



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

February 2, 1996

OFFICE OF THE
SECRETARY

MEMORANDUM TO: Members of LSS Advisory Review Panel
FROM: John C. Hoyle
SUBJECT: INFORMATIONAL MATERIALS

Enclosed for your information are three documents:

1. Transcript of January 30, 1996 HLW Briefing by DOE (LSS discussion begins on p. 23)
2. Commission Information Paper (SECY-96-020)
3. January 17, 1996 letter from Clark County

The Clark County letter poses several topics for consideration by the LSSARP. I am aware of the budgetary constraints which hamper your ability to attend meetings. I will, however, attempt to develop a schedule for discussion of such topics and the method of discussion (conference call, teleconferencing, etc.) soon. As you are aware, the NRC Office of Inspector General is currently completing a review of LSS activity as a follow-up to the IG Audit Report issued on March 17, 1995. I will await the outcome of that report as well.

Enclosures:
As Stated

cc: A. Levin, LSSA

ORIGINAL

UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION

**Title: BRIEFING BY DOE ON STATUS OF HIGH LEVEL
WASTE PROGRAM - PUBLIC MEETING**

Location: Rockville, Maryland

Date: Tuesday, January 30, 1996

Pages: 1 - 42

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Washington, D.C. 20005

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1 UNITED STATES OF AMERICA
2 NUCLEAR REGULATORY COMMISSION

3 ***

4 BRIEFING BY DOE ON STATUS
5 OF HIGH LEVEL WASTE PROGRAM

6 ***

7 PUBLIC MEETING

8 ***

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10
11 Room 1F-16
12 White Flint Building
13 11555 Rockville Pike
14 Rockville, Maryland
15
16 Tuesday, January 30, 1996

17
18 The Commission met in open session, pursuant to
19 notice, at 10:05 a.m., the Honorable SHIRLEY A. JACKSON,
20 Chairman of the Commission, presiding.

21
22 COMMISSIONERS PRESENT:

23 SHIRLEY A. JACKSON, Chairman of the Commission
24 KENNETH C. ROGERS, Member of the Commission
25

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1 STAFF AND PRESENTERS SEATED AT THE COMMISSION TABLE:

2 JOHN C. HOYLE, Secretary

3 KAREN D. CYR, General Counsel

4 DANIEL DREYFUS, Director

5 Office of Civilian Radioactive Waste Management, DOE

6 LAKE H. BARRETT, Deputy Director

7 Office of Civilian Radioactive Waste Management, DOE

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P R O C E E D I N G S

[10:05 a.m.]

CHAIRMAN JACKSON: Good morning, ladies and gentlemen, Dr. Dreyfus and Mr. Barrett. This morning, the Commission will be briefed by you, its representatives of the U.S. Department of Energy, on the status of the Civilian Radioactive Waste Management Program.

Back on June 9th of last year, Dr. Dreyfus and his staff briefed the Commission on the High-Level Radioactive Waste Program. Since that time, much has happened. Various pieces of legislation that could affect this country's high-level waste program have been considered in the Congress.

Budgets for both agencies, both DOE and the NRC, have been reduced, and each agency has taken a hard look and is continuing to take a hard look at its High-Level Radioactive Waste Program.

A briefing such as today's can prove to be very beneficial in times of diminishing resources. The free exchange of information can allow each agency to optimize the utilization of its resources to carry out its responsibilities effectively.

Dr. Dreyfus and Mr. Barrett, the Commission looks forward to hearing from you today on the changes that have and are taking place in DOE's High-Level Radioactive Waste

1 Program.

2 Commissioner Rogers, do you have anything you
3 would like to add at this time?

4 COMMISSIONER ROGERS: Not at this point. Thank
5 you.

6 CHAIRMAN JACKSON: If not, you may proceed, Dr.
7 Dreyfus.

8 DR. DREYFUS: Chairman Jackson and Commissioner
9 Rogers, I am pleased to have the opportunity to address the
10 Commission on the status of the program.

11 As has been the custom, I would like to start by
12 showing you a few slides of the activity at Yucca Mountain,
13 if we can get the first one up.

14 The Chairman will probably recognize our tunnel at
15 Yucca Mountain. This is a view of the first turn. The
16 tunnel has now reached a repository formation, and that is a
17 view of the turn from the ramp down into the drift that will
18 extend through the repository.

19 The second slide is the rear of the tunnel boring
20 machine, and in this one, you can see the laser beam that is
21 used as a guidance system to keep the machine on its
22 intended alignment.

23 Next, this is a view of the mapping gantry on the
24 tunnel machine. That platform up above is able to be held
25 stationary while the machine is boring, so that the

1 scientist geologist can do mapping and sampling without
2 stopping the machine.

3 One of the unique features of this machine -- of
4 course, nothing like that -- is that it's used anywhere in
5 normal mining or tunneling operations. It's one aspect of
6 why we needed to purchase a unique machine.

7 Next one. This is a view of an alpine miner.
8 That is the business end of an alpine miner. We have
9 resorted to using alpine miners for the alcoves, the test
10 alcoves which are off of the main tunnel.

11 We had been doing those. I think when you were
12 out there, you saw some that were done with drill-and-blast
13 methodology, and this is a better methodology if we can make
14 it work. It is a little less intrusive on the natural
15 situation. It makes a much neater alcove, and we have been
16 using this machine successfully and recently.

17 The next view is -- let me be sure what it is
18 before I say it. That is the alpine miner in operation.
19 That is the back of it and the spoil coming off of the back
20 of the conveyer belt. That is actually drilling an alcove.

21 We have, I think, one more view of an alpine
22 miner. I am not sure why it is, indeed, a different alpine
23 miner, but when you have seen one alpine miner, you have
24 seen them all. We will put it up there, anyway. It is a
25 different alcove and a different miner we have been

1 operating, too.

2 Next one. This is testing in progress in one of
3 the early alcoves, in Alcove Two. There are groundwater
4 hydrology studies underway here looking at permeability
5 changes across the Bow Ridge Fault which was the first major
6 fault that we encountered on the way in, and those tests are
7 in progress. Data is being gathered.

8 The last one, is a view of instrumentation of a
9 bore hole in the unsaturated zone. This, in fact, happens
10 to be a bore hole in which Nye County is conducting research
11 and support and in a regulatory position. This is
12 monitoring establishing a baseline on pneumatic gas flow and
13 hydrologic conditions in the unsaturated zone. It is an
14 issue that the County is particularly interested in, and
15 they have been monitoring the changes in pneumatic
16 conditions as the tunnel progresses.

17 That gives you some feel for the fact that there
18 is work in progress at Yucca Mountain. There has been
19 progress since your visit. I hope you can make another one
20 soon. We can show you pretty near two and a half miles of
21 tunnel at this point, and it is a different experience.

22 As you observed, a lot has happened since I last
23 spoke with you in June of last year. We are well into the
24 new fiscal year operating under a much reduced budget that
25 has required us to restructure our geologic disposal

1 program.

2 You have my prepared statement which I think is
3 comprehensive. I don't intend to read it to you, but I
4 would like to highlight a few pieces of it.

5 We are as yet without agreement between the
6 administration and Congress on any new policy regarding the
7 near-term management of spent fuel. Congress continues to
8 consider legislation to initiate construction of an interim
9 storage facility.

10 If that legislation is enacted, we would, of
11 course, be looking at another redirection of the program.
12 So, to the best of my ability at this point, I will share
13 with you our planning for the future of the program and our
14 response to the current fiscal year reduction.

15 We made substantial progress in 1995. We had a
16 40-percent increase, and almost all of it went to Yucca
17 Mountain, and almost all of it was, in fact, utilized at
18 Yucca Mountain. We completed the year with very little
19 carryover and with accomplishments that frequently exceeded
20 our targets.

