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Office of Civilian Radioactive Waste Management /
Washington, D.C. 20585

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109

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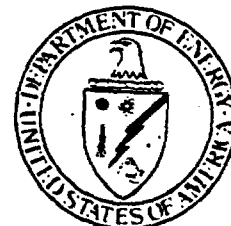
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JANUARY 1986



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Department of Energy
Washington, DC 20585

JAN 17 1986

**Mr. Warren A. Bishop, Chair
Nuclear Waste Board
State of Washington
M.S. PV-11
Olympia, Washington 98504**

Dear Mr. Bishop:

Your letter of December 23, 1985, to the Secretary concerning the independent review of the ranking methodology to be applied as a decision aid in selecting candidate sites for the first nuclear waste repository has been referred to me for response.

In publishing nine draft Environmental Assessments (EAs) in December 1984, the Department of Energy (DOE) went beyond the requirements of the Nuclear Waste Policy Act by inviting State, Indian Tribe, and public comment on the details of the first repository site selection process, including the site ranking approach. In fact, DOE's current consideration of an extended and refined form of the multi-attribute utility estimation method as a decision-aiding methodology is in direct response to a number of comments on the three ranking methodologies used in the draft EAs.

We share your concern for an independent review of the methodology. In response to Governor Gardner's request, among others, at a Congressional hearing, DOE arranged for such an independent review by the National Academy of Sciences (NAS) Board on Radioactive Waste Management.

The NAS is not the only body possessing the expertise to analyze the application of the methodology. However, they clearly are capable of providing a thorough review and are, to many involved and interested in the program, the most prestigious, knowledgeable body who could undertake such a task. We have not asked the NAS to participate in the decision process, only to review DOE's work.

The objective of the consultation and cooperation provisions of the Act is to ensure that the concerns of interested parties are given adequate consideration in implementing the nuclear waste management program. The public comment period on the draft EAs provided ample opportunity for comment on the site ranking methodology and other aspects of the documents. The NAS review will, we believe, provide independent assurance that DOE's response to concerns about the ranking methodology

have been comprehensive, thorough, and fair. Therefore, we feel that the public interest is best served by allowing the NAS to carry out its review of the decision-aiding methodology without concurrent review by other parties.

At our December quarterly meeting in Atlanta with the first repository States and Indian Tribes, DOE committed to providing tables of the findings in chapter 6 of the final EAs and a briefing on the application of the decision-aiding methodology. We expect to send you the chapter 6 tables shortly. We will also be in touch with the State and Indian Tribe contacts soon to arrange a mutually agreeable time for the briefing on the methodology in February or March in advance of the publication of the final EAs. We will also continue to keep you informed of our progress with the NAS Board.

Your interest and participation in the Civilian Radioactive Waste Management Program are sincerely appreciated.

Sincerely,



William J. Purcell
Associate Director for
Geologic Repositories
Office of Civilian Radioactive
Waste Management

~~JOHN STELLMAN~~
Governor



WARREN A. BISHOP
Chair

STATE OF WASHINGTON
NUCLEAR WASTE BOARD

Mail Stop PV-11 • Olympia, Washington 98504 • (206) 459-6670

December 23, 1985

John Herrington, Secretary
U.S. Department of Energy
1000 Independence Avenue
Washington, D.C. 20585

Dear Secretary Herrington:

Section 117(a) of the Nuclear Waste Policy Act explicitly requires the Secretary of the U.S. Department of Energy (USDOE) to provide to the Governor and legislature of such state timely and complete information or plans made with respect to site characterization and siting of a high-level radioactive waste repository. The purpose of this letter is to again request timely and complete information or plans made with respect to ranking methods and the implementation of such methods. As you know, the results of the ranking will accompany the nomination of sites as suitable for site characterization for the first geologic repository. I emphasize the critical need for timely information or plans on this issue.

State of Washington comments on the "General Guidelines for Recommendation of Sites for Nuclear Waste Repositories" and the "Mission Plan" consistently insisted that there should be an opportunity for state and public comment on USDOE rationale for ranking methods.

On August 1, Governor Gardner stated in testimony before the House Subcommittee on Energy Conservation and Power of the House Committee on Energy and Commerce that the effort to site a high-level repository is on the wrong track. He recommended a pause in the rush to site a repository and proposed that a team of non-USDOE experts be asked to make an independent comparative evaluation of sites.

The state of Washington appreciates the U.S. Department of Energy efforts involving the National Academy of Sciences in the ranking process. However, Governor Gardner and the Nuclear Waste Board view the Academy method review and implementation of the methods

John Herrington, Secretary
December 23, 1985
Page 2

as key events requiring consultation with the state of Washington. Such consultation must be timely; that is, before decisions are made.

Our position has been transmitted to USDOE by letter to Mr. Rusche (10/11/85), in testimony before Congress (10/30 and 11/7/85), and by Nuclear Waste Board resolution (11/15/85). To date we have not received a response. In addition, on December 3, the states and tribes program managers present in Atlanta requested consultation on this subject. Copies of the letters, testimony, and resolution are attached.

In summary, the ranking methods used and the implementation of such methods have been, and continue to be, a critical issue for the state of Washington, the affected tribes, and other first- and second-round repository states. We strongly support your efforts involving non-USDOE experts, but such involvement does not negate the need for complying with the Nuclear Waste Policy Act by providing timely and complete information to the states and tribes.

I again respectfully request an opportunity for consultation with USDOE on this critical issue. The consultation meeting should include a responsible USDOE official who can give timely and complete information on ranking methods, their implementation, and how the results of the ranking process will be used to select sites for characterization. I also request a three week comment period so the Board can officially comment on information and plans presented at the consultation meeting.

Clearly this is an important issue requiring immediate action. Please contact me or Terry Husseman at (206) 459-6670 to schedule the meeting.

Sincerely

Warren A. Bishop

Warren Bishop
Chair

Enclosure

cc: Frank Press
Benard Rusche
Affected Tribes
First Round States
Congressional Delegation

STATEMENT OF DICK NELSON
STATE OF WASHINGTON NUCLEAR WASTE BOARD
to the
SUBCOMMITTEE ON ENERGY RESEARCH & PRODUCTION
of the
HOUSE COMMITTEE ON SCIENCE AND TECHNOLOGY

November 7, 1985

Chairman Lloyd and members of the Committee.

Thank you for inviting me to present our views. My name is Dick Nelson. I am a member of the State of Washington Nuclear Waste Board, which is the policy group responsible for high-level radioactive waste disposal issues. I am also a member of the State of Washington House of Representatives, and I Chair the House Energy and Utilities Committee.

My testimony will focus on major state of Washington concerns about U.S. Department of Energy (USDOE) implementation of the Nuclear Waste Policy Act. I will discuss ranking methods, implementation of the ranking methods, the preliminary determination of suitability, defense wastes, and other Mission Plan issues.

Ranking Methods - Implementation. On August 1, Governor Gardner stated in testimony before the House Subcommittee on Energy Conservation and Power of the House Committee on Energy and Commerce that the effort to site a high-level repository is on the wrong track. Public confidence is already at a low point. He recommended a pause in the headlong rush to site a repository and proposed that an independent panel of non-USDOE experts be asked to examine the adequacy of Environmental Assessment (EA) data, conduct a new evaluation of sites and make a new comparative analysis of sites. He asked USDOE to set aside political considerations and focus on a single issue--the issue of safety.

USDOE recently agreed to a portion of Governor Gardner's recommendation. The National Academy of Sciences (NAS) was requested to review the proposed ranking methodology to be used in the final EA. Although the scope of the USDOE request was very limited, the fact that the Academy was asked to review any part of the USDOE program is a step in the right direction.

The National Academy of Sciences Board on Radioactive Waste Management responded to USDOE's request on October 11th. Although the National Academy Board concluded that the concerns which it had earlier expressed regarding the methods used for ranking sites described in the draft Environmental Assessment had been addressed, it emphasized that an opportunity was not provided to the Academy to

examine the specific implementation of the proposed technique, including weighting factors, criteria for scoring, and procedures for selecting panels of technical experts and USDOE decision makers. The Academy Board was strong in its view that the ranking methods must be implemented correctly and accurately to be useful and credible. USDOE has proposed that its technical experts and those of its contractors use their ranking method to develop performance measure scales and to score each site on those scales. The Washington Nuclear Waste Board is concerned that USDOE's use of its own technical experts to assess performance by this subjective method may mask the degree of real uncertainty associated with post-closure issues. The Academy, the Nuclear Waste Board, and Governor Gardner agree that credibility of post-closure performance analyses would be substantially enhanced if the analyses were conducted by an independent panel of outside experts. Mr. Rusche, in recent testimony before the Senate Committee on Environment and Public Works, announced that the final EA would be delayed and the USDOE will issue a separate Site Recommendation Report. This report will integrate the comparative evaluations of the five sites and identify three preferred candidate sites to be recommended to the President for site characterization. Before we can take an official position concerning this latest turn of events, we need additional information concerning the extent and nature of the involvement of the NAS in conducting the comparative evaluations. We also need more information concerning consultation opportunities for states and affected tribes. However, I can say that this is another step in the right direction. I urge USDOE to allow enough time to do the job right.

Governor Gardner and the Nuclear Waste Board view the Academy method review and implementation of the method as key events requiring consultation with the state of Washington. We are now preparing our comments to be taken into consideration while the final Environmental Assessment is being prepared. We will continue to urge an extension in the USDOE schedule so non-USDOE experts can examine the adequacy of data, conduct a new evaluation as to whether sites under consideration are suitable for site characterization, and make a new comparative evaluation of the sites still under consideration. We again emphasize that the credibility and quality of USDOE's work will be enhanced by getting this program on the right track.

Preliminary Determination of Suitability. On September 6, Governor Gardner presented his views to the Nuclear Regulatory Commission on the importance and timing of the preliminary determination of suitability of potential high-level waste repositories. He clearly and forcefully testified that the Act requires that a preliminary determination of suitability be made after characterization is substantially complete. The U.S. Nuclear Regulatory Commission (USNRC) concurrence with the USDOE siting guidelines included a provision that the determination be made after characterization. In the final Mission Plan, USDOE stated that the determination will be made before characterization. We strongly disagree with the USDOE reversal. Because this is a critical issue for the state of Washington, the state of Washington Nuclear Waste Board passed Resolution 85-3, which strongly recommends that USDOE substantially

complete site characterization before making the preliminary determination. A copy of the resolution is attached to my testimony.

In our view, a premature determination will allow USDOE to give a grade before the test is taken. This approach will surely lead to legal challenges, which will certainly delay the repository program. A premature determination runs counter to the NWPA's intent of siting a safe repository with a supportable procedure. A determination after characterization will protect public health and safety, ensure public confidence, and comply with the Nuclear Waste Policy Act.

Defense Wastes. Defense wastes continue to be a major state of Washington issue. The Hanford Nuclear Reservation has played a key role in this nation's defense effort, but we, in the state of Washington, are now faced with a massive legacy of temporarily stored nuclear wastes. As you know, the Reservation was established under the War Powers Act during World War II. Nuclear wastes from defense activities have been building for over forty years. Hanford now has the world's largest accumulation of nuclear wastes. Nearly 60 percent by volume of this nation's high-level nuclear wastes are stored at Hanford. About half the long-lived transuranic wastes and about 75 percent of defense low-level wastes are buried there. Hanford also presently receives over half the nation's commercial low-level waste.

President Reagan has decided that it is appropriate to commingle defense and commercial high-level wastes in one repository. We agree with this decision. However, we strongly disagree with USDOE's plan to process only a portion of Hanford's high-level nuclear wastes. The Mission Plan ignored the fate of high-level wastes stored in 149 older, leaky, single-shell tanks. These high-level wastes are made up of soluble salts, sludge, and residual liquids.

The final Mission Plan gives insufficient information to permit informed defense waste decisions. More information is needed on waste quantities, acceptance rates, characteristics of the wastes, and the effect of defense wastes on repository design, capacity and operation. We are not convinced that leaving large amounts of high-level defense waste in the ground at Hanford is the safest thing to do.

Liability. Congress must, with dispatch, address the problems of liability and compensation for damages and injury arising from the disposal of high-level waste under the Nuclear Waste Policy Act (NWPA). It is Governor Gardner and the Nuclear Waste Board's position that Congress should be guided by the following "cornerstones" for all high-level nuclear waste incidents.

1. Strict and absolute federal liability; without regard to fault, should be the fundamental federal policy.

2. Full compensation should be provided, regardless of fault, to all victims of any nuclear incident arising from high-level nuclear waste incidents.
3. A red-tape-free program should be established that provides for victims to be compensated for all losses expeditiously and without any undue burdens.
4. States and other entities should be "held harmless" from any liabilities that they might otherwise incur through any incidental role they may have in their response.

In our view, many of the NWPA's programs will never be achieved unless Governor Gardner's four "cornerstones" are enacted into federal law. Washington and several other states are currently working together to develop proposed legislation for consideration by Congress. We will certainly share the product of our cooperative effort with this Committee.

Monitored Retrievable Storage. The final Mission Plan presents a more detailed description of a Monitored Retrievable Storage (MRS) facility which is an "integral" part of the federal high-level management system. From USDOE's viewpoint the advantage of MRS is that it will allow the acceptance of waste by 1998. We are concerned that an integrated MRS seems to go beyond the scope of the Nuclear Waste Policy Act. We must see how an "integrated MRS" affects the operation of a possible repository at Hanford. Congress should address these issues during MRS authorization hearings. A clear resolution is essential for prompt implementation of the Nuclear Waste Policy Act.

Transportation. Transportation of nuclear wastes is an immediate, major concern to our citizens. The Mission Plan now reflects a higher level of sensitivity to transportation-related issues than was evident in the draft version. However, a majority of the significant issues have been deferred for later treatment. We are disappointed that route-specific risk analysis will be limited to impact analysis for the EIS.

