

**American Committee  
On Radwaste Disposal  
ACORD**

c/o Edison Electric Institute  
1111 19th Street, N.W.  
Washington, D.C. 20036

January 12, 1990

The Honorable James D. Watkins  
Admiral, U.S. Navy (Retired)  
Secretary of Energy  
Washington, D.C. 20585

Dear Admiral Watkins:

Electric utilities with nuclear energy programs appreciate the efforts you have made to review and reshape the civilian high-level radioactive waste management program. Without the involvement of senior governmental officials, such as yourself, the Nation will not succeed with the important task of high-level radioactive waste disposal.

We have read with great interest your Report to Congress on Reassessment of the Civilian Radioactive Waste Management Program and are pleased to submit the enclosed Response. Generally, we approve of your plan, but it is only a good first step. I'm sure you will agree that there is still much to be done to implement successfully the Nuclear Waste Policy Act.

Over the last two years, I have had the honor to serve as Chairman of the American Committee on Radwaste Disposal, the electric utility chief executive body formed to promote progress in the civilian high-level radioactive waste management program. As

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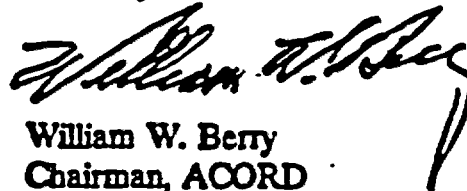
J. J. Linchan

Admiral Watkins  
January 12, 1990  
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my service comes to an end this month, I want to personally thank you for your efforts in pursuing progress in this vital program. I know that the incoming ACORD Chairman, Allen J. Kessler, Jr., Chairman of Florida Power Corporation, is looking forward to continuing the process ACORD has initiated.

We encourage you to move forward with your plan.

Sincerely,



William W. Berry  
Chairman, ACORD  
Chairman, Virginia Power

WWB/skm

cc: Office of Civilian Radioactive  
Waste Management  
U.S. Department of Energy RW-1

**AMERICAN COMMITTEE ON RADWASTE DISPOSAL  
RESPONSE TO THE  
SECRETARY OF ENERGY'S REPORT TO CONGRESS ON REASSESSMENT  
OF THE CIVILIAN RADIOACTIVE WASTE MANAGEMENT PROGRAM**

**SUMMARY**

The Department of Energy (DOE) has, over the years, made some progress along the difficult path defined in the Nuclear Waste Policy Act of 1982, as amended. Specific examples are the completion of the original Mission Plan, Environmental Assessments and Presidential decision on naming sites for characterization, the Site Characterization Plan for Yucca Mountain and detailed characterization Study Plans. However, electric utilities with nuclear energy programs, their customers and rate regulators are deeply concerned about the delays in the civilian high-level radioactive waste management program.

Recent experience and lack of progress at the Yucca Mountain site, does not leave us encouraged. Concern has grown that the over \$ 4 billion paid into the Nuclear Waste Fund thus far will become a lost investment, because DOE may be unable to live up to the Congressional mandate to develop and operate a civilian high-level radioactive waste management system. DOE has been unable to obtain the needed environmental permits from the State of Nevada, unable to put a proper quality assurance program in place, and unable to create the type of organization with the requisite management skills needed to carry this vital program forward.

The Secretary of Energy's November 29, 1989 Report to Congress on Reassessment of the Civilian Radioactive Waste Management Program (Report) is a good first step of many needed to build credibility in the program. The Secretary and the Department must take actions aimed at revising the program's structure, organization, approach and culture. The Report lays out a plan DOE can use to overcome the many obstacles that are preventing the program from moving forward. It is unfortunate that the plan also further delays the repository opening by another seven years, but it does propose many changes to the program that have been sorely needed for a long time. Many are consistent with those pointed out to DOE by the electric utilities in the past. The industry will follow the program closely and will hold DOE accountable for progress and ultimate success. In this context, it should be noted that the Secretary of Energy has the ultimate responsibility for the program's success. The industry would like to be as helpful as possible, but will not hesitate to use any means available to promote

program progress and protect the electricity consumer. If DOE does not begin to accept spent nuclear fuel on January 31, 1998, a funding mechanism must be developed to accommodate the additional costs of at-reactor spent fuel storage that will be incurred by electric utilities after that date.

DOE must approach the civilian high-level radioactive waste management program with a much different attitude than has been exhibited in the past. The civilian high-level radioactive waste management program must rise above DOE's business-as-usual treatment and be accorded a status within DOE and the federal government consistent with the importance of the program to the Nation. First and foremost, the Secretary must remain closely and personally involved. DOE's past plans have not worked out, in large part, due to lack of active support by former Secretaries of Energy. Second, DOE must aggressively manage the program. There are many opportunities for other parties to thwart this program. DOE must anticipate these actions and plan accordingly. Third, DOE should hasten the appointment of the new Director and put in place a more effective management structure as soon as practicable. Fourth, the program must use only those organizations and individuals that have proven to be effective and have the ability to serve the interests of the program and must acquire staff or a management contractor that can provide the requisite skills needed by the program, most notably in project management, nuclear regulation and licensing, and nuclear quality assurance. Fifth, as this program is expected to last many decades, once the appropriate changes are made, DOE must ensure continuity of the management structure over the long term, so program goals can be achieved in a timely manner.