21 We overcame the start-up problems with the tunnel
22 boring machine, excavated more than two miles ahead of
23 schedule and on the budget, and in fact, the ability to
24 manage that machine better gives us some hope that we can do
25 more in '96 with it than we have in our current baseline

1 plans.

2 The machine has past the point at which we will be
3 putting the first in situ thermal tests. The thermal test
4 alcove is being excavated with an alpine miner, and we
5 expect to have an in situ heater test scheduled before the
6 end of calendar year 1996.

7 The machine at present is about at the point where
8 we will have the alcove that will give us the first physical
9 access to the Ghost Dance Fault. We will drill through the
10 fault first to take samples of the situation as it now is
11 and eventually tunnel through the fault itself. I expect to
12 get substantial valuable information from that.

13 Progress to date on the tunnel has been important
14 because it has enhanced and confirmed our understanding of
15 site conditions. The tunnel has given us the first
16 opportunity to confirm that those conditions we were
17 imputing from surface operations and from drill holes are,
18 indeed, what exists in the repository itself.

19 The Office of Waste Acceptance, Storage and
20 Transportation also made substantial progress over the last
21 year. We entered into the environmental impact statement
22 for the multipurpose canister. We did, in fact, complete
23 scoping and an implementation plan.

24 The contract for the design and certification was
25 issued to Westinghouse in April, as I told you it would be.

1 Unfortunately, the decisions that the Congress made in the
2 fiscal year '96 appropriation process have made it
3 impossible for us to continue with that program, as we were
4 pursuing it.

5 The Act provided only 400 million for the program
6 and further froze 85 million of that amount pending possible
7 future enactment of interim storage authority. So the
8 result is a program level of 315 million. That is just
9 about half of the 630 we requested, and it is 40 percent
10 below our actual fiscal year '95 level of effort.

11 In anticipation of a constrained budget, we did
12 take action in September. We eliminated about 875
13 contracted jobs over this fiscal year in the September
14 action, and primarily impacted Yucca Mountain.

15 In November when we found out about the unexpected
16 loss of the additional 85 million, we had an action which
17 will eliminate an additional 200 jobs, mostly in support of
18 the Waste Acceptance Program, program management functions,
19 support contractor functions.

20 We have throughout this situation -- while we
21 were, of course, immediately constrained to manage the
22 financial situation to avoid an overrun situation in '96, we
23 have tried to preserve the vital program activities and to
24 look ahead and preserve those things which we felt had
25 continuity under a constrained budget.

1 A much reduced repository program will be
2 required. Congress did give us some guidance in the
3 Appropriation Act. They said that we should focus on the
4 core scientific activities at Yucca Mountain, and they
5 recognized that the preparation and submittal of a licensed
6 application would likely be deferred.

7 What new targets that are possible and practical
8 for us depends upon our future expectations for funding. So
9 the administration's fiscal year 1997 budget which is not
10 yet firm and which is still considerable flux within the
11 Department of Energy is a very important factor in what we
12 can aspire to do when we develop a new program outlook.

13 I want to make the point that the program
14 currently is in a transitional state, managing down on the
15 cash flow and doing what we must do, and we are doing a lot
16 of contingency planning in the expectation of what I hope
17 will be a more robust program when we know what the '97
18 outlook is.

19 The administration remains committed to geologic
20 disposal. However, given the funding that we already have
21 in '96 and the likely scenario for future funding, the only
22 practical approach that we see is to concentrate the
23 repository effort in the near term on the major unresolved
24 technical questions that we have to answer to complete the
25 conceptual design of the repository, describe its expected

1 performance, and indeed, that is the instruction that the
2 Congress gave us in a conference report, to concentrate on
3 the major unresolved, unknown issues.

4 In order to manage the program and in order to
5 explain and justify our continuing activity to the
6 stakeholders, we have defined a set of deliverables that are
7 consistent with the conference report guidance.

8 They consist of a package -- these are near-term
9 deliverables -- consist of a package of more specific design
10 work that is focussed on those critical elements of the
11 repository and a waste package including a concept of
12 operations which I believe will show us that the
13 technologies do exist to build a repository in the concept
14 we have.

15 Secondly is a total system performance assessment
16 that will be based upon those design concepts and that will
17 capture the wealth of information that we already do have
18 from the 15 years of work that has already been done.

19 Third is a plan and cost estimate for the
20 remaining work beyond that time that would be necessary to
21 complete a docketable license with this application for this
22 Commission.

23 Finally is an improved estimate of cost necessary
24 to construct and operate the repository, again based upon
25 this refined design concept.

1 These deliverables when completed, I think, will
2 give us a better understanding of the repository design and
3 of its performance than we now have and a much better
4 appreciation of work that is necessary to complete the
5 license application and, indeed, the repository itself.

6 We believe we can complete that package of
7 deliverables in 1998 and have, indeed, committed with the
8 administration to do so.

9 We have named it, for want of a better name, a
10 viability assessment. I will be free to say that one
11 criterion of the name is that it not have term of art
12 significance in the law of regulations because, obviously,
13 this package doesn't.

14 CHAIRMAN JACKSON: Would you repeat that
15 statement, please?

16 DR. DREYFUS: I say the reason we have
17 characterized -- we have to characterize what is basically a
18 package of deliverables that the Congress asked for some
19 way, and it was important to not characterize it with a term
20 of art that is in the statute or in the regulations because
21 it does not, in fact -- it is not concurrent, coincident,
22 with any particular one of the findings or formal actions
23 that are described in the Act.

24 It is a management target. The deliverables that
25 contribute to it will clarify the most uncertain aspects of

1 geological disposal of Yucca Mountain. If the judgment is
2 positive, then obviously, the work that is done will also
3 contribute to the requirements for a formal secretarial
4 recommendation to the President, and subsequently, those
5 will contribute also to a license application to the
6 Commission, but the assessment will not be sufficient for,
7 nor will it prejudice, these subsequent formal actions by
8 the Department.

9 Some of those deliverables are necessary and are,
10 indeed, mentioned in the statute as part of the necessary
11 work to make a formal recommendation to the President, but
12 they are not everything.

13 For example, they do not include an environmental
14 impact statement which is necessary both for the license
15 application and for the presidential recommendation.

16 In order to complete the deliverables, we have to
17 document our understanding of site conditions, incorporating
18 the data we already have collected and the new information
19 coming very largely from the exploratory studies facility.

20 We have to have sufficient understanding of the
21 critical factors affecting waste containment and isolation
22 strategy to know whether the geological disposal is, indeed,
23 technically feasible.

24 We will need to address the cross-cutting design
25 issues such as the use of backfill, criticality control, and

1 thermal loading.

2 We think we can complete the deliverables by '98
3 because we can rely on an enormous amount of information
4 already collected on site conditions, progress we have
5 already made on the advanced conceptual design for the
6 repository and the waste package, and the understanding that
7 we gain from our latest total system performance assessment.

8 Now, although our focus in the near term is not on
9 the submittal of a license application, we recognize that we
10 must keep you and your staff informed and engaged and
11 preserve the integrity of the work that we are doing, so
12 that it can be used in a licensing process.

13 We expect that your staff will provide us with
14 feedback, and if a significant technical issue is not
15 adequately addressed, and failure to do so would affect our
16 ability to continue toward licensing, that we will have the
17 necessary interchanges to deal with that.

18 We expect to develop a revised program plan over
19 the next few months. It has got to be consistent with the
20 1997 budget presentation to the Congress, and therefore, it
21 cannot proceed ahead of the President's '97 budget, but we
22 will try to have it follow that as rapidly as possible, and
23 it will describe our reconfigured program, and we, of
24 course, will keep you fully and continually advised as we
25 develop that.

1 Although the Congress has recognized repository
2 licensing activities would be likely to be deferred under
3 the reduced program, in our view, the long-range goal of a
4 successful license application remains central to our
5 mission, and we believe the program should include a plan
6 and a target date for the submittal of a license
7 application.

8 It is apparent from recent developments that any
9 such plan is going to have to recognize some limits on
10 funding because I think they are likely to persist.

