

UNITED STATES OF AMERICA NUCLEAR REGULATORY COMMISSION

Title: BRIEFING ON EFFORTS TO LICENSE A HIGH-LEVEL WASTE REPOSITORY
AND STATUS OF CENTER FOR NUCLEAR WASTE REPOSITORY REGULATORY
ANALYSIS

Location: ONE WHITE FLINT NORTH, ROCKVILLE, MARYLAND

Date: THURSDAY, MAY 12, 1988

Pages: 1-47

RETURN TO SECRETARIAT RECORDS

Ann Riley & Associates

Court Reporters

1625 I Street, N.W., Suite 921

Washington, D.C. 20006

(202) 293-3950

DISCLAIMER

This is an unofficial transcript of a meeting of the United States Nuclear Regulatory Commission held on May 12, 1988 in the Commission's office at One White Flint North, Rockville, Maryland. The meeting was open to public attendance and observation. This transcript has not been reviewed, corrected or edited, and it may contain inaccuracies.

The transcript is intended solely for general informational purposes. As provided by 10 CFR 9.103, it is not part of the formal or informal record of decision of the matters discussed. Expressions of opinion in this transcript do not necessarily reflect final determination or beliefs. No pleading or other paper may be filed with the Commission in any proceeding as the result of, or addressed to, any statement or argument contained herein, except as the Commission may authorize.

1 UNITED STATES OF AMERICA
2 NUCLEAR REGULATORY COMMISSION

3 ***

4 BRIEFING ON EFFORTS TO LICENSE A HIGH-LEVEL WASTE
5 REPOSITORY AND STATUS OF CENTER FOR NUCLEAR WASTE
6 REPOSITORY REGULATORY ANALYSIS

7 ***

8 PUBLIC MEETING

9 ***

10 Nuclear Regulatory Commission
11 One White Flint North
12 Rockville, Maryland

13
14 Thursday, May 12, 1988
15

16 The Commission met in open session, pursuant to
17 notice, at 2:00 o'clock, p.m., the Honorable LANDO W. ZECH,
18 Chairman of the Commission, presiding.

19 COMMISSIONERS PRESENT:

20 LANDO W. ZECH, Chairman of the Commission
21 THOMAS M. ROBERTS, Member of the Commission
22 KENNETH ROGERS, Member of the Commission
23
24
25

1 STAFF AND PRESENTERS SEATED AT THE COMMISSION TABLE:

2

3 S. CHILK

4 V. STELLO

5 B. BROWNING

6 G. BUNTING

7 W. PARLER

8 H. THOMPSON

9 B. OLMSTEAD

10

11 AUDIENCE SPEAKER

12

13 L. ROUSE

14

15

16

17

18

19

20

21

22

23

24

25

P R O C E E D I N G S

[2:00 p.m.]

1
2
3 CHAIRMAN ZECH: Good afternoon, ladies and gentlemen.
4 Commissioners Bernthal and Carr will not be with us
5 this afternoon.

6 Today the Commission will be briefed by the Offices
7 of Nuclear Materials Safety and Safeguards and the General
8 Counsel on prelicensing activities associated with the high-
9 level waste program. The Commission was briefed last week on
10 the Staff's review on the Department of Energy's consultation
11 draft site characterization plans for the Yucca Mountain site;
12 however, the Commission needs to be kept informed of a number
13 of other prelicensing activities and actions associated with
14 the high-level waste program. For example, the Commission is
15 interested in any new agency requirements as a result of the
16 1987 amendment to the Nuclear Waste Policy Act and on the
17 status of ny current or planned rulemaking activities
18 associated with the high-level waste program.

19 Additionally, in October of 1987, a contract was let
20 with Southwest Research Institute to establish a Center for
21 Nuclear Waste Regulatory Analysis. Today the Staff will
22 provide a summary of actions and activities associated with the
23 high-level waste repository and a status report on the Center
24 for Nuclear Waste Regulatory Analysis.

25 This is an information briefing today, and the

1 Commission is not expected to take a vote.

2 Do any of my fellow Commissioners have any opening
3 comments they desire to make?

4 [No response.]

5 CHAIRMAN ZECH: If not, Mr. Stello, would you
6 proceed, please?

7 MR. STELLO: Yes, Mr. Chairman, thank you.

8 With me starting at the far end of the table today,
9 we're happy to have Mr. Olmstead return to help us with this
10 activity, and he'll be briefing on some of the rulemaking for
11 the licensing process that's been ongoing, and Mr. Thompson,
12 Director of the office and principal briefer this afternoon,
13 Mr. Browning on the immediate right, and Mr. Bunting at the far
14 end of the table.

15 We have characterized the purpose of what we're here
16 today for as just to simply give you a broad overview of the
17 legislative changes in December of 1987 that impact rather
18 directly, rather than getting into any of the programmatic
19 details. I think we are getting closer to where we're going to
20 have to get into those kinds of details and the very detailed
21 kinds of rulemakings that ought to go on and the reasons for
22 them, but we're clearly not ready to do that this afternoon.
23 But we do need to get on with that task, as I mentioned the
24 last time we had this discussion.

25 I'll ask Mr. Thompson to begin the briefing, and

1 we'll just keep going right through the table and get through
2 hopefully all of it in about an hour.

3 CHAIRMAN ZECH: All right. Thank you very much.

4 MR. THOMPSON: Thank you, Mr. Stello.

5 As you know, we have -- we're preparing a quarterly
6 report to the Commission of where we stand, so many of the
7 things that will be highlighted here today will be addressed in
8 more detail in that quarterly report, and with that, Mr.
9 Browning will provide most of the briefing.

10 I will discuss some of the MRS, the changes on the
11 MRS, in particular what that may have on the impact of the
12 operating report.

13 CHAIRMAN ZECH: All right. Thank you very much.

14 Mr. Browning?

15 MR. BROWNING: We'll go directly to page 2 of the
16 briefing charts.

17 [Slide.]

18 As you know, in 1987, late 1987, the Congress passed
19 an amendment to the Nuclear Waste Policy Act which had some key
20 provisions that affected the NRC's regulatory program.

21 I think the first point to note is that it really
22 didn't change in any way our role with regard to licensing the
23 repository piece of the high-level waste management system. It
24 still requires us to review the DOE license application and act
25 within a three-year period with a possible one-year extension.

1 That's the event in the long term that all these short-term
2 events that we refer to as our proactive role in this process
3 are oriented, to make sure that that will, in fact -- comes as
4 close as we humanly can to meeting that particular legislative
5 requirement.

6 It did authorize an MRS, but in the process, it put
7 in provisions tying it so closely to the repository timetable
8 that it raises questions, at least in my mind, as to whether
9 the MRS will, in fact, be part of an integrated waste
10 management system unless some changes are recommended and
11 proposed by the MRS Review Group that the law also has to be
12 set up.

13 The OGC provided you with a detailed analysis of the
14 bill in March of '88, so I won't go into any more details,
15 except to point out that the net result of all the things that
16 were done probably is going to put tremendous production
17 pressure on the whole attempt to characterize the Nevada site
18 to determine whether it is, in fact, an acceptable site for a
19 high-level waste repository, and if it is, a lot of production
20 pressure to get that repository built. And that's going to put
21 a lot of production pressure on the Commission, the Commission
22 Staff, and we think we're geared up to be able to deal with
23 that, but we have some additional checks just to make sure we
24 do, and when Mr. Bunting gets to the center piece of the
25 program, he can describe how we have them looking to make sure

1 we've accurately identified all the things we have to do and to
2 give us some additional help to make sure that stuff is going
3 to be done on time. That, in turn, will help us feed in to
4 make sure we've got the right budget kind of numbers to be able
5 to do our particular piece in this national effort.

6 MR. THOMPSON: One other thing other than the MRS
7 that we did, as you know, in the amendments act and have
8 responsibility squarely placed on our shoulders, and that was
9 for licensing the transportation casks associated with the
10 high-level waste spent fuel. We had previously agreed to
11 review and certify those casks, but the Nuclear Waste Policy
12 Act Amendments of 1987, in fact, made that a statutory
13 requirement.

