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AGENCY FOR NUCLEAR PROJECTS**

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Nils J. Diaz
Chairman
U.S. Nuclear Regulatory Commission
Washington D.C. 20555-0001

Nevada would like to raise with you an essential point concerning the criteria the Nuclear Regulatory Commission (NRC) will apply to the Department of Energy's (DOE) Total System Performance Analysis for Yucca Mountain to decide whether it meets the basic post-closure radiation standard in the regulations. Specifically, Nevada believes that the NRC, in evaluating DOE's TSPA calculations, should give no weight to the drip shield feature of DOE's design.

DOE describes the drip shield as a kind of large titanium mailbox set over each waste package to divert the downward flow of water past the package in order to inhibit package corrosion. The drip shields would collectively cost many billions of dollars. DOE's documents to date uniformly state that the Department plans to install the drip shields during the closure phase. According to DOE's plans, this could be 100 years from now, or possibly even 300 years from now. This postponement is presumably driven by the high cost of the titanium drip shields.

It is Nevada's position, one it will take in any NRC hearing on DOE's license application, that the planned duration between waste placement and repository closure is so long that whether or not the successors to DOE will ever install the drip shields before closure is a matter of sheer speculation. The NRC cannot reasonably place any reliance on this happening in any licensing proceeding on the adequacy of public protection.

We would add that given this length of time, the difficulty of underground staging and transporting and installing the shields in the deteriorating tunnels containing the highly radioactive waste packages will consequently be substantially increased and the likelihood of their installation substantially decreased.

The time scale involved renders the analogy with other NRC facility licensing and attachment of license condition so strained as to be meaningless. When we talk in terms of centuries, any license conditions the current NRC imposes on the current DOE will be totally unenforceable and it would be a sham to pretend otherwise.

Public protection requires a firmer basis. In making its evaluation of DOE's application NRC should rely only on those features that, with reasonable assurance, it can count on being in place.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert R. Loux", with a stylized flourish at the end.

Robert R. Loux
Executive Director

cc: Joseph Egan
Marta Adams