11 I believe it is possible to move directly and
12 efficiently from this viability assessment to the other work
13 necessary for a license application if, indeed, we find that
14 it is a viable venture.

15 The objective should be to design a repository
16 that is compatible with the geologic setting, to develop a
17 safety case to support a proposal to construct that
18 repository, and the licensing process should focus on
19 examining that safety case to determine if public health and
20 safety and the environment are adequately protected.

21 The rigors of trying to get to this funding level,
22 while preserving the vital aspects of our work, have led us
23 to reevaluate what needs yet to be done based on 15 years of
24 experience, and I believe it is possible and probably
25 necessary to revisit the regulatory framework for geologic

1 disposal, and more importantly, the related expectations
2 that have given rise to earlier work plans.

3 I believe that the cost of submittal of a license
4 application can be significantly reduced if the focus of the
5 licensing review is on the safety case for a specific
6 repository design and its predicted performance, less than
7 on a comprehensive evaluation of the site.

8 If this were the case, I think we could aspire to
9 reestablish a target date for license application, not long
10 after 2000, and at the kind of funding that the Congress
11 might be willing to support.

12 This may be the only way the program can command
13 the resources to retain the geological disposal as a
14 national strategy.

15 Now, we have done a lot of planning. We intend to
16 explore this approach. We are considering the revision of
17 our own regulations which would be necessary to clarify our
18 intentions with regard to our future program. It would
19 provide a forum in which the discussion of what, indeed, is
20 the remaining necessary work could be done, and we will, of
21 course, keep you informed as we proceed with that process.

22 Briefly, with regard to the near-term management
23 of spent nuclear fuel, in the absence of an agreement
24 between the administration and Congress, we don't have new
25 policy direction regarding our role, and we have no access

1 to the 85 million that has been set aside for work on an
2 interim storage facility.

3 Our contract to develop the multipurpose canister
4 system was structured in three phases with three successive
5 decisions. The first phase of the contract, system design,
6 and preparation of a safety analysis report will be
7 completed as scheduled by April of this year.

8 When I met with you last June, I indicated we
9 anticipated proceeding with phase two certification and
10 prototype testing. That will not be possible, and we will
11 not proceed with phase two.

12 The GA-4/9 legal weight truck casks were also
13 being developed in our program. Certification process is
14 underway. Safety analysis reports were submitted to the
15 Commission in July and August of '94. We are going to be
16 unable to provide additional funds for that process.
17 Private industry may choose to pursue the certification.

18 We will continue to work on credit for burnup at
19 least through the partial credit for actinide burnup stages,
20 and we aspire to remain in the burnup credit process because
21 we believe it is central to so much of the system, whether
22 or not the transportation and storage is done in private
23 practice or with a bigger role for us, and in any event, for
24 the repository. So we do intend to, as our funding permits,
25 continue with burnup credit activities, and we will

1 certainly continue with the partial burnup activity.

2 Of course, if the administration and the Congress
3 come to agreement on policy direction regarding interim
4 storage, the program is prepared to aggressively act on that
5 direction.

6 We are looking at the issues of interim storage
7 licensing. We are looking at the issues of achieving the
8 capability for a very large-scale transportation venture,
9 campaign in the United States, and we believe we know how to
10 proceed once we are given the appropriate directions to
11 proceed.

12 I am grateful that the working relationship
13 between our staffs has been strengthened. We have had a lot
14 of hearings and a lot of interaction over 1995. I believe
15 there were 30 meetings, staff meetings in 1995.

16 There will be fewer in '96 simply because of lack
17 of resources. However, we are becoming more inventive at
18 that. We intend to do a lot of video conferencing. We
19 intend to remain engaged, and I think both of our staffs
20 understand the necessity to figure out more economical ways
21 to do that without sacrificing the relationship we now have.

22 I hope we can draw upon that experience to
23 maintain progress on the work we are doing and, of course,
24 to be able to respond to any new developments that may
25 occur.

1 At that point, I will stop and take your
2 questions.

3 CHAIRMAN JACKSON: Thank you.

4 Let me go back to a couple of things. You
5 mentioned in your written submission as well as your remarks
6 today that you thought that there needed to be changes in
7 the regulatory framework, and I would like you to speak with
8 a little more specificity about that and what you have in
9 mind.

10 DR. DREYFUS: Well, from our point of view, the
11 program has been evolutionary, and a good deal of the
12 descriptive work on what ought to be done in order to have a
13 complete site characterization venture was written, as you
14 know, culminating in about 1987.

15 It also was done under a statutory regimen that
16 contemplated comparison among multiple sites, a future
17 selection of the preferential site, and a quite different
18 outlook than we now have.

19 So, informed by 15 years of site-specific
20 information as to what is important and not important at
21 Yucca Mountain and what the true problems might be and, of
22 course, informed by the notion that we are not, in fact,
23 comparing sites, but simply characterizing a site for a
24 particular repository, we ought to be able to do a better
25 job of describing what is important and what needs to be

1 done from here on out.

2 It is pretty clear that our own regulation, 960,
3 is not held in high regard. I think that there have been
4 expressions, including draft legislation in Congress to
5 abolish it. It is time for it to be rewritten.

6 There also is always the notion that a program
7 plan, as you change a program plan, is evolutionary, but
8 somewhere along the way, it is appropriate to again restate
9 what is the job and what needs to be done.

10 I believe there are factors in the historical
11 literature that are no longer as significant as they might
12 have been. There are things that we now know we can bound
13 and dispense with, that we now know are not central to the
14 safety case at Yucca Mountain, and I believe that we can
15 describe a program that is a good deal less elaborate than
16 the one that is described historically.

17 To what extent that affects the regulatory
18 framework, I don't know, and until we get the description
19 written down, until we can say to you this is what we plan
20 to do, it would be hard for anyone to say whether that, in
21 fact, is different from the expectations in your
22 regulations. It is different from the expectations in our
23 regulations. I can stipulate that at the moment.

24 So what we would propose to do is to look at a
25 program that we think will support a safety case for a

1 repository at Yucca Mountain, describe it, and then have the
2 dialogue as to whether that, indeed, there are regulatory
3 requirements that lay outside that plant. If there are,
4 well, then there should be.

5 We are not further than that. We are doing the
6 planning to structure the program we think we need. We have
7 had discussions on what the key technical issues are, that
8 kind of thing which moves in the right direction, but I
9 don't think we have made any commitments as of yet.

10 CHAIRMAN JACKSON: Under the new viability
11 assessment, to use the revised terminology or the
12 terminology in this particular case, are NRC and DOE looking
13 at the same technical issues?

14 DR. DREYFUS: Well, the list of technical issues
15 that I have seen that have been discussed as technical
16 issues, I think there is a disagreement as to the
17 significance of a couple of them which is, I think, still
18 being discussed, and then, of course, we are talking in a
19 very high level of abstraction.

20 When we start to subdivide those, I would expect
21 to find a larger degree of disagreement, but that, after
22 all, is what we need to do. We need to know what the
23 Commission thinks are the issues that have to be resolved in
24 the licensing.

25 CHAIRMAN JACKSON: Let me see if I am paraphrase

1 or summarize what I think I heard you say. In doing this
2 approach of what you call supporting the safety case, there
3 seems to be three elements. One was a rewrite, a revision,
4 or withdrawal -- that's my term -- of 10 CFR 960, the siting
5 guidelines piece. Is that correct?

6 DR. DREYFUS: A restatement. Now, I don't know
7 whether that's what the format would be, but a restatement
8 of our proposed approach to completing the job.

9 CHAIRMAN JACKSON: The second -- okay. And I had
10 program plan changes. I mean, that is more broad than just
11 --

12 DR. DREYFUS: Program changes are definitely a
13 part of the outlook, yes.

14 CHAIRMAN JACKSON: Third, the increased use of
15 bounding.

16 DR. DREYFUS: In those areas, because we know
17 better what our waste isolation strategy is and what our
18 site is, in those areas, it appears now to be amenable with
19 that sort of bounding, and in peripheral areas, it should be
20 easier than in the central areas.

