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May 2, 2007

Honorable Dale Klein
Chairman
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

RE: *NRC Staff's Characterization of Grave Yucca Mountain Quality Assurance Problems as "Minor"*

Dear Mr. Chairman:

I have previously written you expressing Nevada's surprise and concern that the Energy Department's impending Yucca Mountain License Application ("LA") will not itself be made subject to NRC's Quality Assurance ("QA") requirements. Your response was to assure the State that, to circumnavigate this aberration, NRC would take great pains to ensure that the materials, studies, and data *underlying* DOE's LA are appropriately qualified.

It appears, however, that NRC's commitment is falling far short of what is required for a project with such enormous safety consequences. For example, in an April 20, 2007 secret audit (OAR-07-02) of DOE's efforts to prepare the Yucca LA in a manner that relies only on underlying data that is appropriately qualified, NRC's QA auditors found several "conditions adverse to quality." But, remarkably, they concluded that these were "minor" and reflected mere "inattention to detail in submitting information." Among their findings were several instances of information in the project's Technical Data Management System that were "*inaccurate, misleading, or nonexistent.*" The auditors reported that even when a DOE Condition Report had recognized such errors, the invalid data *had not been changed*. Some data reported as QA "approved" had no accompanying approval report.

To say that such infractions are "minor" and reflect only "inattention to detail" is to misapprehend the very purpose of QA. QA is *about* "attention to detail." And a QA audit, since it cannot begin to examine every input in a database as vast as the TDMS,

should be designed to identify programmatic and systemic defects. In this context, finding that some key information in a huge data set is “inaccurate, misleading, or nonexistent,” and remains uncorrected even when identified, strikes Nevada as a grave problem reflective of systemic failure, not a “minor” one.

We all know that chronic QA failures have been a feature of the Yucca Mountain project since its very inception, a fact well documented in numerous other outside audits, including several by the General Accounting Office. Nevada had hoped that NRC might be the “auditor of last resort,” forcing the kind of QA compliance at Yucca that it has insisted be applied to reactor licensing and other safety-related activities. Instead, it seems NRC is all too eager to give DOE a pass.

For the benefit of Nevadans and the nation, we hope you can rectify this situation.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert Loux", written in a cursive style.

Robert Loux
Executive Director

cc: ACNW
DOE
TRB
Nevada Congressional Delegation