Schedules. There is a continuing lack of realism in the repository development schedule. The June, 1985 Mission Plan schedule shows a slippage of 11 months since the draft schedule was issued, yet USDOE has not adjusted the dates for receipt of a construction authorization or for waste acceptance. This over-optimistic schedule could result in a less than thorough site selection and characterization process and less opportunity for meaningful consultation with states.

We have not criticized USDOE for missing its schedule for issuing a Final Environmental Assessment because we have been assured that the quantity and quality of comments will improve the final product. On the other hand, we have criticized USDOE when it attempts to meet unrealistic schedules which jeopardize public confidence in the repository program.

We are concerned that the USDOE emphasis on schedule will be at the expense of technical excellence during site characterization. The Hanford site, if chosen for characterization, will provide unique technical challenges to USDOE. The site contains fractured, highly stressed basalt saturated with hot water. Hanford has the most complex geologic medium under consideration. In addition, the site is located just a few miles from the vital Columbia River.

Governor Gardner has been very concerned about USDOE implementation of the Nuclear Waste Policy Act and about the suitability of the Hanford site. As a result, he has established three conditions which must be met before Washington State would consider accepting a repository. These conditions are:

1. USDOE must demonstrate to our satisfaction that the repository will be safe.
2. USDOE must demonstrate that Hanford is better and safer than any other site.
3. The proposed repository must be acceptable to Washington State citizens.

His three conditions are common sense requirements for a successful repository program. Governor Gardner, the Nuclear Waste Board, and I believe the Nuclear Waste Policy Act, as written, gives USDOE the framework to attain our common goal of safe, permanent disposal of high-level wastes. However, we do request that you make sure USDOE obeys the Act, especially in the areas of defense waste and preliminary determination of suitability. Please do not allow USDOE to short circuit the process in the crucial area of ranking method implementation. Technical excellence must not be constrained by inappropriate schedules. Your assistance in these areas will restore public confidence and put this most important program back on track.

RESOLUTION 85-3

October 18, 1985

WHEREAS, the Nuclear Waste Policy Act (NWPA) establishes a detailed process which if properly followed is intended to result in selection of the safest site for the first repository from among nine potential sites which were initially identified for consideration; and

WHEREAS, the process established by the NWPA requires that at the time USDOE recommends a site to the President for development of a repository the recommended site must be selected from three alternative sites with respect to each of which, following substantial completion of site characterization, USDOE has made a preliminary determination of suitability for development as a repository; and

WHEREAS, the National Environmental Policy Act (NEPA) requires consideration of reasonable, viable alternative sites at the time USDOE recommends a site to the President for development of a repository; and

WHEREAS, USDOE's commitment to make the preliminary determination of suitability for development of a repository after substantial completion of site characterization was an important element in the U.S. Nuclear Regulatory Commission's (USNRC) concurrence in the siting guidelines; and

WHEREAS, in the Final Mission Plan and in subsequent public testimony, USDOE has now taken the position that the preliminary determination of suitability for development of a repository can and will be made prior to site characterization; and

WHEREAS, in addition USDOE now takes the position that there is no requirement that there be three alternative, viable sites from which to select at the time USDOE recommends a site to the President for development of a repository; and

WHEREAS, if USDOE attempts to follow through on its current position concerning the appropriate timing for the preliminary determination of suitability, such action will constitute a significant departure from the NWPA requirements and will certainly result in serious negative impacts on the entire repository siting process; and

WHEREAS, to responsibly fulfill its' role as spokesman for the citizens of the state of Washington, it is imperative that the Nuclear Waste Board take all appropriate steps to preserve this aspect of the integrity of the repository siting process as established by Congress in the NWPA.

NOW THEREFORE BE IT RESOLVED, by the Nuclear Waste Board that:

1. The Board strongly recommends that USDOE substantially complete site characterization at a site before making a preliminary determination that the site is suitable for development as a repository.
2. The Board urges USNRC to insist that the preliminary determination after substantial completion of site characterization is a prerequisite for continued USNRC concurrence in the siting guidelines.
3. The Board strongly recommends that both USDOE and USNRC require consideration of at least three reasonable, viable alternatives at the time of site selection.
4. The Board directs the Nuclear Waste Board Chair to transmit this resolution to appropriate persons in USDOE, USNRC commissioners and the state of Washington Congressional delegation.

Approved at Olympia, this 21 day of October, 1985.


CHAIR
NUCLEAR WASTE BOARD

**STATEMENT OF WARREN BISHOP, CHAIR
STATE OF WASHINGTON NUCLEAR WASTE BOARD
to the**

SENATE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

October 30, 1985

Chairman Stafford and members of the Committee.

Thank you, Mr. Chairman, for inviting me to present our views. My name is Warren Bishop. I am Chair of the state of Washington Nuclear Waste Board, which is the policy group responsible for high-level radioactive waste disposal issues.

My testimony will focus on major state of Washington concerns about U.S. Department of Energy (USDOE) implementation of the Nuclear Waste Policy Act. I will discuss ranking methods, implementation of the ranking methods, the preliminary determination of suitability, defense wastes, and other Mission Plan issues.

Ranking Methods - Implementation. On August 1, Governor Gardner stated in testimony before the House Subcommittee on Energy Conservation and Power of the House Committee on Energy and Commerce that the effort to site a high-level repository is on the wrong track. Public confidence is already at a low point. He recommended a pause in the headlong rush to site a repository and proposed that an independent panel of non-USDOE experts be asked to examine the adequacy of EA data, conduct a new evaluation of sites and make a new comparative analysis of sites. He asked USDOE to set aside political considerations and focus on a single issue--the issue of safety.

USDOE recently agreed to a portion of Governor Gardner's recommendation. The National Academy of Sciences (NAS) was requested to review the proposed ranking methodology to be used in the final Environmental Assessment (EA). Although the scope of the USDOE request was very limited, the fact that the Academy was asked to review any part of the USDOE program is a step in the right direction.

The National Academy of Sciences Board on Radioactive Waste Management responded to USDOE's request on October 11th. Although the National Academy Board concluded that the concerns which it had earlier expressed regarding the methods used for ranking sites described in the draft Environmental Assessment had been addressed, it emphasized that an opportunity was not provided to the Academy to examine the specific implementation of the proposed technique, including weighting factors, criteria for scoring, and procedures for selecting panels of technical experts and USDOE

decision makers. The Academy Board was strong in its view that the ranking methods must be implemented correctly and accurately to be useful and credible. USDOE has proposed that its technical experts and those of its contractors use their ranking method to develop performance measure scales and to score each site on those scales. The Washington Nuclear Waste Board is concerned that USDOE's use of its own technical experts to assess performance by this subjective method may mask the degree of real uncertainty associated with post-closure issues. The Academy, the Nuclear Waste Board, and Governor Gardner agree that credibility of post-closure performance analyses would be substantially enhanced if the analyses were conducted by an independent panel of outside experts. They also agree that it is crucial that USDOE take time to do the job right.

Governor Gardner and the Nuclear Waste Board view the Academy method review as a key event requiring consultation with the state of Washington. We are now preparing our comments to be taken into consideration while the final Environmental Assessment is being prepared. We will continue to insist on an extension in the USDOE schedule so non-USDOE experts can examine the adequacy of data, conduct a new evaluation as to whether sites under consideration are suitable for site characterization, and make a new comparative evaluation of the sites still under consideration. We again emphasize that the credibility and quality of USDOE's work will be enhanced by getting this program on the right track.

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2. USDOE must demonstrate that Hanford is better and safer than any other site.
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His three conditions are common sense requirements for a successful repository program. Governor Gardner, the Nuclear Waste Board, and I believe the Nuclear Waste Policy Act, as written, gives USDOE the framework to attain our common goal of safe, permanent disposal of high-level wastes. However, we do request that you make sure USDOE obeys the Act, especially in the areas of defense waste and preliminary determination of suitability. Please do not allow USDOE to short circuit the process in the crucial area of ranking method implementation. Technical excellence must not be constrained by inappropriate schedules. Your assistance in these areas will restore public confidence and put this most important program back on track.



STATE OF WASHINGTON
OFFICE OF THE GOVERNOR

OLYMPIA
98504-0413

BOOTH GARDNER
GOVERNOR

October 11, 1985

Ben C. Rusche, Director
Office of Civilian Radioactive
Waste Management
U.S. Department of Energy
1000 Independence Avenue
Washington, D.C. 20858

Dear Mr. Rusche:

Thank you for providing a copy of the report describing ranking methodologies to be used in the final Environmental Assessments (EAs). As you know, we in the state of Washington are closely watching the National Academy of Sciences methodology review.

In light of the schedule for the Academy's producing its review, I am answering your letter for Governor Gardner. He is away from the office on other matters important to our state and the Nation.

In Governor Gardner's August 1 statement to the Subcommittee on Energy Conservation and Power, he specifically requested a pause in the program so a panel of non-USDOE experts could examine the adequacy of EA data, conduct a new evaluation as to whether sites under consideration are suitable for site characterization, and make a new comparative evaluation of the sites still under consideration. The ranking methodology review described in your September 16 letter to Dr. Myers covers only a small portion of his request.

In spite of the limited review, we view the NAS methodology review as a key event requiring consultation with the state of Washington. As a minimum we reserve the right to submit written comments on your August, 1985 report entitled A Methodology for Aiding Repository Siting Decisions. We fully expect our written comments to be taken into consideration while the final Environmental Assessment is being prepared.

Please contact me if you desire further clarification.

Sincerely,


Curtis Eschels
Special Assistant for Policy

STATE OF WASHINGTON
NUCLEAR WASTE BOARD

RESOLUTION 85-6
November 15, 1985

WHEREAS, the Nuclear Waste Policy Act (NWP) establishes a process which, if properly followed, is intended to result in selection of the safest site for the first repository from among nine potential sites which were initially identified for consideration; and

WHEREAS, the selection of sites for site characterization is a critical step in the process; and

WHEREAS, the ranking methodology used and the implementation of the method are important components of the site selection process; and

WHEREAS, the state of Washington Nuclear Waste Board in their comments to the U.S. Department of Energy (USDOE) Siting Guidelines, Mission Plan, and Draft Environmental Assessment (DEA) has asked for an opportunity for state and public comment on specific ranking methods and implementation of such methods; and

WHEREAS, on August 1, 1985, Governor Gardner recommended that USDOE pause in the site selection process long enough to allow a team of non-USDOE experts to make an independent comparative evaluation of sites; and

WHEREAS, on August 29, 1985 USDOE requested that the National Academy of Sciences (NAS) review a document titled "A Methodology for Aiding Repository Decisions"; and

WHEREAS, on October 11, 1985, NAS concluded that the concerns which it had earlier expressed regarding the methods used by USDOE for ranking sites had been addressed, but an opportunity was not provided to the Academy to examine the implementation of the proposed methodology; and

WHEREAS, on October 30, 1985 USDOE requested that NAS serve as an independent panel of outside experts to conduct a comprehensive analysis of the implementation of the ranking methodology pursuant to a mutually convenient schedule.

NOW THEREFORE BE IT RESOLVED by the Nuclear Waste Board that:

1. The Board expresses appreciation to USDOE for its decision to fulfill the state of Washington's request for an extension of the Environmental Assessment process to allow ample time for an independent review of the implementation of the ranking methodology by NAS.
2. The Board reiterates its contention that the independent review of the methodology is a critical event which requires consultation with the state of Washington.
3. The Board directs the Nuclear Waste Board Chair to transmit this resolution to appropriate persons in the USDOE, the NAS, and the state of Washington Congressional delegation.

Approved at Olympia this 15th day of November, 1985.



NUCLEAR WASTE BOARD
CHAIR



Department of Energy
Washington, DC 20585

JAN 8 1986

Mr. Steve Frishman
Nuclear Waste Program Office
Office of the Governor
General Counsel Division
P.O. Box 12428
Austin, Texas 78711

Dear Mr. Frishman:

Thank you for your recent letter regarding the Subseabed Disposal Project. In general, I agree with many of the points you make in your letter. The Office of Civilian Radioactive Waste Management has fully supported, in the past, research on the Subseabed Disposal Project.

You cite four reasons for accelerated pursuit of the subseabed disposal option: (1) subseabed disposal is a potential backup for the terrestrial repository; (2) a subseabed repository could serve as an international repository, thereby easing proliferation and environmental concerns; (3) considerable cost savings accrue, because the subseabed program is conducted as an international cooperative research endeavor; and (4) the subseabed program has a great deal of scientific credibility.

As described in the OCRWM Mission Plan, the Subseabed Program does play a role in our contingency planning. However, the subseabed option would be actively pursued only if both the first and second repositories ran into serious difficulties and after at-reactor storage had been employed on an interim basis. Because the subseabed program is pursued essentially as a backup alternative to geologic disposal, I believe that if the program is maintained at its current projected funding level, or even reduced, it could be effectively reactivated at a later time if necessary to be a realistic alternative. I cannot agree with your statement that subseabed disposal research is required "to find the optimal solution to the waste problem."

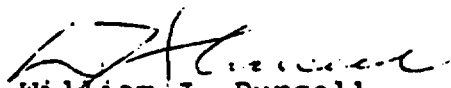
The NWPA directs the DOE to pursue mined geologic repositories as the primary disposal method. Although the NWPA calls for the accelerated research into alternative means of disposal, clearly the Congress intended principal attention to mined geologic disposal and not an open-ended search for an "optimal" solution.