21 CHAIRMAN JACKSON: Let's focus on the second piece
22 a little bit more in fleshing out what program plan changes
23 you envision as being the most significant ones, that are
24 different than what has been the case heretofore.

25 DR. DREYFUS: Well, that's the area, in fact, in

1 which until we write it down, we can't be very specific. I
2 really am not in the position today to say we are dropping a
3 specific item of work, and I aspire to have a document that
4 says what we will do within the next couple of months. We
5 are looking at that now.

6 CHAIRMAN JACKSON: Okay. So you are saying that
7 your feeling is that there have to be changes, but today,
8 you are not prepared to say what those changes should be.

9 DR. DREYFUS: That is right.

10 CHAIRMAN JACKSON: I note that DOE intends to
11 terminate work on the licensing support system. Yet, you
12 state that you have an aspiration to able to reinstate a
13 license application date soon after the year 2000.

14 The question is, in looking at your revised
15 program, are you going to be addressing -- or how can you
16 ensure that there is the availability of a licensing support
17 system or the kind of documentary information and data that
18 would be needed in a licensing process in enough time before
19 the submission of license application?

20 DR. DREYFUS: Well, the LSS is caught in this
21 transitional thing that I mentioned. The first thing is '96
22 budget. In the '96 budget, as you recall, we had just
23 reached the stage of having an accommodation and agreement
24 among the user group and others, advisory bodies, as to what
25 it ought to be and how it ought to be managed or coming to

1 the point of knowing what we were doing.

2 We had funded it rather healthily in the '96
3 request. So the first thing is that in the '96 budget we
4 got, we simply can't afford what we were going to do in '96,
5 and in the original response to the '96 budget, we said,
6 whoops, licensing has now gone out over the horizon, and
7 that was, of course, the way it looked to us at the outset.

8 In some fiscal '97 scenarios, that is still the
9 case. I mean, I'm being a little optimistic, but the '97
10 budget will permit us to be more forthcoming.

11 So the first thing you see in '96 is that looking
12 at the constrained '96 budget and the expectation of much
13 deferred licensing, we deferred the LSS and would do nothing
14 with it now.

15 We are, in fact, struggling to hold our own
16 systems together in the '96 budget. It is, indeed, a tough
17 thing to manage to because not only is it a 40 percent
18 reduction, but it is a 40 percent reduction and a bunch of
19 termination costs that don't pay for new work.

20 So, when you look at what is available for new
21 work in '96, it is a lot less than 60 percent of what we
22 spent last year. So we just have a tough time this year.

23 Now, what we do in '97, I think, depends on what
24 we can come up with. If we put a licensing date back in
25 this program based on whatever the administration tells us

1 we can plan against, then yes, definitely, we have got to
2 get the LSS back into a time frame that will be adequate to
3 support that licensing date, and we are very cognizant of
4 that, and there are a lot of things that have to go -- if we
5 put a licensing date in that is reasonably close to the year
6 2000, there are a lot of things that have to get back into
7 the program in '97 when we get the money, and we are aware
8 of that.

9 So we are not going to try to do it without record
10 backup by any stretch.

11 CHAIRMAN JACKSON: No, no, no. I mean, I am
12 assuming that we all understand --

13 DR. DREYFUS: We all understand.

14 CHAIRMAN JACKSON: -- that that has to be there.

15 DR. DREYFUS: We will look very hard at the
16 timelines and be sure that we are not --

17 CHAIRMAN JACKSON: Well, there is also the issue
18 of putting Humpty Dumpty back together again.

19 DR. DREYFUS: That's right.

20 CHAIRMAN JACKSON: So my real statement to you as
21 opposed to a question, which is what I usually do, is that
22 since you are talking about a change to program, as you are
23 doing that, that you have at least in the background the
24 fact that a licensing support system or something of that
25 nature has to exist --

1 DR. DREYFUS: Yes.

2 CHAIRMAN JACKSON: -- and that it can't go out of
3 your thinking as you are developing --

4 DR. DREYFUS: It has not.

5 CHAIRMAN JACKSON: -- a new program in response to
6 constrained resources.

7 Let me ask you this particular question. Since
8 the waste isolation strategy is noted for providing the
9 basis for organizing and explaining the rationale for the
10 more limited testing program, when will the completed waste
11 isolation strategy be made available to the NRC?

12 DR. DREYFUS: We are working a draft. The
13 contractor's initial work is completed, and we are in the
14 process of the review of that draft.

15 Have you got a date on when we will meet?

16 MR. BARRETT: Let me ask Dr. Brocoum if he would
17 want to venture.

18 DR. BROCOUM A couple of months, we are informed.
19 It is in the final stages of review in our quality assurance
20 program now.

21 CHAIRMAN JACKSON: Let me ask you this question.
22 You also seem to be taking an approach that, in a certain
23 sense, will address the question of what can go right and,
24 you know, we're the regulators, and the question is will
25 this testing strategy permit you to realistically assess and

1 quantify factors that might detract from overall system
2 performance, as well as those that enhance.

3 This is, again, when you are talking about a
4 safety assessment.

5 DR. DREYFUS: Well, we certainly intend to totally
6 elucidate the safety case we make, and if there is a factor
7 that has significant impact, yes, we will have to deal with
8 it. We will deal with it either by demonstrating -- or it
9 does not have significant impact, or describing and
10 designing for it, one of the two.

11 CHAIRMAN JACKSON: At this point, can you say how
12 you feel a private initiative by industry on the
13 multipurpose canister development might interface or be
14 integrated into DOE's overall waste package design and
15 development activities?

16 You alluded to it in a generalized way.

17 DR. DREYFUS: There are a couple of things that
18 are reasonably sure. The Congress sequestered the money we
19 would have used to pursue our own in-house technology
20 development program, and as I read it, it said you will get
21 that money when you get a bill, and when I read those bills,
22 they say don't do canister work. So I see no eventuality in
23 which I get the money and the permission to do the canister
24 work.

25 On that basis, we have -- looking forward to the

1 notion that there has to be the evolution and development of
2 a suite of canister technologies in this country if we are
3 going to move 3,000 tons of spent fuel a year -- we have to
4 get that done through the private sector.

5 Now, since the canister program -- since we
6 announced our intention to stop the canister program, there
7 have been indications that industry intends to move into it.
8 There is a good deal of appreciation that there needs to be
9 a more comprehensive, more standardized storage and
10 transportation technology out there.

11 I think people are beginning to realize that in
12 the absence of that, we could create a situation in which
13 dry storage is so varied and so site-specific, both
14 economically and technically, it could create quite a
15 management problem when the time comes to go and get it and
16 move it, and I think that is appreciated in the private
17 sector.

18 Now, the question is you are talking about \$100
19 million worth of investment, one way or another, to get
20 these canisters built, and there is clearly a very large
21 market and a very large economic incentive some day. The
22 problem is nobody knows which day, and so capital funding
23 for the development of these technologies has got to have
24 some notion of when it is going to be returned.

25 I think there is going to be a lot of activity. I

1 think there is going to be -- there will be private ventures
2 approaching the Commission for the certification of more
3 comprehensive technologies capable of taking more of the
4 fuel and probably at least due purpose, if not at least
5 possible multipurpose.

6 We are getting a lot of inquiries about
7 specifications for storage and that sort of thing. So I
8 think yes, it is going to happen. What I am less sure about
9 is the timeline when somebody actually puts money on the
10 table and comes before you with a certification application.
11 That is a little hard to predict.

12 It will happen. We will when the time comes. We
13 are told we have a timeline. If we are given the job, we
14 will go out and look for transportation services, and those
15 who profess to supply them will have to have access to
16 technologies. That will create an incentive, and it will
17 happen. Whether it will happen prior to that incentive is a
18 question of how industry is guessing about the imminence.