14 The one issue that Mr. Browning was talking about was
15 the impact of this delay on the MRS would likely have on
16 reactor operations. As you know, the previous schedule would
17 probably have an MRS in place in about the 1997 to the 1998
18 timeframe. That was because of the linkage they had with
19 actually operating that facility with the receipt of the
20 construction authorization for the repository site.

21 Having changed now, that you will have a -- that the
22 DOE can't even start looking for a site until the MRS
23 Commission reports back, which is scheduled to be somewhere in
24 June of 1987 -- I mean 1989 -- and there is some doubt that the
25 Commission is even fully formed yet. They are looking at -- I

1 think two people have been identified, and they are looking now
2 at a third individual, and one of the question is, you know,
3 six months almost will have passed before they even get the
4 Commission in place --

5 COMMISSIONER ROBERTS: How are those people selected?

6 MR. THOMPSON: They are selected -- I guess I don't
7 know precisely -- by Congress, but I think they are selected
8 by the Administration, and then they are -- directly by
9 Congress? Well, I don't know how the names go to Congress, but
10 there is a process where the individuals' names, I guess, go to
11 Congress, and then they are approved by Congress, and I guess
12 they have had a number of names. I think Commissioner --
13 former Commissioner Gilinsky

14 COMMISSIONER ROBERTS: Is this that Victor accepted,
15 and then --

16 MR. THOMPSON: I believe that his replacement is the
17 individual that they are looking for right now, and I think
18 they have some names that they are actively considering, but
19 I'm not sure where they are in the process.

20 Assuming the process goes on its earliest schedule,
21 our estimation is that they would not be able to select a site
22 until about 1994, and with a two to three-year licensing and
23 hearing process and then a four-year construction process, the
24 facility, an MRS facility, would not likely be available until
25 the year 2000, 2001. That timeframe is so close to the time

1 that the reactors will -- the first set of reactors will
2 actually meeting their onsite storage capacity that they'll
3 have to start planning several years ahead of that, and they
4 will probably not be able to rely on an MRS.

5 That would give them two options: independent spent
6 fuel storage onsite, which, you know, we have already licensed
7 two facilities for dry cask storage, or consolidation and
8 expansion of the spent fuel pools if they have that capability
9 available to them.

10 The longer the MRS takes to become online, the less
11 attractive, the less flexibility it really provides DOE in the
12 transportation system. This might be an issue that you might
13 wish to pursue with Mr. Kay when he comes and meets with the
14 Commission in the future. But it is certainly less flexibility
15 than previously had been planned by DOE.

16 Bob?

17 [Slide.]

18 MR. BROWNING: On Chart 4, we've identified some of
19 the near-term repository program milestones in which the
20 Commission would become directly involved in the process.

21 As you note from the previous briefing, we have
22 issued the draft comments on DOE's draft site characterization
23 plan. They went out today.

24 There's a draft final MOU between DOE and NRC, which
25 will come to your attention shortly, with regard to how the

1 Waste Fund would be tapped back into the Treasury to account
2 for the expenses incurred by NRC's effort in this program.
3 It's currently being looked at with regard to the question of
4 whether the costs associated with our review of Nevada state-
5 related programs in connection with the repository would be
6 covered also. We think it is, but we want to make one last
7 doublecheck.

8 Currently, DOE is scheduled to issue a draft mission
9 plan amendment. This is the programmatic document which lays
10 out the schedules for all the events that they're doing.
11 They're currently scheduled to update that to be consistent
12 with the impacts of the Nuclear Waste Policy Amendments Act in
13 May of this year. So a lot of the dates and timeframes we're
14 talking from are things that are derived from previous versions
15 of that document or the best estimates we've been able to get
16 from DOE orally. But when this document comes out, that will
17 give the official DOE timetables and frames that we have to
18 frame both our reactive program to and to some extent our
19 proactive program to make sure the proactive effort is going to
20 be timely to support the overall DOE effort.

21 On page 5, the next significant reactive item coming
22 from DOE would be their final site characterization plan which
23 would, if we're mutually effective at bringing the comments and
24 concerns -- we've brought their attention to closure -- those
25 should be dealt with satisfactorily in that final site

1 characterization plan which is currently scheduled by DOE to be
2 submitted around the end of this year or the first part of next
3 year.

4 CHAIRMAN ZECH: Will we be able to meet that six
5 months schedule that's called for the DOE's site
6 characterization plan?

7 MR. BROWNING: Yes, I believe so. It depends to
8 large extent to how complete the DOE submittal is, and one of
9 the things we did when we got the draft was to do an acceptance
10 review. We plan also to do an acceptance review of the final
11 SCP to clearly identify whether it has sufficiently resolved
12 our concerns and addressed our concerns that it warrants us
13 even beginning that six-month timeframe. But I don't
14 anticipate being on the limiting path for that particular
15 reactive effort.

16 CHAIRMAN ZECH: Well, you need to factor in enough
17 time for the Commission to review it and also for the Advisory
18 Committee on Nuclear Waste, the new committee, to review it,
19 too. Have you factored that into the six-month schedule?

20 MR. BROWNING: We have factored the time for the
21 Commission. I'm going to have to go back and look and make
22 sure that we did, in fact, factor in enough time for -- we'll
23 have to work that with the Advisory Committee.

24 MR. THOMPSON: I would say probably -- we would
25 certainly involve them. Whether or not it would be a

1 sequential review -- that is, complete the full review with the
2 Advisory Committee before coming to the Commission -- I don't
3 think we had that in the previous schedule, as I remember it.

4 MR. BROWNING: No, I don't think we did.

5 MR. STELLO: I think we'll have to go back and look,
6 because I think for the Commission should have the benefit of
7 that advice before the Commission makes a decision.

8 CHAIRMAN ZECH: That's right.

9 MR. STELLO: And it's important for that review of
10 the committee --

11 CHAIRMAN ZECH: That's correct.

12 MR. STELLO: -- to be finished and to have the
13 opportunity of --

14 CHAIRMAN ZECH: We want them to be informed, and we
15 want to hear from them, so factor that into your plans.

16 MR. STELLO: We will.

17 CHAIRMAN ZECH: All right.

18 MR. THOMPSON: And I would say that would likely add
19 a month, you know, to ensure that they'll have time to review
20 it and respond and write the report.

21 MR. BROWNING: Yes. We're going to try to get them
22 on as near a parallel path with our reviews, rather than a
23 series path. I think we've had a tendency to be on a series
24 path with the oversight group, and we'll work closely with them
25 to try to get on a more parallel production path for their

1 review and our reviews.

2 CHAIRMAN ZECH: Exactly. I think you should get them
3 in on it as soon as possible.

4 MR. BROWNING: Yes, sir.

5 CHAIRMAN ZECH: All right

6 [Slide.]

7 MR. BROWNING: On page 6, I just want to highlight
8 the fact that --

9 MR. THOMPSON: I would highlight one other thing that
10 I think we didn't put on here, which is our review and approval
11 of DOE's QA program. I think that's going to be a key element
12 that will occur in this timeframe. We are still negotiating
13 with DOE, when they would be able to actually submit their QA
14 plans for our review and approval. But that is going to be
15 another key element in this timeframe.

16 MR. BROWNING: Yes. We'll touch on that in a little
17 more detail in some of the subsequent charts.

18 On page 6 the thing I would like to point out is in
19 connection with what we refer to as the proactive part of our
20 effort, namely, that effort to make sure that we are ready to
21 deal with applications and issues when they are submitted by
22 DOE and, to the extent we can, provide them with guidance that
23 might be helpful to them in deciding how to frame their
24 programs so they do address our concerns adequately.

25 It involves products which we are referring to as

1 staff technical positions, and some may involve rulemakings,
2 but to try to put that in some perspective because I know there
3 has been some concern about exactly what that scope of effort
4 is, and it is a concern on all of our parts as to whether we
5 have accurately identified and framed that to make sure we are
6 going to have all the guidance documents, both to our own staff
7 and to DOE where necessary, on a time scale that will help
8 support this production effort without adversely affecting our
9 responsibilities from a health and safety standpoint.

