

OFFICE OF THE SECRETARY
CORRESPONDENCE CONTROL TICKET

Date Printed: Sep 14, 2007 13:07

PAPER NUMBER: LTR-07-0612 LOGGING DATE: 09/14/2007

ACTION OFFICE: EDO

To: Weber, NMSS

AUTHOR: Dr. Dyer J. Russell

cys: EDO
DEDMRS
DEDR
DEDIA
AO
RIV

AFFILIATION: DOE

ADDRESSEE: Mr. Robert Loux

SUBJECT: Concerns licensing strategy for Yucca Mountain License Application

ACTION: Information

DISTRIBUTION: Chrm, Cmrns, RF

LETTER DATE: 09/13/2007

ACKNOWLEDGED: No

SPECIAL HANDLING:

NOTES:

FILE LOCATION: ADAMS

DATE DUE:

DATE SIGNED:

Template: SECY-017

E-RIDS: SECY-01



Department of Energy
Office of Civilian Radioactive Waste Management
1551 Hillshire Drive
Las Vegas, NV 89134-6321

QA: N/A

SEP 13 2007

OVERNIGHT MAIL

Mr. Robert R. Loux, Executive Director
Nevada Agency for Nuclear Projects
1761 E. College Parkway, Suite 118
Carson City, NV 89706

Dear Mr. Loux:

This letter responds to your September 10, 2007, submittal to the Chairman of the U.S. Nuclear Regulatory Commission (NRC) regarding the U.S. Department of Energy's (DOE) licensing strategy for its Yucca Mountain License Application (LA). In that letter, you assert that:

- DOE intends to use a "next generation" performance assessment for license defense, rather than the Total System Performance Assessment (TSPA) modeling tool used to generate dose and release calculations for the LA.
- DOE is placing paramount importance on meeting the schedule for submittal of the LA, at the expense of consideration of safety and technical accuracy.
- The Technical Data Management System (TDMS) is "materially flawed."

None of those assertions are correct.

The LA that DOE will submit and defend will be based on the TSPA performed for the LA, and DOE believes that TSPA will be sufficient to support the grant of an authorization for construction. Your assertion that DOE will "[switch] midstream to its 'real' assessment" is simply wrong. DOE fully expects the TSPA to be examined thoroughly during the licensing process and, subject to any changes required as a result of that process, to be the basis for the NRC's decision on whether to grant construction authorization. DOE believes the state of Nevada will have ample opportunity to scrutinize this TSPA during the formal adjudicatory proceeding provided for in the Nuclear Waste Policy Act (NWPA).

DOE rejects the implication that adhering to a schedule and producing a quality application are mutually exclusive. After more than two decades of work, DOE does believe the time has come to submit the LA, recognizing that approval of an authorization to construct the repository must be based on the record developed during the licensing proceeding.

With respect to the assertion that the TDMS is "materially flawed," you cite a draft of a Technical Support self-assessment report. The state of Nevada's conclusion is premature.

Robert R. Loux

-2-

SEP 13 2007

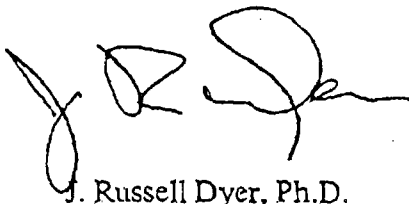
The Executive Summary of the final version of that document states: "The TDM Systems do not automatically support and in some cases inhibit the flow of the work. By not automatically supporting the flow of work, **humans must manually ensure the integrity, accountability, and traceability of the data.**" [Emphasis added]

DOE has taken and continues to take the steps necessary with its federal and contractor personnel to ensure the integrity, accountability and traceability of the data and, as noted above, the extent to which we do so will be fully examined during the licensing proceeding. We strongly disagree with the statement of the state of Nevada that reliance on humans makes the system materially flawed.

Finally, DOE believes that all potential participants in the licensing proceeding should refrain from speculation based on incomplete information regarding the TSPA, and should await the LA submittal and the formal adjudicatory proceeding provided for in the NWPA.

If you have any questions, please contact me at (702) 794-1448.

Sincerely,



J. Russell Dyer, Ph.D.
Chief Scientist

cc:

Honorable Dale E. Klein, NRC, Rockville, MD
Commissioner Jazko, NRC, Rockville, MD
Commissioner Lyons, NRC, Rockville, MD
Honorable James A. Gibbons, State of Nevada, Carson City, NV
Nevada Congressional Delegation
NRC O/R Representative, Las Vegas, NV
J. D. Parrott, NRC, Las Vegas, NV
W. D. Barnard, NWTRB, Arlington, VA
M. P. Lee, ACNW, Rockville, MD
M. T. Ryan, ACNW, Rockville, MD
Catherine Cortez Masto, Nevada Attorney General, Carson City, NV