

March 15, 2007

Mr. Mark H. Williams, Director
Regulatory Authority Office
Office of Civilian Radioactive Waste Management
U.S. Department of Energy
1551 Hillshire Drive
North Las Vegas, NV 89134-6321

SUBJECT: U.S. DEPARTMENT OF ENERGY REQUEST FOR SPECIFIC U.S. NUCLEAR
REGULATORY COMMISSION REPORTS

- References:
- (1) DOE letter to NRC, Director, Division of High-Level Waste Repository Safety, dated 8/15/05 (DOE Office of Repository Development, Request for Specific NRC Reports) ML052290312
 - (2) NRC letter to DOE, dated 7/11/05 (Additional Information Needed to Support Report Request) ML051650417
 - (3) DOE letter to NRC, Director, Division of High-Level Waste Repository Safety, dated 5/26/05 (DOE Office of Repository Development Request for Specific NRC Reports) ML051510191
 - (4) DOE letter to NRC, dated 11/02/06 (Transmittal of *Frequency Analysis of Aircraft Hazards for License Application* Report, 000-00C-WHSO-00200-000-00E) ML063120089

Dear Mr. Williams:

This letter is in response to your letter, dated August 15, 2005 (Reference 1), in which the U.S. Department of Energy (DOE) provided additional information to U.S. Nuclear Regulatory Commission (NRC), regarding DOE's request for certain Safeguards Information (SGI) documents, related to analyses developed during licensing activities for the Private Fuel Storage (PFS) facility in Utah (Reference 1).

In our letter (Reference 2), in response to your original request (Reference 3), NRC stated that to make a determination of DOE's "need to know" in accordance with 10 CFR 73.21(c) and justify access to the SGI documents, DOE must provide certain information to NRC (Reference 2). As a policy, the NRC has a strong interest in limiting access and distribution of SGI to those that have an actual and specific, rather than a perceived, need to know. This is required in order to reduce the possibility of inadvertent security breaches that may increase as the number of persons handling sensitive information increases.

In the letter, dated August 15, 2005 (Reference 1), DOE states that it is currently analyzing the hazards of potential aircraft impacts into the surface waste-handling facilities, as well as structural integrity for these facilities, at the potential Yucca Mountain repository in Nevada.

Furthermore, the DOE states that the potential hazards posed by military aircraft around Yucca Mountain are similar to the hazards evaluated for the PFS facility. Due to these similarities and the methodologies developed that have withstood NRC regulatory scrutiny during the licensing activities for the PFS facility, DOE requested the SGI documents (References 1 and 3) in order to follow a comparable approach to identifying impacts of aircraft, characterizing the resultant missiles, evaluating structural impacts and thermal effects, and determining aircraft crash frequencies at the proposed Yucca Mountain repository. DOE indicated that it may also use the information in these SGI documents as benchmarks for comparison to models DOE will utilize to depict aircraft hazards at the proposed Yucca Mountain repository.

DOE Report, Frequency Analysis of Aircraft Hazards for License Application, 000-00C-WHSO-00200-000-00E, dated August 24, 2006 Section 3.3.10 (Reference 4) states that "no credit is taken for the ability of transportation casks, aging casks, or the relevant surface facilities to withstand impact by an aircraft". This approach would negate DOE's need for the NRC reports requested in References 1 and 3. Therefore, the NRC staff do not see the need to provide DOE access to these documents. If in the future, DOE requires access to the SGI documents, originally requested in Reference 3, DOE must demonstrate an actual and specific need-to-know, through correspondence, in accordance with 10 CFR 73.21(c).

If you have any questions on this matter, please contact Mr. Kien Chang at (301) 415-6612 or Mr. Mahendra Shah at (301) 415-8537.

Sincerely,

/RA/

Aby S. Mohseni, Deputy Director
Licensing and Inspection Directorate
Division of High-Level Waste Repository Safety
Office of Nuclear Material Safety
and Safeguards

cc: See attached list.