10 I think it is fair to say that where NRC rulemakings
11 are necessary and required by law or where a law implies that
12 we have to do a rulemaking, all those rulemakings either are
13 completed or in the process of being completed. So in my
14 perspective, the highest priority of rulemaking is where a law
15 has said we ought to do a rulemaking.

16 For example, we have 10 CFR Part 60 on the street,
17 both the procedural aspects and the technical aspects, in final
18 form. We currently have amendments to 10 CFR Part 51, which
19 deals with the question of to what degree we can adopt DOE's
20 final environmental impact statement, which is something the
21 law says we should specifically try to do, I think with the
22 intent to avoid unnecessary duplication of effort on the part
23 of two Federal agencies.

24 That is in a proposed form. It is about to be
25 published, if it hasn't already been published, in the Federal

1 Register as a proposed rule. We had amendments to 10 CFR Part
2 60 which would conform our regulation to the final EPA standard
3 all ready to go out as a final rule when the courts vacated the
4 EPA standard, so we have got that on a hold status now waiting
5 to make sure we get into step with whatever effort EPA is
6 mounting to revisit their standard so that as they go through
7 their process, we can try to get on a parallel track to
8 whatever modifications we have to make to our Part 60 to
9 incorporate the EPA standard.

10 COMMISSIONER ROBERTS: Very briefly, why did the
11 court -- your words -- vacate the EPA standards?

12 MR. BROWNING: As I recall, there were two aspects.
13 One was the court was raising the question as to whether or not
14 or why hadn't EPA considered the high level waste repository to
15 fall under the deep well injection requirements of EPA, which
16 we were not at that point in time very familiar with, but
17 apparently we are going to have become familiar with them.

18 Another was with regard to the length of time that
19 they had to do their analyses to conform, to address impacts on
20 radiation exposure to the population resulting from the
21 repository. There are two relatively narrow technical, legal
22 kind of questions that they needed to address. It wasn't that
23 they just vacated the whole standard. Maybe the OGC could --

24 MR. PARLER: What Mr. Browning has said generally I
25 agree with. I would wish to emphasize the last point that he

1 just made, that the bulk of the EPA rule was upheld by the
2 court. The scope of the assurance requirements, not including
3 the ALARA principle, the 10,000 year containment requirement,
4 the reasonable expectation of compliance, et cetera, all of
5 these things are covered. I just say this for the record. I
6 think we have already responded to your question in a
7 memorandum that I sent to the Commission on August 10, 1987.

8 The holding was a narrow one. In large part it was
9 an affirmance. Now, where EPA is now I do not know. I heard
10 recently that perhaps it would be about two years before they
11 get the matters straightened out, and I would also agree that
12 before we put our final implementation in place, we would have
13 to wait until the EPA rule is in place. However, it would
14 appear to me, at least from a legal standpoint, that adequate
15 information is available already as to the general intent of
16 the EPA rules.

17 MR. BROWNING: It is our opinion that the fact that
18 it is not finally approved need not necessarily stop the
19 collection of data to be able to make the analyses that
20 whatever the final rule is, the final standard is, you would be
21 able to deal with that.

22 The staff has also evaluated opportunities for
23 streamlining the procedural part of the whole repository
24 licensing processing to help ensure that we can meet the three-
25 year time frame that the law has limited us to, and we have

1 initiated the one rulemaking on the licensing support system,
2 which Mr. Olmstead will talk about a little later.

3 The staff has also identified areas where additional
4 guidance would be helpful, and that guidance has been in
5 various stages of development. We had guidance that we have
6 developed, issued for public comment, resolved the comments and
7 issued in final form. For example, in the quality assurance
8 area, which was one of the areas of our highest priority
9 concern from an overall programmatic standpoint, we have
10 identified three areas that we felt guidance was required, and
11 those are in final form.

12 Things like how you qualify existing data that was
13 taken under quality assurance programs other than a quality
14 assurance program that meets all of our regulatory
15 requirements. Guidance on what constitutes a technical peer
16 review. In an area like this where we are dealing with some of
17 the -- I will take the liberty of referring to them as softer
18 sciences, where a lot of technical judgment is involved, peer
19 review is going to be an extremely important means of getting
20 technical consensus on some of the technical issues, so we put
21 published guidance on that.

22 We have identified other areas where guidance would
23 be helpful and have it out in proposed form. For example, one
24 of the phraseologies used in our regulation is that they have
25 to consider anticipated and unanticipated process and events.

1 We have laid out what we mean by that to provide more specific
2 guidance to DOE, and that is going to be very important in
3 terms of developing their site characterization program and
4 doing performance assessments.

5 We have currently in house under preparation for
6 publishing for public comment definitions, more precise
7 definitions on what we mean by the disturbed zone surrounding
8 the repository, methodologies for dealing with ground water
9 travel time. One of the concerns that came out of our review
10 of DOE's draft site characterization plan was we were rather
11 surprised, I guess, to find that their definition of what we
12 meant by substantially complete containment was out of sync
13 with our thinking, so we need to provide some official guidance
14 ot them on that one so that we start coming to closure on these
15 areas that under the current regulation have multiple ways of
16 being dealt with.

17 The staff is also developing a set of criteria that
18 we could use to decide when some of these technical areas that
19 cry for guidance warrant the additional effort up upgrade the
20 rulemaking, and we are working closely with OCG, the Office of
21 the Research and our own technical people to try to make sure
22 that the whole population of guidance areas we look at very
23 carefully to see which ones would have some payoff in terms of
24 eliminating issues that might result in a very protracted
25 licensing hearing process.

1 CHAIRMAN ZECH: That is a very important area, I
2 think. It seems to me that it needs to be given a lot of
3 thought as to how much additional rulemaking beyond Part 60
4 might be needed to demonstrate our compliance with our
5 regulations, and there has to be a balance, it seems to me,
6 between providing for the public health and safety, which is,
7 of course, primary, but also what is legally sufficient.

8 This is a very important area and it is something
9 that I hope the staff was looking at very carefully to see what
10 additional -- we need a proper mix, as I understand it, of
11 regulatory tools: rulemaking, NUREGs --

12 MR. BROWNING: Where technical guidance that the
13 staff has issued would suffice, that probably is the most
14 economical in terms of our own resources, so that is our first
15 cut. Then we are going to look at that population and see
16 which ones need to be elevated. We will probably have to come
17 back and give you some more discussion about that.

18 MR. STELLO: We are not really ready to deal with
19 that issue. The balance we have to make is we can issue a
20 document that is just a staff document, a NUREG, Reg Guide,
21 branch technical position, but when that comes to the hearing
22 process, then you are going to have to have that issue then be
23 subjected to the context of the hearing where we are ready and
24 can get that into rulemaking and we have the potential for
25 substantially easing the burden on the hearing process for the

1 repository by taking it in advance and getting some of these
2 through a rulemaking process ahead of time. We are not ready
3 to answer your question. It is very important, as you said.

4 CHAIRMAN ZECH: It seems to me that it is such an
5 important issue that it might be decided separately or by
6 itself, separate study, separate briefing, because the planning
7 we do ahead of time in this very new area is extremely
8 important and we need to commit ourselves to meeting our
9 requirements for public health and safety, and again being
10 legally sufficiently, but also I think we don't want to create
11 a monster.

12 We want to make sure we are doing our job, and I
13 think it is involved, as I understand it, with perhaps
14 additional rulemakings, perhaps additional technical positions,
15 perhaps additional NUREGs, and maybe we have some in existence,
16 but the whole subject is something I think is extremely
17 important in order to get resolved up front so we don't find
18 ourselves well down the line and kind of not having looked into
19 these matters.

20 So my feeling is that planning and study in this
21 particular effort is extremely important.

22 MR. BROWNING: I might add this is one of the areas
23 that we put high on the priority list and at the very front end
24 of getting the center on line. We have them doing a top down
25 look as an added check to make sure that our day-to-day

1 involvement in this thing over the past seven years hasn't
2 misled us in terms of concentrating on all the right things.

