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January 30, 1995

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Arnold E. (Moe) Levin
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Office Of Information Resources Management
U.S. Nuclear Regulatory Commission
Washington D.C. 20555

Re: LSS Participants Commitments

Dear Moe:

I have completed my review of the LSS Participant Commitments document, made available to us at the last LSSARP meeting. I have two general comments, and several more specific ones, which are attached hereto.

My first recommended change I am sure you are already aware of. That is the need to completely rewrite Group 4 to reflect the recent Interagency Agreement and the fact of LSSA, rather than DOE, operation and maintenance of the LSS once it becomes operational. The commitments relating to design and development, which should remain with DOE, should, of course be separated from those related to operation and maintenance, which will be the LSSA's responsibility. John Hoyle tells me that this may have already been taken care of, by replacement pages which you have asked him to circulate to the ARP members.

Secondly, as you will be able to see from some of my detailed comments, I am concerned that the entire process laid out in the document may be more burdensome than necessary. Compliance should not be such a chore that the cost of participation in the LSS, in time and effort, outweigh its benefits. The purpose of the LSS is to avoid the burden and expense of hard-copy discovery. I would certainly hope that we don't replace that with an equally great administrative burden of compliance. This is particularly (and perhaps uniquely) the case, of course, for the small, non-DOE participants such as Nye County and the other affected local governments, Tribal interests, and even as yet unknown public intervenors.

These are the broad, general comments I have. I also have several detailed ones, as I indicated above, which are set out

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in the enclosure. They are important, and together prompt my general concern about the perhaps overly burdensome nature of many of the requirements.

Do I correctly assume that we will have another opportunity to discuss this document at the next ISSARP meeting in March?

With best personal regards.

Yours very truly,

LANE POWELL SPEARS LUBERSKY



Malachy R. Murphy
Regulatory & Licensing Advisor
Nye County NWRPO

Enclosure

cc: Les Bradshaw (w\enc)
Phil Niedzielski-Eichner (w\enc)
Lloyd Levy (w\enc)
Members, ISSARP (w\enc)

NYE COUNTY COMMENTS ON
LSS PARTICIPANT COMMITMENTS

■ Commitment 1.B calls for all participants to submit Material Submission Plans at least four years before the LSS is scheduled to be available. That may not be possible, at least if DOE accelerates development of the LSS to track the licensing schedule under the new Program Approach. Indeed the LSS could conceivably be available, at least on a limited basis, in less than four years from now. While four years makes sense for DOE, and perhaps the NRC, because of the amount of material they would need to submit, it is not at all necessary for the smaller, non-federal participants.

■ It will be difficult enough for DOE to comply with the 10 year projection requirement of the Processing Standard under Commitment 1.B. It will be impossible for the smaller participants to do so. Nor is that necessary. The majority of documents to be submitted by the smaller participants will be generated in reaction to DOE documents. This is always the case with entities whose function is oversight. The smaller participants cannot accurately predict what their own document production rate will be without having some idea, not only of what DOE will itself produce, but what DOE documents might say. An accurate inventory of "backlog" documents, perhaps eighteen months to two years before availability of the

LSS, coupled with annual projections of "contemporaneous" documents, should suffice for the smaller participants.

■ Submission of backlog documents by participants other than DOE and NRC 36 months prior to DOE's planned license application submission date is fine if the LSS is available by that date. This processing standard should contain some flexibility.

■ Commitment 1.D is too burdensome, at least for the smaller, non-federal participants. For these participants, including Nye County, most of the documents in their files will be screened out because they constitute routine, non-relevant correspondence, copies of DOE or NRC correspondence or documents, and similar material. A simple coding system, such as color coding, which could readily be checked in the course of an audit, should be sufficient.

■ Is Commitment 1.E inconsistent with the fourth Processing Standard under Commitment 1.B? Does this mean that submission of backlog material should be complete 12 months before DOE's planned license application submission date, or commenced by that date?

■ The Non-Compliance Reporting Threshold under Commitment 1.E should be rethought in light of DOE's Program Approach schedule. It may not be possible to meet those standards if the LSS is not available that much in advance of DOE's planned license application submission in 2001.

■ The note a page 11, under the Processing Standard for Commitment 1.F indicates that a standard "will be set later" for submission of highest priority backlog material if that becomes necessary. We believe that necessity is almost beyond question. Such a highest priority standard should be developed now, rather than later.

■ Nye County agrees entirely that all parties should timely submit exhibits to be tendered during the licensing hearing. However, control over that should properly be left to the Presiding Officer, rather than the LSSA. We would thus suggest adding language such as: "except for good cause shown, and with the permission of the Presiding Officer".

■ Commitment 3.K is to burdensome for the smaller, non-federal participants. See the comment above with respect to Commitment 1.D.