19 CHAIRMAN JACKSON: I have some additional
20 questions, but I will defer them, and I would like to give
21 Commissioner Rogers a chance to raise some issues.

22 COMMISSIONER ROGERS: Thank you.

23 Just on this canister question, it does trouble
24 me, though, that there might be the possibility that the
25 canister program, a private canister program might start to

1 move quite rapidly for some reason, and the design submitted
2 to NRC might be entirely licensable according to our
3 requirements, but not necessarily fully compatible with what
4 the repository design might anticipate.

5 It would seem very desirable that you ought to be
6 able to provide some guidelines from your point of view on
7 what those requirements on canisters, if they are going to
8 be placed in a repository themselves, some part of an MPC
9 system, that that is laid down early on, as early as you
10 can.

11 Even though you are not funding it and you are not
12 supporting that work, it seems as if your ultimate design is
13 going to have to take into account what those things are
14 going to look like and what their characteristics are going
15 to be.

16 We might be able to very well license something
17 that really doesn't quite fit the final design of the
18 repository because it is entirely safe for other purposes,
19 but maybe not entirely suitable for your ultimate repository
20 design.

21 It seems that it is very important to try to make
22 sure that there isn't a disconnect there. As you cut off
23 your support for the financial support, it doesn't seem to
24 me that you really can cut loose entirely from design
25 considerations of those canisters for your purpose, and I

1 would just welcome any comments you might have on that.

2 DR. DREYFUS: Well, as we have said in previous
3 appearances here, the ability of the canister to be utilized
4 in the waste package has always been something that had to
5 be decided when you got to that point, and we were seeking
6 from the Commission an expression that our design in no way
7 a priori prohibited the use of it in a waste package rather
8 than a certification at this point that it would be okay,
9 and I think we had a mutual understanding that was
10 impossible to do at the moment.

11 Now, yes, we will facilitate to the best that we
12 can the development of a multipurpose canister. We will
13 tell the industry what we can tell them about what
14 specifications would be required.

15 It is not clear to me that the different scenarios
16 of the future inherently make a multipurpose canister the
17 economic bet, and therefore, we're going to see, and now
18 that we're going to do it through the marketplace, very
19 clearly, whatever the economic bet is, is what will come
20 forward. In other words, if we are going to have a scenario
21 extensive interim storage, that gives you one kind of
22 economics. If you don't, it gives you another. It is going
23 to be a little more a question of the economic outlook, I
24 think the shorter-term economic outlook, that being the way
25 the marketplace works. We will do the best we can.

1 COMMISSIONER ROGERS: It is a worry that that by
2 itself might dictate something that in the long run may give
3 a problem with a repository.

4 DR. DREYFUS: We have been approached, and we are
5 going to do the best we can to provide guidance, so that
6 should vendors wish to try to accommodate the waste package,
7 they will have the best shot at it. That is all we had is a
8 shot at it. So we will do the best we can.

9 I understand the problem, and I am concerned about
10 it.

11 COMMISSIONER ROGERS: Let me just say, in general,
12 I think your approach really is very impressive. You are
13 dealing with a very tough problem with your budget cuts, but
14 it seems to me that the approach that you are taking on this
15 viability assessment makes an awful lot of sense.

16 It might even be the way that the whole thing
17 might have gotten started a long time ago if one could have
18 seen how to proceed in a clearer light.

19 So I personally find it a very interesting
20 approach. However, I do have some problems in that I think
21 that once you have come to the -- and I think the Chairman
22 sort of touched on this. The viability assessment, it seems
23 to me, is really taking into account all of the positive
24 aspects of the site, your design, and so on and so forth,
25 and seeing when you put them altogether, do you wind up with

1 something that seems to make some sense and that it looks
2 like a totally -- at that point could look like a totally
3 viable approach.

4 It may be not so different from actually some work
5 that has been done in the past on this. I don't know.
6 However, there will be serious questions raised at that time
7 on all sorts of possibilities, and I think your statement
8 that it ought to be easy to move from the viability
9 assessment to license application is one I am not sure I can
10 agree with because it seems to me that is really where the
11 problems are going to start to surface.

12 The viability assessment may look very good from
13 your point of view. You may have a total design. You may
14 have all the elements in place that might seem to make very
15 good sense to you and all fit together. However, there will
16 be questions raised, and some very tough questions may very
17 well come up at that point, and that is not -- then they are
18 going to have to be dealt with, and they will involve
19 technical matters.

20 I think that unless there is some legislation that
21 says all of such things must be ignored, that the process is
22 going to be a complicated one from then on. I think what
23 you are doing right now makes a great deal of sense. It
24 looks like a very sensible engineering approach to trying to
25 come to a solution here.

1 However, that is different, as you know, from
2 achieving a license, and licensing is not just simply a
3 collection of engineering judgments. It is much more than
4 that.

5 I just feel uncomfortable about the idea that one
6 can move quickly from a rosy viability assessment that looks
7 pretty good to a successful licensing application without a
8 good deal more work of some sort. It may even just be
9 legal. I don't know, but there will be technical issues as
10 well, I am sure.

11 So I am concerned about the documentation. It
12 comes back to the LSS question, in a sense, not from the
13 standpoint of total access by everybody that might have a
14 right to access the LSS and so on and so forth, a very big
15 comprehensive system, but rather, some ongoing means for
16 documenting, and if I can use the word -- I don't like it --
17 memorializing decisions that are made along the way with
18 respect to how much data has already been collected and how
19 much data might be necessary in the long run.

20 It is going to be years down the road before one
21 has to return to what was the basis for stopping at that
22 particular point in the collection of some data, and I think
23 that documentation there is extremely important and some way
24 of preserving it.

25 To me, this is one of the features of the LSS that

1 has always justified its existence. So that, I know you
2 have said you are not going to forget about the data, but I
3 do think that it is very important that every kind of
4 decision -- tentative decision because we have said many,
5 many times, no decisions from the Commission's point of view
6 are final until all decisions final, but nevertheless, from
7 your point of view that when you proceed to a certain point
8 in your viability assessment, you say that is as far as we
9 have the funds to go, and we think it is far enough, and
10 then you move on to something, that that is well documented
11 and well recorded, so that 10 years from now when you have
12 to resurrect it, it is not a hard thing to do.

13 So that seems to me that that aspect of the LSS
14 cannot be simply turned off, and you know you have to deal
15 with it whether you call it LSS or you call it something
16 else entirely. It is of no great moment to me, but the
17 notion that the preservation of decisions with respect to
18 the collection of data are extremely vital for the future.

19 I am not going to have to be dealing with it.
20 Maybe none of us in this room will ever have to be dealing
21 with it, but somebody will have to, and at that point, you
22 don't want to run into a stone wall.

23 So that, I just guess that while I like very much
24 your approach and I admire the progress you have been making
25 and how you are approaching the financial problems, I don't

1 think that it really is intellectually defensible to say
2 that one can defer licensing considerations. Licensing
3 considerations are what you are into right now, every day,
4 in a sense.

5 You may ultimately decide not to even apply for a
6 license, but if you do, then what you do right now is a
7 vital part of licensing in the long run.

8 So it is a question of degree, of course, but I do
9 think that it is very important to give vital consideration
10 to the quality assurance question which relates to the
11 documentation. That is always going to be the one in the
12 long run that will be vital in a licensing decision or a
13 challenge to a licensing decision, and one cannot forget the
14 vital nature of that not necessarily right now and maybe not
15 in coming to your viability assessment, but ultimately in
16 dealing with the finalization of a license application.

17 So I just commend your work very much. I know you
18 have been struggling under enormous difficulties, and I
19 think you have got a very clear sense of how to proceed
20 here, but I do just come back to this point that the
21 documentation and quality assurance questions are just as
22 important in the long run as anything else that you do, and
23 somehow you have to find a way to see that they are not
24 lost; that there is no disconnect as you proceed along
25 because a gap, a vital gap in information and records could

1 be fatal in the final analysis.

