



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555

August 24, 1988

OFFICE OF THE
SECRETARY

MEMORANDUM FOR: William G. McDonald, Director
Office of Administration and Resources
Management

FROM: Samuel J. Chilk, Secretary 

SUBJECT: ADMINISTRATION OF THE HIGH LEVEL WASTE
MANAGEMENT LICENSING SUPPORT SYSTEM (LSS)

SECY has reviewed your August 9, 1988 paper which examines several alternatives for the LSS Administrator and recommends that responsibility be assigned to the Office of Administration and Resource Management. We do not concur in the recommendation for the following reasons. First, the presentation of advantages and disadvantages is unbalanced. In this connection, we concur with the views and the thoughtful analysis of Judge Kohl in her August 16, 1988 memorandum. Second, other alternatives exist which are not discussed such as the creation of a separate Office of LSS Administration, assigning responsibility to the Office of Government and Public Affairs, or contracting with a consultant firm, contractor or institution.

A. The following comments illustrate SECY's view why it does not concur in the recommendation of ARM as the LSS Administrator.

- ARM has been slow to recognize user's problems or searchers' needs and to offer usable solutions. It pursues solutions to facilitate machine operations rather than satisfying user needs and solving their problems. LSS system usage will be very high and demands will need to be met quickly in order to keep system operations from becoming pacing elements in the proceeding. In our view, ARM does not yet have a proven track record to back its claim of depth of experience. For instance, it still has not built into the NUDOCS system some of the user-oriented features which the PDR's front-end system has made available to its users for 9 years and it has been slow to respond to the Commission's and SECY's need for ADP support.
- Based on SECY's experience, ARM is not highly proficient in QA operations. For instance, more than 50 non public documents have been erroneously sent to the PDR through NUDOCS in the 1st half of this year for

integration into its public collection. The Appeal Board also notes that, in their experience, NUDOCS has a number of significant programming limitations and inconsistencies as well as information capture errors.

- ARM appears to lack experience in dealing with the external elements of the Commission's licensing process except that gained through the LPDR's and FOIA's. It is an internal NRC staff support unit which would not be expected to provide a working interface with parties to the Commission's proceedings.
- One major reason cited in the draft paper for nominating ARM as the LSS Administrator is organizational efficiency, e.g., integration and consolidation of current operations. We disagree with this presumption. First, there is no evidence to indicate that efficiency would decrease regardless of who is selected and it is our view that there would be no change. Second, administrative efficiency, although important, is not the major consideration in this matter. The major consideration is what needs to be done to ensure that NRC can meet its statutory requirement to license the repository in three years (negotiated rulemaking) and who can best do it. Although unlikely, but if necessary, some part of the so called administrative/organizational efficiency might be sacrificed if it would help the Commission's compliance with the statutory requirement to license the repository in three years. The savings in time and money will more than offset any inconvenience which is experienced. Third, ARM's preoccupation with integration raises concerns that the intent is somehow to merge LSS into NUDOCS. This appears to go further than the rule or the parties contemplated. ARM (NUDOCS) is the Agency's internal record system manager. LSS on the other hand is an external independent system for the Boards and parties. NUDOCS will have the responsibility for screening, processing, and certifying this Agency's contribution to the LSS database in accordance with Section 2.1009 of the proposed rule. NUDOCS will also continue to index, classify, distribute to NRC offices, film, retain, store, and archive NRC records in keeping with its responsibilities as the NRC records manager. The fact that documents are relevant to the HLW proceeding does not mean they should not be in the NUDOCS system. The NUDOCS records system should be as complete for the NRC user population as the LSS is for its users. Further, any integration of NUDOCS and LSS will be looked at carefully by the parties and those who are paying for the system. Those concerned with LSS resources will scrutinize any effort to use those funds for internal NRC operations; others will have a perception problem

concerning the impartiality of the system if it provides inequitable benefits to DOE or NRC or is perceived to be subject to manipulation by DOE or NRC.

- Conjectures about consolidation, the PDR, Docketing, and other internal factors are immaterial to the issue of who can best supervise the LSS for the Commission. The Commission has stated it will consider these matters when the Commission is consolidated which will occur when the second building is occupied. Planning must be based on the existing Commission organization structure.
- B. The second reason for SECY's nonconcurrence in the draft paper is that it does not contain other alternatives which the Commission may wish to consider.
- The creation of a separate independent Office of the LSS Administrator. This is similar to the action the Commission took with respect to the TVA matter. This office will require a variety of skills which can be obtained from within the NRC staff, from external hires and/or contractor personnel. In our judgment the director of this office should not be a member of ARM, the Boards or SECY.
 - Assign responsibility to the Office of Government and Public Affairs. Although GPA (State Programs) may require technical assistance, this office has the primary responsibility for State Programs and provides an institutional conduit for this portion of the HLW program.
 - Contract with a consultant firm or contractor to perform the duties of LSS Administrator. This is analogous to the arrangement the Commission entered into with the Center for Nuclear Waste Regulatory Analysis.

There are also internal NRC procedural issues which require resolution, some of which are included in the OGC memorandum. (OGC memorandum to you dated August 19, 1988, items 2, 3, 4, 8). I propose we begin meeting separately on these subjects under the aegis of the existing NRC Negotiating Team, chaired by Bill Olmstead and Chip Cameron. These decisions are not, in our view, essential to the determination of the LSS Administrator's selection. Furthermore, consideration of them as part of this paper will tend to delay resolution of the divergent views of the principal participants.

Although not directly addressed, we presume it is apparent that SECY nonconcur in the transfer of both the PDR and Docketing to the EDO staff. As you and I discussed recently, it is also assumed that the paper submitted to the Commission will correct

or eliminate the statement on page 5 of your draft to the effect that SECY had agreed to transfer the PDR to ADM.

SECY has concluded that none of the alternatives recommended in your paper are viable solutions to this problem. The Boards should not be distracted from their important judicial tasks and may have a real or perceived conflict of interest if appointed as the LSS Administrator; SECY may not be able to provide the desirable continuity of leadership during the crucial development period and/or over the term of the program; and ARM does not have a proven track record. Lastly and most importantly, we believe that the divergent views of SECY, ARM and the Boards may make it difficult to achieve the degree of harmony, cooperation, or efficiency needed to successfully run the program if the lead role were given to one of the above.

SECY recommends:

- A. Establishment of a separate office augmented by contractor and consultants to administer the LSS. An independent office could best harmonize the efforts of all of the participants to achieve the licensing objective of the Commission. The Commission should hire as director of that office a capable, broad based individual who is user oriented, experienced in managing large automated documentation systems, and who is considered capable of interfacing with high level officials such as Governors, Indian Tribes, Congress, OMB, and DOE as well as representatives of the nuclear industry and national environmental groups. It should not be someone from either the Boards, ARM, or SECY. Staffing should be provided from a combination of the NRC staff, outside hires and consultant services. The director should be required to submit an organization and staffing plan within 45 days after appointment.
- B. The office should report to the Chairman/Single Administrator. Other reporting options are the EDO, GPA, OGC or SECY.
- C. The NRC Negotiating Committee Team chaired by an OGC representative with membership from SECY, ARM, NMSS, GPA, and the Boards should be retained and authorized to prescribe and coordinate NRC's internal procedures as well as to act as the interim LSS Administrator pending the appointment of a permanent director. This is essential to continue the ongoing planning process.

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