The Report indicates that DOE can begin accepting spent nuclear fuel in 1998 only by way of an MRS that is not linked in its schedule to the repository. The Nuclear Waste Negotiator is essential if this is to occur.

The civilian high-level radioactive waste management program is the single most important task for which DOE is responsible that will lead to reestablishing the nuclear energy option for the future. It is too important to leave to the "business-as-usual" treatment it has received in the past. It is time for DOE to recognize the needed changes, make those changes and aggressively implement the program.

## INTRODUCTION

The American Committee on Radwaste Disposal (ACORD) is pleased to have the opportunity to submit these comments on behalf of electric utilities with nuclear energy programs in response to the Secretary of Energy's Report to Congress on Reassessment of the Civilian Radioactive Waste Management Program. ACORD is the senior electric

utility body formed to promote progress in the civilian high-level radioactive waste management program. ACORD provides policy guidance to the industry associations that have nuclear waste and transportation responsibilities<sup>1</sup> and interacts with the highest levels of government on these matters.

### **PERSPECTIVES ON RADIOACTIVE WASTE**

There are three fundamental perspectives on safe management of radioactive waste to which electric utilities with nuclear energy programs ascribe. First, the Nation must pursue a timely program with the objective of permanent disposal of radioactive waste. Second, an interim facility, such as a Monitored Retrievable Storage (MRS) facility, is technically sound in concept and would be a safe and environmentally sound means of providing storage until such time as a repository becomes operational. Third, at-reactor storage of spent nuclear fuel, until a repository or MRS facility becomes available, is technically sound and environmentally safe.

The restructured civilian high-level radioactive waste program will effect not only electric utilities, their customers and rate regulators, but will also have a strong influence on whether the nuclear energy option will be available for the nation in the future. When he announced the Secretary's plan for the civilian high-level radioactive waste management program, Deputy Secretary of Energy W. Henson Moore said "we...realize that we must solve the nuclear waste problem if the public is to accept commercial nuclear power" (emphasis added).

### **GENERAL RESPONSE**

We compliment Secretary Watkins on his efforts, as reflected by this reassessment and on the candor with which the findings are reported. While the electric utilities are not pleased with the announcement of a substantial delay in the scheduled start date for repository operation, we are encouraged by the actions outlined in the Report to restructure the program. Furthermore, the actions identified in the Report with respect to Yucca Mountain and the Monitored Retrievable Storage facility are generally appropriate and, if properly executed, can lead to overall success of the program.

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<sup>1</sup>American Nuclear Energy Council, Edison Electric Institute, EEI/Utility Nuclear Waste and Transportation Program (EEI/UWASTE), Electric Power Research Institute, Nuclear Management and Resources Council, and U.S. Council for Energy Awareness. Edison Electric Institute provides staff and secretariat services for ACORD.

It is our view that the DOE civilian high-level radioactive waste program is technically sound. Some of the Nation's finest scientists and engineers are at work in this program. Our criticisms of the program have always been in the management of these technical resources. We are pleased that the Secretary's proposed changes focus on the management of the program and institutional relationships. With regard to these changes, our concerns are primarily with implementation, which in itself will determine the success or failure of the program. The DOE's past performance does not encourage us.

Electric utilities with nuclear energy programs, their customers and rate regulators have seen elaborate plans prepared by DOE for its civilian high-level waste management program before. Unfortunately, the plans alone have not been sufficient to move the program forward. Sufficient commitment from senior management at DOE, other agencies and the Administration has been the missing ingredient. Secretary Watkins has referred to his plan as representing the steps he has "...taken to ensure that the Department achieves its goal..." For DOE to implement successfully his plan, Secretary Watkins must remain closely and actively involved. The civilian high-level radioactive waste management program will be successful only if sufficient attention is devoted to it at the highest levels of the federal government. Electric utilities with nuclear energy programs have a responsibility to their customers to follow this program closely and will hold DOE accountable for its progress and ultimate success.

Electric utilities have been closely following DOE's implementation of the civilian high-level radioactive waste management program since long before the passage of the Nuclear Waste Policy Act in 1982. Over the years, the industry has made numerous recommendations aimed at improving the program. The Secretary's Report incorporates many improvements. Initiatives outlined in the Report are a welcome recognition that change is needed.

If the Nation is to develop successfully a safe, environmentally sound, publicly acceptable civilian high-level radioactive waste management system, the program must be given the highest priority within the federal government. It must rise above business-as-usual at DOE and not be subjected to the bureaucratic treatment that it has received in the past. Because of its relationship to current and future electricity supplies, the civilian high-level radioactive waste management program must be managed in a manner exemplified by a strong National commitment.

The Secretary's Report indicates that DOE will be revising the schedule, cost and technical baselines for the entire program. The near-term schedule shows that these will be completed by the end of June 1990. This is extremely important and the industry will follow progress on these activities closely. At each step in the process, DOE must be sure that it is ready, in all respects, to move on to the next step. This requires a properly managed program that is characterized by logically sequenced

activities; this has not always been the case. DOE must issue the various reports that have long been outstanding: Mission Plan Amendment, Fee Adequacy Report, Project Decision Schedule, etc.

The Secretary's Report is silent on cost. This is an important matter that should be addressed early in the process. As a start, DOE should reduce its overhead for this program significantly and begin federal payments into the Nuclear Waste Fund for disposal of defense wastes in the civilian repository.

