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December 7, 1993

Mr. David S. Drapkin
U.S. Nuclear Regulatory Commission
Office of the Licensing Support
System Administrator
Mail Stop 7103 MNBB
Washington, D.C. 20555

Reference: Task Order No. 4, Request for Proposal - August 3, 1993
Subject: Input for Consideration in Answering Concerns Expressed by Mal
Murphy at October 5-6, 1993 LSSARP Meeting
Enclosure: As above

Dear Mr. Drapkin:

Please find enclosed the materials you requested concerning the issues raised by Mal Murphy at the recent LSSARP meeting. The first document, entitled "Transcript Extracts", contains the text of Mal Murphy's concerns as recorded during the meeting by the court reporter. The second document, entitled "Input Related to Issues Raised by Mal Murphy at the October 5-6, 1993 LSSARP Meeting", contains summarized transcript extracts, as well as input furnished for your consideration in developing responses to those issues raised by Mr. Murphy. In both documents, the numbers in parentheses refer to the page and line of the transcript where the actual text can be found.

If you have any questions, please do not hesitate to call me at (703) 525-9400.

Sincerely,

LABAT-ANDERSON Incorporated



Tony Neville
Project Manager

cc: LAI contract file
Edna Knox-Davin, COA

TRANSCRIPT EXTRACTS

December 7, 1993

Alternative 3/Control of LSS

[p. 30 (10)] On that point, I guess the only criticism I think I would make of your handout is the use of the words "might be" and "may be" in the cons. I was among the parties to the original LSS negotiation.

One of the, if not the most fundamental issues was the fact that this system would not be placed under the control of the Department of Energy, that the Department of Energy would not be inputting other participants' documents and controlling the system. I can't speak for anyone else. I was representing the State of Nevada at the time of these negotiations. I'm representing another party now, but I cannot imagine, under any circumstances, that many other parties at this table will ever enthusiastically endorse using InfoSTREAMS or any other system which is under the exclusive control of DOE, regardless of the quality--and I'm not questioning or debating, we'll discuss it this afternoon regardless of the quality of the oversight and audit function that you folks performed.

It was an essential ingredient. As a matter of fact, and Chip can confirm this, it was a walking issue to the state and other participants in the LSS negotiation that if the NRC and DOE did not agree that this system would not be under the control of DOE, that negotiation would have ended in about the second meeting.

So it seems to me that when the proposal to let's take a look at using InfoSTREAMS was first broached internally within the staff and within DOE, I don't understand why people didn't say that's fine, but we're going to have to change it in such a way that it won't be controlled by us or by DOE, because the rest of the parties won't accept that and we, the United States Government, made a promise to the rest of these parties that they would not be required to accept it.

[p. 32 (10)] Are you saying, John, that if this Panel returns a recommendation through you to the Commission that Alternative 3 is not acceptable, that the Commission will say that's fine and we'll go back to the LSS rule or we'll start over again and reexamine the rest of these alternatives and we will bring the members of the original negotiating team or other interested participants, people who are going to be directly--who represent organizations or governments who will be directly effected by this program, we'll let them have their say at the beginning rather than examine an alternative which appears, to many people at least, if not to be cast in stone, to be so close to the preferred model that the Commission wants, that discussing and going back to the original LSS rule is probably futile.

[p. 44 (12)] On that subject, that reminds me. Is this group, for example, going to be able to get involved in the--I'm not suggesting that we start a brand new negotiation like the old one,

but would the ARP have input into that rule before it was sent to the Commission?

[p. 45 (12)] In other words, if you want it in technical terms, are we talking about just a good old garden variety notice and comment rulemaking? Would there be an advanced copy under notice and comment rulemaking or would the Commission staff envision bringing to--assuming that this body says, yes, we think this is--let's stay in business, let's keep talking about this, would the Commission staff envision them bringing--either bringing to the ARP the language of the draft rule to implement its recommendation or this body's recommendation or perhaps an alternative would be having this body develop the language of a draft rule to implement Alternative 3.

