

January 6, 2006

Mr. Mark H. Williams, Director  
Office of License Application and Strategy  
Office of Repository Development  
U.S. Department of Energy  
1551 Hillshire Drive  
North Las Vegas, NV 89134-6321

SUBJECT: DEPARTMENT OF ENERGY PRELIMINARY REVISION OF *FREQUENCY ANALYSIS OF AIRCRAFT HAZARDS FOR LICENSE APPLICATION*

Dear Mr. Williams:

The purpose of this letter is to acknowledge receipt of your letter, dated November 25, 2005, which responded to my letter, dated August 2, 2005, concerning "Aircraft Hazard Approach for the Proposed Preclosure Facilities at Yucca Mountain, Nevada."

Your letter enclosed a preliminary revision, dated August 26, 2005, of your report, *Frequency Analysis of Aircraft Hazards for License Application*, which addresses six items in my letter noting that the remaining seven items will be addressed in a future revision. It is the intention of the Nuclear Regulatory Commission (NRC) staff to provide written comments after receipt of the future revision. However, I would like to take this opportunity to provide early feedback on two matters discussed in your letter.

First, you note that the Department of Energy (DOE) is changing its approach concerning the use of a no-fly zone surrounding the repository in the preclosure safety analysis. The DOE's previous approach was to develop a Memorandum of Understanding with the United States Air Force (USAF) to implement the no-fly zone. However, DOE's current approach is to formally inform the USAF of the future flight restrictions. If the license application (LA) uses DOE's current approach for the no-fly zone, the LA should identify under what authority DOE will ensure that the flight restrictions are maintained. Further, NRC may require documentation that provides reasonable assurance that the USAF will comply with the flight restrictions.

Second, item 2 of your Enclosure 2 states that no credit is taken for pilot action. However, section 5.3.8 of your Enclosure 1 states "...if a pilot takes action to maximize the chance of survival, the actions would not result in the increase in the probability of a crash within the no-fly zone." These two statements appear to be inconsistent, and DOE should clarify its assumptions concerning pilot actions.

M. Williams

-2-

NRC intends to continue reviewing DOE information related to aircraft crash hazards for the purpose of preparing for a potential LA. As such, NRC staff would be interested in reviewing the future revision to the frequency analysis report and request that DOE provide the revised report by March 1, 2006. The need for an NRC/DOE interaction on this matter can be determined after NRC reviews the revised report.

In accordance with 10 CFR 2.390 of the NRC's "Rules of General Applicability," a copy of this letter will be available electronically in the NRC Public Document Room or from the Publicly Available Records component of the NRC's document system (ADAMS). The ADAMS document accession number is ML053530147. ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>.

If you have any questions regarding this matter, please contact David M. Dancer at 301-415-6618 or by e-mail at [dmd@nrc.gov](mailto:dmd@nrc.gov).

Sincerely,

/RA/

Lawrence E. Kokajko, Deputy Director  
Division of High-Level Waste Repository Safety  
Office of Nuclear Material Safety  
and Safeguards

cc: See attached list.