Although the DOE clearly supports the goals of global environmental protection and limiting the proliferation of nuclear weapons, these international policy goals are not the primary responsibility of OCRWM. The NWPA stresses support of these goals in ongoing waste management activities (especially Section 223), but the Act does not authorize or direct the DOE to develop an international repository. I agree that substantial savings have accrued in the subseabed program, because of skillful cooperative research arrangements. However, a projected U.S. cost of \$140 million is still a sizeable expenditure of public money.

I fully agree that the subseabed program has a substantial degree of scientific credibility as evidenced by scientific peer reviews of the program. However, at issue here is not how well the work has been executed, but whether the work is affordable under current budgetary constraints, and in particular, whether the program "should be accelerated" in light of the primary thrust of geologic disposal and the fact that no technical issues have arisen which seriously question the geologic approach.

In summary, I appreciate your indication of support for the subseabed program and I share your appraisal of its technical worth. However, in the context of the national waste management program, as coordinated with the President and the Congress, the subseabed option is an alternative to be activated when and if all other principal options fail. In that context I believe the subseabed program is appropriately funded, and at the current or even reduced levels does not inhibit achieving the national goal of safe management and disposal of nuclear waste.

Sincerely,


William J. Purcell
Associate Director for
Geologic Repositories
Office of Civilian Radioactive
Waste Management



MARK WHITE
GOVERNOR

OFFICE OF THE GOVERNOR
STATE CAPITOL
AUSTIN, TEXAS 78711
December 10, 1985

Federal Expressed

Mr. Benard C. Rusche, Director
Office of Civilian Radioactive Waste Management
United States Department of Energy
1000 Independence Avenue, S.W.
Washington, D.C. 20585

Dear Mr. Rusche:

We are concerned about the recent downward budget revision for research on alternative waste disposal technologies, specifically, subseabed disposal. This action seems to contradict Section 222 of the Nuclear Waste Policy Act, Chapter 3 of the Mission Plan, and the Department's 1983 Report to the Office of Management and Budget (OMB) on the mission and long-term budget for the Subseabed Project. It also ignores the recommendations of the National Advisory Committee on Oceans and Atmosphere (NACOA) and the Office of Technology Assessment (OTA).

The Subseabed Project should be accelerated, as referenced in the NWPA, rather than delayed for the following four reasons. One, subseabed disposal is a possible back-up to land-based repositories in the event that serious technical problems are discovered in site characterization. Two, subseabed disposal is a possible international option that could contribute to efforts to prevent the proliferation of nuclear weapons and reduce global environmental risk due to improper waste disposal by other nations. Three, U.S. participation in the international subseabed research effort is cost effective and relatively inexpensive. Four, the Subseabed Project is a credible research program that has received high marks in scientific peer-reviews and is also addressing difficult institutional issues in a prudent and reasonable manner. These reasons are discussed below from our perspective as a potential repository state.

1. Back-up to land repositories

If serious technical problems are discovered in characterization of terrestrial sites, an alternative disposal method may be needed. If a rigorous investigation of alternatives has been conducted but none has proved feasible, interested parties will recognize the need to resolve the technical problems. On the other hand, if alternatives have not been pursued, parties will be less inclined to accept

Mr. Benard C. Rusche
December 10, 1985
Page 2

"technical fixes" as optimal solutions. Accelerated research on alternatives, thus, represents a good faith effort to find the optimal solution to the waste problem. Delaying research indicates that the federal government is willing to impose considerable risk on a state and community without knowing whether the risk is even necessary.

2. International

We recognize a potential need for an international repository for radioactive waste and the possibility that subseabed disposal has a potential to fill that need. Some nuclear nations lack the geologic or economic resources to develop mined repositories within their borders. Unless a repository nation accepts waste from other nations, spent fuel and high-level waste will continue to accumulate in temporary storage. This stored waste represents a global environment risk and contributes to the possible proliferation of nuclear weapons. Nuclear nations, therefore, may need to accept waste from nations to whom it supplies nuclear technology and fuel -- as the U.S. has in the past -- in order to protect the global environment and prevent the proliferation of nuclear weapons. As a potential repository state, we do not want to be forced to choose between these laudable international concerns and our own state interests. A subseabed repository under appropriate international agreement and control could potentially offer a means for closing the nuclear fuel cycle in a verifiable and environmentally sound manner.

3. Cost

U.S. participation in the cooperative international seabed research effort is cost effective and relatively inexpensive. Major costs, such as ship time and the use of specialized facilities, are shared by eight nations. The total cost of determining the technical feasibility of subseabed disposal (1974-1990) is estimated to be \$300 million, with a U.S. portion of less than \$140 million dollars.

Mr. Benard C. Rusche
December 10, 1985
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4. Credibility

The Subseabed Project is a credible, well-managed R&D program that has received high marks in numerous peer-reviews. The Project also is addressing the difficult institutional issues on both the domestic and international levels in a reasonable manner and, as it should, has included a public participation process in the current research phase.

For these reasons, we urge you to take appropriate measures to ensure that research and development programs for alternative waste disposal technologies are not delayed, but rather accelerated, as required by the NWPA. Specifically, the Subseabed Project budget should be restored to the OMB level so that the Project can meet its 1990 technical feasibility and its 1994 site characterization objectives.

I appreciate your consideration of this matter, and look forward to your response to this recommendation as it relates to the nation's goal of safe management and disposal of radioactive wastes.

Sincerely,

A handwritten signature in cursive script, appearing to read "Steve Frishman", followed by a horizontal line.

Steve Frishman, Director
Nuclear Waste Programs Office

SF:dp



Department of Energy
Washington, DC 20585

JAN 7 1986

Mr. Patrick D. Spurgin, Director
High Level Nuclear Waste Office
355 West North Temple
3 Triad Center, Suite 330
Salt Lake City, Utah 94180-1203

Dear Mr. Spurgin:

Thank you for your December 9, 1985 letter to Ben Rusche, which has been referred to me, regarding the need for an absolute bar on contractors and subcontractors performing work for both DOE and non-DOE entities in areas related to the Civilian Radioactive Waste Management Program. As you may recall, this subject was discussed at the December 3, 1985 meeting in Atlanta, Georgia between DOE and representatives of the first repository States and Indian Tribes. The first commitment that DOE made at the meeting was to review the implications of the conflict of interest provision contained in the Commerce Business Daily announcement by the Crystalline Repository Project and to inform the States and Indian Tribes of the results of the review.

Our review has been completed and the policy that we wish to follow for future procurements is reflected in the enclosed letter to the DOE project managers. In summary, we agree with your view that the need to avoid conflicts of interest on the part of contractors and subcontractors involved in the program is important but that an absolute bar that prohibits DOE contractors and subcontractors from performing work for other organizations is not necessary. Rather, reliance should be placed on the appropriate DOE Acquisition Regulations that are intended to avoid organizational conflicts of interest. A copy of these regulations is enclosed for your information.

The results of our review and the policy established in the enclosed letter will be communicated to the representatives of the first repository States and Indian tribes in the immediate future. I believe that the approach we have taken is responsive to the concerns expressed in your letter. Thank you again for your interest in the matter.

Sincerely,

A handwritten signature in dark ink, appearing to read "WJ Purcell", is written over the typed name.

William J. Purcell
Associate Director for
Geologic Repositories
Office of Civilian Radioactive
Waste Management

Enclosures

memorandum

DATE: January 3, 1985

REPLY TO
ATTN OF: RW-222

SUBJECT: Organizational Conflicts of Interest

TO: Sally Mann, CPO
Jeff Neff, SRPO
Lee Olson, BWIP
Don Vieth, NNWSI


During the December 3, 1985, meeting with representatives of the first repository states and Indian tribes, a concern was raised regarding a clause that was contained in a Commerce Business Daily (CBD) announcement by one of the OCRWM projects. The announcement concerned the procurement of architect-engineer services and read as follows:

"The resulting contract will bar the contractor, its member firms, any subcontractor or consultant, including any affiliates of the foregoing, from performing for other than DOE work having pertinence to the DOE Civilian Radioactive Waste Management Program. The bar does not extend to performance of such work under DOE contracts or subcontracts thereunder at any tier."

The clause was included in the CBD announcement to supplement the DOE Acquisition Regulations in ensuring that the firm awarded the contract did not have an organizational conflict of interest. The representatives of the first repository states and Indian tribes were concerned, however, that the clause, if applied as a matter of policy on all OCRWM projects, would limit their ability to obtain qualified technical services from contractors.

The question of organizational conflicts of interest on the part of DOE contractors is an important one that deserves careful consideration. The DOE Acquisition Regulations establish an adequate basis for providing that careful consideration. In the specific case cited above, where the work is for architect-engineer services, the provisions of the DOE Acquisition Regulations concerning disclosure and mitigation of organizational conflicts of interest only apply if such services are primarily evaluation services or technical consulting services. For architect-engineer services relating to the design and construction of real property, such provisions do not apply. Consequently, rather than including the above clause in future procurement announcements, as a general matter, such announcements should call special attention to the organizational conflict of interest provisions in the DOE Acquisition Regulations (Subpart 909.5) with which the selected contractor will have to comply.

Your adherence to this policy is appreciated.


William J. Purcell
Associate Director for
Geologic Repositories

cc: RBauer, RW-10
RHilley, RW-30
RMussler, GC-11

Subpart 909.4—Debarment, Suspension, and Ineligibility**909.402 Policy.**

DOE debarment and suspension regulations are contained in 10 CFR Part 1035. Ineligibility regulations are contained in the FAR.

909.404 Consolidated lists of debarred, suspended, and ineligible contractors.

The GSA Consolidated List of Debarred, Suspended, and Ineligible Contractors (GSA List) and the DOE Consolidated List of Debarred, Suspended, Ineligible and Voluntarily Excluded Awardees (DOE List) shall be reviewed in accordance with 10 CFR 1035.15.

909.406 Debarment.**909.406-3 Procedures.**

(a) Information of possible fraud, waste, abuse, or other forms of wrongdoing which may constitute or contribute to grounds for debarment or suspension shall be reported in accordance with 10 CFR 1035.5(c).

909.407 Suspension.**909.407-3 Procedures.**

(a) See 909.406-3.

Subpart 909.5—Organizational Conflicts of Interest**909.500 Scope of subpart.**

DOE acquisitions will be processed in accordance with 909.570 below rather than as provided at FAR subpart 9.5 with respect to organizational conflicts of interest.

909.570 DOE organizational conflicts of interest.**909.570-1 Scope of section.**

This section sets forth Department of Energy policies and procedures regarding organizational conflicts of interest (OCI) and is issued pursuant to section 644 of the Department of Energy Organization Act (Pub. L. 95-91) to implement the requirements of the Federal Nonnuclear Energy Research and Development Act of 1974 (Pub. L. 93-577), as amended, and the Federal Energy Administration Act of 1974 (Pub. L. 93-275), as amended.

909.570-2 Policy.

It is the policy of the DOE to identify and avoid or mitigate organizational conflicts of interest before entering into contracts, agreements, and other arrangements.

909.570-3 Definitions.

"Affiliates" means business concerns which are affiliates of each other when

either directly or indirectly one concern or individual controls or has the power to control another, or when a third party controls or has the power to control both.

"Architect-engineering services" means the work or effort of a professional nature associated with the study, test, design, supervision, and construction, alteration, or repair of real property including utilities and appurtenances thereto. Such services embrace conceptual design and Title I, Title II, and Title III work, as defined in 936.605(c).

"Contract" for purposes of implementing policy on organizational conflicts of interest, means any contract, agreement or other arrangement with the Department.

"Contractor" means any person, firm, unincorporated association, joint venture, partnership, corporation or affiliates thereof, which is a party to a contract with the Department.

"Evaluation services or activities" means any work or effort, the principal purpose of which involves the independent study of technology, process, product, or policy.

"Offeror" means any person, firm, unincorporated association, joint venture, partnership, corporation or affiliates thereof, submitting a bid or proposal, solicited or unsolicited, to the Department to obtain a contract or modification thereof.

"Organizational conflicts of interest" means that a relationship or situation exists whereby an offeror or a contractor (including chief executives and directors, to the extent that they will or do become involved in the performance of the contract, and proposed consultants or subcontractors where they may be performing services similar to the services provided by the prime) has past, present, or currently planned interests that either directly or indirectly, through a client relationship relate to the work to be performed under a Department contract and which (1) may diminish its capacity to give impartial, technically sound, objective assistance and advice, or (2) may result in it being given an unfair competitive advantage. It does not include the normal flow of benefits from the performance of the contract.

"Research and development" means any work or effort, the principal purpose of which involves (1) theoretical analysis, exploration, or experimentation; or (2) extension of investigative findings and theories of a scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing

of models, devices, equipment, materials, and processes.

"Subcontractor" means any subcontractor of any tier which performs work under a contract.

"Technical consulting and management support services" means any work or effort, the principal purpose of which is to provide internal assistance to any program element or other organizational component of the Department in the formulation or administration of its programs, projects, or policies, which requires the contractor to be given access to internal or proprietary data. Such services typically include assistance in the preparation of program plans; evaluation, monitoring or review of contractors' activities or proposals submitted by prospective contractors; preparation of preliminary designs, specifications, or statements of work.

909.570-4 Criteria for recognizing organizational conflicts of interest.

(a) *General.* Two questions should generally be asked in determining whether organizational conflicts of interest exist: (1) Are there conflicting roles which might bias a contractor's judgment in relation to its work for the Department? (2) Is the contractor being given an unfair competitive advantage based on the performance of the contract? The ultimate determination as to whether organizational conflicts of interest exist should be made in the light of common sense and good business judgment based upon the relevant facts and the work to be performed. While it is difficult to identify, and to prescribe in advance, a specific method for avoiding all the various situations or relationships which might involve potential organizational conflicts of interests, Department personnel must pay particular attention to proposed contractual requirements which call for the rendering of advice, or consultation or evaluation services, or similar activities that lay direct groundwork for the Department's decisions on future acquisitions, research and development programs, production and regulatory activities.