Under the Nuclear Waste Policy Act and the Standard Contract (10 CFR Part 961), DOE is obligated to begin taking spent nuclear fuel from electric utilities by January 31, 1998. By that time, electric utility customers will have paid \$ 8 - 10 billion to DOE. If DOE does not meet its obligation, additional costs for at-reactor storage will be incurred. If DOE does not begin taking spent fuel by January 31, 1998, a funding mechanism must be developed to accommodate the cost of this additional storage.

The announcement of an additional seven-year delay in the program (with the prospect of additional future delays) is significant. Both the near and long term implications could be serious. In the months and years ahead, as the industry monitors DOE's progress against the plan, the industry will be considering further its policies and positions, and will communicate additional recommendations and take actions, as appropriate.

#### **SPECIFIC RESPONSES**

The actions and milestones identified in the Report must be achieved to build credibility in the civilian high-level radioactive waste management program. The following discussion provides specific recommendations to assist the Secretary and the Department to that end. These recommendations focus on the elements of the Secretary's plans and expands on them, where appropriate. It must be strongly emphasized that the actions in the Secretary's Near-Term Decision Plan must be successfully completed by the end of 1990 (less than twelve months from now) to permit the start of new site characterization work at Yucca Mountain by January 1, 1991. DOE must move expeditiously to complement the plan.

## Management

### New Director

The appointment of a new Director is long overdue and must be made immediately. It is essential that the Director have unimpeded access to, and the complete support of, the Secretary of Energy in carrying out the objectives of this important program. In this context, the new Director should not only "...have the freedom to propose program changes in addition to those discussed in [the] report," but should also have the strong support of the Secretary in his efforts to adopt and implement them. The Secretary must remain closely involved with the new Director.

### OCRWM Management Restructuring

The recent implementation of "direct-line reporting" by the Manager of the Yucca Mountain Project Office (YMPO) to the Office of Civilian Radioactive Waste Management (OCRWM) at Headquarters is a major step forward for the program. However, significant restructuring of all program elements (i.e., Regulatory, Licensing, MRS, Transportation), including sorting out the responsibilities and relationships at and between OCRWM and YMPO, are still required if any true benefit is to be realized. It is absolutely essential that clear lines of management, authority, and accountability be instituted. The level of contractor support should be adjusted as discussed below. An assessment of the management structure of the civilian high-level radioactive waste management program is taking place and final recommendations will be available to DOE later this month. The outcome of this restructuring effort should recognize the need for project-oriented management that is consistent with the site characterization activities presently required, as well as managing other aspects of the program. It is also essential that these changes, or any other reorganization, not be finalized until the new Director is appointed and has had an opportunity to determine whether or not the proposed changes are acceptable to him. The electric utility industry has learned difficult lessons and has acquired valuable experience on this subject at some cost through its many years of nuclear power plant construction. The Department would benefit from a senior-level industry review of the proposed restructured management scheme prior to its implementation.

### Contractor/Participant Support

The industry has long held that contractor/participant support to the program has been excessive, duplicative, and financially wasteful of electricity consumer resources. While a reduction in the number of contractors/participants associated with this program is no doubt warranted as work is deferred (as described in the Report), it is also warranted



as a matter of sound project management. DOE must assert greater management control over the National Laboratories, reduce the number of Laboratories involved, and consolidate overall management of the scientific effort. Also, a consideration in the selection of new, or retention of current, contractors/participants should be their experience on projects that were brought to a successful result rather than their comfort with ongoing research programs. Other opportunities to reschedule activities consistent with needs as mandated by the new program schedule should also be pursued.

### Management Controls

The management controls that are now being implemented appear to be a step in the right direction. The manner in which they are ultimately used in managing the program will, in the end, determine their usefulness. The schedules for other government agencies that are or will be involved in this program, such as the Nuclear Regulatory Commission, the Environmental Protection Agency, the Department of Transportation and Department of Justice, to name just a few, should be reassessed immediately and more closely integrated into the current planning and scheduling system. The Secretary of Energy should take initiatives to assure support from the Administration and from other agencies that are associated with this program.

### Revised Schedule

The Nuclear Waste Policy Act of 1982, as amended, requires the Department of Energy to begin taking spent fuel no later than January 31, 1998. In 1987, DOE slipped operation of the geologic repository to 2003. The Secretary's revised schedule calls for operation of the repository to begin in 2010. This represents a twelve year delay in initial repository operation in a program that has been in existence for only seven years. Given what has been observed over the years, we reluctantly agree that the new schedule appears to be more realistic than previous schedules. However, there is serious concern, given the DOE's history, that the program will not be able to adhere to the new schedule. The industry will be closely monitoring DOE's progress on this new schedule and will be taking actions to encourage compliance with the new schedule. DOE, to build credibility should revise the Standard Contract (10 CFR Part 961) to include performance standards, near and long term milestones and a right for industry review.

There is no indication that DOE has looked seriously at contingency planning to provide early response capability in the event activities do not proceed as scheduled. Given the numerous uncertainties that lay ahead, this should be an essential part of the process.

