

EDO Principal Correspondence Control

FROM: DUE: 12/07/04 EDO CONTROL: G20040779
DOC DT: 11/04/04
FINAL REPLY:

Robert R. Loux
State of Nevada

TO:

Chairman Diaz

FOR SIGNATURE OF : ** GRN ** CRC NO: 04-0700

Strosnider, NMSS

DESC:

ROUTING:

DOE's Application for License for a Nuclear Waste
Repository at Yucca Mountain

Reyes
Virgilio
Kane
Merschhoff
Norry
Dean
Burns
Lohaus, STP
Mallett, RIV
Cyr, OGC

DATE: 11/15/04

ASSIGNED TO: CONTACT:
NMSS Virgilio

SPECIAL INSTRUCTIONS OR REMARKS:

Coordinate response with OGC. Add OGC on for
concurrence.

OFFICE OF THE SECRETARY
CORRESPONDENCE CONTROL TICKET

Date Printed: Nov 15, 2004 13:41

PAPER NUMBER:

LTR 04-0700

LOGGING DATE: 11/15/2004

ACTION OFFICE:

EDO

AUTHOR:

Robert Loux

AFFILIATION:

NV NWPO

ADDRESSEE:

Nils Diaz

SUBJECT:

DOE's application for license for a nuclear waste respository at Yucca Mountain

ACTION:

Direct Reply

DISTRIBUTION:

RF

LETTER DATE:

11/04/2004

ACKNOWLEDGED

No

SPECIAL HANDLING:

Made publicity available in ADAMS via SECY/EDO/DPC

NOTES:

Coordinate response with the General Counsel

FILE LOCATION:

ADAMS

DATE DUE:

12/07/2004

DATE SIGNED:

EDO --G20040779



6277

OFFICE OF THE GOVERNOR
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November 4, 2004

The Honorable Nils J. Diaz, Chairman
U.S. Nuclear Regulatory Commission
Washington DC 20555-0001

04 NOV 10 PM 3:36

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Dear Chairman Diaz:

While broad uncertainties surround the potential U. S. Department of Energy license application for a nuclear waste repository at Yucca Mountain, there is one point of Commission policy that can, and should be clarified given current circumstances. Simply put, the question is whether receipt of a repository license application from the Department prior to final promulgation of an Environmental Protection Agency Standard, 40 CFR Part 197, and a conforming Commission licensing rule, 10 CFR Part 63, will cause the Commission Staff to initiate an acceptance review and subsequent docketing of the Department's repository license application.

As you are aware, the U.S. Circuit Court of Appeals for the District of Columbia has vacated the EPA's repository standard and any part of the NRC's licensing rule that does not conform with an EPA standard that may be promulgated in the future. EPA has yet to issue formal notice of rulemaking regarding a Yucca Mountain repository standard upon which a Commission licensing rule relies.

It is important that Commission policy be clear on the matter of its staff's initiation of a license application review and docketing, absent complete and final compliance criteria, because many activities and commitments of resources of known and interested parties, including the Commission staff and the State of Nevada, rely on understanding the timing of the sequence of events that will ensue with the Commission's receipt of a Yucca Mountain repository license application from the Department.

Please let me know the Commission's view of this matter at your earliest convenience.
Thanking you in advance.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert R. Loux", with a large, stylized flourish extending from the end of the signature.

Robert R. Loux
Executive Director

RRL:njc

cc: Attorney General Sandoval
Mr. Joe Egan