3 CHAIRMAN ZECH: That is fine, but it has to combine
4 the technical review as well as a legal review.

5 MR. BROWNING: Yes, sir. We have a team consisting
6 of the lawyers that have hearing experience that can give us
7 the kind of guidance to make sure we are identifying the things
8 that will, in fact, have some kind of a payoff in terms of an
9 efficient process once it comes to the hearing.

10 CHAIRMAN ZECH: When will you get that in hand?

11 MR. BROWNING: I think within the next couple of
12 months we will have --

13 MR. STELLO: I can't give you an answer. I indicated
14 at the last briefing that it was an area we wanted to get into.
15 We haven't, since the last briefing was just last week, we just
16 haven't done it. We need to do it and we will commit to an
17 answer.

18 CHAIRMAN ZECH: Well, you need to get together with
19 general counsel, too, I think. You can give us a joint
20 response.

21 MR. STELLO: We will.

22 MR. THOMPSON: And we also include the Office of
23 Research in this because they have certain clear
24 responsibilities. We are working together on the issue. I
25 think we recognize it, and it is one that we are providing much

1 more attention to these days.

2 CHAIRMAN ZECH: But I do think it is such an
3 important issue that it deserves to be considered almost by
4 itself. It is the plan for what we are about to enter into,
5 and I think if we think through that thing very carefully, it
6 is going to have an important payoff for us as far as being
7 organized about this very important endeavor.

8 MR. STELLO: I agree.

9 [Slide.]

10 MR. BROWNING: The upcoming NRC reactor efforts that
11 affect the one I want to emphasize the most, is the one that
12 Mr. Thompson referred to, which is the last one, Continuing
13 Staff Review of DOE's QA efforts. And if I could have the
14 slide or picture that shows the DOE organizational structure?

15 [Slide.]

16 Page 8 identified a committment which DOE has
17 recently re-emphasized. This has been a long standing
18 committment on the part of DOE, in conjunction with an early
19 letter form the Chairman, Palladino of the Commission at the
20 time.

21 CHAIRMAN ZECH: We're looking at the wrong slide, I
22 guess.

23 MR. BROWNING: No, sir. I'll be getting into this.
24 I'll be leading into this particular picture.

25 CHAIRMAN ZECH: All right.

1 MR. BROWNING: The commitment is, that they would
2 have a QA plan or QA program that is in place and functioning,
3 before they start their site characterization effort. And the
4 key point in time when that effort is considered to begin, is
5 when they start sinking the first exploratory shaft, which we
6 referred to at the last briefing, which is currently scheduled
7 for June of next year.

8 As part of that effort -- could I have the next
9 picture, please.

10 [Slide.]

11 As part of that effort, what has to happen, as you
12 see in this chart, there's a DOE headquarter's effort that's
13 headed up by Mr. Kay, and then there's a Nevada project,
14 located out at the Nevada site. And then there are 7 major
15 contractors under that project. Within that organizational
16 scheme, each of those boxes has to have a QA plan, and audit
17 program that ensures that those plans are being met.

18 And as you recall, one of our comments, one of our
19 objections, in fact, on the draft site characterization plan,
20 was that at the current state, this is not at a stage where the
21 plans are in place. The plans have been audited and DOE is
22 confident, and we are confident that they're ready to implement
23 the site characterization program.

24 For example, we have not yet received the Nevada
25 project QA plan. It's promised to us, I believe, the end of

1 this week. From that plan flows all the other plans. What you
2 actually have today, are different plans, different revisions,
3 all in different states of, if you will, readiness to implement
4 on an approved QA plan.

5 So, that's going to be a relatively massive effort
6 for DOE to get up to speed to be able to meet that commitment
7 to us. And if there's one point, and one effort that may have
8 as, you know, production impact on meeting DOE's planned date
9 for sinking an exploratory shaft, in my opinion, this is it.
10 It's a very important effort.

11 MR. THOMPSON: And this has been an issue at the
12 Commission, well before I began in NMSS, was highlighting as a
13 very important one, and it has not been an easy one, because as
14 somebody said, DOE has yet to submit and have in place, a plan
15 that would be effectively be able to be implemented that would
16 meet our regulatory requirements.

17 We noted in the other slide, again the QA position
18 which was established, and partly in response to the NRC
19 questions and comments. It's still a vacant position, while
20 all of the other positions are at least acting. I think the
21 people in those acting positions are essentially, except for
22 Mr. Kay, are awaiting confirmation through a process that OMB
23 certifies. But those people are really effectively there and
24 assuming their new responsibilities for the QA program that's
25 still in need of identification of a key person.

1 [Slide.]

2 MR. BROWNING: I believe this chart is one that
3 Commissioner Rogers was referring to in the last briefing.
4 This is our version of the organization chart that they forward
5 to us for information. I think it may be something that you
6 might want to question Mr. Kay about when he does come and talk
7 as to about their steps to fill that QA position.

8 By the way, that's a major -- that organization chart
9 is also a major resolution of one of our long-standing comments
10 where the quality assurance function within the headquarters
11 organization used to be down in one of those other boxes, or
12 the equivalent of one of those boxes in earlier states. So
13 they've elevated the position. Now the key thing is to get it
14 to be a filled and working position.

15 [Slide.]

16 Chart number 9, is intended to emphasize the fact
17 that the state of Nevada, is in fact, developing an independent
18 technical and quality assurance program of their own. They
19 have requested us to review their QA plan, and they plan to
20 submit it in the May, 1988 time frame. And as we discussed in
21 the last briefing, and Mr. Stello emphasized that we should be
22 planning to be able to review that plan, and make sure we're
23 aware of, and cognizant of the state technical work, because
24 the state does intend to actually do investigations and tests
25 of their own on the Nevada site.

1 CHAIRMAN ZECH: Do we have the resources to follow
2 through in this area?

3 MR. BROWNING: We did not specifically budget for
4 this. We have budget line items that cover this kind of
5 consultation with the state, but we did not have in mind, the
6 extent and magnitude of this. So, we're going to have to take
7 a look at how we can manage to do that.

8 CHAIRMAN ZECH: It's my understanding that the state
9 of Nevada has been given considerable resources in this regard.

10 MR. BROWNING: If we have page 10 of the chart.

11 [Slide.]

12 This was an attempt to give you an idea of what
13 they're projecting. Now, they do have to work out the actual
14 amounts with the Department of Energy.

15 CHAIRMAN ZECH: Right, but I mean -- let me just
16 finish if I may, and you can stay on this slide. But my point
17 is, that seems like an awful lot of money, which could cover an
18 awful lot of consultant-type expert work. I'm just concerned
19 whether we have enough resources to respond to the initiative
20 of the state of Nevada?

21 MR. STELLO: Mr. Chairman, you made a very good
22 point. Their Fiscal Year '89, if they get that much money,
23 it's in excess of our budget. So, that program of their's is
24 going to be very sizeable, and I think essentially required,
25 since they will be a principal party at the hearing, that we

1 understand how they'll generate data, do analyses, because
2 we'll have to consider it, and make our own decision.

3 So, we are going to have to gear it up. And how big
4 of a problem it's going to be, we don't know yet, because we
5 don't really know all of what they're going to ask us to do.

6 CHAIRMAN ZECH: I guess my concern is, it's not so
7 much, you know, how much they have, as how much we have. But I
8 just want to make sure that we do have sufficient people and
9 resources to handle this job. Again, it's a new job for us,
10 and I know we've budgeted for what we have in mind, but I don't
11 know that we budgeted to respond to this area, and that's my
12 question.

13 MR. THOMPSON: We did not, and we would have to look
14 at that very carefully, because with the increase in this area,
15 as well as the effort on rule-making, you know, I'm not sure
16 that we have sufficiently budgeted in all those areas to do
17 that at the level that we may --

18 CHAIRMAN ZECH: Well, it will need a careful look,
19 because we simply need to make sure that we do have the
20 resources, or get the resources to respond to the
21 responsibilities that we're given in this program.