We support DOE in its recognition that initiatives must be taken in order for it to achieve any schedule improvements. The industry is particularly pleased that DOE will be taking a more assertive posture with the NRC and EPA. (It must be pointed out, however, that the rulemakings referred to in the Report must be initiated just to avoid further delays.) DOE must go further. It must create an integrated regulatory effort that critically reviews regulatory requirements, data needs, etc. Such an effort would identify what is needed to meet each regulatory requirement or, alternatively, what appropriate changes should be made to the regulations prior to data acquisition. To accomplish this, DOE must acquire either staff or a management contractor with the requisite skills to interact successfully with the regulatory agencies. This talent is lacking in the program as it now stands. This is also an area in which the electric utilities have accumulated considerable experience and an area in which they are willing to assist DOE.

### Nuclear Waste Negotiator

The Nuclear Waste Policy Amendments Act of 1987 provided for the appointment of a Nuclear Waste Negotiator to negotiate the siting of an MRS and/or repository. This was to be a one time Presidential appointment for a five year period beginning 30 days following the passage of the Amendments Act. Two years have elapsed and the position remains vacant. While the appointment of the Nuclear Waste Negotiator is long overdue, we are pleased that DOE is now proceeding with efforts directed toward this appointment. Negotiation with a volunteer state or Indian Tribe is the path most likely to lead to siting the MRS. DOE and the Administration must pursue this appointment aggressively. Furthermore, the Administration should assure that the Nuclear Waste Negotiator has broad bipartisan support so that he or she can act effectively in identifying a candidate site for the MRS.

### Scientific Investigation of Yucca Mountain

The primary objective of the Yucca Mountain Project is to characterize the site. While this effort is not a construction project, as pointed out by the Secretary, neither is it a basic research project. It requires good scientific techniques together with dedicated project management. Technical issues must be identified, defined, analyzed and then resolved. Effective management and program leadership must embrace scientific investigation, while making reasonable progress in resolving technical issues. DOE must achieve a balance between the competing desires of scientists who would like to pursue research that is of personal and professional interest, and the need to investigate and resolve specific questions that are important in achieving progress toward the scientific task of evaluating the characteristics of Yucca Mountain to determine its suitability as a waste repository.

## Site Access

It is imperative that DOE gain access to the Yucca Mountain site for the purpose of site characterization as soon as possible. We believe that the decision to request the Department of Justice to initiate litigation against the State of Nevada to obtain the necessary environmental permits is an appropriate, although unfortunate, action. The schedules accompanying the Report indicate that a decision on the Nevada Permit Litigation was reached by the Secretary in October. A major milestone in October shows initiation of interactions between DOE General Counsel and the Department of Justice. We understand, from the schedule, that DOE will file suit this month (January 1990) to obtain the environmental permits from the State of Nevada. We regard this action as an important indicator of the Secretary's resolve and commitment to the DOE's new schedule.

Also, it must be emphasized that such an effort should be directed toward all State permits whose applications are pending. Applications for any other permits needed for site characterization work should be promptly submitted so that DOE, as soon as possible, can judicially challenge Nevada's expected failure to act on such permits.

## Early Evaluation of Site Suitability

DOE has decided to focus on surface-based testing aimed specifically at evaluating whether the site has any features that would indicate that it is not suitable as a potential repository site. Early determinations on the principal, potentially disqualifying conditions are appropriate and should be pursued. However, the pacing activity for final determination of site acceptability is the below ground activity. Both surface-based examinations and below surface activity should proceed in parallel. The reevaluation of the exploratory shaft facility design should be completed as early as practical to permit the below ground effort to be initiated at the earliest possible date.

The development of a methodology for early evaluation of disqualifying conditions is a major element to achieve the desired determinations. The utility funded effort of the Electric Power Research Institute (EPRI) on the development of such a methodology is a vital link for industry and government to work together toward this common goal.

The start of new site characterization work will be a significant milestone regardless of whether it is surface-based or underground. The target date of January 1, 1991 for this effort makes it one of the early target dates on the new schedule. Achieving this milestone is very important for the program. Serious contingency planning is needed in the event that Yucca Mountain is found to be unsuitable.

## Deferral of Site-Specific Design Activities

Given the announced schedule delays, we believe that it is appropriate for DOE to evaluate all activities and reschedule them consistent with overall project requirements. We further believe that the development of a detailed schedule baseline with rationale for all proposed activities, including future site specific design work, and adherence to such a schedule will be important to success of the program.

## **Monitored Retrievable Storage**

The industry fully agrees with DOE that the "primary objective of the program is to develop a licensed geologic repository for the permanent disposal of spent fuel by January 31, 1998." The MRS is not a substitute for the repository. However, in light of the announced schedule delay of seven additional years for initial operation of the repository, the timely operation of an MRS facility takes on greater importance for the success of the program and DOE's ability to meet its statutory and contractual obligation. The current schedule linkages between the repository and the MRS facility would make it impossible for the DOE to accept waste at an MRS facility by 1998. This linkage problem was recognized by the MRS Review Commission and it concluded that there is no technical basis for the linkages and that a linked MRS cannot be justified.

An MRS site located through negotiation with a volunteer state or Indian Tribe appears to be the most likely way to achieve success. This requires the appointment of a Nuclear Waste Negotiator. As stated above, DOE must pursue this appointment with vigor. DOE's MRS siting efforts should only be directed at supporting the Nuclear Waste Negotiator. Once a volunteer has been identified, Congress should then be asked to modify the linkages, as appropriate.

The industry stands ready to support and aid the Department in developing a program for an integrated MRS for interim storage. Early demonstrated success of a major program element is crucial in building credibility in the civilian high-level radioactive waste management program. Schedule slippage that delays MRS operations beyond 1998 will result in increased expenditures for on-site storage capacity and reduce the effectiveness of the MRS as an integral part of the waste management system.