[p. 192 (24)] I think the last point you make, just to focus on that, is a good one and going back in history, because there may be parties at the table, and I'm not suggesting that it's necessarily Nye County or the state or anyone else, but there may be parties at the table who simply cannot agree under any circumstances to turn over the control of their documents to the Department of Energy...the industry representatives, you and Chris, were able to withhold your consent to consensus in the LSS rule without saying screw this, we're going to pick up our marbles and go home. You have continued to participate in the process, even though you didn't agree with the rule.

We may not be able to publicly say we agree to having DOE control our documents, but that does not mean that any particular party to this process is going to leave the room. Some may.

But it seems to me we can break this down into various components of what we have to decide. But just looking at that question, there's really two subquestions. One is InfoSTREAMS an appropriate vehicle to proceed with developing a licensing support system...And a second question is should the Department of Energy, for LSS purposes, not for their internal interest, but for LSS purposes, should the Department of Energy control all or part of InfoSTREAMS as the LSS.

I guess another question is--it seems to me that at least worth discussing is are there ways--are there other alternatives, Alternative 3A or 3B or 3C that aren't written down yet that are worth talking about.

The one that occurs to me, this just off the top of my head and it may not work, but it's worth talking about, is there some other way for parties who feel uncomfortable in giving DOE their documents and letting DOE manage their documents and inputting them into the LSS, for getting those documents into an LSS even if it's made up of InfoSTREAMS.

As an example, would we--when I say we, I mean a party that feels uncomfortable enough just simply not to agree--turn over documents to the LSSA and, for those purposes, limited purposes of servicing one or more consenting participants, perhaps the LSSA becomes the responsible official for ensuring input into the LSS.

[p. 195 (24)] You looked at 11 alternatives. You compressed that down to three and then you chose Alternative 3. What I'm suggesting is maybe there are bits and pieces of all 11 that we

can put together and come up with Alternative 4.

One of them might be some potential participant, and I use this advisedly, for political reasons, for reasons of public perception, may not be able to turn over their repository related documents to the Department of Energy for processing into that system. It may simply not be publicly acceptable.

And, yet, those same participants may feel perfectly comfortable in letting Betsy input their documents into the system and the control of the information in the system after those documents are inputted is another issue all together. Those same participants may feel comfortable knowing that Betsy is going to be looking over Dan's shoulder.

...I'm not suggesting that the Department of Energy people are going to go in and start cutting and pasting and changing all the no's to yeses in Nyc County documents, but what I am suggesting is that if it is conceivable that as we get closer and closer to licensing and crunch time has really arrived and there is a pile of documents, a truckload of documents delivered from the State of Nevada to the InfoSTREAMS office, and a boxcar of documents or electronic data coming in from the Yucca Mountain Project Office and the deadline for complying with the LSS is upon them, what choice is Dan going to make?

Is he going to say I'm going to input Carl Johnson's documents or am I going to input Carl Dirches' documents? Then the deadline passes and all of a sudden the LSS Administrator is all over the State of Nevada's butt, saying you people haven't complied with the LSS and we're not going to allow you to participate in the licensing process.

[p. 265 (4)] I cannot conceive of any circumstances under which we who, in a very loose term, may be considered in the same sort of position as a defendant in litigation, would be willing to give our documents to the license applicant for inputting into the system.

[p. 269 (20)] The concern is turning over control of this system to the Department of Energy.

[p. 271 (22)] Why don't the non-DOE parties just turn over their documents and rely on the LSS Administrator for inputting the non-DOE documents.

[p. 272 (3)] Even under the current rule, it was always envisioned that the Department of Energy design and develop the system and get it running and functioning and then turn it over to the Licensing Support System Administrator.

[p. 274 (3)] I think at some point in time, that system has to come under the direct control of the NRC.