22 MR. BROWNING: Could we have the figure that shows
23 the state's technical program?

24 [Slide.]

25 Just to give you a relative feel for how they're set

1 up to do their technical review, compared to the previous
2 figure that we had on the screen -- it's going to be rather
3 difficult to look at, but they have a executive director,
4 they've got a QA function, and then they've got 6 technical
5 support contractors currently lined up to do work for them.

6 Various consultant groups, the University of Nevada -
7 - so you see a very similar kind of structure, and a very
8 similar kind of technical and QA review kind of job, depending
9 how we get involved with the state of Nevada's work, as we have
10 for the Department of Energy's work.

11 And at this point, I think we're ready to talk about
12 the licensing support system, which is one of the proactive
13 efforts that we undertook to try to make sure the 3-year
14 licensing time frame could be attained.

15 MR. OLMSTEAD: I think that's slide 11?

16 [Slide.]

17 In August of 1987, the Commission established, under
18 the Federal Advisory Committee Act, a negotiated rule-making,
19 which consists of the likely, interested groups which might
20 petition to participate in any adjudication on the high-level
21 waste geological repository application filed by DOE.

22 The objective was to allow for the development of a
23 record and decision by the NRC in 18 months. If you take the
24 3-year statutory time frame in the Waste Policy Act, 18 months
25 of that is slated for staff and technical review; 18 months of

1 it for the adjudicatory process.

2 In the history of this agency, we have never
3 conducted a reactor licensing adjudication in that time. So,
4 the purpose of this negotiated rule-making was to get the
5 principal participants in such a proceeding together to the
6 extent we could identify them, and try to negotiate some
7 changes to 10 CFR, Part 2, which would allow us procedurally,
8 at least, to meet our statutory responsibilities. If I could
9 have slide 12.

10 [Slide.]

11 A key feature of this negotiated rule-making, or the
12 quid pro quo, or consideration that we're offering potential
13 participants as the incentive to negotiate, was the licensing
14 support system, which was an electronic litigation support
15 system and issue management system that would provide for the
16 service of formal paper, instead of using the U.S. mail.

17 That, incidentally, under our rules, saves 15 days
18 every time a paper would be filed, because, under our rules, a
19 paper has to have 5 days for a response for mail service, 5
20 days for the filing, and 5 days for the decisions.

21 So every time there is a motion in one of our
22 proceedings, there's 15 days allotted just for mail time. The
23 other part of it, was to facilitate document discovery by the
24 immediate production of documents through the litigation
25 support system, and to provide the parties the ability to find

1 information by doing Lexis/Nexus type searches in the database
2 -- full tech search and retrieval. In fact, could I have slide
3 13?

4 [Slide.]

5 The Commission established a negotiating committee
6 originally, which has about 24 parties, but as a result of the
7 Nuclear Waste Policy Act amendments, selecting Nevada as the
8 site for characterization, the committee was reconstituted in
9 February of this year, and now is composed of NRC, DOE, the
10 state of Nevada, Nevada local governments, the American Indian
11 Tribes, the industry coalition of CEA, and an environmental
12 coalition that represents EDF, Sierra Club, UCS, and other
13 organizations of that type.

14 We have two meetings of this advisory committee
15 remaining, and if I could have the next slide --

16 [Slide.]

17 -- where we are, we have a draft rule, and we will meet in May
18 and June and we have in the draft rules, provisions that would
19 implement the licensing support system, and provisions that are
20 designed to meet the schedule.

21 The Conservation Foundation, which is the independent
22 kind of arbitrator, convener, who's leading these negotiations,
23 has told me that they're optimistic that consensus can be
24 reached. They're a little unsure whether we can do that with
25 the two remaining meetings, and may ask us for an additional

1 meeting.

2 That additional meeting would be over budget, and so
3 it would require to extend the contract for that purpose, and I
4 will include that issue in a staff paper that will be presented
5 to the Commission.

6 [Slide.]

7 There are some significant issues that I have
8 tentatively agreed to on behalf of NRC that I think have policy
9 implications and what I intend to do is submit a staff paper to
10 the Commission that will address some of these issues.

11 First off, the rule as currently drafted and agreed
12 to by the parties requires the entry of relevant documents by
13 all parties and their contractors in searchable full text.
14 This means the state of Nevada, if they are a participant, the
15 local government, if they are a participant, DOE and NRC from
16 the date of initiation of the system would be required to
17 submit documents that are of a licensing nature in electronic
18 full text.

19 Secondly, the parties have asked for pre-application
20 access to the system. This means that before DOE submits its
21 license applications, the parties would like to have the system
22 up and running. We haven't agree on how long before but the
23 discussions have generally been in the neighborhood of two
24 years and to facilitate handling that and administering it and
25 ensuring that disputes can be resolved, the parties are asking

1 NRC for a pre-license application review board, essentially
2 somebody to call balls and strikes about whether other parties
3 are abiding by their agreements to submit documents.

4 This board would function prior to the application,
5 the theory being that after the application was filed whatever
6 board, if it is this blue panel thing that is circulating
7 around the Congress, a Commission-appointed board or whatever,
8 they would take cognizance of this pre-license application
9 review board's rulings and we would move on from there.

10 The parties have agreed to that on two provisos. One
11 is that NRC would be the licensing support system
12 administrator, namely when DOE's got their system procured and
13 up and running, the state of Nevada doesn't want to submit its
14 documents to DOE. They are willing to submit them to NRC,
15 provided NRC is the one that controls access to their document
16 database. So there is a policy question concerning the
17 licensing support administrator within the Agency.

18 The only conditions the parties have asked NRC for
19 are that the Office of Nuclear Material Safety and Safeguards
20 not be the administrator and that the hearing division of the
21 Office of General Counsel not be the administrator.

22 This is the ex parte separation of functions issue.
23 Other than that, they don't care what organizational entity in
24 the Agency performs that function.

25 CHAIRMAN ZECH: Is the staff going to have a

1 recommendation in that regard?

2 MR. STELLO: I have talked with Mr. Olmstead and
3 basically what he has outlined in here, I see no problem. We
4 will get the issues before the Commission for their judgment,
5 but certainly what he has concluded, the positions he has taken
6 seem certainly very respectable and reasonable to me.

7 CHAIRMAN ZECH: Are you going to recommend that the
8 NRC be the administrator?

9 MR. STELLO: Yes.

10 CHAIRMAN ZECH: That will be coming to the Commission
11 for decision?

12 MR. STELLO: Yes.

13 MR. OLMSTEAD: There is another issue that the
14 environmental groups are very concerned about. I think it is a
15 minor issue. It has to do with whether they can make
16 electronic fee waiver requests under the Freedom of Information
17 Act. Currently they have to file the request in writing with
18 their request for document production and ask for a fee waiver.
19 We routinely have been granting it to such organizations and I
20 didn't see any reason why an electronic method could not be
21 established which would allow us to grant those in accordance
22 with the Freedom of Information Act. But we will highlight
23 that issue as well.

24 I've already mentioned the additional meeting.

25 The industry group -- there is one final thing on my

1 note -- has withheld saying that they definitely would agree or
2 disagree with the consensus reached by the other parties. They
3 have agreed issue by issue but not to the whole text of the
4 rule on the grounds that they want an opportunity to look at
5 the overall cost of the system. That, after all, is their
6 interest -- how the Waste Fund is being implemented and the
7 time savings that they believe would be realized and then
8 determine whether they think we have achieved the time savings
9 goal.

10 That is going to be a judgment call. I can't
11 guarantee that is achieved, nor can I guarantee that it is not
12 achieved, but you use your best judgment. I can tell you that
13 the rule as it is currently drafted would meet the timeframe
14 with four months to spare but there is always potential in this
15 things, as the Commission is well aware, for a party to throw a
16 money wrench in the process and you get some delay and four
17 months is not a lot of cushion.