(b) *Situations or relationships involving organizational conflicts of interest.* The following general examples (which are not all-inclusive) illustrate situations or relationships where potential organizational conflicts of interest frequently arise. Specific examples are set forth at 909.570-14.

(1) Contract performance involving the preparation and furnishing of complete or essentially complete specifications which are to be used in

competitive acquisition for the furnishing of products or services.

(2) Contract performance involving the preparation and furnishing of a detailed plan for specific approaches or methodologies that are to be incorporated in a competitive acquisition.

(3) Contract performance involving access to internal information not available to the public concerning Departmental plans or programs and related opinions, clarifications, interpretations, and positions.

(4) Contract performance involving access to proprietary information which cannot lawfully be used for purposes other than those authorized by the owners.

(5) Contract performance involving evaluation of the contractor's products or services, or the products or services of another party, where the contractor is or has been substantially involved in their development or marketing.

(6) Contract performance involving the preparation and furnishing of advice to the Department in a technical area where the contractor is also providing consulting assistance in the same area to any other organization.

(7) Contract performance involving the preparation and furnishing of advice to the Department on a regulatory matter where the contractor is also providing assistance on the same or similar matter to any organization regulated by the Department.

(c) *Other considerations.* An organizational conflict of interest may exist or arise:

(1) Even though no follow-on acquisition is anticipated;

(2) Even though a hardware exclusion clause may not be appropriate; and

(3) When a contract is awarded on a noncompetitive or a sole source basis.

(d) An organizational conflict of interest is more likely to be disclosed if a contract is competitive. Accordingly, greater care shall be exercised in the absence of competition.

909.570-5 Disclosure of organizational conflicts of interest.

(a) When submitting solicitations and unsolicited proposals for (1) evaluation services or activities; (2) technical consulting and management support services and professional services; (3) research and development conducted pursuant to the authority of the Federal Energy Administration Act of 1974 (Pub. L. 93-275), as amended; and (4) other contractual situations where special organizational conflicts of interest provisions are noted in the solicitation and included in the resulting contract, offerors shall be required to disclose

relevant information bearing on the possible existence of any organizational conflicts of interest or complete the representation required by 909.570-7. This requirement shall also apply to all modifications of contracts of the types noted above except those issued under the Changes clause. Where, however, a disclosure statement of the type required by the Organizational Conflicts of Interest Disclosure or Representation provision has previously been submitted with regard to the contract being modified, only an updating of such statement shall be required. Information submitted by offerors pursuant to the disclosure requirement shall be treated by the Department, to the extent permitted by law, as confidential information to be used solely for OCI purposes.

(b) When the Government finds that an organizational conflict of interest exists or may exist with respect to an offeror or contractor, no contract or contract modification award covered by 909.570-7 shall be made until the organizational conflict of interest has been adequately avoided or mitigated, except as provided in 909.570-8.

909.570-6 Notices and representations: Action required of contracting officers.

The disclosure or representation required by 909.570-7 is designed to alert the contracting officer to situations or relationships which may constitute either present or anticipated organizational conflicts of interest with respect to a particular offeror or contractor. However, this disclosure or representation may not identify a potential organizational conflict of interest involving a successful offeror that could affect the offeror's participation in subsequent acquisitions arising out of or related to work performed under a contract that results from the solicitation currently under consideration. Accordingly, whenever such potential conflicts are foreseeable by the Government, a special notice also shall be included in the solicitation informing offerors of the fact that such a potential conflict is foreseen and that a special contract clause designed to avoid or mitigate such conflict will be included in any resultant contract as required by 909.570-7. Such notice shall specify the proposed extent and duration of restrictions to be imposed with respect to participation in subsequent acquisitions. A fixed term of reasonable duration is measured by the time required to eliminate what would otherwise constitute an unfair competitive advantage. This is a variable; and in no event shall an exclusion be stated which is not related

to specific expiration date or an event certain. In the event a contractor, having performed on one contract, later seeks work that stems or may be deemed to stem directly from prior performance, such contractor shall not be precluded from proposing on follow-on work unless the prior contract contained an appropriate follow-on restriction.

909.570-7 Disclosure or representation.

The disclosure or representation provision at 952.209-70 shall be included in all solicitations, scope modifications, and unsolicited proposals for (a) evaluation services or activities; (b) technical consulting and management support services and professional services; (c) research and development conducted pursuant to the authority of the Federal Energy Administration Act of 1974 (Pub. L. 93-275), as amended; and (d) other contractual situations where special organizational conflicts of interest provisions are noted in the solicitation and included in the resulting contract. 909.570-15 contains a suggested outline for the disclosure submission.

909.570-8 Contract clauses.

(a) *General contract clause.* Except where a special clause has been determined to be appropriate, all contracts subject to the disclosure or representation requirement of 909.570-7 shall include the clause set forth at 952.209-71.

(b) *Special contract clauses.* (1) If it is determined from the nature of the proposed contract that a potential organizational conflict of interest may exist, the Contracting Officer may determine that such conflict can be avoided through the use of an appropriate special contract clause. Examples of the types of clauses which may be employed include, but are not limited to, the following:

(i) Hardware exclusion clauses which prohibit the acceptance of production contracts following a related nonproduction contract previously performed by the contractor;

(ii) Software exclusion clauses;

(iii) Clauses which require the contractor (and/or certain of its key personnel) to avoid certain organizational conflicts of interest;

(iv) Clauses which provide for the protection of the confidentiality of data and guard against its unauthorized use; and

(v) Clauses that prohibit other segments or divisions of the contractor from becoming involved in the performance of the contract work or

being in a position to influence such work.

If deemed appropriate, the prospective contractor may be given the opportunity to negotiate the terms and conditions of the clause and its application including the extent and time period of any restrictions.

(2) Contracts for technical consulting and management support services, as defined in 909.570-3, are particularly susceptible to organizational conflicts of interest. Therefore, the clause set forth at 952.209-72 shall be included in all contracts for technical consulting and management support services. This clause, after any appropriate modification, may also be included in any contract for professional services and evaluation services and activities.

909.570-9 Evaluation, findings, and contract award.

(a) The contracting officer or selection official, as appropriate, shall evaluate all relevant facts submitted by an offeror pursuant to the requirements of 909.570-6 and such other relevant information as may be available concerning possible organizational conflicts of interest. After evaluation all such information in accordance with the criteria of 909.570-4 and prior to any award, a finding shall be made by the contracting officer whether possible organizational conflict of interest exist with respect to a particular offeror or whether there is little or no likelihood that such conflicts exist. When formal Source Evaluation Board procedures are applicable, the finding shall be made by the Source Selection Official. If the finding indicates that such conflicts exist, then the contracting officer shall:

(1) Disqualify the offeror from award; or

(2) Avoid such conflicts by the inclusion of appropriate conditions in the resulting contract; or

(3) If such conflicts cannot be avoided by an appropriate contract clause, and the Secretary or the Secretary's designee has nevertheless determined that award of the contract to the offeror is in the best interest of the United States, the contract may be awarded. Where such a public interest determination is made, an appropriate written finding and determination shall be published in the Federal Register and an appropriate clause included in the contract to mitigate the conflict, to the extent feasible, prior to any award.

(b) Examples of circumstances justifying the determination permitted by 909.570-9(a)(3) include, but are not limited to:

(1) Situations where the public exigency will not otherwise permit; and

(2) Situations where the work or services cannot otherwise be obtained.

909.570-10 Action in lieu of termination.

If, after award, a possible organizational conflict of interest is identified by the contractor or other sources and the contracting officer determines that such a conflict does in fact exist and that it would not be in the best interest of the Government to terminate the contract as provided in the clauses required by 909.570-8, the contracting officer shall take every reasonable action to avoid or mitigate the effects of the conflict.

909.570-11 Architect-engineering and construction contracts.

(a) The award of related architect-engineering services and construction contracts or subcontracts to the same contractor can result in self-inspection of construction work and permit the contractor to render biased decisions. Such contract awards shall not be permitted unless a waiver is obtained prior to award from the Department's Procurement Executive.

(b) The award of architect-engineering services contracts, the principal purpose of which is to provide evaluation services and activities or technical consulting and management support services, shall be subject to the requirements of 909.570-7 and 909.570-8(b)(2).

909.570-12 Subcontractors and consultants.

The contracting officer shall require offerors and contractors to obtain for the Department a disclosure or representation in accordance with 909.570-7 from subcontractors and consultants who may be performing services similar to the services provided by the prime, except that subcontractors shall not normally be required to submit the disclosure or representation if such subcontract is for supplies. Such disclosure or representation may be submitted by the subcontractors and consultants directly to the contracting officer and they shall be treated by the Department, to the extent permitted by law, as confidential information to be used solely for OCI purposes. The contracting officer shall assure that contract clauses in accordance with 909.570-8 are included in subcontracts or consultant agreements involving performance of work under a prime contract covered by this subpart.

909.570-13 Remedies.

In addition to such other remedies as may be permitted by law or contract, for a breach of any of the restrictions in this subpart or for nondisclosure or

misrepresentation of any relevant facts required to be disclosed by this subpart, the Department may disqualify the contractor for subsequent Department contracts. Contractors and offerors may also be subject to the criminal penalties expressed in 18 U.S.C. 1001 for such violations.

909.570-14 Examples.

(a) In development work it is normal to select firms which have done the most advanced work in the field. It is to be expected that these firms will design and develop around their own prior knowledge. Development contractors can frequently start production earlier and more knowledgeably than can firms which did not participate in the development, and this affects the time and quality of production, both of which are important to the Government. In many instances, the Government may have financed such development. Thus, the development contractor may have an unavoidable competitive advantage which is not considered unfair and no prohibition should be imposed.

(b) The following examples illustrate types of situations and relationships where organizational conflict of interest questions frequently arise, but they are not all-inclusive.

(1) Contractor A, in connection with the performance of a study contract, is given information by the Department regarding Department plans for future acquisitions. This information is not available to interested industrial firms. *Guidance.* Normally this would constitute an OCI and the contractor should not be permitted to compete with such firms for work relating to such plans.

(2) Company A, in response to a requests for proposals (RFP), proposes to undertake certain analyses of an energy savings device as called for in the RFP. The company is one of several companies considered to be technically well qualified. In response to the inquiry in the RFP, A advises that it is currently performing similar analyses for the manufacturer of the device. *Guidance.* Normally this would constitute an OCI and a contract for that particular work would not be awarded to Company A because it would be placed in a position in which its judgment could be biased in relationship to its work for the Department. Since there are other well qualified companies available, there would be no reason for granting a waiver of the policy.

(3) Accounting Firm A, in response to a requests for proposals (RFP), proposes to undertake an analysis of the profitability of one segment of the

energy industry. The firm is one of several firms considered to be technically well qualified. In response to the inquiry in the RFP, A advises that it derives a substantial portion of its income from the industry to be studied. *Guidance.* Normally this would constitute an OCI and a contract would not be awarded to Firm A because it would be placed in a position in which its judgment could be biased in relationship to its work for the Department.

(4) Company A prepares updated Government specifications for a standard refrigerator to be procured competitively. *Guidance.* Normally this would constitute an OCI and Company A shall not be allowed for a reasonable period of time to compete for supply of the refrigerator.

(5) Company A designs or develops new electronics equipment and, as a result of the design or development, prepares specifications. *Guidance.* Normally this would not constitute an OCI and the company may supply the electronics equipment.

(6) A tool company and/or a machinery company representing the American Tool Institute works under the supervision and control of Government representatives to refine specifications or to clarify the requirements of a specific acquisition. *Guidance.* Normally this would constitute an OCI and these companies may supply the item.

(7) Prior to acquisition of Automatic Data Processing (ADP) Equipment, Company A is awarded a contract to develop software to automate a DOE function. Since the software can be written to favor a particular vendor's commercial ADP hardware, a potential conflict of interest exists. *Guidance.* Normally this would constitute an OCI and Company A should be barred from at least the initial follow-on ADP hardware acquisition using the software developed under its development contract.

(8) Company A receives a contract to define the detailed performance characteristics a Government agency will require for the purchase of rocket fuels. A has not developed the particular fuels. At the time the contract is awarded, it is clear to both parties that the performance characteristics arrived at will be used by the Government agency to choose competitively a contractor to develop or produce the fuels. *Guidance.* Normally this would constitute an OCI and Company A shall not be permitted to bid on this acquisition.

(9) Company A receives a contract to prepare a detailed plan for the acquisition of services aimed at the

advanced scientific and engineering training of the Department's personnel. It suggests a curriculum which the agency endorses and incorporates in requests for proposals to various institutions to establish and conduct such training. *Guidance.* Normally this would constitute an OCI and Company A shall not be permitted to bid on this acquisition.

(10) Consulting Firm A, in response to an RFP, proposes to undertake an evaluation of the environmental impacts of coal-fired powered plants as called for in the RFP. The company is one of several companies considered to be technically well qualified. In response to the inquiry in the RFP, A advises that it derives a substantial portion of its income from companies which manufacture nuclear power plants. *Guidance.* Normally this would constitute an OCI and a contract for that particular work would not be awarded to Firm A because it would be placed in a position in which its judgment could be biased in relationship to its work for the Department.

(11) Consulting Firm A derives a substantial portion of its income from Company B in connection with the study of natural gas production. Company B is also heavily involved with motor gasoline marketing. A discloses these facts in response to an RFP for a study of motor gasoline marketing. *Guidance.* Normally this would constitute an OCI and a contract for the study of motor gasoline marketing plants would not be awarded to Firm A because it would be placed in a position in which its judgment could be biased in relation to its work for the Department.