2 Thank you.

3 CHAIRMAN JACKSON: Thank you.

4 I have kind of one follow-on, and in a certain
5 sense, one could argue in the same vein of not losing Humpty
6 Dumpty here.

7 How do you intend to handle the issue, the fact
8 that the Nuclear Waste Policy Act, as amended, requires that
9 in the recommendation of the Secretary to the President
10 vis-a-vis Yucca Mountain suitability, that there is a
11 requirement for an environmental impact statement, but all
12 work based on budget constraints on that is disappearing?
13 So if, in fact, this site is found to be viable in 1998, how
14 do you intend to address -- how do you intend to have that
15 issue addressed?

16 DR. DREYFUS: Yes. That goes back to, I think,
17 the note I made that you say I said it was easy to move from
18 the viability assessment of the license. I meant that in a
19 sense that the viability assessment is a subset of what we
20 need for the -- further, both the presidential
21 recommendation and the licensing, not that it was easy in a
22 workload sense because the amount of work necessary between
23 that viability assessment and a license application is a
24 critical question of whether we ever get there or not or how
25 long it takes.

1 What again is transitional is that our current
2 baseline work plan at Yucca Mountain does not contemplate
3 moving to licensing on the timeline. It contemplates
4 reduced funding, getting the funding under control, getting
5 the expenditures under control, preserving vital functions,
6 and doing the viability assessment.

7 In that mind set, which is the mind set we entered
8 '96 in when we were not sure at all how hard it would be to
9 get hold of the financial side of it, we were not
10 considering getting back on a licensing track in any short
11 period of time. So a lot of this stuff the moves out.

12 Not documentation. I fully agree that you do not
13 stop preserving the integrity of the data you have got, and
14 you have got to archive and you have got to have retrieval
15 capability and you have to maintain quality assurance, but
16 the rest of it, the workload stuff, the EIS, LSS, loading
17 and all of that stuff was viewed as "we will do that later,
18 if...."

19 Now, as we went through this process, we got a
20 little more hopeful that we could hang on to more of the
21 program. We had a very good year in '95. '95, a whole lot
22 of stuff came to fruition that had before been scattered
23 data.

24 The performance assessment was very, very
25 significant, and the tunnel itself confirmed a great deal of

1 what before was just hypothecy.

2 So '95 was a very big year, and when we started
3 looking at it, we said maybe there is more done than we
4 thought. Maybe we can, in fact, aspire to licensing in the
5 near term.

6 The key is you have got to have a budget level
7 that permits you to do things like the LSS and the EIS. If
8 we get it, then what we would do with the EIS is we would
9 restart the EIS sufficiently to make that timeline work.
10 Whatever the date of the presidential recommendation is, we
11 have got to back off it the appropriate length of time for
12 an EIS, and we have to restart it.

13 We did the scoping, and we suspended it. For all
14 practical purposes, what it basically means is that if we
15 get a budget that will permit it, we would restart that in
16 the '97 time frame in order to have it ready in time for a
17 formal recommendation.

18 We would also have to complete a design. A design
19 that we are looking at for the viability assessment is
20 concentrating on those aspects of the design that are
21 critical to performance assessment. In order to have a
22 design for an application, it has to be comprehensively up
23 to the same level of sophistication, and that would require
24 that we restart some of that work.

25 So there is a lot that has to be restarted.

1 CHAIRMAN JACKSON: Well, I think you have laid out
2 your own challenge here. I mean, obviously, you know that
3 from our perspective the kinds of safety assessments,
4 performance assessment tied to safety that would be
5 necessary for licensing is a particular focus of ours, but
6 what I would say to you is that in laying out these -- what
7 I'll call them, the three bullets that I discern constitute
8 the basis of your viability assessment approach at this
9 moment -- you talked about the increased use of bounding,
10 and I would just say to you that in order both to be in a
11 position to submit a license application that is complete,
12 one can't lose sight of issues having to do with the
13 documentary record, and then in terms of what the Nuclear
14 Waste Policy Act, as amended, requires in terms of
15 environmental impact statement.

16 So all I would say to you is that if you take
17 these and related issues in terms of how you do and work out
18 your revised program, that you should take them as part of
19 increased use of bounding, so that you are not creating
20 something that when one is back on to a licensing track that
21 one ends up having to redo a lot of material; that in
22 designing your viability assessment to respond to budgetary
23 constraints and what you have to take back to the Congress,
24 that you understand that it is happening within a certain
25 phase space that you also have to respond to down the line.

1 So it is pay me now or pay me later, but you know
2 you have to pay.

3 DR. DREYFUS: Yes, indeed.

4 CHAIRMAN JACKSON: Unless Commissioner Rogers has
5 any other questions or comments, Dr. Dreyfus and Mr.
6 Barrett, I would like to thank you and your staff for taking
7 the time to come to brief the Commission on this very
8 important topic.

9 The information and the exchange that we have had
10 today will be of great assistance to us in developing and
11 modifying our own high-level waste program here at NRC. We
12 have our own constraints and decision-making.

13 Clearly, this whole area is undergoing significant
14 change whose endpoint none of us can quite see at this
15 point, but I believe that in times of reduced resources, it
16 is more than ever important.

17 I didn't really question you about this, but you
18 talked about changes in interactions with the NRC, and I am,
19 of course, curious as to what those changes are, but the
20 lines of communication have to be kept open, and I think
21 this kind of inherent programmatic bounding that we have
22 talked about has to be kept clearly in mind.

23 Again, I thank you for an excellent briefing.
24 Unless you have any further comments you would like to make,
25 we stand adjourned.

1 DR. DREYFUS: No.

2 Thank you very much.

3 CHAIRMAN JACKSON: Thank you.

4 [Whereupon, at 11:10 a.m., the briefing was
5 concluded.]

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CERTIFICATE

This is to certify that the attached description of a meeting of the U.S. Nuclear Regulatory Commission entitled:

TITLE OF MEETING: BRIEFING BY DOE ON STATUS OF HIGH
LEVEL WASTE PROGRAM - PUBLIC MEETING

PLACE OF MEETING: Rockville, Maryland

DATE OF MEETING: Tuesday, January 30, 1996

was held as herein appears, is a true and accurate record of the meeting, and that this is the original transcript thereof taken stenographically by me, thereafter reduced to typewriting by me or under the direction of the court reporting company

Transcriber: Jennie Malloy

Reporter: Mark Mahoney



POLICY ISSUE **(Information)**

January 30, 1996

SECY-96-020

FOR: The Commissioners

FROM: James M. Taylor
Executive Director for Operations

SUBJECT: LICENSING SUPPORT SYSTEM PROGRAM ADMINISTRATION -
SEMIANNUAL REPORT

PURPOSE:

To inform the Commission of the status of the Licensing Support System (LSS) and the activities of the LSS Administrator's (LSSA) staff for the six-month period ending December 31, 1995.

BACKGROUND:

Manual Chapter 0109 requires that LSS status reports be sent to the Commission on a quarterly basis. The Commission's Staff Requirements Memorandum dated January 31, 1992, revised the report's frequency to semiannual. Additionally, a Staff Requirements Memorandum dated June 28, 1995, directs that the Senior Management Team (SMT) provide a report on the LSS before finalizing a Memorandum of Understanding (MOU) with the Department of Energy (DOE), before launching a pilot program, or before finalizing the LSSA's Compliance Assessment Program documents. This report addresses the status of these initiatives as well as providing a summary of activity during the last six months. The scope of this report includes all LSS program activities.