[p. 274 (15)] My concern is that the system be controlled by the adjudicatory body that's going

to make the decision as to whether or not to grant the construction authorization. Maybe you can ramp up the compliance and audit program to a point sufficient that it becomes virtual control. I would be willing to consider that. It could become the functional equivalent of LSSA control. I'm not worried about nomenclature. I'm worried about who in the office on a daily basis is going to have the authority to say do this, do that or you're fired. I don't want that to be a Department -- I don't want Dan to be put in the position of having to tell his supervisor I'm working on Nye County data today, I'm working on DOE data, and be told you're getting paid by DOE, we're putting DOE data in.

[p. 275 (20)] ...but the political reality is that you're asking Nye County, Nevada to agree to a process where the project manager and the county administrator and the county commissioners are going to go back to their people and say guess what we've done, we've agreed to turn over our documents to the Department of Energy, but don't worry, in this case, you can trust them. We are not going to do that without some further neutral non-DOR assurances that this system is going to function the way we bargained for it.

[p. 277 (4)] We're concerned about the priorities that are going to be given to various kinds of work, management of the system, the things of that nature. But we also have the perception issue.

[p. 277 (16)] We wanted someone other than DOE or the NRC to run the LSS....I don't mean a contractor. I mean someone with independent standing in the Federal Government.

[p. 279 (20)] This approach saves the NRC money. It doesn't save the total system any money...It just transfers costs to the Department of Energy. I can understand that the NRC -- and I agree with the NRC's concern in that respect. They ought to be more worried about making sure that the Division of High Level Waste Management has enough money to adequately oversee the technical work that's being done out there. I'm not arguing. I'm not faulting the NRC for that concern. But that's what Alternative 3 does. It doesn't save the licensing support system any money. It just saves the NRC money.

[p. 285 (7)] And I think it's primarily Congress' responsibility, not DOE's. If DOE had been given all the money that they asked for by Congress, I assume the LSS would have been under development. Correct?

[p. 298 (21)] Could you say that, in a paper to the Commission and by rule, that DOE would design, develop, install, operate and maintain the LSS information storage and dissemination capability within InfoSTREAMS under the control and direction of the LSS Administrator?

[p. 303 (1)] What about that DOE would design, develop and install the LSS system under InfoSTREAMS and would operate and maintain it subject to the direction and control of the LSS Administrator? [Can this be done bureaucratically?]

[p. 306 (1)] Also, I don't want anybody to get the impression that I think the LSS should take precedence over that technical oversight, either. If there's a choice between developing the LSS and making sure that the science out at Yucca Mountain is done correctly, then the science is obviously going to take precedence. I think I've said this before. In that respect, I'm not arguing that the NRC's fear that budget cuts will impact more severely their ability to technically oversee this characterization program, we don't want that to happen. We think more needs to be done in that area than less.

Circulated Drafts

[p. 85 (11)] I think in the final analysis, it is less expensive to do it the way Dan is suggesting and grab that document at its inception rather than have to go back later on four months, six months, a year-and-a-half later and say, well, you know, we had this document floating around and now it's become a circulated draft and we didn't know whether it was a circulated draft, so now let's everybody stop and go find that document and let's get it into the system.

I think there may be more paperwork involved, but in terms of ultimate expense to the nuclear waste fund, my guess is, this is just sort of a visceral reaction, it's less expensive to do it from the outset than it is to try to go back and--

Copyright Material

[p. 112 (17)] Your General Counsel is forgetting something. If the NRC doesn't get all of the information the NRC wants, the NRC says you can't have your license. Then the Secretary can go back to her General Counsel and say not only can't you have your license, we're not going to start this process until we get that information.

You go back to your General Counsel and figure out how you're going to do that, but you want a construction authorization, you want a license to receive and possess nuclear material, you give us this information. That's the position the NRC is in.

The Department of Energy is making a grotesque mistake if they think that they're going to be able to bully the NRC into paying for copyright material. The NRC has the only piece of paper that matters in this process and that's the one that says "license" up on the top of it.

Costs

[p. 51 (14)] Just to add to what Chris said, I think that you would have probably found a fair amount of support from the members of this panel for the proposition--well, I know you would have and I know even before the LSS rule was finally--before quasi-consensus was reached and

the rule was finally presented to the NRC, that members of the negotiating committee, who then became members of this Panel, were very uncomfortable with the system that SAIC was at the time designing for DOE.