18 MR. PARLER: May I ask Mr. Olmstead a question?

19 CHAIRMAN ZECH: Please do.

20 MR. PARLER: When is it to be finished -- the old
21 negotiated rulemaking effort?

22 MR. OLMSTEAD: June is the last scheduled meeting and
23 we think we can do --

24 MR. PARLER: When is the product going to be up
25 before the Commission?

1 MR. OLMSTEAD: The product that would be before the
2 Commission will be a proposed rule -- after we have the last
3 meeting.

4 MR. PARLER: And under the charter from the
5 Commission you are responsible for doing that?

6 MR. OLMSTEAD: Yes, sir.

7 MR. PARLER: Thank you.

8 MR. OLMSTEAD: Thank you.

9 Chart number 16 is a listing of the -- and Chart
10 number 17 is a listing of the seven areas involving the pre-
11 licensing phase of DOE's high level Waste Management Program,
12 which we report on to you periodically. You will be getting a
13 quarterly report shortly, so I won't spend much time on these
14 particular issues.

15 Number one, the DOE implementation of scheduled and
16 systematic consultations: This is one of the key areas in
17 bringing some of the concerns we have raised to a technical
18 conclusion, so one of the things we would urge that you in turn
19 urge to Mr. Kay is that they support the ongoing efforts to
20 improve the technical communications between the two agencies
21 and the state of Nevada, who is a participant in those
22 meetings.

23 A good example such a meeting is the meeting we held
24 recently out in Nevada to talk about the various conceptual
25 views of what might be going on underneath the Nevada site, and

1 from what I read in the paper everybody including the state of
2 Nevada representatives thought that was a very worthwhile
3 technical exchange. I think we can build on the success of
4 that meeting. We may very well be able to start building a
5 technical consensus on how to resolve some of these issues.

6 So I would like to go on to page 18 and allow Mr.
7 Bunting to give you an update on the status of the Center for
8 Nuclear Waste regulatory analysis.

9 At the last meeting, Commissioner Bernthal asked in a
10 general sense how well they were doing and I told him that we
11 were in the process of looking at the performance over the
12 first period, where we have to make a determination of whether
13 they get a fee or not. I am happy to say that the Fee
14 Determination Board has done its review and it is recommending
15 that they get full fee.

16 We were extremely pleased with what they were doing
17 and the rapidity with which they are coming up to speed on this
18 program.

19 [Slide.]

20 MR. BUNTING: Mr. Chairman, as you said in your
21 opening remarks, the contract was signed last October. We were
22 down about a week after that to give you a briefing on our
23 plans for the first year. Just recently we sent you a
24 Commission paper, an information paper with a fact sheet laying
25 out more or less the status of the center as it stands today,

1 the number of staff, the facilities, dollars, that kind of
2 thing.

3 I say all of this just to try to re-emphasize the
4 importance of what it is we are doing. This is a Federally
5 funded research and development contract. It is not just
6 another contract, and because it is an FFRDC, NRC as the sole
7 sponsor takes on certain responsibilities on which we briefed
8 you that last time we were here.

9 The center is devoted exclusively to NRC's High Level
10 Waste Management Program. This is the first of a kind
11 undertaking for both NRC and the Southwest Research Institute
12 and it has been -- I say this to try to give you some idea of
13 the magnitude of the job to start from scratch, get up to
14 running, and I think to produce the products they produced in
15 the six months has been truly outstanding.

16 We had carefully laid out a three-year phase-in plan
17 for the center. During Year 1 we had envisioned that the
18 activities of the center would be devoting to learning and
19 planning and instituting a systems engineering approach to take
20 an independent look at our high level waste repository
21 regulatory program.

22 This is a rather unique venture to apply systems
23 engineering to a soft system rather than to a hardware system.
24 Based on the understanding we hope to gain from this activity,
25 we would then hope to develop a technology transfer plan to

1 move our work from existing TA contractors and research
2 contractors into the center.

3 [Slide.]

4 So during this time we intend to keep almost all of
5 the reactive work, that is responding to DOE reviews and things
6 like that, out of the center and have them done by Mr.
7 Browning's staff or the existing contractors.

8 We tried to keep the center's focus on the system
9 approach, which I just mentioned, and so far up until I guess
10 mid-April we really wrapped them in a cocoon to avoid all
11 distractions and try to focus them on meeting their early
12 milestones, and we want them out of this cocoon beginning with
13 the demonstration on April 20th of their product. Recently Mr.
14 Thompson and Mr. Arlotto from Research and Commissioner Rogers
15 were down and saw the results of their work and we would like
16 to emphasize that during this six-month period we spent about
17 the first six month developing the detailed what we call
18 operations plans, which are then incorporated in the contract
19 and become the governing documents for the work they will do.

20 So the products that those that went down to see the
21 demonstration reflect a three months productive effort after we
22 agreed with the statements of work.

23 As Mr. Browning indicated, we've completed the first
24 evaluation period and as the NRC's program manager for the
25 center I am very well pleased. I think what we have seen

1 demonstrates the commitment of the center management to make
2 this a viable center for NRC and I think it also shows the
3 commitments of the Institute's staff and the management to
4 support the center.

5 Perhaps you are not aware of it, but when we started
6 this contract we had envisioned that NRC would be able to
7 provide the computer support for this program architecture we
8 developed. Early on, because of the move to White Flint and
9 the delay in getting the computer up to speed, it was evident
10 that it wouldn't be ready in time to meet the deliveries, so
11 the Southwest management put up the capital funds, which are
12 considerable, to buy a separate mainframe so that the center
13 could proceed and meet it's contractual commitments.

14 Now if we could turn to the next chart.

15 [Slide.]

16 During the next six months our foremost priority is
17 going to be staffing. It is more of a problem than we
18 anticipated for a number of reasons. There's competition for
19 these scarce staff folks out there. There is the complexity of
20 demands. Because of the limited funds, when you hire someone,
21 you want him to be able to work in various areas, so you are
22 looking for people, for instance with lab experience, field
23 experience and analytical experience all wrapped up in a single
24 individual. So it makes it very hard to find one individual to
25 be able to put into one bullet you've got to use on this case.

1 We are going to continue this systems approach to
2 produce our recommended regulatory program. This is a top down
3 approach.

4 [Slide.]

5 Taking a look at all of the requirements of 10 CFR
6 Part 60 and other agencies who have regulations that may impact
7 on our regulatory program. We are going to call out each of
8 those regulatory requirements and for those regulatory
9 requirements we are trying now to identify the findings of fact
10 that would be necessary to prove to show that you have met that
11 regulatory requirement in the hearing.

12 If there is any lack of certitude in those findings,
13 we'll identify those uncertainties. They could be regulatory
14 because you don't know what the regulation means. They could
15 be technical because you don't know how to prove it. Or they
16 could be institutional uncertainties depending on what other
17 agencies' roles may be with respect to timing and when we have
18 to take an action.

19 So for each of these uncertainties we will develop
20 the issues that need to be resolved, identify the technical
21 programs, the schedules and the resources to reduce those
22 uncertainties that fall in NRC's lap.

23 We have started out on this approach and laid out a
24 20-step process. As a result of the visits that we've had,
25 I've asked the center to consider modifying the process to

1 focus first on just those regulations and the sections of the
2 regulations that have to do with siting and hopefully we can
3 produce some partial results that would indicate what are the
4 issues of concern for NRC when it must review DOE site
5 characterization plans, which I guess are supposed to be coming
6 in end of this year.

7 MR. BROWNING: It's basically an acceleration of what
8 we originally planned to do to accommodate the real world
9 focusing and acceleration onto the site, so we are certain to
10 deviate from our original contractual plan.

11 MR. BUNTING: Now that means in preparing our
12 technology transfer plan we'll probably have to modify our plan
13 there and develop a plan a little bit sooner than we had
14 anticipated with a little bit less understanding of what needs
15 to be done before we do that. Mr. Browning is trying to move
16 out of the existing TA contractors into the center at an
17 accelerated pace and so we are trying to get the center ready
18 to accept that and be supported to the staff.