(12) Firm A, because of its unique technical expertise, has been requested to assist the Department in the evaluation of proposals which will result from a competitive solicitation. Firm A also plans to submit a proposal in response to this same solicitation. *Guidance.* Normally this would constitute a conflict and Firm A should be precluded from participating in the solicitation. In a particular case, it may be desirable (e.g., when the competitive field is narrow) to allow a separate division or affiliate of Firm A to submit a proposal; but in such a case, of course, Firm A would not itself participate in the evaluation of this proposal, which would be undertaken by DOE personnel or another firm.

909.570-15 Disclosure format.

(a) With respect to past, present, and currently planned interests (financial, contractual, organizational, or otherwise), the offeror should furnish a list of past, present, and currently

planned activities (including contracts) which relate to the work to be performed under the solicitation.

(b) The list may be in columnar format showing:

(1) The company (or agency) for which the work is being, has been, or will be performed;

(2) Nature of the work (a brief description);

(3) Period of performance for the work;

(4) Dollar value of the work; and

(5) Sales and marketing activity.

(c) Similar information to (b) above should be provided by the covered subcontractors and consultants relating to the work to be performed by them under the solicitation.

PART 910—SPECIFICATIONS, STANDARDS, AND OTHER PURCHASE DESCRIPTIONS

910.004 Selecting specifications or descriptions for use.

(f) *Specification for concrete using fly ash.* Pursuant to the Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6962, the Environmental Protection Agency has promulgated rules at Part 249 of Title 40 of the Code of Federal Regulations regarding the use of certain waste byproducts as generally acceptable substitutes for energy intensive raw materials. When cement or concrete is being acquired, specifications should include provisions to allow for the use of (as an optional or alternate material) cement or concrete which contains fly ash. However, specifications should not be revised to allow the use of fly ash if it can be determined that for a particular project or application reasonable performance requirements for the cement or concrete will not be met, or that the use of fly ash would be inappropriate for technical reasons. Architect-engineer contracts should include provisions assuring that the provisions of 40 CFR Part 249 are considered in developing specifications.

(g) *Measurement principles for sources and special nuclear material transfers.*

(1) Certain principles regarding the resolution of measurement differences have been developed which should be used as guides in the preparation of contracts or other agreements by DOE in which monetary payments or credits depend on quantity and quality of source and special nuclear material. The provisions providing for the resolution of measurement differences must be such that resolution is always accomplished while at the same time

contractor by a foreign interest is such that a reasonable basis exists for concluding that compromise of classified information, special nuclear material as defined in 10 CFR Part 710, may result.

(c) For purposes of this clause, subcontractor means any subcontractor at any tier and the term "contracting officer" shall mean DOE contracting officer. When this clause is included in a subcontract, the term "contractor" shall mean subcontractor and the term "contract" shall mean subcontract.

(d) The contractor shall immediately provide the contracting officer written notice of any changes in the extent and nature of FOCI over the contractor which would affect the answers to the questions presented in DEAR 952.204-73. Further, notice of changes in ownership or control which are required to be reported to the Securities and Exchange Commission, the Federal Trade Commission, or the Department of Justice shall also be furnished concurrently to the contracting officer.

(e) In those cases where a contractor has changes involving FOCI, the DOE must determine whether the changes will pose an undue risk to the common defense and security. In making this determination, the contracting officer shall consider proposals made by the contractor to avoid or mitigate foreign influences.

(f) If the contracting officer at any time determines that the contractor is, or is potentially, subject to FOCI, the contractor shall comply with such instructions as the contracting officer shall provide in writing to safeguard any classified information or significant quantity of special nuclear material.

(g) The contractor agrees to insert terms that conform substantially to the language of this clause including this paragraph (g) in all subcontracts under this contract that will require access to classified information or a significant quantity of special nuclear material. Additionally, the contractor shall require such subcontractors to submit a completed certification required in DEAR 952.204-73 prior to award of a subcontract. Information to be provided by a subcontractor pursuant to this clause may be submitted directly to the contracting officer.

(h) Information submitted by the contractor or any affected subcontractor as required pursuant to this clause shall be treated by DOE to the extent permitted by law, as business or financial information submitted in confidence to be used solely for purposes of evaluating FOCI.

(i) The requirements of this clause are in addition to the requirement that a contractor obtain and retain the security clearances required by the contract. This clause shall not operate as a limitation on DOE's rights, including its rights to terminate this contract.

(j) The contracting officer may terminate this contract for default either if the contractor fails to meet obligations imposed by this clause, e.g., provide the information required by this clause, comply with the contracting officer's instructions about safeguarding classified information, or make

this clause applicable to subcontractors, or if, in the contracting officer's judgment, the contractor creates an FOCI situation in order to avoid performance or a termination for default. The contracting officer may terminate this contract for convenience if the contractor becomes subject to FOCI and for reasons other than avoidance of performance of the contract, cannot, or chooses not to, avoid or mitigate the FOCI problem.

952.208 Clauses related to required sources of supply.

952.208-7 Tagging of leased vehicles.

Insert the following clause when leasing commercial vehicles for periods in excess of 60 days.

Tagging of Leased Vehicles (Apr 1984)

(a) DOE intends to use U.S. Government license tags.

(b) While it is the intention that vehicles leased hereunder shall operate on Federal tags, the DOE reserves the right to utilize State tags if necessary to accomplish its mission. Should State tags be required, the contractor shall furnish the DOE the documentation required by the State to acquire such tags.

952.208-70 Printing.

Title 44, United States Code, "Public Printing and Documents," establishes policies regarding public printing and documents within the Federal Government. It provides that public printing will be accomplished by the Government Printing Office, its regional offices or authorized departmental printing plants. It provides a limited exemption for contractors. Requirements exceeding that limitation are to be accomplished utilizing Government resources. To facilitate this, contracting officers shall furnish the necessary forms and instructions to contractors, as called for by DOE Order 1340.1, and include the following clause in all contracts:

Printing (Apr 1984)

The contractor shall not engage in, nor subcontract for, any printing (as that term is defined in Title I of the U.S. Government Printing and Binding Regulations in effect on the effective date of this contract) in connection with the performance of work under this contract. Provided, however, that performance of a requirement under this contract involving the duplication of less than 5,000 copies of a single unit, or no more than 25,000 units in the aggregate of multiple units, will not be deemed to be printing. A unit is defined as one sheet, size 8½ by 11 inches one side only, one color. A requirement is defined as a single publication document.

(1) The term "printing" includes the following processes: composition, plate making, presswork, binding, microform publishing, or the end items produced by such processes.

(2) If fulfillment of the contract will necessitate reproduction in excess of the limits set forth above, the contractor shall notify the contracting officer in writing and obtain the contracting officer's approval prior to acquiring on DOE's behalf production, acquisition, and dissemination of printed matter. Such printing must be obtained from the Government Printing Office (GPO), a contract source designated by GPO or a Joint Committee on Printing authorized federal printing plant.

(3) Printing services not obtained in compliance with this guidance will result in the cost of such printing being disallowed.

(4) The Contractor will include in each of his subcontracts hereunder a provision substantially the same as this clause including this paragraph (4).

952.209 Clauses related to contractor's qualifications.

952.209-70 Organizational conflicts of interest—disclosure or representation.

Use the following solicitation provision under the circumstances described at 909.570.

Organizational Conflicts of Interest Disclosure or Representation (Apr 1984)

It is Department of Energy policy to avoid situations which place an offeror in a position where its judgment may be biased because of any past, present, or currently planned interest, financial or otherwise, the offeror may have which relates to the work to be performed pursuant to this solicitation or where the offeror's performance of such work may provide it with an unfair competitive advantage. (As used herein, "offeror" means the proposer or any of its affiliates or proposed consultants or subcontractors of any tier.) Therefore:

(a) The offeror shall provide a statement which describes in a concise manner all relevant facts concerning any past, present or currently planned interest (financial, contractual, organizational, or otherwise) relating to the work to be performed hereunder and bearing on whether the offeror has a possible organizational conflict of interest with respect to (1) being able to render impartial, technically sound, and objective assistance or advice, or (2) being given an unfair competitive advantage. The offeror may also provide relevant facts that show how its organizational structure and/or management systems limit its knowledge of possible organizational conflicts of interest relating to other divisions or sections of the organization and how that structure or system would avoid or mitigate such organizational conflict.

(b) In the absence of any relevant interests referred to above, the offeror shall submit a statement certifying that to its best knowledge and belief no such facts exist relevant to possible organizational conflicts of interest. Proposed consultants and subcontractors are responsible for submitting information and may submit it directly to the contracting officer.

(c) The Department will review the statement submitted and may require additional relevant information from the offeror. All such information, and any other relevant information known to the Department, will be used to determine whether an award to the offeror may create an organizational conflict of interest if found to exist. The Department may (1) impose appropriate conditions which avoid such conflict, (2) disqualify the offeror, or (3) determine that it is otherwise in the best interest of the United States to contract with the offeror by including appropriate conditions mitigating such conflict in the contract awarded.

(d) The refusal to provide the disclosure or representation and any additional information as required shall result in disqualification of the offeror for award. The nondisclosure or misrepresentation of any relevant interest may also result in the disqualification of the offeror for award, or if such nondisclosure or misrepresentation is discovered after award, the resulting contract may be terminated for default. The offeror may also be disqualified from subsequent related Department contracts, and be subject to such other remedial action as may be permitted or provided by law or in the resulting contract. The attention of the offeror in complying with this provision is directed to 18 U.S.C. 1001.

(e) Depending on the nature of the contract activities, the offeror may, because of possible organizational conflicts of interest, propose to exclude specific kinds of work from the statement, unless the solicitation specifically prohibits such exclusion. Any such proposed exclusion by an offeror shall be considered by the Department in the evaluation of proposals, and if the Department considers the proposed excluded work to be an essential or integral part of the required work, the proposal may be rejected as unacceptable.

(f) No award shall be made until the disclosure or representation has been evaluated by the Government. Failure to provide the disclosure or representation will be deemed to be a minor informality (FAR 14.405) and the offeror or contractor shall be required to promptly correct the omission.

952.209-71 Organizational conflicts of interest—general.

Insert the following contract clause under the circumstances described at 909.570.

Organizational Conflicts of Interest—General (Apr 1984)

(a) The contractor warrants that, to the best of his knowledge and belief, and except as otherwise disclosed, there are no relevant facts which could give rise to organizational conflicts of interest, as defined in 909.570 or that the contractor has disclosed all relevant information.

(b) The contractor agrees that, if after award, an organizational conflict of interest with respect to this contract is discovered, an immediate and full disclosure in writing shall be made to the Contracting Officer which shall include a description of the action which the contractor has taken or proposes to

take to avoid or mitigate such conflicts. The Department may, however, terminate the contract for its convenience if it deems such termination to be in the best interest of the Government.

(c) In the event that the contractor was aware of an organizational conflict of interest prior to the award of this contract and did not disclose the conflict to the contracting officer, the Government may terminate the contract for default.

(d) The provisions of this clause shall be included in all subcontracts for work to be performed similar to the service provided by the prime contractor, and the terms "contract," "contractor," and "contracting officer" modified appropriately to preserve the Government's rights.

(e) Prior to a contract modification when the statement of work is modified to add new work, the period of performance is significantly increased, or the parties to the contract are changed, the Department will request and the contractor is required to submit either an organizational conflict of interest disclosure or representation or an update of the previously submitted disclosure or representation.

952.209-72 Organizational conflicts of interest—special clause.

Insert the following contract clause under the circumstance described at 909.570.

Organizational Conflicts of Interest—Special Clause (Apr 1984)

(a) *Purpose.* The primary purpose of this clause is to aid in ensuring that the contractor (1) is not biased because of its past, present, or currently planned interests (financial, contractual, organizational, or otherwise) which relate to the work under this contract, and (2) does not obtain any unfair competitive advantage over other parties by virtue of its performance of this contract.

(b) *Scope.* The restrictions described herein shall apply to performance or participation by the contractor and any of its affiliates or their successors in interest (hereinafter collectively referred to as "contractor") in the activities covered by this clause as a prime contractor, subcontractor, cosponsor, joint venturer, consultant, or in any similar capacity.

(1) *Technical consulting and management support services.*

(i) The contractor shall be ineligible to participate in any capacity in Department contracts, subcontracts, or proposals therefor (solicited or unsolicited) which stem directly from the contractor's performance of work under this contract. Furthermore, unless so directed in writing by the contracting officer, the Contractor shall not perform any technical consulting or management support services work under this contract on any of its products or services or the products or services of another firm if the contractor is or has been substantially involved in their development or marketing. Nothing in this subparagraph shall preclude the contractor from competing for follow-on contracts for technical consulting and management support services.

(ii) If the contractor under this contract prepares a complete or essentially complete

statement of work or specifications to be used in competitive acquisitions, the contractor shall be ineligible to perform or participate in any capacity in any contractual effort which is based on such statement of work or specifications. The contractor shall not incorporate its products or services in such statement of work or specifications unless so directed in writing by the contracting officer. In which case the restriction in this subparagraph shall not apply.

(iii) Nothing in this paragraph shall preclude the contractor from offering or selling its standard commercial items to the Government.

(2) Access to and use of information.

(i) If the contractor, in the performance of this contract, obtains access to information, such as Department plans, policies, reports, studies, financial plans, internal data protected by the Privacy Act of 1974 (Pub. L. 93-579), or data which has not been released or otherwise made available to the public, the contractor agrees that without prior written approval of the contracting officer it shall not: (a) use such information for any private purpose unless the information has been released or otherwise made available to the public; (b) compete for work for the Department based on such information for a period of six (6) months after either the completion of this contract or until such information is released or otherwise made available to the public, whichever is first; (c) submit an unsolicited proposal to the Government which is based on such information until one year after such information is released or otherwise made available to the public; and (d) release such information unless such information has previously been released or otherwise made available to the public by the Department.