Some of us were informally advising DOE that it was too expensive, that it was never going to be funded, it wouldn't fly, and that it was beyond what we really felt we needed as potential participants in an NRC licensing proceeding.

So as Chris said, I think if you had come to the LSSARP and asked here's what DOE or here's what a contractor has designed for DOE, do we really need all of these functions, you would have gotten some valuable input. Or do we need all these bells and whistles in order to provide this function, I guess, is a bit more accurate way to say it.

Defense Documents

[p. 97 (5)] I have another question that just occurred to me and I think, Dan, you probably need to address it. Maybe this has all been--I hope it has all been thought of already, but how does--since InfoSTREAMS is an OCRWM system, it isn't yet Department-wide, how are you--are you taking any steps to ensure that the Defense side documents which may someday become relevant to the licensing process for the repository, such as documents relating to the vitrification process for high level waste, for example, high level waste container information, that kind of stuff, how are you ensuring that this material will be inputted into InfoSTREAMS and thus become available for the LSS?

How does it get into the LSS?

Privileged Material

[p. 183 (16)] Let's consider it [privileged material]. Let's put that down on the agenda for any changes to the rule...I think it's something we ought to at least put on the agenda for consideration when we make changes, if we make any changes to this rule.

QA/Audits

[p. 165 (3)] Let me just follow up on that. That means, I take it, that the LSSA is focusing on DOE now. The LSSA will itself direct, through a contractor perhaps, but will itself directly audit DOE's implementation of the LSS rather than audit DOE's audits of its own implementation.

[p. 165 (12)] But the model I have in mind and I think Kirk probably was referring to, as well, is that in the technical QA program right now, the NRC observes DOE's audits.

[p. 171 (1)] The one point you just mentioned about if we don't feel we need to do as many audits as we planned, one thing--and I'm sure we'll incorporate these to consider, and Jay is going to support me on this I'm certain....I think as in other QA aspects that will apply to the overall repository program, you have to keep in mind that only the Department of Energy is

asking for the right to receive and possess nuclear material. They need to be subject, both technically and in their engineering and scientific programs and in this program, to stricter quality controls than other participants and intervenors and etcetera.

So we may very well suggest after reflecting on this somewhat that you don't need to audit all of the non-DOE participants every six months. You need to ensure that the data we're submitting and that our compliance with the LSS is sufficient so that our participation in the licensing proceedings is going to be based on reliable information and that DOE--and, remember, DOE is really the only one that's interested in digging into our data, pretty much.

There is going to be some reliability associated with our participation, but it's not to the same extent that DOE's entry of data, as well as the data that they are entering needs to be quality assured, because they're the ones that are going to be handling nuclear materials if this repository is licensed, not us.

[p. 172 (7)] You could save some money. And Jay's concern is not trivial. You could save a significant amount of money, it seems to me, by--this is just an off-the-top-of-the-head suggestion, though--by auditing DOE every six months and other participants every year, for example.... People have to remember that the amount of--the mound and amount of documentary material that's passing through participants' hands, that crosses my desk or Lloyd's desk or Carl Johnson's desk, 90 or 95 percent of that are not documents that we are going to be responsible for inputting into the LSS, because they come from someone else. They're DOE documents or they're NRC documents and we're not going to have to worry about them.

Much of that stuff is going to get thrown away after we read it and comment on it. So that of the thousands and thousands and thousands of pages of documents that cross my desk as Nye County's regulatory and licensing advisor, only what I generate on behalf of Nye County will need to be--and only then if it doesn't qualify for some privilege will that need to be inputted into the LSS.

There isn't any reason to come visit me every six months. You'd look at 30 or 40 documents, maybe.