19 In summary, I think that things are going very well.
20 My caution right now is I just don't want to overload this
21 fragile organization out there by accelerating too fast, too
22 quickly and we are going to be looking at that and giving
23 honest assessments about what we can and cannot do. Other than
24 that, I think everything is going as well as could be expected.

25 I can update you, if you will, on the number of

1 people that are there at the moment. We have 17 core staff out
2 there currently and we are getting bits and pieces that add up
3 to another for FTE. By the end of the year, if our recruiting
4 efforts are successful, we'll have 25 core staff and about 7
5 other FTE equivalents there.

6 By the end of Year 2 on our current plan, we'll be up
7 to 33 in the core staff and 9 other, and the Institute is
8 preparing facilities to move the center into and the plans are
9 there will be transition into the new facilities by mid-July
10 this year.

11 CHAIRMAN ZECH: Thank you very much.

12 MR. STELLO: That concludes our presentation, Mr.
13 Chairman.

14 CHAIRMAN ZECH: Thank you. Questions from my fellow
15 Commissioners? Commissioner Roberts? Commissioner Rogers?

16 [No response.]

17 CHAIRMAN ZECH: Under the Center for Nuclear Waste
18 Regulatory Analysis, are they or will they be in a position to
19 provide assistance to the NRC staff as far as reviewing DOE
20 plans? Will they be able to do that kind of an effort as well
21 as other things?

22 MR. BUNTING: Yes, to a limited extent. We have
23 envisioned that we'd be getting more into this reactive work
24 beginning in the Year 2 and by the end of Year 3, totally taken
25 over all of the other contract efforts that the Division of

1 Waste Management has currently. So it was a three-year phase-
2 in plan to take it all over beginning with a healthy dose of it
3 in Year 2.

4 MR. THOMPSON: But quite a bit of their focus is
5 looking at the proactive stuff as well as the planning
6 activities.

7 CHAIRMAN ZECH: I understand that.

8 MR. THOMPSON: We are trying to provide as much focus
9 for the staff itself as being on the reactive portions in this
10 early stage until they get the planning out, the longer range
11 types of things. We do have that capability if it is needed.

12 CHAIRMAN ZECH: All right. Fine.

13 I have another question. Back to the dry cask
14 storage issue. As I understand it, the Nuclear Waste Policy
15 Act requires that we review DOE's dry cask storage report and
16 you discussed that briefly. Will we receive any input from DOE
17 prior to receiving the report and could you discuss the
18 schedule for providing any comments on that? We can ask Mr.
19 Kay when he comes, I guess it's next week, is it not? But
20 perhaps do you have any comments on that now?

21 MR. THOMPSON: I would like to ask Lee Rouse of the
22 Staff to respond to that.

23 CHAIRMAN ZECH: Would you step up to the microphone
24 and identify yourself for the reporter, please.

25 MR. ROUSE: I am Lee Rouse, with NMSS. Yes, there is

1 going to be a very early interaction, Mr. Chairman, with DOE on
2 the DOE dry storage support that is mandated by the Amendments
3 Act. They are scheduled to have their report to Congress by
4 October 1. In a very recent letter to you from Mr. Kay which
5 you referred to Mr. Thompson for response, they outlined very,
6 very generally a tentative time schedule, and recognizing that
7 they got a little late start, they hope to meet the October 1
8 date by an early draft in July I think it was.

9 They also sort of indicate if they begin slipping
10 much more, they might have to go back to Congress to ask for
11 more time. But even now we've had the Staff contacts and I
12 think we have a meeting tentatively scheduled for tomorrow with
13 the Staff to get sort of an outline of what DOE expects to put
14 in the report. So I think the interaction between the DOE
15 staff and the NRC staff will follow somewhat like we did on the
16 MRS proposal. Very early interactions so the NRC Staff is
17 familiar with what they are thinking and also provide the DOE
18 people with some of the regulatory guidance or regulatory views
19 early on.

20 CHAIRMAN ZECH: Thank you very much.

21 Well, let me just thank the NRC Staff both in NMSS
22 and the General Counsel's office for this useful and important
23 briefing. Although the high-level waste repository may be a
24 few years off, there are a number of issues as we well know and
25 discussed some of them here today that need to be addressed

1 early on and it is important that we do that if we are going to
2 be successful in licensing this repository in a reasonable
3 timeframe.

4 I think it serves everyone's interest to raise these
5 technical issues and legal issues as soon as we possibly can. I
6 also think we should look to see, again, whether we might need
7 another rulemaking, or whether our current technical positions
8 and reg guides are sufficient.

9 But, again, I do think that's a special planning
10 subject that I have asked earlier that the staff take on, and I
11 understand that you will do that.

12 In this unknown field that we are in, with our
13 responsibilities for licensing the facility, needless to say,
14 it could well be that, as technical problems arise and as the
15 dates do get closer, our ability to meet the schedule could be
16 jeopardized. As much planning as we can do ahead of time, as
17 much foresight as we can exercise, I think is extremely
18 important.

19 I think it's important, too, that you stay in touch
20 with and assist the State of Nevada and the other affected
21 parties to the extent that we possibly can. And I think it's
22 important that the Commission be informed about your efforts
23 and also the resource question, if you have sufficient
24 resources to cover our responsibilities.

25 I'm pleased with the General Counsel's office and the

1 report that they have for us and the progress that they're
2 making and their efforts toward negotiated rulemaking for a
3 licensing support system. And I do believe that the combined
4 effort going on is going to allow us to conduct this very
5 important mission that we have in a professional manner.

6 The important thing that I think we've all got to
7 realize is that it is a new initiative, and there are many
8 unknowns. Technical issues must be addressed carefully and
9 thoughtfully and analyzed with the best possible analysis and
10 judgment. So, we're about a very big program and we have great
11 responsibilities.

12 I'm pleased to hear that the Center for Nuclear
13 Waste's regulatory analysis seems to be progressing well. I
14 think that is encouraging, and we'll look forward to another
15 briefing by the staff on this important area in the future.

16 Are there any other comments from my fellow
17 Commissioners? Commissioner Rogers?

18 COMMISSIONER ROGERS: Just on the question of
19 resources, particularly for the Center. I would hope that that
20 is looked at very carefully because, first, they did step
21 forward to this computer question. When the need was there,
22 they took the initiative to supply the computer.

23 My understanding is that in the QA area that perhaps
24 we should be looking harder at supplying the resources to pay
25 for what is actually happening there. They are stepping up

1 that one and supplying a full-time person, even though we were
2 only budgeted for a half-time person in that.

3 So, I would think that that should be looked at quite
4 carefully, that we are supplying the resources that they need
5 to do the job that we expect them to do, because while they are
6 very enthusiastic and committed to doing this, they obviously
7 have to be able to have gas in the tank if the car's going to
8 go. So, I would say we should pay particular attention to that
9 in this intense early period.

10 CHAIRMAN ZECH: I certainly agree with that, and
11 also, just to emphasize one last time, our own look at
12 resources. I know we've made the best estimates we could, but
13 they are estimates. We're in an unknown field, and I think we
14 simply must make sure that we're covering what we have to do to
15 carry out our responsibilities.

16 MR. THOMPSON: And there are some new challenges that
17 we really have not been aware of with respect to the Nevada
18 issues.

19 CHAIRMAN ZECH: And there could come some unknowns
20 that we simply must recognize. That's certainly very possible
21 and very, very probable. So, we've got to be able to be
22 flexible enough to respond to those circumstances.

23 All right. Thank you for a very fine briefing. We
24 appreciate it. We stand adjourned.

25 [Whereupon, the briefing was concluded at 3:15 p.m.]

CERTIFICATE OF TRANSCRIBER

This is to certify that the attached events
of a meeting of the U.S. Nuclear Regulatory Commission
entitled:

TITLE OF MEETING: Briefing on Efforts to License a High-Level
Waste Repository and Status of Center for Nuclear Waste Regulatory Analysis
PLACE OF MEETING: Washington, D.C.

