

September 4, 2014

William J. Boyle, Director  
Office of Used Nuclear Fuel Disposition  
Research and Development  
United States Department of Energy  
Washington, DC 20585

Dear Dr. Boyle:

As you may know, the Licensing Support Network (LSN) document collection has been made available to the Nuclear Regulatory Commission (NRC) users in a non-public library of the NRC's Agencywide Documents Access and Management System (ADAMS). The Commission has also directed that, pending a reassessment of available funding, the LSN document collection should be loaded into a publicly accessible library in ADAMS. Once the staff has obtained Commission approval to go forward, the process is expected to require about six months, at which time the full LSN collection, including the Department of Energy's (DOE) document collection, will be available via (ADAMS) in a separate LSN docket library. Additionally, the Commission has affirmed, in accordance with agency policy, that the staff will make public any documents from the LSN collection that the Safety Evaluation Report references. I am writing to notify you as to how the NRC intends to handle certain DOE documents identified for inclusion in the public LSN collection.

Pursuant to the April 11 and June 9, 2011, orders of Construction Authorization Board-04 (Board), which was presiding over the Yucca Mountain high-level waste adjudication when the hearing was suspended in September 2011, the parties to the proceeding, including DOE, provided to the Office of the Secretary (SECY) digital media housing their LSN collections. SECY has stored these collections since and, consistent with the Board's direction in its April 11 order and as discussed above, plans to install these documents, together with associated bibliographic information, into the public LSN collection if the Commission determines sufficient funds are available to do so. In its September 16, 2011, order, the Board specifically addressed non-public documents, stating that "each party shall retain, in either electronic form or paper copy, all documentary material in its possession that—because of claims of privilege or confidentiality or otherwise—is represented in the LSN only by bibliographic header information." We understood, therefore, that the parties did not transmit to SECY as part of their collections documents that they intended to protect as privileged or otherwise not subject to disclosure.

The NRC staff has identified items in the DOE LSN collection that contain "Official Use Only" (OUO) markings. Consistent with the Board's direction for parties to provide documents that would be made public via ADAMS, we intend to treat the entire collection provided by DOE as public regardless of any "OUO" markings unless we hear otherwise from you in writing by October 6, 2014. This course of action additionally will enable the agency to make publicly

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available, as needed, any documents in DOE's LSN collection used as references for the Safety Evaluation Report that may include the "OUO" markings. Should we not hear from you by October 6, 2014, be advised that the NRC may strike the "OUO" markings as it determines appropriate. Should you have questions, please contact Andrew Bates, Senior Advisor of my staff by phone at (301) 415-1963 or by email at [Andrew.Bates@nrc.gov](mailto:Andrew.Bates@nrc.gov).

Sincerely,

**/RA/**

Annette L. Vietti-Cook