## CONCLUSION

DOE is faced with many significant challenges. One is to build credibility for the civilian high-level radioactive waste management program. The Secretary of Energy's November 29, 1989 Report to Congress on Reassessment of the Civilian Radioactive Waste Management Program is a good first step toward that end. It lays out a plan that DOE can use to overcome the obstacles that currently block success in implementing the Nuclear Waste Policy Act of 1982, as amended. DOE must now act. This Response of the electric utilities with nuclear energy programs provides additional recommendations to DOE that will assist it in meeting this challenge. Electric utilities with nuclear energy programs, their customers and rate regulators are deeply concerned about the civilian high-level radioactive waste management program. We would like to be as helpful as possible and will not hesitate to use any means available to promote progress and protect the electricity consumer. We encourage DOE to implement the Secretary's plan and move forward with the civilian high-level radioactive waste management program.

We appreciate the opportunity to submit these comments.

# SOUTHERN STATES ENERGY BOARD

3091 Governors Lakes Drive  
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December 6, 1989

Admiral James D. Watkins  
Secretary of Energy  
U.S. Department of Energy  
Office of Civilian Radioactive Waste Management  
RW-1  
1000 Independence Avenue, SW  
Washington, D.C. 20585

Re: Letter from Admiral Watkins dated November 29, 1989;  
Comments on:  
Report to Congress on Reassessment of the Civilian Radioactive  
Waste Management Program (DOE/RW-0247)

Dear Admiral Watkins:

The Southern States Energy Board appreciates the opportunity to comment on the above-referenced document, which details the U.S. Department of Energy's (DOE's) efforts to achieve the goal of developing and implementing an acceptable geologic repository program. SSEB agrees with you that changes must be made in the civilian nuclear waste management system if the repository program is to be effectively established. Furthermore, the Board applauds your commitment to improving the U.S. Department of Energy's (DOE's) record on nuclear waste management in general and on reassessing the civilian radioactive waste management program in particular.

SSEB recognizes your visibility and leadership role in your first year at DOE and understands the need for additional inspired leadership at DOE. The Board asks that the President act expeditiously in appointing a permanent director for the Office of Civilian Radioactive Waste Management (OCRWM). The repository program cannot move forward without strong, focused and effective leadership at OCRWM. DOE needs another James Watkins.

Despite the confidence SSEB has in you and your efforts to date, the Board is concerned that further delays may signal a retreat from the repository program and may undermine confidence in the department's ability to create a comprehensive plan for the safe handling, transportation and disposal of high-level radioactive wastes. The recently announced delay of repository operations from 2003 to 2010 may have been necessary to establish a realistic schedule, but additional delays will seriously undercut DOE's credibility further. The Board urges DOE to establish a realistic schedule at this juncture and adhere to it now and in the future.

Additionally, SSEB asks that some linkages between the Monitored Retrievable Storage (MRS) facility and the repository be retained. DOE has promised that the department will "...work with the Congress to modify current linkages and constraints on the MRS facility." It remains to be seen what these modifications will entail. Suffice it to say that SSEB remains convinced that an unlinked MRS facility or facilities may be used as a de facto repository or

Letter to Admiral James D. Watkins  
December 6, 1989

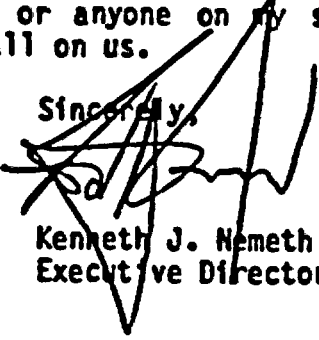
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repositories. The MRS Review Commission report stated that there is no technical justification for the linkages but that some justification exists. The justification for the linkages is institutional, political and legal: they keep an unlinked MRS or other interim storage facility or facilities from becoming a permanent disposal site or sites. SSEB requests that in modifying the linkages DOE should be mindful of the concern over the creation of a de facto repository.

Finally, SSEB suggests that if and when DOE decides to select a site for one or more interim storage facilities, the department should do so through a negotiation process that allows a potential state to choose, or not to choose, to serve as a host. Without a voluntary negotiation process, DOE's efforts to site such a facility, if and when such efforts are undertaken, cannot and will not meet with state and public support.

Again, SSEB appreciates the opportunity to comment on the restructuring of the repository program. If I or anyone on my staff can be of any further service, please feel free to call on us.

Sincerely,



Kenneth J. Nemeth  
Executive Director

KJN:jmm

cc: The Honorable Bob Martinez, Governor of Florida, SSEB Chairman  
Mr. William O. Doub, SSEB Federal Representative

**JAMES H. BILBRAY**  
1ST DISTRICT, NEVADA

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**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515**

November 30, 1989

The Honorable James D. Watkins  
Admiral, U.S. Navy (Retired)--  
Secretary of Energy  
1000 Independence Ave., SW  
Washington, D.C. 20585

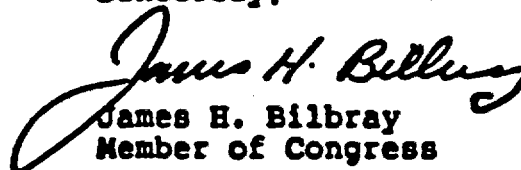
Dear Mr. Secretary:

I have reviewed your report to Congress concerning the problems surrounding the Department of Energy's Civilian Radioactive Waste Management Program. I am pleased that you are reassessing this program, and I hope that you will be considering some of the major concerns raised by the State of Nevada, Nevada's Congressional Delegation, and the Nuclear Regulatory Commission.