[p. 188 (9)] I also think that it is probably more likely that an NRC employee subject to the Federal Personnel Management System's protections is more likely or might be more likely to issue demerits to the NRC's own staff than a contractor, who is subject to the discretion of the NRC. I just think that the fundamental underpinning of the statement that a contractor selected by the NRC is going to be more independent than the NRC staff itself is just fallacious.

Technical Working Group

[p. 27 (10)] First of all, and I understand that this decision was made by the Commission, not by staff, but I think we need to make a record on it anyway. Why did the NRC consider it necessary to establish a DOE/NRC Technical Working Group which, in itself, that decision in itself, to me, was a violation of the LSS rule?

This body, the LSSARP, was established in the rule and negotiated by the parties and

envisioned by the parties to perform precisely that function, to advise the NRC and DOE on development and implementation of the LSS.

Why, in your opinion, was it felt necessary to exclude the parties who had engaged in that negotiation and who have made some important and significant compromises in reaching the consensus, those of us who did reach a consensus, and, yet, we're not permitted to take part in this process?

Topical Guidelines

[p. 253 (12)] It seems to me that one of the functions of this Advisory Review Panel, certainly a function we performed in our meeting in Reno in 1991, I guess it was, or 1990, was to review the topical guidelines and we went through a very, very heated process of providing input and advice to the Commission staff on them. I just assumed that when the draft NUREG was issued and the new topical guidelines were proposed that as a matter of course, they would be brought back to this body for it's outside the Federal Register notice and comment sort of process, that they would be brought back to this body to see, for example, whether or not the letter that Jay Silberg so carefully drafted and which you then turned into the memo to Bob Bernero had been responded to the way we hoped it would be. So I was surprised to see that the topical guidelines were not on the agenda and that's why I brought it up.

Substantively, I hope at least, that the concerns we raised at the meeting in Reno and which you expressed to Bob in your memorandum have been addressed in the new draft of the topical guidelines, but I need to clarify that. Chip may be the one to answer this or maybe Joe Hallanich.

The argument was over primarily the exclusion of environmental information and transportation information. That has now apparently been included in the topical guidelines and I need to satisfy myself that there are no limitations on the environmental or transportation information that the topical guidelines will encompass.

Let me just ask that question. Are we referring, for example, to national transportation information, all transportation information that the Department of Energy relied on in drafting its environmental impact statement? That appears to be what is said.

[p. 255 (6)] How about environmental? At one point in time in the topical guidelines, the socioeconomic information was included. That is not--that's gone now, but the environmental information is in there, as well as transportation. Does environmental information include the socioeconomic environment? Is DOE going to--and us--going to be putting socioeconomic information into the LSS?

[p. 255 (16)] Well, they have to address socioeconomic. They can't draft an environmental impact statement without socioeconomic information, unless they want--that's a guaranteed reversal....I think the NUREG itself should indicate that the term "environment" includes the socioeconomic environment.

[p. 258 (13)] I think Chip assumes that socioeconomic information is subsumed, and Joe is nodding his head, is subsumed within the phrase "environmental." I just think that ought to be made clear. We'll include that in our written comments.

**INPUT RELATED TO ISSUES RAISED BY MAL MURPHY
AT THE OCTOBER 5-6, 1993 LSSARP MEETING**

December 7, 1993

Dear Mr. Murphy:

During the recent LSSARP meeting held in Las Vegas, Nevada, October 5-6, 1993, you expressed some concerns over DOE's control of the LSS. The purpose of this letter is to address your concerns raised during the meeting.

1. You expressed that one of the negotiating committee's major concerns was that the LSS would be placed under the control of the Department of Energy (DOE) and that DOE would not input non-DOE participants documentary material in a timely manner. Non-DOE participants will be reluctant to endorse using InfoSTREAMS or any other system under exclusive DOE control regardless of the quality of oversight and audit. Non-DOE participants will not agree to turn over their documents to DOE without some further neutral non-DOE assurances that the LSS is going to function the way it was originally envisioned. [p. 30(10)]

The Commission believes there is room for some reconsideration of what was originally negotiated during rulemaking, especially since there is an opportunity for substantial cost avoidance. The Commission will make every attempt to accommodate suggestions that could further ensure the integrity of DOE's capture of non-DOE data.