Letter to M. Williams from A. Mohseni dated: March 15, 2007

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	R. Murray, DOE/OCRWM
G. McCorkell, Esmeralda County, NV	G. Runkle, DOE/Washington, D.C.
R. Damele, Eureka County, NV	S. Bokhari, DOE/RW
L. Marshall, Eureka County, NV	S. Gomberg, DOE/Washington, D.C.
A. Johnson, Eureka County, NV	D. Curran, Harmon, Curran, Spielberg & Eisenberg, L.L.P.
S. Schubert, Sen. Reid's Office	R. Dyer, DOE/OCRWM
M. Yarbrow, Lander County, NV	J. Espinoza, GAO
J. Donnell, DOE/OCRWM	A. Gil, DOE/OCRWM
M. Baughman, Lincoln County, NV	W. Boyle, DOE/OCRWM
L. Mathias, Mineral County, NV	M. Ulshafer, DOE/OCRWM
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M. Simon, White Pine County, NV	A. Benson, DOE/OCRWM
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D. Cornwall, NV Congressional Delegation	P. Harrington, OPM&E
T. Story, NV Congressional Delegation	M. Mason, BSC
R. Herbert, NV Sen. Reid's Office	S. Cereghino, BSC
M. Murphy, Nye County, NV	B. Gattoni, Burns & Roe
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R. Loux, State of NV	D. Beckman, BSC/B&A
S. Frishman, State of NV	J. Raleigh, SNL
S. Lynch, State of NV	J. Kennedy, Timbisha Shoshone Tribe
P. Guinan, Legislative Counsel Bureau	B. Durham, Timbisha Shoshone Tribe
R. Clark, EPA	R. Arnold, Pahrump Paiute Tribe
R. Anderson, NEI	J. Birchim, Yomba Shoshone Tribe

cc: (Continued)

R. McCullum, NEI

S. Kraft, NEI

J. Kessler, EPRI

D. Duncan, USGS

K. Skipper, USGS

W. Booth, Engineering Svcs, LTD

C. Marden, BNFL Inc.

J. Bacoch, Big Pine Paiute Tribe of the Owens Valley

P. Thompson, Duckwater Shoshone Tribe

T. Kingham, GAO

D. Feehan, GAO

E. Hiruo, Platts Nuclear Publications

G. Hernandez, Las Vegas Paiute Tribe

K. Finfrock, NV Congressional Delegation

P. Johnson, Citizen Alert

M. Williams, DOE/OCRWM

J. Williams, DOE/Washington, DC

A. Robinson, Robinson-Seidler

M. Plaster, City of Las Vegas

S. Rayborn, Sen. Reid's Office

L. Lehman, T-REG, Inc.

B.J. Garrick, NWTRB

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M. Urie, DOE

J. Brandt, Lander County

R. Holland, Inyo County

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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

R. Joseph, Lone Pine Paiute-Shoshone Tribe

L. Tom, Paiute Indian Tribes of Utah

E. Smith, Chemehuevi Indian Tribe

D. Buckner, Ely Shoshone Tribe

V. Guzman, Walker River Paiute

D. Eddy, Jr., Colorado River Indian Tribes

M. Boyd, Public Citizen

J. Wells, Western Shoshone National Council

D. Crawford, Inter-Tribal Council of NV

I. Zabarte, Western Shoshone National Council

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R. List, Esmeralda County

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E. Bonano, SNL

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Furthermore, the DOE states that the potential hazards posed by military aircraft around Yucca Mountain are similar to the hazards evaluated for the PFS facility. Due to these similarities and the methodologies developed that have withstood NRC regulatory scrutiny during the licensing activities for the PFS facility, DOE requested the SGI documents (References 1 and 3) in order to follow a comparable approach to identifying impacts of aircraft, characterizing the resultant missiles, evaluating structural impacts and thermal effects, and determining aircraft crash frequencies at the proposed Yucca Mountain repository. DOE indicated that it may also use the information in these SGI documents as benchmarks for comparison to models DOE will utilize to depict aircraft hazards at the proposed Yucca Mountain repository.

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 Division of High-Level Waste Repository Safety
 Office of Nuclear Material Safety
 and Safeguards

cc: See attached list.

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