It is apparent from your report that you feel other candidate sites should be evaluated in the event that Yucca Mountain proves to be unsuitable. On page 15 you state, "Recognizing that the Yucca Mountain candidate site could be found unsuitable, the DOE will also support the Negotiator in efforts to identify alternative volunteer repository sites." This statement is consistent with what you told Governor Miller, myself, and the rest of the Nevada Congressional Delegation during our April 22, 1989, meeting with you and your staff.

I agree with you that other sites should be characterized in the event that Yucca Mountain proves to be unsuitable for the repository. From the evidence that I have seen to date, it seems that Yucca Mountain will in fact be rejected as a candidate site. I urge you, therefore, to recommend to Congress your preference of having more than one candidate site for a high level waste repository. Clearly, the public interest is not served by a civilian radioactive waste management program that places all of its marbles in one bag.

Sincerely,

  
James H. Bilbray  
Member of Congress

7901670



# United States Senate

WASHINGTON, DC 20510

December 1, 1989

James D. Watkins  
Admiral, U.S. Navy (Retired)  
Secretary of Energy  
1000 Independence Avenue SW  
Washington, D.C. 20585

Dear Mr. Secretary:

The draft "Reassessment of the Civilian Radioactive Waste Management Program" dated November 29, 1989, concerning the restructuring of the nuclear dump project at Yucca Mountain appears to validate Nevada's longstanding belief that the program as previously conducted was technically unsound. The fact that DOE is now publicly acknowledging the failure of the program is commendable.

I do not believe, however, that your "restructured" approach goes far enough or is likely to solve the nuclear waste problem the nation faces. As I indicated to you in my letter of July 18, 1989, the many technical problems that the Yucca site faces are well documented, and I called upon you to use your existing legal authority to determine the site unsuitable and report to Congress, as allowed by law, a new approach to this vexing national environmental concern. Governor Miller, in his November 14, 1989, letter to you, elaborated on the geological and hydrologic deficiencies of the Yucca site that clearly indicate the site is unsound for a repository and will ultimately be disqualified. If this process is ever to succeed, it is essential that a variety of sites that may prove suitable be considered.

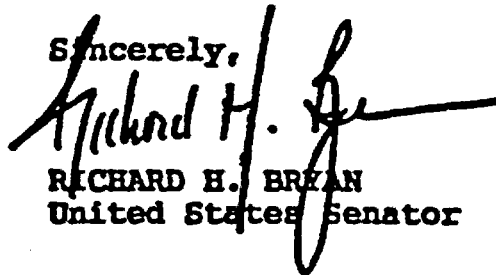
Because the State of Nevada remains resolute in its opposition to this project, your new approach depends mainly on litigation to set the future course and timing of the nation's quest to solve the nuclear waste environmental crisis. The litigation itself is likely to be contentious, lengthy, and expensive and will reach issues going to the heart of the constitutional relationship between the States and the Federal government. That approach will do little to enhance public confidence in the program.

I am increasingly concerned about the waste of utility consumers' and taxpayers' dollars that this program has caused. I would appreciate your providing to me as soon as possible the following information:

- 1) What steps will DOE now take to recover funds that have been wasted in this program if there was negligence or incompetence evident in the work of the contractors who have conducted the existing scientific studies?
- 2) What is the total amount so far collected in the Nuclear waste fund, what uncollected amounts are owed to the fund, and what amount has been expended from the fund on the existing program?
- 3) Of the expenditures from the fund, what amount has been spent by DOE directly and what amount has been expended through private contractors?
- 4) Please provide a list of the contractors who have participated on the program and the aggregate amount that each contractor has received from the nuclear waste fund and what work was performed.
- 5) Please provide a detailed explanation of the status of the existing data DOE has collected on Yucca Mountain. Will the existing data be utilized in the new scientific analysis of the site, will it be entirely supplanted by new data, or will the existing data be used selectively in the new program?
- 6) What effect will the further delay of the program have on its ultimate cost, and will the existing fee for the nuclear waste fund have to be increased over time to support the program?

In light of the commitment to improving communications between DOE and Nevada officials that Mr. Leo Duffy of your staff made at yesterday's briefing on this matter, I am looking forward to a prompt and comprehensive reply, and I will look forward to discussing your revised plan with you in the future.

Sincerely,



RICHARD H. BRYAN  
United States Senator

# Duckwater Shoshone Tribe

 Jerry Millett  
Tribal Chairman

Tony Baca  
Vice-Chairman

Steven Mike  
Secretary

Henry Blackeye, Sr.  
Member

Boyd Graham  
Member

P.O. Box 68  
Duckwater, Nevada 89314  
(702) 863-0227

Jerry Millett  
Tribal Manager

Robert Ketchum  
Admin. Assistant

Roberta Thompson  
Finance Director

Anita Davis  
Secretary

Mary Lou Gomes  
Health Director

04 December 1989

James D. Watkins  
Admiral, U.S. Energy (Retired)  
Secretary of Energy  
1000 Independence Ave., S.W.  
Washington, D.C. 20585

Dear Mr. Secretary,

I am pleased to hear the DOE is seeking a revised strategy in its attempt to characterize Yucca Mountain, in Nevada, for Americans first deep geologic nuclear waste repository. The DOE is finally facing the technical and political realities of the situation. To this, I would like to add the need for involvement from the Western Shoshone Nation and its local governments.

