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July 7, 2003

Dr. Andrew L. Bates
Office of the Secretary
U.S. Nuclear Regulatory Commission
Mail Stop O-16 C1
Washington D.C. 20852

Re: Follow-Up to LSNARP Meeting of June 3, 2003

As the Nye County representative on the LSNARP I am responding to your e-mail request of June 13 for comments on certain matters raised at the June 3 LSNARP meeting in Las Vegas.

As you know the current funding environment that Nye and other AULG find themselves in made it impossible for me to attend that meeting. Those same difficulties unfortunately have resulted in this response being somewhat belated. I apologize for that.

I have reviewed the material you transmitted by e-mail, as well as other material relating to the June 3 meeting, and have consulted with representatives of other members of the LSNARP and the LSNA staff on the issues raised during the meeting. After doing so I should inform you that my views are essentially the same as those expressed in the letter of June 27 from Dan Graser to Joseph Ziegler, DOE ORD's Acting Director of the Office of License Application and Strategy. I also agree with the views communicated to you by Robert Loux on behalf of the State of Nevada in his letter of July 7 and Judy Treichel on behalf of the Nevada Nuclear Waste Task Force in her letter of June 30.

As, I believe, the last member of the original LSS negotiated rulemaking committee, and as a member of the LSNARP from its inception as the LSSARP, including of course through the transition to the web based LSN, I perhaps have a different perspective than some who have come more recently to these issues. From that perspective I can comfortably say that it has always been the expectation, held by all the parties and potential parties, until now at least, that documentary material would be made available on the LSN on an "as you go" basis. This is particularly true of DOE's documents, obviously

because of the massive size of the universe of DOE documents potentially relevant to licensing. There have been points in time when some of the potential participants, primarily the smaller local governments involved with very small documents collections, discussed delivering their documentary material to the LSNA for processing into the LSN (or its predecessor the LSS). But no one, to my recollection, has ever before proposed doing so on the last day, in effect. It has always been assumed that would take place, if at all, well in advance of the deadline called out in 10 CFR §2.1003(a). Furthermore, none of these discussions ever involved DOE and its documentary collection. Again, it has always been assumed, and the rule was clearly written with the expectation, that DOE would make documents available over a long period of time, culminating with the certification called for in 10 CFR §2.1009(b).

Mr. Graser's point that the DOE proposal described in Mr. Ziegler's letter of June 11 "would preclude the LSNA from fulfilling his responsibilities regarding documentary material integrity pursuant to 10 C.F.R. §2. 1011(c) (4)" is well taken. I would add, however, that it would also render impossible the LSNA fulfilling his responsibility under §2.2011(c) (3) to "identify any problems experienced by participants regarding LSN availability, including the availability of individual participant's data....." in advance of the deadline for DOE to make all of its documentary material available under §2.1003.

Nye County intends to fulfill its LSN obligations by making our documentary material available over a period of time, with the last documents posted, compliance certified, and hopefully the LSNA audit process completed in advance of our deadline under §2.1003. This is clear, I think, from the Nye LSN Implementation Plan, which I believe has been made available to you, the LSNA staff, and other participants.

I also join in the comments expressed by Mr. Graser, as well as Mr. Loux and Miss Treichel, on the issue of allowing DOE to fulfill its obligations through service of CD's and/or DVD's.

Finally, I strongly endorse the sentiment that any future consideration of changes to 10 CFR Part 2, whether to accommodate DOE or any other party or potential party, should first be fully reviewed and discussed within the LSNARP, as is clearly intended by 10 CFR §2.1011(e)(1)&(2). Hopefully long before that should happen Nye County will have its funding uncertainties resolved with DOE and I will again be a full participant in the deliberations of the panel.

Thanks for your consideration of these comments, and again I apologize for the delay in make these thoughts available to you.

Sincerely,

Malachy R. Murphy
Regulatory & Licensing Advisor
Nye County NWRPO

cc: Les Bradshaw
Daniel J. Graser
Robert Loux
Judy Treichel
Dale Hammermeister
Elaine Ezra
Members, LSNARP