the Salt people
24 are anxious to get with us on shaft issues.
25 But the thing I'm worried about is, I'm just as

1 much worried about questions related to your hydrologic
2 testing, where you run across a lot of the same kinds of
3 issues, and of course the visibility of the shaft is much
4 greater than it is for drilling holes, but there's a lot of
5 money that's sunk into drilling those holes, and we have in
6 fact taken issue with the way you've done some of that in
7 the past.
8 So it unnerves me; it would unnerve me if we were
9 not looking at other aspects of site characterization in
10 addition to shafts, to see, in fact, if you're effectively
11 making and committing to things prior to the time you submit
12 the SCP.
13 Again, just knowing how long it takes to -- for
14 somebody to go on and procure some of these things, I sus-
15 pect that there is a bit of --
16 That's what we'll try to be sorting out with you.
17 MR. STEIN: We did have a two-day meeting with
18 you last week on hyerologic testing approval, and it's
19 our intent to continue to have these meetings with you, so
20 I think that we will have a good understanding of our progam
21 and our plans well before the SCP becomes available to the
22 public.
23 MR. MILLER: From our perspective this is also
24 important, because facing strictrer budget measures and so
25 on, I think it's very important for us to have some concept

1 of what is going to be needed to meet the Commission's guid-
2 ance to us, which is absent the safety issue. The NRC will
3 not be on the critical path of the DOE in its programs.
4 So this is something that's very important to us
5 and we're -- from a planning point of view, and we simply
6 have to have some concepts, some specific agenda worked out
7 with you on what we can expect over this next year, prior to
8 the SCP.
9 MR. HEAD: All right. That is the last of the
10 questions that we wanted to bring up. The last item on our
11 agenda was for you folks to bring up any points where you
12 think we need to look harder at your comments.
13 Did you have any points like that that you'd like
14 to emphasize?
15 MR. MILLER: I don't think there are any.
16 MR. HEAD: All right. If there are any other
17 people here who'd like to make any points at this time, this
18 would be a good opportunity to do so.
19 (No response)
20 MR. HEAD: If not, we can turn off the recorders
21 and end the meeting.
22 (Whereupon, at 11:12 AM, the meeting adjourned.)
23
24
25

C E R T I F I C A T E

This is to certify that the attached proceedings

before the Department of Energy & Nuclear Regulatory Comm.
(Name of Agency)

in the matter of: Public Information Meeting

Docket Number:

Place: Washington, D.C.

Date: December 17, 1984

were held as herein appears, and this is the original transcript thereof for the file of the Department or Commission.

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