(ii) In addition, the contractor agrees that to the extent it receives or is given access to proprietary data, data protected by the Privacy Act of 1974 (Pub. L. 93-579), or other confidential or privileged technical, business, or financial information under this contract, it shall treat such information in accordance with any restrictions imposed on such information.

(iii) The contractor shall have, subject to patent, data, and security provisions of this contract, the right to use technical data it first produces under this requirements of this contract have been met.

(c) *Disclosure after award.* (1) The contractor agrees that if after award it discovers an organizational conflict of interest with respect to this contract, an immediate and full disclosure shall be made in writing to the contracting officer which shall include a description of the action which the contractor has taken or proposes to take to avoid or mitigate such conflicts.

The Department may, however, terminate the contract for convenience if it deems such termination to be in the best interest of the Government.

(2) In the event that the contractor was aware of an organizational conflict of interest prior to the award of this contract and did not disclose the conflict to the contracting officer,

the Department may terminate the contract for default.

(d) *Subcontracts.* (1) The contractor shall include this clause, including this paragraph, in subcontracts of any tier which involve performance or work of the type specified in (b)(1) above or access to information of the type covered in (b)(2) above. The terms "contract", "contractor" and "contracting officer" shall be appropriately modified to preserve the Government's rights.

(2) If a subcontract is to be issued for evaluation services or activities, technical consulting or management support services work as defined at 909.570, the contractor shall obtain for the Department a disclosure statement or representation, in accordance with DOE regulations in effect at the time, from each intended subcontractor or consultant. The contractor shall not enter into any subcontract nor engage any consultant unless the contracting officer shall have first notified the contractor that there is little or no likelihood that an organizational conflict of interest exists or that despite the existence of a conflict of interest the award is in the best interest of the Government.

(e) *Remedies.* For breach of any of the above restrictions or for nondisclosure or misrepresentation of any relevant facts required to be disclosed concerning this contract, the Government may terminate the contract for default, disqualify the contractor for subsequent related contractual efforts and pursue such other remedies as may be permitted by law or this contract.

(f) *Waiver.* Requests for waiver under this clause shall be directed in writing to the contracting officer and shall include a full description of the requested waive and the reasons in support thereof. If it is determined to be in the best interests of the Government, the contracting officer shall grant such a waiver in writing.

(g) *Modifications.* Prior to a contract modification when the statement of work is modified to add new work, the period of performance is significantly increased, or the parties to the contract are changed, the Department will request and the contractor is required to submit either an organizational conflict of interest disclosure or representation or an update of the previously submitted disclosure or representation.

952.212 Clauses related to contract delivery or performance.

952.212-70 Rated or authorized controlled material orders for energy programs.

As prescribed in 912.304(a), insert the following provisions in solicitations that will result in the award of a contract eligible for placement of rated orders or authorized controlled material orders for DOE atomic energy programs:

Rated or Authorized Controlled Material Orders (Atomic Energy) (Apr 1984)

Contracts or purchase orders awarded as a result of this solicitation shall be assigned a /—/ DO-Rating; /—/ DX-rating; or /—/ DMS allotment number in accordance with Defense Priorities System Regulation 1 and Defense Materials System Regulation 1. (Contracting officer check appropriate box or boxes).

Alternate 1: As prescribed in 912.304(d), insert the following provision in solicitations that may result in a contract eligible for placement of rated orders or authorized controlled material orders for authorized energy programs:

Rated or Authorized Controlled Material Orders (Domestic Energy Supplies) (Apr 1984)

Contracts or purchase orders awarded as a result of this solicitation may be eligible for priorities and allocations support in accordance with 10 CFR 216 and Section 101(c) of the Defense Production Act of 1950, as amended.

952.212-71 Priorities, allocations, and allotments for energy programs.

As prescribed in 912.304(b), insert the following clause in orders and contracts that are placed in support of authorized DOE atomic energy programs:

Priorities, Allocations, and Allotments (Atomic Energy) (Apr 1984)

The Contractor shall follow the provisions of Defense Material System Regulation 1 or Defense Priorities System Regulation 1 (see 15 CFR Parts 330-354) and all other applicable regulations and orders of the DMS/DPS in obtaining controlled materials and other products and materials needed to fill this contract.

Alternate 1: Certain contracts may be eligible for priorities and allocations support as described in 912.302 if their purpose is to maximize domestic energy supplies. Eligibility is dependent on an executive decision on a case-by-case basis. Guidance is provided by DOE Publication PR-0042, "Priorities and Allocations Support for Energy: Keeping Energy Programs on Schedule," dated August 1980, as it may from time to time be revised. If the purpose of the contract is to maximize domestic energy resources, include the following clause:

Priorities, Allocations, and Allotments—(Domestic Energy Supplies) (Apr 1984)

(a) This contract may be eligible for priorities and allocations support, as provided for by Section 101(c) of the Defense Production Act of 1950, as amended by the Energy Policy and Conservation Act (Pub. L. 94-163, 42 U.S.C. 8201 *et seq.*) if its purpose is to maximize domestic energy supplies. Eligibility is dependent on an executive decision on a case-by-case basis with the decision being jointly made by the Departments of Commerce and Energy.

(b) DOE Regulations regarding Material Allocation and Priority Performance under Contracts or Orders to Maximize Domestic Energy Supplies can be found at Part 216 of Title 10 of the Code of Federal Regulations (10 CFR Part 216).

(c) Additional guidance is provided by DOE Publication PR-0042, "Priorities and Allocations Support for Energy: Keeping Energy Programs on Schedule," dated August 1980, as it may from time to time be revised. Copies may be obtained by written request to: Department of Energy, Technical Information Center (TIC), Post Office Box 62, Oak Ridge, Tennessee 37830.

952.212-72 (Reserved)

952.212-73 Cost and schedule control systems criteria.

Certain DOE projects are of such significance and magnitude that responsible management calls for enhanced visibility of contractor cost and schedule performance as well as more formalized data to document their progress and to aid in decisions regarding their continuation. Any contract with a total estimated cost in excess of \$50 million shall require full implementation of the DOE Cost and Schedule Control Systems Criteria. Selected projects between \$2 million and \$50 million may benefit from modified implementation of such a control system. In those instances where the DOE Cost and Schedule Control System Criteria are to be utilized, the contracting officer shall provide for this by including the "Cost and Schedule Control Systems Criteria for Contract Performance Measurement—Implementation Guide," Office of the Controller Publication CR-0015, in the solicitation and shall include the following clause in the contract:

Cost and Schedule Control Systems (Apr 1984)

(a) In the performance of this contract, the contractor shall establish, maintain, and use cost and schedule control systems (management control systems) meeting the criteria set forth in the contract and as described in detail in DOE/CR-0015, "Cost and Schedule Control Systems Criteria for Contract Performance Measurement—Implementation Guide," annexed hereto and hereinafter referred to as the "Guide." Prior to acceptance by the contracting officer and within — calendar days after contract award, the contractor shall be prepared to demonstrate systems operation to the Government to verify that the proposed systems meet the designated criteria. As a part of the review procedures, the contractor shall furnish the Government a description of the cost and schedule control systems applicable to this contract in such form and detail as indicated by the Guide, or as required by the contracting officer. The contractor agrees to provide access to all pertinent records, data, and plans as requested by representatives of the Government for the conduct of systems review.

(b) The description of the management control systems accepted by the contracting officer, identified by title and date, shall be referenced in the contract. Such systems shall be maintained and used by the contractor in the performance of this contract.

(c) Contractor changes to the reviewed systems shall be submitted for review and approval as required by the contracting officer. When contracting officer approval is required, the contracting officer shall advise the contractor of the acceptability of such changes within sixty (60) days after receipt



355 West North Temple
3 Triad Center, Suite 330
Salt Lake City, UT 84180-1203
Telephone 801-538-5545

high level nuclear waste office

Norman H. Bangerter, Governor

Patrick D. Spurgin, Director
Jack Wittman, Associate Director

December 9, 1985

Ben C. Rusche, Director
Office of Civilian Radioactive Waste Mgt
U.S. Department of Energy, RW-1
Forrestal Building
1000 Independence Ave
Washington, D.C. 20585

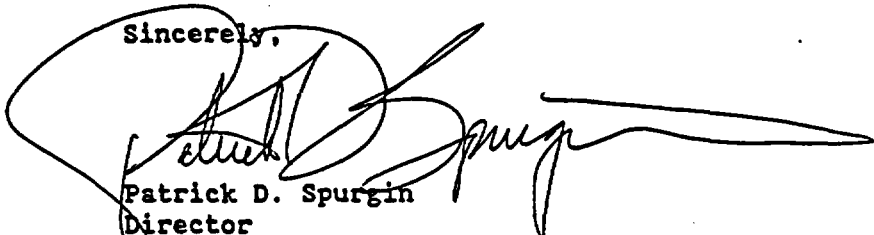
Dear Mr. Rusche:

We have recently learned of the issuance of an RFP prepared by the Crystalline Project Office which provides for a bar, applicable to the successful contractor or any subcontractors or associated firms, from contracting with any non-DOE entity for work related to Office of Civilian Radioactive Waste Management activities. It is in the best interest of all parties to assure that adequate resources are available to fulfill the purposes of state participation provisions of the Nuclear Waste Policy Act. Successful and sufficient participation by the State in the nuclear waste program often depends on access to technical expertise outside of state agencies. If, as a matter of policy, similar language is included in future DOE contracts, the states are presented with the likelihood that access to expertise outside the state agencies may be significantly limited. It is our understanding that in the case of other states, their past contractors have noted that the language discussed above would preclude contractor consideration of future contracts with the states.

The State appreciates the importance of avoiding conflicts of interests. We believe that it is at least possible that an adequate level of protection from conflicts of interest may be provided by less absolute, more finely-tuned contract language.

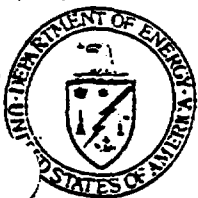
Please advise us as to your intention to continue to provide the absolute bar on contracts with non-DOE entities for OCWRM contractors, and if so, the reasons for such a bar.

Sincerely,


Patrick D. Spurgin
Director

PDS/hud

002522



Department of Energy

Washington, DC 20585

January 7, 1986

Honorable Arlan Stangeland
House of Representatives
Washington, D.C. 20515

Dear Mr. Stangeland:

I am responding to your December 9, 1985, communication concerning resolutions from several local Minnesota jurisdictions regarding the possible siting of a high-level radioactive waste repository in Minnesota. The resolutions which you forwarded to the Department of Energy (DOE) are those from the Benton and Morrison County Boards of Commissioners and from the Region 5 Regional Development Commission.

DOE, in implementing the Nuclear Waste Policy Act of 1982 (NWPA), is responsible for providing safe and environmentally acceptable disposal of the Nation's high-level radioactive waste in deep geologic repositories. During the siting and development of a repository, DOE must follow stringent guidelines and meet rigorous regulatory requirements. These include the DOE Siting Guidelines (10 CFR 960), as well as pertinent regulations of the Nuclear Regulatory Commission (10 CFR 60) and the Environmental Protection Agency (40 CFR 191).

DOE is considering basalt, crystalline, salt, and tuff formations in the conterminous United States as possible candidates for siting high-level nuclear waste repositories. Interest in crystalline rock as a possible host for a deep geologic repository arose in response to recommendations by the Interagency Review Group on Nuclear Waste Management to consider alternative rock types. A national survey, which began in 1979, recommended further screening in crystalline rock bodies located in 17 States in the North Central, Northeastern, and Southeastern regions. Crystalline rock has been identified as a promising medium due to its great strength, mechanical and thermal stability, and predictable engineering characteristics. Crystalline rocks have low permeability and generally do not form deep aquifers. Crystalline rocks being considered are characterized by low seismic and tectonic activity and are generally large and homogenous.

Presently, DOE's Crystalline Repository Project (CRP) is performing regional screening based on available literature in order to identify areas which will be studied in further detail during subsequent screening phases. The region-to-area screening methodology for the CRP uses disqualifying factors and screening variables, derived from the Siting Guidelines, in order to locate the most favorable sites for the second repository. The methodology incorporates regionally-available environmental and geologic information on surface water bodies, wetlands, and major groundwater discharge zones.

Under current DOE plans, selection of crystalline rock bodies for detailed site characterization as candidate sites for a second repository will be made in late 1991. Site characterization field activities at these sites would commence in 1993. DOE plans to begin operation of a second repository by 2006.

DOE has actively sought the cooperation of the crystalline States in the site selection process through review of CRP documents, solicitation of State input on weights to be considered by DOE in applying variables in the region-to-area screening methodology, and participation in State and public meetings.

At least 15 years of intensive study and testing will be needed before construction of a second geologic repository begins. During that period, technical, procedural, and regulatory aspects of this program will be subjected to repeated public scrutiny and debate. DOE believes that the outcome of this lengthy process will be substantial public confidence that geologic disposal of high-level radioactive waste can be achieved in a manner that protects public health, public safety, and the environment in conformity with the stringent regulations of the Nuclear Regulatory Commission and the Environmental Protection Agency.

Thank you for providing DOE with copies of the above-referenced resolutions regarding the possible siting of a high-level radioactive waste disposal site in Minnesota.

Sincerely,



William J. Purcell
Associate Director for
Geologic Repositories
Office of Civilian Radioactive
Waste Management

Enclosure:
Constituent's Correspondence

Dear Congressman Ulen, Strangeland,

I've been hearing lately that
Minnesota is one of 17 states chosen
to be considered for a Nuclear
Disposal Site.

That scares me considering
all the "underground water" we
have. Its to a hancy.

Lets not have a disposal
site in our state.