The Nuclear Waste Policy Act of 1982 provides for the designation of any Indian tribe whose off reservation treaty possessory and usage rights that may be substantially and adversely affected by the siting and construction of a nuclear waste repository as an "affected Indian tribe". An affected Indian Tribe has the significant right under the Act to participate in the site characterization process.

The Yucca Mountain site lies squarely in the heart of the ancestral homelands of the Western Shoshone Nation. The Duckwater Shoshone Tribe has submitted a petition for affected Indian tribe status. The petition asserts the off reservation rights reserved to the Western Shoshone Nation recognized in the 1863 Treaty of Ruby Valley that will be substantially and adversely affected. The Duckwater Shoshone Tribe is one of nine Western Shoshone local governing entities, meeting the threshold requirements for affected Indian tribe status.

This letter is to urge you to give the most careful consideration to the Western Shoshone's participation in the DOE's restructured site characterization program. A repository at Yucca Mountain will alter irreversibly the physical environment of the Western Shoshone Nation.

With regards,

  
Jerry Millett, Chairman  
Duckwater Shoshone Tribe

JM:ad

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# Board of County Commissioners of Lincoln County, Nevada

**COUNTY COMMISSIONERS**  
ED WRIGHT  
LENARD SMITH  
KEITH WHIPPLE

**P.O. BOX 90, PIOCHE, NEVADA 89043**  
TELEPHONE 962-5390

**DISTRICT ATTORNEY**  
JAMES L. WADSWORTH

**COUNTY CLERK**  
CORRINE WALKER

December 20, 1989

Secretary of Energy  
Washington, D.C. 20585

**RE: Comments To DOE's Report On Reassessment Of The Civilian  
Radioactive Waste Management Program**

**Dear Admiral Watkins:**

In response to your request, I am pleased to submit the following comments to the subject report on behalf of the Board of Lincoln County Commissioners. In general, Lincoln County concurs with the redirection of the civilian radioactive waste management program you have outlined. We are a bit disheartened however, by the probable extension of time in which Lincoln County will be faced with the uncertainty surrounding whether or not the repository will be built in Nevada and whether or not associated potential positive and/or negative benefits related thereto will accrue to County residents.

As one of three "affected units of local government" in Nevada, Lincoln County takes particular note to DOE's commitment to the MRS. Because the mainline Union Pacific railline providing access to the Yucca Mtn. region crosses the County and bisects our principal city, Caliente, the likelihood of dedicated train shipments resulting from inclusion of the MRS is of particular interest. Lincoln County respectfully requests to be fully included in all DOE activities to site, plan the operation of, and license an MRS facility.

Specific comments to the subject report follow:

page viii-contractor support - review should include looking into use of contractors indigenous to Nevada, particularly within rural "affected units of local government".

page ix - The decision by the Secretary to pursue decoupling of the MRS from a repository to ensure the timely availability of this facility for early waste acceptance, all but

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assures that most shipments to the repository will be by rail. As a consequence, Lincoln County and the City of Caliente are now faced with a commensurately enhanced likelihood of transportation related impacts. Once a site for the MRS has been selected, every effort should be made by DOE to commence early activities to resolve transportation related issues of concern to Nevada's "affected units of local government".

page 4 - Direct-line reporting - As proposed, the Yucca Mountain Project Office Director will have a direct line of communication with Headquarters. However, the Nevada Operations Office. (NVO) will still maintain administrative responsibility for site characterization contractual work. As a consequence, decades old "sweetheart" contracting relationships between major contractors at the Nevada Test Site and NVO may continue to constrain the efficiency, cost effectiveness, and scientific quality demanded by site characterization. The Yucca Mountain Project Office should be afforded every opportunity to retain the most appropriate contractors to conduct site characterization activities.

page 11 - Initiatives for schedule improvement - State and local governments are conspicuously omitted as parties with whom DOE will consult in order to reduce unresolved issues remaining at the time of repository licensing. The success of NRC's negotiated rulemaking regarding the LSS would suggest such an omission to be improper and perhaps in violation of what should be a continued spirit of cooperation by DOE.

Figure 1 - It will be important that the DOE not limit transportation system planning and local government emergency training to MRS related areas during the pre-1998 timeframe. Inclusion of repository related "affected units of local government" in early issue resolution and emergency preparedness activities may be important to gaining public confidence in DOE's waste management program.

Figure 1 - The reference schedule suggests that 13 months will be allowed for preparation of a license application for the MRS but only 12 months will be allowed for the repository. A shorter time-horizon for license application preparation for the repository versus the MRS does not make any sense.

Figure 1 - The schedule does not appear to anticipate nor to be tolerant of prospective legal challenges to the sufficiency of the EIS's prepared for both the repository and the MRS. If DOE is to effectively avoid litigation (highly unlikely) over the sufficiency of the EIS's, scoping and a comprehensive approach to issue evaluation

will be critical. Scoping is not even listed as an activity for the MRS.

Further, because the MRS is an integral part of what the Secretary refers to as a "radioactive-waste disposal system", repository related "affected units of local government" must be fully involved in all MRS siting, operational planning, and regulatory compliance/licensure activities.