2. You asked if the LSSARP considers Alternative 3 unacceptable, will the Commission reexamine the remaining alternatives or develop a new alternative and let members of the original negotiating committee comment on the proposed alternatives before any decisions are made. [p. 32(10)]

The Commission is very interested in the LSSARP's recommendations and keeping the Panel involved in key decisions. The LSSARP was set up on the basis of a negotiated rulemaking, and the Commission strives to continue the negotiated committee development aspect. The Commission is open to which alternatives are pursued. One of the main purposes of our recent LSSARP meeting in October was to obtain input from Panel members on Alternative 3.

3. You expressed concern that, in your opinion, the NRC established a DOE/NRC Technical Working Group in violation of the LSS rule. Why were the parties, who had made significant compromises in reaching consensus during the negotiated rulemaking, not permitted to take part in the process of advising the NRC and DOE on development and implementation of the LSS? [p. 27(10)]

There had been protracted discussion between NRC and DOE on the cost of and schedule

for development of the LSS. The Office of Management and Budget (OMB) became involved in these discussions and gave certain directives to DOE in terms of DOE's budget for the LSS. A joint DOE/NRC Technical Working Group was formed to reexamine the design, development, implementation, and operational aspects of the LSS and to search for ways to lower overall costs to the Nuclear Waste Fund. This group reviewed the needed for various components of the system, including the use of InfoSTREAMS design/technology.

4. You asked whether the LSSARP will have the opportunity to comment on or help draft the language for the revised LSS rule before the formal notice and comment period. [p. 44(12)]

The Commission would agree to either giving the LSSARP an advanced copy for their comment or having the LSSARP develop the language for the draft rule to implement Alternative 3. NRC will give a draft of the rule to the LSSARP before it gets final Commission approval.

5. You asked whether there are parts of the 11 alternatives that could be used to come up with an alternative to Alternative 3. For example, could the non-DOE participants turn over their documents to the LSSA and the LSSA would be responsible for ensuring input into the LSS? [p. 192(24)] There is also concern about the perception issue. Should DOE be responsible for inputting non-DOE participant documents? [p. 195(24)]

Among other benefits, Alternative 3 is intended to reduce costs by developing and operating the LSS as part of DOE's InfoSTREAMS system rather than designing and developing it as a completely separate system. Under Alternative 3, non-DOE participants would submit their materials to an LSSA-managed contractor staff for review and acceptance under applicable standards. If the material is deficient in some manner, it will be rejected and the participant will have to correct it. These materials will be forwarded to DOE for further processing and conversion to LSS electronic format. The LSSA audit system will maintain records of these transfers. All processing of DOE and non-DOE materials, will be subjected to an LSSA QA review and to periodic audits of participant document-processing activities. If the LSSARP identifies further controls, they can be added to ensure the participants' confidence that their database will be accurate and complete.

6. You expressed concern as to whether InfoSTREAMS is an appropriate vehicle to proceed with developing a licensing support system. Should DOE control all or part of InfoSTREAMS as the LSS? [p. 192(24)]

InfoSTREAMS is an automated information system being developed by DOE and is similar in functionality to the LSS. Considering the substantial cost savings, InfoSTREAMS seems to be a viable alternative. The LSSA will evaluate DOE's performance by overseeing the DOE development, operation, and maintenance of the LSS.

7. You expressed concern that under the current rule it was always envisioned that DOE would design and develop the system then turn it over to the LSS Administrator. [p. 272(3)]

The major difference between the current rule and Alternative 3 is that under Alternative 3, DOE would be maintaining and running the system, albeit with supervision and oversight from the LSSA.

