

March 20, 2003

The Honorable Jessie Hill Roberson  
Assistant Secretary for Environmental Management  
U.S. Department of Energy  
1000 Independence Avenue, SW  
Washington, DC 20585-0113

Dear Ms. Roberson:

Sub-recommendation (2) of the Defense Nuclear Facilities Safety Board's (Board) Recommendation 94-1, *Improved Schedule for Remediation in the Defense Nuclear Facilities Complex*, stressed the importance of establishing a research program to close gaps in the technical bases for safe interim storage and long-term disposition of fissile materials. Revision 2 of the Department of Energy's (DOE) Implementation Plan for Recommendations 94-1 and 2000-1, *Prioritization for Stabilizing Nuclear Materials*, dated July 2002, notes the contributions made by the 94-1 Research and Development (R&D) Program in providing technical support for site operations to safely stabilize, package, and store plutonium. Specifically, the 94-1 R&D Program developed the technical basis for DOE-STD-3013, *Stabilization, Packaging, and Storage of Plutonium-Bearing Materials*, the latest version of which relies on several R&D programs, including the Materials Identification and Surveillance (MIS) Program, to ensure the long-term safety of stored packages containing plutonium-bearing materials.

Recent discussions at the quarterly meetings of the MIS Working Group in October 2002 and February 2003 suggest that proposed changes to the mission and a reduction in funding for the 94-1 R&D Program from the Office of Integration and Disposition in fiscal years 2004 and beyond may jeopardize activities being pursued in accordance with Appendix G of DOE's Implementation Plan for Recommendations 94-1 and 2000-1. For example, requirements in DOE-STD-3013 for surveillance data (Section 6.4), stored materials database (Section 6.5), and represented samples for quality assurance (Section 6.6) are being met as part of the ongoing 94-1 R&D Program. Significant reductions in the scope of these planned activities may render the sites unable to meet DOE-STD-3013 criteria by not adequately verifying safe storage parameters for allowable moisture, temperature, and impurity content.

In a letter dated December 6, 1999, the Board accepted revisions to DOE-STD-3013 that allowed a broader scope of plutonium-bearing materials to be packaged under the standard. As stated in that letter, the Board considered the revisions acceptable because the standard required that materials packaged for long-term storage be represented in the MIS Program. The Board believes

continued support for the work performed under the MIS Program is essential to ensuring that materials packaged under this standard are verified to remain safe during long-term storage.

Under the Atomic Energy Act, 42 U.S.C. § 2286d(f)(2), DOE is required to report to the President and Congress those instances where implementation of a Board recommendation, or a part thereof, is impracticable due to budget considerations. DOE's inability to support the R&D Program because of "budget considerations" would in effect constitute the determination of impracticability contemplated under 42 U.S.C. § 2286d(f)(2). The Congressionally-imposed reporting requirement cannot be reasonably deflected by DOE simply by not formally making the determination of impracticability due to budget considerations.

The Board is concerned that substantial reductions to the funding level of the 94-1 R&D Program from the Office of Integration and Disposition without corresponding funding increases to the sites to carry out this program will result in some of these activities not being accomplished. Therefore, pursuant to 42 U.S.C. § 2286b(d), the Board requests that DOE provide a report within 60 days of receipt of this letter that addresses any changes to the mission and funding level of the 94-1 R&D Program as described in Appendix G of DOE's Implementation Plan for Recommendations 94-1 and 2000-1.

Sincerely,

John T. Conway  
Chairman

c: The Honorable Everet H. Beckner  
Mr. Jack B. Tillman  
Mr. Eugene C. Schmitt  
Mr. Jeffrey M. Allison  
Mr. Keith A. Klein  
Mr. Mark B. Whitaker, Jr.