The Executive Director for Operations established an LSS Senior Management Team in February 1995 to review the original objectives of the LSS, evaluate the impact of current factors on the LSS, and recommend future strategy for the LSS. As a result of several SMT meetings, SECY-95-153, *Licensing Support System Senior Management Team Recommendations on Direction of the Licensing Support System*, was issued on June 4, 1995. The six recommendations described in SECY-95-153 were considered by the Commission. The Commission directed that the SMT should report back prior to finalizing the MOUs, proceeding with the pilot

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415-5507

NOTE: TO BE MADE PUBLICLY AVAILABLE IN
5 WORKING DAYS FROM THE DATE OF THIS PAPER

program or making final decisions on which documents would be included in the LSS. The Commission noted that Congressional developments regarding NRC's and DOE's authorizations or appropriations might require future adjustments.

DISCUSSION:

Impacts of Congressional Budget Action

DOE's Office of Civilian Radioactive Waste Management (OCRWM) had originally formulated an FY 1996 budget in excess of \$600 million for the High Level Radioactive Waste Management Program. The final authorization for OCRWM was \$400 million, with \$85 million of that amount being "fenced off" for interim storage pending a congressional revisit of the Nuclear Waste Policy Act sometime in the spring of 1996. Additionally, the conference report on the Energy and Water Appropriations Act for FY 1996 emphasized that DOE expenditures should be limited to site characterization activities rather than licensing activities. Arguably, development of the LSS could fall within the spending limitations for "licensing" activities. The impact of this scaled back appropriation brought all DOE's LSS related activities to a complete halt with the start of the new fiscal year. DOE contractor staff involved with LSS design and development were disbanded, and DOE's LSS Advisor Review Panel (LSSARP) representatives were instructed by their management to not expend any further time on the LSS.

A collateral effect was that the LSSA's initiatives for finalization of LSS system functional requirements, the finalization of a MOU, and the development of a prototype system were all halted due to lack of DOE availability. An LSSARP meeting scheduled for December 1995 was postponed because DOE representatives could not commit to attending and because most of the affected units of local government had not been provided any FY 1996 funds for oversight of DOE's High Level Waste (HLW) activities.

The LSSA was able to complete the Participant Commitments and Compliance Assessment Program, but was unable to present the finished products to the LSSARP when the December meeting was postponed.

The status of other products and activities is further detailed in the following sections.

LSS Advisory Review Panel Meetings

The LSSARP held a meeting on July 6 and 7, 1995, at the Oneida Nation Reservation in Green Bay, WI.

- Panel members were provided a briefing on pending legislation concerning the civilian nuclear waste program.
- Discussions were held regarding the use of an NRC system, NMSS' Technical Reference Document Database System (TDOCS), and its collection of documents on DOE's Multi-Purpose Canister (MPC) as a pilot environment to test LSS functionality. LSSA staff completed an analysis of the LSS functionality compared with that available in TDOCS and provided that information to the DOE staff responsible for LSS design and development in early October. The LSSA staff concluded that the TDOCS system could reasonably meet most of the search and retrieval functions of the stated LSS requirements, but not all of the electronic submission and docketing functions. LSSA staff additionally concluded that there was some potential for size limitations.
- Panel members were informed of the status of DOE's efforts to develop descriptive statements about intended LSS functionality that can be used by ADP system developers. These statements are also known as the LSS Phase 2 Functional Requirements. Plans were made to close the comment period afforded to the LSSARP by August 1 and allow DOE to develop a finalized document. That finalized version was circulated to LSSARP members in August, NRC provided final commentary in mid-August, and DOE responded to NRC's commentary by mid-September. DOE plans to conduct a survey of commercially available systems were discussed. This survey would allow DOE to determine whether it would be more cost effective to integrate components with in-house staff or to acquire an existing product. Completed products from the functional requirements statement and the competitive market survey were to be delivered at the planned December LSSARP meeting.
- The LSSA reported on the status of a MOU between DOE and NRC and comments and clarifying suggestions on the first draft were offered by Panel members.
- Panel members were provided with the LSSA's latest drafts of the Participant Commitments and Compliance Assessment Program documentation and the LSSA requested their final comments by the end of August. Completed products were to be delivered at the planned December LSSARP meeting.

- Additional discussions were held in the areas of Yucca Mountain data sharing, access to the DOE records system by participants, the status of DOE document reprocessing, and technical aspects of document scanning versus electronic file conversion.

Senior Management Team (SMT) Review of DOE Records Management

In response to an informal DOE request at the March 22-23, 1995, LSSARP meeting and subsequent discussions, the LSSA made a recommendation at the July 7, 1995, LSSARP meeting for a field visit to DOE's records management facility. NRC's SMT subsequently visited OCRWM's Management and Operating (M&O) contractors who perform DOE's records management functions. The objective of the meeting was to review DOE's records management approaches in order to identify opportunities for DOE to focus their relevancy/inclusionary criteria and thereby reduce the volume of pages they intended to submit to the LSS. The SMT visit of July 20, 1995, identified issues in the areas of cataloging procedures integrity and accuracy, records package reconstruction, referenced document availability, retention of non-DOE authored materials, retention policies exceeding normal NARA retention schedules, and, deficiencies in decision tracking.

The SMT concluded that DOE was retaining several times the number of pages that appeared to be necessary to support the licensing process. Another initial impression was that DOE was not documenting its decisions to the extent NRC expects to be needed for licensing. However, this impression was not sufficiently reliable to form the foundation for SMT actions at that time. [A summary of the SMT findings is included with this report as Attachment 1.]

Compliance Assessment Program

The LSSA received final comments from LSSARP panel members on three documents which essentially complete the LSS Compliance Assessment Program (CAP). The three documents finalized on 12/28/95 were: *LSSA Guidance on the Format and Content of LSS Participant Compliance Program Plans*, *LSSA Participant Compliance Program Plan Certification Document*, and, the *LSS Participant Commitments*. Final action on the Compliance Assessment Program is being held in abeyance.

Memorandum of Understanding

DOE delivered a version of the MOU outlining responsibilities for design, development, acquisition and implementation of the LSS to the LSSA on September 25, 1995--four days before the end of the

fiscal year. This version was characterized as one which the DOE's LSS point of contact felt comfortable taking to DOE management to see if they would concur. The LSSA was satisfied with this version of the MOU and was preparing a report to the Commission when DOE stopped the process of presenting this version to their management, effective with the end of FY 1995. Final action on the MOU is being held in abeyance.

Prototype

NRC evaluated the reusability of NMSS' TDOCS as a prototype using MPC documents. The evaluation was delivered as DOE was ceasing all activities related to investigating candidate hardware and software for the LSS (make-vs-buy). The SMT continued to pursue the viability of making TDOCS externally accessible to LSS participants by establishing Internet access to the MPC document holdings of TDOCS. However, the funding reductions taken by NMSS in the FY 1996 funding appropriation have caused this effort to be assigned a lower priority and the efforts to provide external access are now on hold.

Topical Guidelines

The Regulatory Guide providing the Topical Guidelines for the LSS was prepared in final form and placed in concurrence around late January or February of 1995. When the package reached the EDO's Office, the Commission was establishing the NRC SMT to oversee the LSS. The EDO decided to send the package back to the SMT while they established their Charter, and it has not yet been forwarded to the Commission pending the conclusion of the SMT work on DOE's document submission volume estimates.

Funding Mechanism

DOE did identify two likely mechanisms to provide funding to NRC for the LSSA's activities. Definitization and validation of those approaches was not pursued by DOE after the first week of August 1995--when DOE first anticipated that there would be no FY 1996 LSS activities.

Prospects

- Congressional committee chairmen are optimistic that the Nuclear Waste Policy Act will be revisited this spring. The outcome of that effort is, however, unpredictable. Failing success in its springtime efforts, prospects for congressional action once the campaign season begins are not good.

- Early FY 96 indications were that DOE will delay its license application until sometime beyond the year 2001.
- In the meantime, DOE's ongoing site characterization work will continue to generate new documentation.
- The abrupt halt to progress on the LSS since the start of FY 1996 clearly demonstrates NRC's dependance on DOE funding to sustain any automation progress.