Letter to M. H. Williams from L. E. Kokajko dated: January 6, 2006

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/ORD
G. McCorkell, Esmeralda County, NV	G. Runkle, DOE/Washington, D.C.
R. Damele, Eureka County, NV	C. Einberg, DOE/Washington, D.C.
L. Marshall, Eureka County, NV	S. Gomberg, DOE/Washington, D.C.
A. Johnson, Eureka County, NV	W. J. Arthur, III , DOE/ORD
L. Klusmire, Inyo County, CA	R. Dyer, DOE/ORD
M. Yarbro, Lander County, NV	J. Espinoza, GAO
J. Donnell, DOE/ORD	A. Gil, DOE/ORD
M. Baughman, Lincoln County, NV	W. Boyle, DOE/ORD
L. Mathias, Mineral County, NV	M. Ulshafer, DOE/OCRWM
D. Swanson, Nye County, NV	S.A. Wade,, DOE/ORD
M. Henderson, Cong. J. Gibbon's Office	C. Hanlon, DOE/ORD
D. Hammermeister, Nye County, NV	T. Gunter, DOE/ORD
M. Simon, White Pine County, NV	A. Benson, DOE/ORD
J. Ray, NV Congressional Delegation	N. Hunemuller, DOE/ORD
D. Cornwall, NV Congressional Delegation	P. Harrington, OPM&E
T. Story, NV Congressional Delegation	M. Mason, BSC
R. Herbert, NV Congressional Delegation	S. Cereghino, BSC
M. Murphy, Nye County, NV	B. Gattoni, Burns & Roe
R. Lambe, NV Congressional Delegation	E. Mueller, BSC
K. Kirkeby, NV Congressional Delegation	J. Gervers, Clark County, NV
R. Loux, State of NV	D. Beckman, BSC/B&A
S. Frishman, State of NV	L. Rasura-Alfano, Lincoln County, NV
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

R. Craig, USGS

W. Booth, Engineering Svcs, LTD

C. Marden, BNFL Inc.

J. Bacocho, 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. Finrock, NV Congressional Delegation

P. Johnson, Citizen Alert

C. Newbury, DOE/ORD

J. Williams, DOE/Washington, DC

A. Robinson, Robinson-Seidler

M. Plaster, City of Las Vegas

D. Wilson, Sen. Reid's Office

L. Lehman, T-REG, Inc.

B.J. Garrick, NWTRB

T. Feigenbaum, BSC

M. Urie, DOE

J. Brandt, Lander County

B. Sagar, CNWRA

R. Holden, NCAI

C. Meyers, Moapa Paiute Indian Tribe

R. Wilder, Fort Independence Indian Tribe

D. Vega, Bishop Paiute Indian Tribe

Egan, Fitzpatrick, Malsch, PLLC

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

H. Jackson, Public Citizen

J. Wells, Western Shoshone National Council

D. Crawford, Inter-Tribal Council of NV

I. Zabarte, Western Shoshone National Council

S. Devlin

G. Hudlow

D. Irwin, Hunton & Williams

P. Golan, DOE

M. Rice, Lincoln County, NV

G. Hellstrom, DOE

S. Joya, Sen. Ensign's Office

J. Saldarini, BSC

NRC intends to continue reviewing DOE information related to aircraft crash hazards for the purpose of preparing for a potential LA. As such, NRC staff would be interested in reviewing the future revision to the frequency analysis report and request that DOE provide the revised report by March 1, 2006. The need for an NRC/DOE interaction on this matter can be determined after NRC reviews the revised report.

In accordance with 10 CFR 2.390 of the NRC's "Rules of General Applicability," a copy of this letter will be available electronically in the NRC Public Document Room or from the Publicly Available Records component of the NRC's document system (ADAMS). The ADAMS document accession number is ML053530147. ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>.

If you have any questions regarding this matter, please contact David M. Dancer at 301-415-6618 or by e-mail at [dmd@nrc.gov](mailto:dmd@nrc.gov).

Sincerely,

/RA/

Lawrence E. Kokajko, Deputy Director  
Division of High-Level Waste Repository Safety  
Office of Nuclear Material Safety  
and Safeguards

cc: See attached list.

**DISTRIBUTION:**

HLWRS r/f	ACNW	VMehrhoff	CNWRA	HLWRSStaff	KMcConnell
LChandler	MYoung	JMoore	MZobler	TCombs	BSpitzberg
WMaier	GMorell				

**ML053530147**

<b>OFC</b>	HLWRS		HLWRS		HLWRS		OGC		HLWRS	
<b>NAME</b>	DDancer		MWaters		Mbailey		MZobler	LKokajko		
<b>DATE</b>	12/19/05		12/19/05		12/20/05		12/22/05	1/6/06		

OFFICIAL RECORD COPY