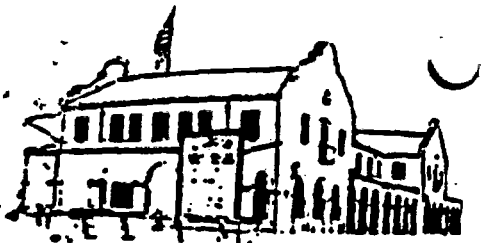
In order to more effectively usher in your proposed redirection of the civilian radioactive waste management program, I am requesting that arrangements be made for your designee as Director of OCRWM to meet with representatives of Lincoln County in the near future. At that time we would be happy to discuss these comments and other issues in greater detail.

Sincerely,



Keith T. Whipple  
Chairman

cc: Mike L. Baughman, Intertech



**CITY OF CALIENTE NUCLEAR WASTE PROJECT**

**P.O. BOX 158 CALIENTE, NEVADA 89008 (702) 726 - 3679**

**December 20, 1989**

**Secretary of Energy  
Washington, D.C. 20585**

**RE: Comments To DOE's Report On Reassessment Of The Civilian  
Radioactive Waste Management Program**

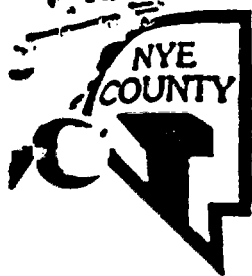
**Dear Admiral Watkins:**

**The City of Caliente has reviewed the enclosed comments prepared by Lincoln County to the subject report and is in complete support of said comments. Because the mainline Union Pacific railline bisects the downtown area of Caliente, the implications of the MRS to the City are of particular concern. Early involvement of the City in MRS related transportation issue identification and resolution activities is requested.**

**Sincerely,**

*George J. Rowe*  
**George J. Rowe  
Mayor**

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ROBERT N. REVERT  
County Commissioner

December 7, 1989

The Honorable James D. Watkins  
Admiral, U.S. Navy (Retired)  
Secretary of Energy  
1000 Independence Avenue  
Washington, D.C. 20585

Dear Admiral Watkins:

I am sorry that your schedule did not permit you to meet with us during our recent trip to Washington, D.C. We can well imagine how busy you must have been in formulating the reorganization plan for the nation's high-level radioactive waste repository program. Perhaps during a future visit we will be able to arrange a meeting to share views about it.

As you know, Nye County is the only jurisdiction designated by Congress in the Nuclear Waste Policy Amendments Act of 1987 as an "affected unit of local government". In spite of considerable political pressure on us, including legislation (Bullfrog County) and threats to re-draw our boundaries, we have not adopted a policy of opposition to the proposed repository. We feel it is critical that we not expend our limited resources on emotional rhetoric and actions, but instead be pragmatic and professional in our repository assessment and planning efforts. We strongly support a comprehensive and credible examination of all relevant scientific data associated with the program, as well as the potential impacts on the health, safety, natural resources, and economies of our communities.

As the "situs" local government for the Yucca Mountain project, we are vitally interested in the progress of the repository program. Notwithstanding the controversy surrounding this program, we intend to continue to exercise our rights to participate in it, including monitoring the activities of the Department of Energy and its contractors. Accordingly, it is important for us to be fully informed of any and all organizational and programmatic changes.

We are particularly interested in receiving from the Department of Energy, as early and in as much detail as possible, information about the planned "re-direction" of the program. In that connection, we were disappointed that no effort was made to brief us or our representatives on the recently announced program changes. As of this writing, no representative of Nye County has received even so much as a phone call, not to mention documents, regarding your reorganization plan.

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Since Nye County will continue to be on the "front lines" of the repository program for the foreseeable future, I would like to request that as major program decisions are reached, such as the appointment of a Negotiator, Nye County be notified as soon as possible. The impact of this program on us is too great for us to be expected to learn about developments in the newspapers or from the press releases of DOE or our Congressional delegation. To facilitate interaction with the Department of Energy, Nye County has staff available in both Washington, D.C. and Nevada. They are available at any time for briefings and meetings on repository issues.

During the recent pause in the repository program we have re-evaluated our relationship with DOE. We have concluded that in most quarters of the repository program there is:

- 1) insufficient understanding of and responsiveness to Nye County's needs and priorities,
- 2) insufficient recognition of Nye County's unique role, reflected in the Amendments Act, as the situs jurisdiction, and
- 3) insufficient understanding of the unique political position in which Nye County finds itself as a result of our decision not to oppose the repository.

Undoubtedly, some of those concerns are attributable to the political, legal, and organizational uncertainties that have plagued the program. Also, perhaps, we have not adequately made clear to DOE our own priorities.

In any event, we have concluded that a more formal process of consultation and cooperation should be adopted between DOE and Nye County. While DOE staff have been, for the most part, responsive to specific information requests from Nye County, we feel that our interactions to date have been characterized more by DOE reaction to Nye County requests than by a systematic and program-wide outreach process. In short, we see little evidence that consultation with affected units of local government has been incorporated in any organized and systematic way in the activities of OCRWM, YMPO, or DOE's repository contractors.

We therefore propose that soon after a new OCRWM director is appointed, DOE and Nye County representatives meet to develop a specific set of criteria, guidelines, and goals for use by both parties in the course of our interactions on the repository program.