

June 9, 2000

The Honorable John Warner, Chairman  
Committee on Armed Services  
United States Senate  
Washington, D.C. 20510

Dear Mr. Chairman:

The purpose of this letter is to respond to statements made in the Senate Report 106-252 accompanying the National Defense Authorization Act for Fiscal Year 2001 (S2549) to the effect that the only Department of Energy (DOE) defense facility to be placed under regulation by the Nuclear Regulatory Commission (NRC) required almost \$500 million to establish a new licensing process. We are unaware of any DOE defense facility that required \$500 million to license, but this statement may be referring to the certification of the gaseous diffusion plants (GDPs) in Paducah, Kentucky, and Portsmouth, Ohio. In the transition from DOE to NRC regulatory oversight, the GDPs not only had to upgrade operations to meet NRC requirements, but also had to upgrade operations to meet DOE orders and standards that were not implemented until the transition to NRC oversight. I am writing because there is a significant difference between the cost data provided to us on the cost of that transition of regulatory authority and the \$500 million stated in the legislative report.

On August 9, 1996 (Enclosure 1), the DOE provided the NRC with an estimate of the costs for transition of regulatory authority for the gaseous diffusion plants. At that time, the DOE estimated the transition cost to be \$39,805,000 for preparation of the application and Compliance Plan; the NRC certification fee; procedures and training upgrades; the NRC reporting system; 10 CFR Part 76 review and comment; and NRC office modification. On September 14, 1998 (Enclosure 2), the DOE updated this estimate once the certification process was completed, and many of the activities identified in the DOE Compliance Plan were completed. On November 24, 1998 (Enclosure 3), the DOE provided a further breakdown of the estimated costs for the transition of regulatory authority. In the updated estimate, the DOE indicated that approximately \$173 million of a total transition cost of \$301 million was spent for activities that would be in excess of those required solely to meet DOE orders and standards. The DOE also admitted, however, that it was difficult to clearly separate the costs of meeting NRC regulations from the other transition costs. In any event, the \$173 million, which arguably includes funding for activities related to meeting DOE requirements that were not implemented until the transition to NRC regulatory oversight, does not comport with the \$500 million cited in the legislative report. Consequently, we do not believe the conclusion in the legislative report that NRC regulation would be too costly is supported.

Although we are not advocating that NRC become the regulator for DOE facilities, we consider it important to correct the record concerning the costs of external regulation. Further, should Congress decide that external regulation of DOE is appropriate, NRC could perform that function in a cost-effective manner. Please contact me if you have any questions or would like to discuss the matter further.

Sincerely,

***/RA/***

Richard A. Meserve

Enclosures:

1. DOE's 8/9/96 Costs Estimate
2. DOE's 9/14/98 Estimate Update
3. DOE's 11/24/98 Estimate  
Breakdown

cc: Senator Carl Levin