

September 13, 2004

Mr. Robert R. Loux, Executive Director
Agency for Nuclear Projects
Office of the Governor
State of Nevada
1761 E. College Parkway, Suite 118
Carson City, NV 89706

SUBJECT: U.S. DEPARTMENT OF ENERGY'S KEY TECHNICAL ISSUE AGREEMENTS
MADE WITH THE U.S. NUCLEAR REGULATORY COMMISSION - YUCCA
MOUNTAIN

Dear Mr. Loux:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am responding to your letter dated August 9, 2004, concerning the U.S. Department of Energy's (DOE) proposal for processing NRC staff requests for additional information concerning key technical issue (KTI) agreements.

The NRC staff expects that DOE will address all the 293 agreements before submitting the license application (LA) to the staff. We note that DOE has submitted responses to 286 agreements, and has assured the NRC staff that it will respond to the remaining agreements by September 2004. We expect the staff will provide feedback to DOE concerning the KTI agreement responses; it will be up to DOE to decide how, or whether, to respond to the staff's feedback. The staff will continue its pre-licensing consultations with DOE before DOE's submittal of the LA, and will focus its remaining pre-licensing activities on areas most significant to repository performance.

The pre-licensing consultation phase has been intended to provide DOE with an understanding of the information expected in an LA. The pre-licensing phase has used various mechanisms (such as identifying KTIs, establishing KTI agreements, holding technical exchanges and public meetings) to help the NRC staff identify potential licensing issues. When DOE files an LA, the pre-licensing phase, along with the KTI resolution process, will end, and the KTIs and the related agreements will no longer be the focus of NRC staff attention. Indeed, some KTIs will likely remain unresolved at the end of the pre-licensing phase. From then onward, NRC will evaluate whether the application adequately addresses NRC regulations. Consequently, requirements contained in 10 CFR Part 63, and not the KTI process, will provide the basis for a licensing determination.

R. Loux

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If you have any further questions or comments, please contact Mr. C. William Reamer of my staff, who can be reached on (301) 415-6537.

Sincerely,

/RA/

Jack R. Strosnider, Director
Office of Nuclear Material Safety
and Safeguards

cc: See attached list

Letter to R. Loux from J. Strosnider, dated: September 13, 2004

cc:

A. Kalt, Churchill County, NV	A. Elzeftawy, Las Vegas Paiute Tribe
R. Massey, Churchill/Lander County, NV	J. Treichel, Nuclear Waste Task Force
I. Navis, Clark County, NV	W. Briggs, Ross, Dixon & Bell
E. von Tiesenhausen, Clark County, NV	M. Chu, DOE/Washington, D.C.
G. McCorkell, Esmeralda County, NV	G. Runkle, DOE/Washington, D.C.
R. Damele, Eureka County, NV	C. Einberg, DOE/Washington, D.C.
A. Johnson, Eureka County, NV	S. Gomberg, DOE/Washington, D.C.
A. Remus, Inyo County, CA	W. J. Arthur, III , DOE/ORD
M. Yarbrow, Lander County, NV	R. Dyer, DOE/ORD
S. Hafen, Lincoln County, NV	J. Ziegler, DOE/ORD
M. Baughman, Lincoln County, NV	A. Gil, DOE/ORD
L. Mathias, Mineral County, NV	W. Boyle, DOE/ORD
L. Bradshaw, Nye County, NV	D. Brown, DOE/OCRWM
M. Maher, Nye County, NV	S. Mellington, DOE/ORD
D. Hammermeister, Nye County, NV	C. Hanlon, DOE/ORD
M. Simon, White Pine County, NV	T. Gunter, DOE/ORD
J. Ray, NV Congressional Delegation	A. Benson, DOE/ORD
B. J. Gerber, NV Congressional Delegation	N. Hunemuller, DOE/ORD
F. Roberson, NV Congressional Delegation	M. Mason, BSC
T. Story, NV Congressional Delegation	S. Cereghino, BSC
R. Herbert, NV Congressional Delegation	N. Williams, BSC
L. Hunsaker, NV Congressional Delegation	E. Mueller, BSC
S. Joya, NV Congressional Delegation	J. Mitchell, BSC
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S. Frishman, State of NV	B. Helmer, Timbisha Shoshone Tribe
S. Lynch, State of NV	R. Boland, Timbisha Shoshone Tribe
P. Guinan, Legislative Counsel Bureau	R. Arnold, Pahrump Paiute Tribe
J. Pegues, City of Las Vegas, NV	J. Birchim, Yomba Shoshone Tribe
M. Murphy, Nye County, NV	R. Holden, NCAE

cc: (Continued)

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R. McCullum, NEI

S. Kraft, NEI

J. Kessler, EPRI

D. Duncan, USGS

R. Craig, USGS

W. Booth, Engineering Svcs, LTD

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C. Marden, BNFL, Inc.

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*Owens Valley

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T. Kingham, GAO

D. Feehan, GAO

E. Hiruo, Platts Nuclear Publications

G. Hernandez, Las Vegas Paiute Tribe

K. Finrock, NV Congressional Delegation

P. Johnson, Citizen Alert

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D. Wilson, Sen. Reid's Office

C. Meyers, Moapa Paiute Indian Tribe

R. Wilder, Fort Independence Indian Tribe

D. Vega, Bishop Paiute Indian Tribe

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J. Leeds, Las Vegas Indian Center

J. C. Saulque, Benton Paiute Indian Tribe

C. Bradley, Kaibab Band of Southern Paiutes

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D. Irwin, Hunton & Williams

L. Alfano, Lincoln County

M. Henderson, Cong. J. Gibbon's Office

B. Vonderheide, Cong. J. Gibbon's Office

D. Duquette, NWTRB

R. Loux

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If you have any further questions or comments, please contact Mr. C. William Reamer, of my staff, who can be reached on (301) 415-6537.

Sincerely,

/RA/

Jack R. Strosnider, Director
Office of Nuclear Material Safety
and Safeguards

cc: See attached list

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