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AGENCY FOR NUCLEAR PROJECTS**

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October 23, 2008

Mr. Lawrence E. Kokajko
Director, Division of High-Level Waste Repository Safety
Office of Nuclear Material Safety and Safeguards
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Dear Mr. Kokajko:

On September 8, 2008, NRC Staff members met with DOE employees to discuss a Sandia modeling error affecting the Yucca Mountain License Application, and related matters, without public notice or opportunity for potential parties or members of the public to observe, in accordance with NRC Staff's May 12, 2008 "Post-License Application Interactions Plan." This meeting is discussed in a letter from Mr. J.M. McKenzie to Mr. William J. Boyle, dated September 16, 2008 (MOL20080925.0016). It appears that the meeting was a scheduled technical meeting about the License Application, similar to previous public technical exchange meetings between DOE and NRC Staff, and it does not appear that classified or sensitive unclassified information was discussed.

As we are headed into a long-term review process in which there will be many meetings, I would like to make clear that the NRC Staff has to stick strictly to the rules covering such meetings with regard to other parties. Even when an event falls in the category of an audit, field

review, or inspection, I would expect that Nevada would be afforded reasonable notice and opportunity to attend these interactions between NRC Staff and DOE, as was the case in the pre-license application phase.

Sincerely,

A handwritten signature in blue ink, appearing to read "Robert R. Loux", with a long horizontal flourish extending to the right.

Robert R. Loux

Executive Director