8. You stated that the LSS should be controlled by the adjudicatory body that is going to decide whether or not to grant DOE the license to receive and possess high-level radioactive waste, and that if the compliance and audit programs are made stringent enough maybe they will be equivalent to LSSA control of the system. [p. 274(15)]

In selecting Alternative 3, the Commission has strongly emphasized the importance of establishing the necessary control mechanisms whereby the LSSA can ensure DOE's compliance with the LSS rule. The Compliance Assessment Program (CAP) will be an important element of the revised LSS program. The CAP program is designed to provide the necessary controls to ensure DOE's compliance. If the LSSA determines that DOE is not in substantial compliance with its responsibilities for development and installation (and operation of parts or all of the LSS) as defined in the LSS rule as amended, the LSSA will report that noncompliance to the Executive Director for Operations for appropriate action. If this occurs before the license application is submitted, acceptance of DOE's application for review for docketing could be delayed; or if requested by DOE and approved by the NRC staff, the license application could be accepted under 10 CFR Part 2, Subpart G, without the full benefit of the LSS.

9. You stated that DOE is the only participant asking for the right to receive and possess nuclear material; therefore, DOE needs to be subject to stricter quality controls than the other participants. Non-DOE participants do not need to be audited every six months. [p. 171(1)] Much money could be saved by auditing DOE every six months and other participants every year. Non-DOE participants have a much lower volume of materials. [p. 172(7)]

DOE may not warrant stricter controls because it is the license applicant, but the size of DOE's document universe may warrant more frequent audits than those conducted of non-DOE participants.

10. You stated that an NRC employee is more likely to issue demerits for noncompliance to the NRC's own staff than a contractor, who is subject to the discretion of the NRC, would be. [p. 188(9)]

The rationale for having the QA facility be a contractor-run facility as opposed to an NRC employee-run facility is because of the lack of available NRC staff experienced in this type of document management quality control.

11. You expressed concern that Alternative 3 saves NRC money. It does not save the total LSS any money; it just transfers the costs to DOE. [p. 279(20)]

With a large, complex system such as LSS, transferring the system from the designer and developer--DOE and its contractors--to NRC and its contractors to run the system, creates the potential for massive inefficiencies and higher costs.

12. You asked whether it is bureaucratically feasible for DOE to design, develop, install, operate and maintain the LSS information storage and dissemination capability within InfoSTREAMS subject to the direction and control of the LSSA. [p. 298(21) & p. 303(1)]

The most important LSSA function is to oversee DOE's design, development, operation, and maintenance of the LSS. The LSSA is preparing a commitments document that will be released for LSSARP review and comment before finalization. One of the functional areas of LSS Participant commitments will cover DOE obligations relative to design, development, operation and maintenance of the LSS. The LSS will be developed by DOE, which will propose system requirements. The LSSA will review and approve requirements with LSSARP advice. DOE will implement approved requirements, and the LSSA will audit DOE's implementation as part of LSSA audit program.

13. You stated that during negotiated rulemaking, members of the negotiating committee were uncomfortable with the system that SAIC was designing for DOE. Some felt that it was too expensive, that it would not be funded, and that it was beyond the participants' needs. NRC should have consulted the LSSARP on the necessary functions. [p. 51(14)]

The Commission agrees that it should have brought the LSSARP into the discussion earlier.

14. You asked whether "transportation" refers to national transportation information, i.e., all transportation information that the DOE relied on in drafting its environmental impact statement. [p. 253(12)] Does environmental information include socioeconomic environment? Is DOE going to put socioeconomic information in the LSS?

The additional topics of "transportation" and "environmental information" have been included in the Topical Guidelines. The inclusion of environmental and transportation issues is tied to the adoption of the EIS. The inclusion of socioeconomic information in the LSS also depends on the scope of DOE's EIS. Panel members are encouraged to review the Topical Guidelines and make specific comments addressing their concerns.

15. You asked whether any steps are being taken to ensure that the "Defense side" documents which may someday become relevant to the licensing process for the repository, such as documents relating to the vitrification process for high level waste, or high level waste container information, will be input to the LSS. [p. 97(5)]

*DOE has indicated that the custody of those materials can be transferred to OCRWM.
DOE has a draft implementation plan for the exchange of custody and how to screen
those materials for potential LSS need.*