DATE OF MEETING: Thursday, May 12, 1988

were transcribed by me. I further certify that said
transcription is accurate and complete, to the best
of my ability, and that the transcript is a true and
accurate record of the foregoing events.

A handwritten signature in cursive script, reading "Suzanne Young", is written over a horizontal line.

Ann Riley & Associates, Ltd.

BRIEFING FOR THE COMMISSION
ON THE
NRC'S HIGH-LEVEL WASTE PROGRAM

MAY 12, 1988

OVERVIEW

- ° NUCLEAR WASTE POLICY AMENDMENTS ACT
- ° MONITORED RETRIEVABLE STORAGE (MRS)
- ° REPOSITORY PROGRAM
- ° LICENSING SUPPORT SYSTEM
- ° CENTER FOR NUCLEAR WASTE REGULATORY ANALYSES

NUCLEAR WASTE POLICY AMENDMENTS ACT
(NWPAA)

- ° DOES NOT CHANGE NRC REPOSITORY ROLE

- ° CHANGES HIGH-LEVEL WASTE PROGRAM
(DETAILS IN OGC ANALYSIS SUBMITTED
3/4/88)

- ° IMPACTS ON REACTOR OPERATIONS

NEAR-TERM MRS PROGRAM-RELATED ACTIVITIES
OF LIKELY COMMISSION INTEREST

- ° DOE DRY CASK STORAGE REPORT
- ° MRS REVIEW COMMISSION REPORT
- ° MODIFICATION OF 10 CFR PART 72 TO
ACCOMMODATE MRS LICENSING

NOTE: REVIEW COMMISSION MEMBERSHIP
UNCERTAIN AS OF 4/29/88

NEAR-TERM REPOSITORY PROGRAM MILESTONES
FOR COMMISSION REVIEW

- ° FINAL NRC COMMENTS ON CONSULTATION
DRAFT SITE CHARACTERIZATION PLAN
(CDSCP) - MAY 1988
- ° DRAFT FINAL DOE-NRC MOU FOR WASTE
FUND REIMBURSEMENT OF NRC NWPA-RELATED
COSTS - MAY 1988
- ° DRAFT DOE MISSION PLAN AMENDMENT
PUBLISHED FOR COMMENT - MAY 1988

NEAR-TERM REPOSITORY PROGRAM MILESTONES
FOR COMMISSION REVIEW
(CONTINUED)

- ° DOE MISSION PLAN AMENDMENTS SUBMITTED
TO CONGRESS - AUGUST 1988
- ° DOE SITE CHARACTERIZATION PLAN (SCP) -
JANUARY 1989
- ° NRC SITE CHARACTERIZATION ANALYSIS
(COMMENTS ON SCP) 6 MONTHS AFTER SCP
ISSUANCE (EXPLORATORY SHAFT CONSTRUCTION
TO BEGIN IN JUNE, 1989)

CURRENT NRC PROACTIVE EFFORTS

- ° PREPARE REVIEW PLAN FOR SCP AND ASSO-
CIATED STUDY PLANS
- ° DEVELOP STAFF TECHNICAL POSITIONS (TP'S)
ON INTERPRETATION OF 10 CFR 60
- ° RULEMAKINGS
- ° IDENTIFICATION OF TOPICS FOR FURTHER
REGULATORY GUIDANCE DEVELOPMENT

UPCOMING NRC REACTIVE EFFORTS

- ° REVIEW OF DOE MISSION PLAN AMENDMENTS
EXPECTED IN MAY 1988
- ° SCP REVIEW (SIX-MONTH EFFORT EXPECTED
TO BEGIN IN JANUARY 1989)
- ° SCP-ASSOCIATED STUDY PLANS
- ° CONTINUING STAFF REVIEW OF DOE QA
EFFORTS

QUALITY ASSURANCE

- ° DOE WILL NOT START NEW WORK IN ANY AREA UNTIL NRC HAS REVIEWED QA PLAN FOR THAT AREA AND OBSERVED IMPLEMENTATION THROUGH AUDITS (DOE COMMITMENT IN 3/24/88 CDSCP WORKSHOP)

- ° NRC STAFF EFFORTS

STATE INTERACTION

- ° NEVADA DEVELOPING INDEPENDENT TECHNICAL AND QUALITY ASSURANCE PROGRAM

- ° NEVADA QA PLAN FOR NRC REVIEW IN MAY 1988

- ° NRC STAFF WILL MAINTAIN COGNIZANCE OF STATE TECHNICAL WORK

NEVADA NWPA PROGRAM BUDGET FY1988 - FY1991
(\$ MILLIONS)

<u>FY88</u>	<u>FY89*</u>	<u>FY90*</u>	<u>FY91*</u>
\$6.6	\$23.0	\$26.0	\$31.0

*NOTE: FY89-91 FIGURES ARE ESTIMATES

** NOTE: FOR COMPARISON, NRC FY88 BUDGET
IS \$19.6 MILLION, FY89 BUDGET
IS \$22.5 MILLION

HIGH-LEVEL WASTE
LICENSING SUPPORT SYSTEM
NEGOTIATED RULEMAKING

Initiated: August 5, 1987

Develop a consensus on the use of the
LSS in the HLW licensing proceeding

Objective - timely & effective review
of the DOE license application

LSS Characteristics

- early and comprehensive access to licensing information
- full text search capability
- electronic mail

- ° Negotiating Committee - NRC, DOE, State of Nevada; Nevada local governments, NCAI, Industry coalition, Environmental coalition
- ° NRC draft regulatory text reviewed at the April meeting
- ° Committee mark-up of draft text complete at the May 18 & 19, 1988 meeting; possible consensus at June meeting

Scope of draft rule --

- ° provisions to implement LSS
- ° provisions to ensure meeting the
NWPA schedule

Significant provisions --

- entry of relevant documents of all parties and their contractors, in searchable full text
- pre-license application access to the LSS
- Pre-License Application Licensing Board
- NRC serves as the LSS Administrator
- Immediate effectiveness review

QUARTERLY PROGRESS REPORTS ON THE
PRE-LICENSING PHASE OF DOE'S HLW
MANAGEMENT PROGRAM

- (1) DOE IMPLEMENTATION OF SCHEDULED AND
SYSTEMATIC CONSULTATIONS
- (2) DEVELOPMENT OF AN INFORMATION
RETRIEVAL SYSTEM
- (3) EARLY IMPLEMENTATION OF A QUALITY
ASSURANCE PROGRAM
- (4) EARLY ESTABLISHMENT OF REPOSITORY
DESIGN PARAMETERS

QUARTERLY PROGRESS REPORTS ON THE
PRE-LICENSING PHASE OF DOE'S HLW
MANAGEMENT PROGRAM (CONTINUED)

- (5) EARLY RESOLUTION OF STATE AND
TRIBAL* CONCERNS
- (6) ADOPTION OF CONSERVATISM
- (7) EARLY RESOLUTION OF ISSUES THROUGH
A PROGRAM OF LICENSING TOPICAL
REPORTS AND OTHER MECHANISMS

*NOTE: THERE ARE CURRENTLY NO "AFFECTED
TRIBES" AS DEFINED BY THE NWPA
FOR THE YUCCA MOUNTAIN SITE

CENTER FOR NUCLEAR
WASTE REGULATORY ANALYSES

- o CONTRACT SIGNED OCTOBER 15, 1987
- o STATUS REPORT TO COMMISSION
 - APRIL 1988 (SECY 88-96)
- o KEY MANAGERS HIRED
- o RECRUITING TECHNICAL STAFF

CENTER FOR NUCLEAR
WASTE REGULATORY ANALYSES (CON'T.)

- o FIRST YEAR EFFORT
 - DEVELOP UNDERSTANDING OF REGULATORY REQUIREMENTS
 - DEVELOP SYSTEMATIC APPROACH TO NRC'S PROACTIVE ROLE
 - DEVELOP COMPUTERIZED SYSTEM TO PROCESS INFORMATION
- o ACCELERATE TECHNICAL TRANSFER FROM OTHER CONTRACTORS