Thompson
Suzanne 45
RR 2, # 2
Underwood
MN
56586

SEP 25 1985

STATE OF MINN.
LEGISLATIVE

7150
EH15B
12/6/85

NOV 1 1985

NOV 6 1985

STAFF INIT. *MD*
SUBJ. CODE *E 415/B*
STATUS
REPLY DATE *12/6/85*

STATE OF MINNESOTA
COUNTY OF MORRISON ^{SS}

I, David Loch, County Coordinator of the County
aforesaid, do hereby certify that I have carefully compared
the attached resolution adopted by the Morrison County
Board of Commissioners on October 8, 1985 with the original
resolution in this office, and that the same is a true
and correct copy thereof.

In Witness Whereof, I have hereunto set my hand and
seal this 29th day of October, 1985, at Little Falls,
Minnesota.



David Loch
County Coordinator

(SEAL)

MORRISON COUNTY BOARD OF COMMISSIONERS

Commissioner Howard Warnberg, Chairman

Mtg. Date	10/3/85	ITEM FOR CONSIDERATION (Title):		Signature	Date
Item No.		MORRISON COUNTY'S OPPOSITION AS SITE FOR HIGH-LEVEL RADIO- ACTIVE WASTE DISPOSAL.	Originated		
Approx. Time			Reviewed		

A RESOLUTION

memorializing the United States Department of Energy of Morrison County's opposition to the siting of a high-level radioactive waste disposal site in Minnesota pursuant to the Nuclear Waste Policy Act of 1982.

WHEREAS, a safe and reliable solution to the problem of high-level radioactive waste disposal is crucial to the health and welfare of all citizens; and

WHEREAS, the United States Department of Energy is considering Minnesota for one of two national permanent repositories for high-level radioactive waste; and

WHEREAS, high-level radioactive waste must be isolated from the environment for thousands of years to prevent danger to future generations; and

WHEREAS, the United States Department of Energy is not pursuing selection of the safest possible sites for disposal; and

WHEREAS, political considerations have influenced the site selection process; and

WHEREAS, the suitability of granite as a disposal medium will never be certain because of unresolved technical issues, including the difficulty of characterizing groundwater flow; and

WHEREAS, the waste is irretrievable after the repository is sealed and the potential impact of an isolation failure on surface and groundwater resources would be severe and irreparable; and

WHEREAS, Minnesota encompasses the headwaters of three major North American watersheds and contains over 15,000 lakes, over 90,000 miles of waterways, and nearly 9,000 square miles of wetlands, and

WHEREAS, the quality of Minnesota's extensive surface water and groundwater resources is critical to the economy, health, and welfare of the state; and

WHEREAS, unsaturated zone repositories, located in arid regions of the United States, would greatly increase the margin of safety at a nuclear waste disposal site;

NOW THEREFORE, BE IT RESOLVED by the Morrison County Board of Commissioners that it declares Morrison County to be in opposition to the siting of a high-level radioactive waste repository within the boundaries of the state because of concern over the effect of radiation releases from a repository on the headwaters and downstream of our three major North American watersheds and on the economy, health, safety, and general welfare of the citizens of Minnesota.

BE IT FURTHER RESOLVED that the County Coordinator is directed to prepare certified copies of this memorial and transmit them to the Secretary of the United States Department of Energy and to Minnesota's Senators and Representatives in Congress.

ADOPTED: October 8, 1985

Howard R. Oberer

Chairman
Morrison County Board of Commissioners

ATTEST:

David Loch

David Loch, Clerk to County Board

(SEAL)

*John Gaalswyk
252-2764*

OCT 15 1985
STAFF INT. *md*
SUBL. CODE *2413/B*
STATUS
REPLY DATE *12/4/85*

REGION 5 REGIONAL DEVELOPMENT COMMISSION



611 Iowa Avenue
Staples, Minnesota 56479-1872

Kathy Gaalswyk, Executive Director
(218) 894-3233

October 4, 1985

Representative Arlan Stangeland
1518 Longworth Building
Washington, D.C. 20515

Dear Representative Stangeland:

Enclosed please find a resolution passed by Region 5 Regional Development Commission at their September 26, 1985 Commission meeting opposing the siting of a High-Level Radioactive Waste Disposal Center in Region 5 and Minnesota.

The Region 5 Regional Development Commission which serves the counties of Cass, Crow Wing, Morrison, Todd and Wadena in central Minnesota is concerned about the impact caused by a failure of the repository on the Region's environment. The site of a nuclear waste repository could only have a detrimental effect on the area. Therefore they are opposed to the siting of a waste repository in Region 5 or the State of Minnesota.

If you have any questions please feel free to call me at 218/894-3233.

Sincerely,

Kathy Gaalswyk
Kathy Gaalswyk
Executive Director

KG/bmw
ANY3/Radioactive Letter

REGION 5 REGIONAL DEVELOPMENT COMMISSION
High Level Radio Active Waste

Resolution #: Ad85-59C

WHEREAS, the Region 5 Regional Development Commission is the designated Regional Planning Agency for the Counties of Cass, Crow Wing, Morrison, Todd and Wadena, and

WHEREAS, the United State Department of Energy is engaged in a site selection process for an underground disposal site of high-level radio active wastes; and

WHEREAS, Crystalline bedrock geologic formations under Region 5 including Cass, Crow Wing, Morrison, Todd and Wadena Counties are being considered by the United States Department of Energy for disposal of high level radio active waste; and

WHEREAS, High-level radio active waste must be isolated for thousands of years to prevent danger to the environment of Region 5; and

WHEREAS, the suitability of crystalline bedrock repository as uncertain because of geologic faults, tectonic activity, difficulty in characterizing groundwater flow and other unresolved technical issues; and

WHEREAS, failure of a high-level radio active repository could have severe and irreparable effects on the Region 5 and Minnesota's environment including surface and groundwater, wildlife, forests and human inhabitants, and

WHEREAS, the cost of crystalline bedrock repositories would place a severe strain on the federal, state and local governments, in addition to hampering future growth and economic development around the disposal site; and

WHEREAS, the quality of Region 5's and Minnesota's resources is critical to the health, welfare and economy of the area and state.

THEREFORE BE IT RESOLVED, that the Region 5 Regional Development Commission hereby opposes the Department of Energy's proposals to the siting of high-level radio active waste in the geologic formations of Region 5 and the State of Minnesota because of concerns over the effect of radiation escapes on the environment of Region 5 and Minnesota.

BE IT FURTHER RESOLVED, that the Region 5 Regional Development Commission opposes below ground storage of radio active wastes in Region 5 and Minnesota and recommends above ground storage of the wastes.

A motion by Regional Commissioner _____, seconded by
Regional Commissioner _____ to adopt the above
resolution on _____ day of _____, 1985.

Bill Holmquist, Chairman
bmw/ANY2/Res. 85-59C



BENTON COUNTY COORDINATOR

(612) 968-6254, EXT. 200

COURTHOUSE, 531 DEWEY ST., FOLEY, MN 56329

BRIAN W. KRANZ
COUNTY COORDINATOR

October 21, 1985

OCT 24 1985
STAFF INT. *msp*
SUBJ CODE *E41313*
12/1/85

TO : Minnesota Congressional Delegation

FROM: Brian W. Kranz
County Coordinator

RE : High-Level Radioactive Waste Disposal Site in Minnesota

The enclosed resolution was adopted by the Benton County Commissioners on October 15, 1985.

As reflected in the attached resolution, Benton County opposes the siting of a high-level radioactive waste repository within the County and Minnesota. Your support of Benton County's position on this issue would be appreciated and anything that you can do to prevent a waste repository from locating in Minnesota is welcomed.

Sincerely,

A handwritten signature in cursive script, appearing to read "Brian W. Kranz".

Brian W. Kranz
County Coordinator

BWK/vm

Enclosure

BOARD OF COUNTY COMMISSIONERS OF BENTON COUNTY, MINNESOTA

A resolution memorializing the United States Department of Energy of Benton County's opposition to the siting of a high-level radioactive waste disposal site in Minnesota pursuant to the Nuclear Waste Policy Act of 1982.

WHEREAS, a safe and reliable solution to the problem of high-level radioactive waste disposal is crucial to the health and welfare of all citizens; and

WHEREAS, the United States Department of Energy is considering Minnesota for one of two national permanent repositories for high-level radioactive waste; and

WHEREAS, high-level radioactive waste must be isolated from the environment for thousands of years to prevent danger to future generations; and

WHEREAS, the United States Department of Energy is not pursuing selection of the safest possible sites for disposal; and

WHEREAS, political considerations have influenced the site selection process; and

WHEREAS, the suitability of granite as a disposal medium will never be certain because of unresolved technical issues, including the difficulty of characterizing groundwater flow; and

WHEREAS, the waste is irretrievable after the repository is sealed and the potential impact of an isolation failure on surface and groundwater resources would be severe and irreparable; and

WHEREAS, Minnesota encompasses the headwaters of three major North American watersheds and contains over 15,000 lakes, over 90,000 miles of waterways, and nearly 9,000 square miles of wetlands; and

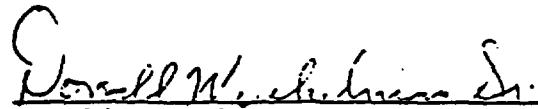
WHEREAS, the quality of Minnesota's extensive surface water and groundwater resources is critical to the economy, health, and welfare of the state; and

WHEREAS, unsaturated zone repositories, located in arid regions of the United States, would greatly increase the margin of safety at a nuclear waste disposal site; NOW THEREFORE

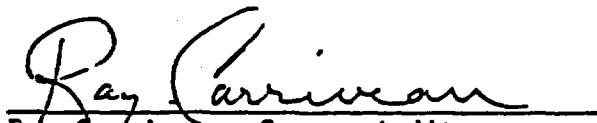
BE IT RESOLVED by the Benton County Board of Commissioners that it declares Benton County to be in opposition to the siting of a high-level radioactive waste repository within the boundaries of the state and the county because of concern over the effect of radiation releases from a repository on the headwaters and downstream of our three major North American watersheds and on the economy, health, safety, and general welfare of the citizens of Minnesota.

BE IT FURTHER RESOLVED that copies of this resolution be forwarded to the Secretary of the United States Department of Energy, to Minnesota's Senators and Representatives in Congress, and to other interested parties.

Adopted by the County Board of Commissioners this 15th day of October, 1985.


Donald Winkelman, Sr., Chairman
County Board of Commissioners

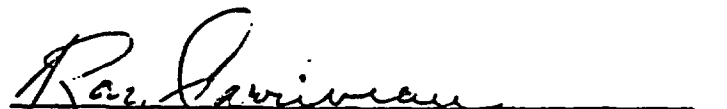
ATTEST:


Ray Carriveau, County Auditor

State of Minnesota)
) SS
County of Benton)

I, Ray Carriveau, Benton County Auditor, hereby certify that the foregoing Resolution is a true and correct copy of a Resolution presented to and adopted by the Benton County Board of Commissioners at a duly authorized meeting thereof held on the 15th day of October, 1985, as shown by the Minutes in my possession.

seal


Ray Carriveau, Benton County Auditor



Department of Energy
Washington, DC 20585

JAN 6 1986

Mr. Leonard E. Miller, Jr.
Tribal Chairman
Stockbridge-Munsee Community
Route 1
Bowler, Wisconsin 54416

Dear Chairman Miller:

Thank you for your letter of November 18, 1985, concerning the availability of financial assistance from the Department of Energy (DOE) for the Forest County Potawatomi Community under the Nuclear Waste Policy Act (NWPA).

Grant funds have been made available to those Indian Tribes which either are underlain by crystalline rock under consideration by DOE for the second repository, or which have off-reservation federally-defined possessory or usage rights arising out of congressionally-ratified treaties within the 17 crystalline rock States. These grants are for the express purpose of funding review of the draft Area Recommendation Report and related documents. The Forest County Potawatomi Community is not underlain by crystalline rock under consideration. Further, the Department of the Interior has advised us that the Forest County Potawatomi do not have off-reservation federally-defined possessory or usage rights arising out of congressionally-ratified treaties.

The list of potentially eligible Tribes for this grant funding was developed with the assistance of the Department of the Interior. It includes those Tribes which could be potentially eligible for "affected" status under the NWPA. It does not constitute a determination of "affected" status for purposes of the NWPA. It should not be interpreted as prejudging that determination. In accordance with Section 2 of the NWPA, the determination of "affected" status can be made only after potentially acceptable sites in crystalline rock have been identified. At that time, interested Tribes, including the Forest County Potawatomi Community, may petition the Secretary of the Interior for affected status. The Secretary must find that locating a repository at such a site will have both substantial and adverse effects on the kind of off-reservation treaty rights mentioned above.

If you have any questions in regard to this matter please feel free to contact me.

Sincerely,

Tom Purcell

for William J. Purcell
Associate Director for
Geologic Repositories
Office of Civilian Radioactive
Waste Management

STOCKBRIDGE - MUNSEE



BAND OF MOHICAN INDIANS

STOCKBRIDGE - MUNSEE COMMUNITY

Route 1 Phone Bowler (715) 793-4111

BOWLER, WISCONSIN 54416

November 18, 1985

Mr. Benard C. Rusche
Director
Office of Civilian Radioactive Waste Management
United States Department of Energy
1000 Independence Avenue
Washington, D.C. 20585

Dear Mr. Rusche:

In reviewing the letter from your office dated November 6th in regard to the financial assistance to Indian tribes in connection with the Crystalline Repository Project we find that the Forest County Potawatomi Community is not listed as a tribe designated to apply for this financial assistance.

The Stockbridge-Munsee Tribe objects to the exclusion of the Forest County Potawatomi Community and would encourage the Department of Energy to consider an application from this Wisconsin Indian Tribe for this grant to review the draft Area Recommendation Report (ARR).