The license application for a HLW repository, for interim storage, and cask certifications are all still eventual prospects confronting NRC. The LSS is not an end in and of itself but does represent Commission intentions to be prepared for a streamlined, cost-effective, and expeditious license application hearing. These are still worthy objectives regardless of the prospects for, and uncertain outcome of, anticipated congressional action.

Given the SMT findings in its initial review of the DOE records system, DOE's cancellation of LSS activities and records reprocessing raises concerns about their ability to effect timely and cost-effective remedies to SMT concerns on an ever-growing collection of materials. Likewise, DOE budgetary resources are insufficient to support the prototyping of participant access to licensing information. These factors suggest that this is an opportune time for the SMT to refocus DOE on the documentation needed for its license application, assess radical developments in computer communications and internetworking, address a major refocus of licensing and cask certification activities, and, re-examine the foundations and assumptions upon which the LSS rule is based.

The SMT will address these issues, develop an action plan and advise the Commission within the next six months. This effort will include a reassessment of the requirements for a licensing support system as prescribed in the LSS rule.


James M. Taylor
Executive Director for Operations

Attachment: Summary of Findings from SMT Visit to DOE Records Management Facility on 7/20/95

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SUMMARY OF FINDINGS FROM SMT VISIT TO DOE RECORDS MANAGEMENT FACILITY ON 7/20/95

CATALOGING PROCEDURES INTEGRITY AND ACCURACY: We noted that the DOE cataloging procedure for records packages that the bibliographic header field for Related Record was not completed for any of the parent child relationships within that records package. The package being viewed had seven items in it. One of the items was a one page transmittal letter indicating that it transmitted the audit notification as an attachment. It was cataloged as an item, and the header for that item indicated no related record. The following item in the records package was the referenced attachment. The bibliographic header for that item contained nothing in its Related Record field to show that it was the attachment to the previous transmittal. If carried over into the LSS, you would see an image of an item that says it has an attachment, but, the bibliographic entry does not give you the DOE accession number for the item that is the attachment. This item needs to be addressed by the LSS header working group.

PACKAGE RECONSTRUCTION: We noted that the packages are only identifiable via use of the Package Identifier. The Related Record field was not completed for any of the reciprocal relationships between the header record for the table of contents and the seven items that make up the package. This appears to be because of DOE identifying a package as a single entity. The Package Identifier will allow the reconstruction of the items in a package only by performing a second iterative search for all items where Pkg ID = nnnnnnn. This item needs to be addressed by the LSS header working group.

REFERENCED MATERIALS: Until the December 1994 ARP meeting, DOE did not have guidance on what constituted readily available items. As a result, referenced items such as geologic dictionaries and chapters from textbooks are included as attachments to some of the documents we reviewed. It should be expected that DOE will screen these materials out during their reprocessing efforts based on the direction given by the ARP on what constituted readily available. No additional NRC guidance should be required of NRC to allow DOE to implement this screening-out criteria.

NON-DOE AUTHORED MATERIALS: There were numerous examples of documents authored by other organizations which were found in the examples reviewed. EPA, NRC policy and guidance documents, federal register, federal rules, federal regs and other similar materials were found. DOE may choose to include these in their records system for reasons unrelated to licensing documentation requirements, and that is their business. However, if DOE is allowed to dump the

entire contents of their automated records holdings into the LSS, it would cause a situation where DOE is submitting other participants materials. On the one hand, it is the other participants' responsibility to enter their own materials, but on the other hand, DOE is not confident that other parties will be submitting their documents which DOE feels it might rely upon. DOE's tracking, at the 11th hour, whether other participants documents made it in adds a responsibility on DOE that is equally shared by others (i.e., Nevada relying on DOE documents...) But the burden on DOE is perhaps larger by magnitudes and the risks are against their license application's success.

[A filtering search on the DOE records system holdings for all items where the AUTHORG = NRC or NEV or CLARK or NYE. . . could preclude those from being bulk migrated into LSS; but the cataloging problem is that each one of those that was part of a reciprocal cross reference will result in a dead end pointer in LSS. DJG]

DOE DOCUMENT DISPOSITION SCHEDULE: An SMT member observed that DOE seems to be maintaining high-level radioactive waste (HLW) records beyond the disposition period recommended by the National Archives and Records Administration. He asked the M&O contractor why is DOE changing (extending) the normal disposition schedules, just for HLW records? He suggested that NARA retention schedules may supersede other requirements. A representative of the M&O noted that only 3-5 percent of the RMS collection are considered to be Permanent Records by NARA. This issue may be need further consideration.

DECISION TRACKING: After reviewing a random selection of DOE documents, an SMT member observed that, unlike NRC's policy to capture the concurrence signature blocks, DOE is not tracking the decision making process. He observed that there is no discernable way to determine whether a senior manager had actually reviewed a particular document. There is no clear sign off process on the administrative documents. In response, a representative of DOE noted that the LSS is a discovery support system, not a litigation support system -- if the LSS was supposed to be an issues tracking system, it should have been stated in the rule. There is a disconnect here that may need further clarification.

[In the DOE system, the concurrence block is filmed/imaged. A two page letter will be imaged as 3 pages, the two pages as the document went out plus a duplicate of the last signature page with the superimposed concurrence chain signed and initialed. You will only see it if you pull up the document image. DJG]



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January 17, 1996

Mr. John Hoyle
LSSARP Chairman
U.S. Nuclear Regulatory Commission
Mail Stop 16 H 3
Washington, D.C. 20555

SUBJECT: LICENSING SUPPORT SYSTEM INTERACTION

Dear John:

This correspondence is intended as a follow-up to the excellent meeting we had in December. As you may or may not be aware, oversight funding for the State of Nevada and affected units of local government will probably not be available for FY 1996. This places Clark County and others in the difficult position of having to monitor on-going site characterization activities, for as long as we are able, with our remaining FY 1995 funds.

While the current budgetary constraints will, undoubtedly, make it impossible to develop a Licensing Support System (LSS) as originally envisioned, I feel that it is important to continue discussions on the process of managing data to facilitate licensing review in the future. The need for the systematic collection and organization of the increasing amounts of information that continue to be generated is as critical as ever.

From our standpoint, the early implementation of an LSS-like system is imperative given current or future oversight requirements. The continuation of efforts of such a system, even on a reduced scale, is still essential.

I hope that, with your cooperation, we can continue to work towards the development of a system designed to the standards envisioned in the original LSS rule. The Department of Energy (DOE) must also be encouraged to at least tailor their current document control system to facilitate future transfer to an LSS-like system in a timely and cost-effective manner.

While budget constraints will prohibit Clark County and others from attending meetings, in Washington, D.C., at least in the short term, we can still discuss these issues by conference call, or perhaps by using DOE's videoconferencing capabilities.

If there is interest in continuing LSS discussions, a partial list of topics could include the following:

COMMISSIONERS

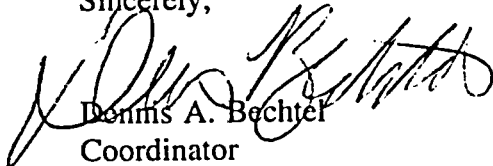
Yvonne Atkinson Gates, Chair • Paul J. Christensen, Vice-Chairman
Jay Bingham, Lorraine Hunt, Erin Kenny, Myrna Williams, Bruce L. Woodbury
Donald L. "Pat" Shalmy, County Manager

Mr. John Hoyle
January 17, 1996
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1. The Status and future of the LSS.
2. DOE's current thinking with respect to data management for licensing.
3. LSS maintenance issues
4. The future role of an LSSARP.
5. Public involvement and access to licensing information.

Let's discuss this and set up a time for a meeting. If you have any questions please contact Engelbrecht or me at (702) 455-5175

Sincerely,



Dennis A. Bechtel
Coordinator

cc: Engelbrecht von Tiesenhausen
10hoyle.db