

5/2...To LSSA for Appropriate Action says to: Chairman, Comrs, EDO, OGC, OCA
.....91-0394



The Under Secretary of Energy
Washington, DC 20585

April 30, 1991

Mr. Robert E. Grady
Associate Director
Natural Resources, Energy and Science
Office of Management and Budget
Washington, D.C. 20503

Dear Mr. Grady:

The Department of Energy is charged with the responsibility to implement the Nuclear Waste Policy Act, as amended (the Act). We are in the process of attempting to scientifically investigate whether a site in Nevada, Yucca Mountain, is suitable for development as a permanent repository for spent nuclear fuel and high-level radioactive waste.

Should the site be found suitable, the Department would make application to the Nuclear Regulatory Commission (NRC) for a construction authorization for the repository and at a later stage for a license to receive and possess high-level radioactive waste. The Act specifies that the NRC has 3 years (with an additional 1-year extension possible) to issue the Department a license.

With those short deadlines in mind, NRC initiated a negotiated rulemaking process that ended successfully in the promulgation (April 1989) of a rule that specified that a state-of-the-art automated information management system called the Licensing Support System (LSS) would be used to facilitate the licensing process. The rule specified that the Department would be responsible for the development and implementation of the system and that NRC would be responsible for the operation of the system.

The milestones specified in the rulemaking regarding the development of the LSS were predicated upon a set of assumptions concerning the date that the Department would submit the license application to NRC. Based on the Secretary of Energy's "Report to Congress on Reassessment of the Civilian Radioactive Waste Management Program" (November 1989), those assumptions are no longer valid. Since the LSS was promulgated, the planned schedule for submission of a license application to NRC, as stated in the Secretary's report, has slipped 6 years from 1995 to 2001.

OMB, the Department, and the NRC have attempted, during the course of the last year, to come to grips with the implications of the schedule slippage. In our opinion, the LSS does not, given the new schedule, have to be operational in the same timeframes as

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originally estimated. In a time of Government-wide resource constraints, we believe that scarce funding should be applied to priority activities that the Office of Civilian Radioactive Waste Management (OCRWM) is responsible for conducting. LSS is not one of those activities we would choose to fund at this time.

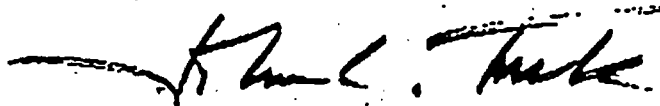
Both John Bartlett and Frank Peters, Director and Deputy Director, OCRWM, respectively, have had extensive discussions with Lloyd Donnelly, NRC's LSS Administrator, and other NRC staff, and with Tom Palmieri and Kathy Yuracko of your staff regarding both the timing for initiation of development and funding for the LSS.

There is general agreement between OMB and OCRWM that development of the LSS should be deferred and that it should not be developed until the OCRWM program has made sufficient progress to warrant initiation of development activities. OMB declined, in the President's FY 1992 budget, to request funding for the LSS and, in the OMB passback to both agencies for the FY 1992 budget, indicated that when the LSS was to be funded it would be funded in the NRC budget. NRC has been, however, despite that guidance, actively advocating immediate initiation of development of the LSS. OMB and DOE also believe that it is appropriate that when development of the LSS is initiated, it should be developed and operated by NRC and that the responsibility for funding it should also reside in a single agency and not be split between DOE and NRC. NRC does not object to taking responsibility for developing and operating the LSS but categorically does not want to accept responsibility for budgeting for the system.

As I indicated previously, this issue has been the subject of a considerable amount of discussion between the agencies for over a year and, unfortunately, at this point, there does not seem to be resolution in sight. OMB, at the staff level, has consistently supported fully our position. In light of the impasse illustrated by recent correspondence between the NRC and the Department, I would like to recommend that you convene a meeting of the interested parties in an effort to finally resolve these issues.

Should you require additional information, I would be pleased to arrange for a short briefing to lay out in greater detail the history of the LSS issue and the Department's position.

Sincerely,



John C. Tuck

cc:
Kenneth M. Carr