Wisconsin tribes have been included in the National Indian Radioactive Waste Review Committee and at the State Radioactive Waste Review Board meetings this past year and Forest County Potawatomi have been included has one of these tribes. DOE has paid for the reimbursement of their travel to attend these meetings.

The geographic location of the Forest County is evidence enough that if it is their desire to apply for the grant that the DOE has the responsibility to consider the Potawatomi based upon the government to government relations defined according to the Nuclear Waste Policy Act in acknowledging the sovereign status of Indian Tribes.

Strong and effective tribal governments are essential in this decision making process and we support that Forest County Potawatomi Community be considered in this process.

Sincerely,


Leonard E. Miller, Jr.
Tribal Chairman

LEM/dj

cc: JR Holmes



Department of Energy

Washington, DC 20585

JAN 3 1986

Mr. Steve Frishman, Director
Nuclear Waste Programs Office
Office of the Governor
State Capitol
Austin, Texas 78711

Dear Mr. Frishman:

Thank you for your letter of November 21, 1985, concerning a meeting between the Department of Energy and the State of Texas to discuss how the Department will address the State's major comments regarding the Deaf Smith and Swisher County sites, and the availability of background material for these meetings.

We are presently finalizing tables of findings of the presence or non-presence of conditions under each of the Siting Guidelines, and will be sending these tables to all first repository States shortly. These tables will contain the more extensive information requested in your letter. Also, our offer to brief the State of Texas on the final Environmental Assessments in the manner that we did for the other States still stands. A briefing book similar to that which you already received for Louisiana would be prepared to accompany such a briefing.

Please let me know if I can be of further assistance.

Sincerely,

A handwritten signature in cursive script, appearing to read "Tom Purcell", is written over the typed name.

William J. Purcell
Associate Director for
Geologic Repositories
Office of Civilian Radioactive
Waste Management



MARK WHITE
GOVERNOR

OFFICE OF THE GOVERNOR
STATE CAPITOL
AUSTIN, TEXAS 78711

November 21, 1985

Mr. William J. Purcell
Associate Director for Geologic Repositories
Office of Civilian Radioactive Waste Management
United States Department of Energy
1000 Independence Avenue, S.W.
Washington, D.C. 20585

Dear Mr. Purcell:

I have your letter of November 14, 1985, in response to my letter of October 18, 1985 to Mr. Ben Rusche, regarding my request for advance briefing materials prior to a meeting regarding the DOE's efforts to finalize the Environmental Assessments for potential candidate repository sites in Deaf Smith and Swisher Counties, Texas.

In your letter, you have indicated that you would be able to provide, several days prior to a meeting, a briefing package, similar to that provided for Louisiana, containing a summary of key issues by guideline findings for the sites in Texas. I have reviewed the Louisiana briefing book, and find that the offer of a similar briefing book provided "several days prior to a meeting" does not sufficiently address either the stated purpose of such a meeting, as presented in Mr. Rusche's letter of October 2, 1985 to Governor Mark White, nor does it address the request for advance briefing materials as stated in my letter of October 18, 1985.


Mr. Rusche's letter of October 2, 1985 states: "Before publishing these documents in final form, I believe it would be useful now to meet for the purpose of discussing (emphasis added) the manner in which we will address the state's major comments regarding the Deaf Smith and Swisher County sites and any changes in the findings for these sites pursuant to the siting guidelines." My October 18, 1985 response, on behalf of Governor White, to Mr. Rusche is as follows: "We agree that this could be useful discussion (emphasis added) between your office and the Nuclear Waste Programs Office; however, in advance of any such meeting, we would need to have the substance of your presentation, in writing, for our review. If the proposed meeting is to be useful for both parties in furthering the effort to resolve our concerns, we will need an opportunity to review and evaluate the subject material in advance of the meeting to permit us to be informed and active participants, and to permit us to prepare comments and questions so that we may better understand the rationale of your presentation."

Mr. William J. Purcell
November 21, 1985
Page 2

Clearly, the example briefing book addresses neither Mr. Rusche's stated purpose for such a meeting, nor my request for substantive information. Furthermore, I am aware, to some extent, of the content of the verbal briefings that have taken place between your office and other affected states, as well as with the U.S. Department of Interior and the U.S. Environmental Protection Agency, which were of significantly greater substance and broader in scope than that presented in the example briefing book. Therefore, I am here repeating my request that written materials reflecting the substance of the meeting suggested by Mr. Rusche be made available to this office prior to any such meeting being convened. Once it is clear that such materials will be available for our review over a reasonable period of time, e.g., a minimum of two weeks, I will be pleased to arrange a mutually convenient date for such a meeting. In addition, if a briefing book for Texas sites, similar to that provided for Louisiana and attached to your letter to me has been prepared, I would be pleased to receive it at any time for purposes of our general information.

I look forward to your response to my initial request in a manner that will bring this matter to a timely resolution and will serve to benefit interests of both the State of Texas and the Department of Energy.

Sincerely,



Steve Frishman, Director
Nuclear Waste Programs Office

SF:dp

cc: Ben Rusche, Director
Office of Civilian Radioactive Waste Management



MARK WHITE
GOVERNOR

OFFICE OF THE GOVERNOR
STATE CAPITOL
AUSTIN, TEXAS 78711

November 21, 1985

Mr. William J. Purcell
Associate Director for Geologic Repositories
Office of Civilian Radioactive Waste Management
United States Department of Energy
1000 Independence Avenue, S.W.
Washington, D.C. 20585

Dear Mr. Purcell:

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Mr. William J. Purcell
November 21, 1985
Page 2

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I look forward to your response to my initial request in a manner that will bring this matter to a timely resolution and will serve to benefit interests of both the State of Texas and the Department of Energy.

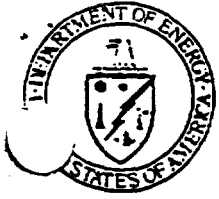
Sincerely,



Steve Frishman, Director
Nuclear Waste Programs Office

SF:dp

✓ cc: Ben Rusche, Director
Office of Civilian Radioactive Waste Management



Department of Energy
Washington, DC 20585

December 23, 1985

Dear Mr. Monson:

In response to your letter of November 13, 1985, to Secretary Herrington regarding the possible nomination of a site near Canyonlands National Park as suitable for characterization as a candidate site for a nuclear waste repository, I am pleased to provide the following information.

During the public comment period on the draft Environmental Assessments (EAs) a number of comments in addition to yours were received expressing concerns that the scenic, scientific, and archaeological values of the Canyonlands National Park would be compromised by development of the Davis or Lavender Canyon sites for a radioactive waste repository. Comments were also received on the site rankings and the decision methodology used in the draft EAs. In response to these comments, the suitability of the proposed sites under the Department's Siting Guidelines (10 CFR 960) is being reassessed. Also, the Department is revising and refining the site ranking methodology used in the draft EAs as an aid in determining the three sites for recommendation to the President for site characterization.

The National Academy of Sciences' Board on Radioactive Waste Management has agreed to review the application of the revised decision-aiding methodology, the general form of which the Board has deemed appropriate for use in the site recommendation decision.

The concerns you expressed in your letter are therefore being carefully considered as we prepare the final EAs and reach a decision on the nomination and recommendation of candidate sites for the Nation's first radioactive waste repository. The EAs are currently scheduled for publication in February 1986.

Thank you for your interest in the Civilian Radioactive Waste Management Program.

Yours truly,

A handwritten signature in dark ink, appearing to read "J. Salgado", is written over a horizontal line.

Joseph F. Salgado
Under Secretary

Honorable David S. Monson
House of Representatives
Washington, D.C. 20515

DAVID S. MONSON

3rd DISTRICT, UTAH

COMMITTEE ON
SCIENCE AND TECHNOLOGY

COMMITTEE ON PUBLIC WORKS
AND TRANSPORTATION

SELECT COMMITTEE ON
CHILDREN, YOUTH, AND FAMILIES

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

WASHINGTON OFFICE
1022 LONGWORTH BUILDING
WASHINGTON, DC 20515
(202) 225-3011

DISTRICT OFFICE
2311 FEDERAL BUILDING
125 SOUTH STATE
SALT LAKE CITY, UT 84138
(801) 524-4394

November 13, 1985

The Honorable John S. Herrington
Secretary, U.S. Department of Energy
1000 Independence Ave. S.W.
Washington, D.C. 20585

Dear Mr. Secretary:

I have been advised that at a recent briefing by Jerry Parker of DOE's Office of Civilian Radioactive Waste Management that State of Utah nuclear waste officials were told that a site in southern Utah again may possibly be "nominated" for site characterization and development as a nuclear waste repository.

I want to take this opportunity to reiterate my opposition to the selection of Davis Canyon, Lavender Canyon, or any other site in the proximity of Canyonlands National Park. The people of the second congressional district in Utah have let me know that they also strongly oppose any such move.

Citizens of the State of Utah are properly perplexed by DOE's failure to disqualify a site so close to a major and particularly vulnerable national park. Yet apparently DOE's office of Civilian Radioactive Waste Disposal is again planning to recommend that the sites adjacent to Canyonlands National Park are suitable and appropriate for site nomination. Furthermore, I understand that revised site ranking procedures may possibly result in selection of a site near the park for site characterization and possible repository development.

Any such decision would run contrary to policies set by Congress. DOE's failure to develop adequate data on most siting issues makes a proper and factual foundation for such a decision difficult if not impossible to make. For these basic reasons, I strongly urge DOE to delay this impending decision and more carefully assess the implications of such a decision for its impact on the people of Utah, on the Park and our national park policies.

In particular, I urge you to fully reconsider the standards by which DOE has applied the disqualification provisions of its site selection guidelines. Apparently DOE interprets those standards to permit major impacts on an especially sensitive national park -- a park whose setting and unspoiled wilderness qualities are unique in the world.

It is clear to me that the Department must give substantially more weight to the high standards of park protection required by the National Park Service Organic Act and its amendments. That legislation requires

the National Parks to be protected and conserved "in such a manner and by such means as will leave them unimpaired for the enjoyment of future generations." [16 U.S.C. 1.] Furthermore, recent amendments reaffirmed and elaborated on the Organic Act requirements by prohibiting the Secretary of the Interior from authorizing activities that would cause "derogation of the values and purposes for which these various areas have been established. . . ." [16 U.S.C. 1a-1.]

In light of the above protective policies, I do not understand the basis on which the Department continues to consider sites in such close and destructive proximity to Canyonlands National Park. Under those policies, these sites should have been disqualified at the early stages of regional and area site screening. Rather, DOE apparently selected sites and subsequently designated them as "potentially acceptable" without adequate consideration of the probable impacts of a repository on the Park.

Similarly, it is apparent that our park protection policies have not been properly applied or incorporated in DOE's site selection guidelines in the manner intended by the NWPA. That Act expressly requires "disqualification" guidelines for sites in proximity to national parks. Proper compliance with that Act and with established park protection policies would have disqualified these sites because of the destructive impacts on the Park that would result from repository testing or development -- impacts that are fundamentally inconsistent with the obligation to guard against "impairment" or "derogation" of the national parks.

I strongly urge you to reconsider DOE's present course, and to disqualify the Canyonlands sites altogether from further candidacy. In view of long-standing protective policies, it is unacceptable to retain either of the Canyonlands sites on any list of "nominated" or "suitable" sites, even if not currently selected as a candidate site for site characterization. Retention on either list would not only put the Park at risk of unlawful selection for later development; but it would also involve misrepresentation of the actual acceptability of the sites held out as potential candidates.

The better course would be for the Department to recognize now that repository development in the vicinity of this national park will always be unacceptable.

Sincerely,



David S. Monson
Member of Congress

DSM:rgp



THE SECRETARY OF ENERGY
WASHINGTON, D.C. 20585

November 26, 1985

Honorable Stephen L. Neal
House of Representatives
Washington, DC 20515

Dear Mr. Neal:

In response to your letter of October 22, 1985, regarding the Department of Energy's (DOE) Crystalline Repository Project (CRP), I am pleased to provide the following information.

DOE is currently studying crystalline rock bodies located in the North Central, Northeast, and Southeast regions of the United States as a possible site for the second high-level radioactive waste repository. Crystalline rock was identified as a promising host medium for a repository due to its high strength and mechanical stability, predictable engineering characteristics, low permeability, and homogeneity. Fracturing of crystalline rock does occur and is the primary conduit of groundwater flow. However, it is unknown if fracturing in crystalline rock is significant at expected repository depths. The Nuclear Waste Policy Act (NWPA) requires that DOE consider regional diversity of rock type for any siting of the second repository. It should be noted that the NWPA does not authorize the second repository but does authorize the Department to conduct studies to identify a proposed site for the second repository.

DOE is planning to conduct area phase field work on approximately 15-20 areas of crystalline rock in early 1987. The areas will be identified for their overall favorability from 235 crystalline rock bodies based on disqualifying factors and screening variables derived from the DOE Siting Guidelines for which regional literature is available. The selection of areas, and the basis for the selections, will be documented in the Area Recommendation Report, scheduled for release in draft form for review by States, Indian Tribes, and the public early next year. I will send you a copy of that report when it is available.

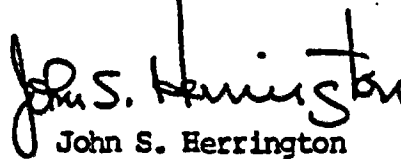
During the area phase, DOE will conduct geologic, environmental, and socioeconomic studies on the areas. The information obtained will assist DOE in selecting up to five sites suitable for nomination for site characterization. The studies will focus on whether the sites will be capable of isolating radioactive wastes from the environment in accordance with regulations of the Nuclear Regulatory Commission and the Environmental Protection Agency.

Following completion of the area phase, DOE will prepare Environmental Assessments on the sites proposed for nomination. The NWPA requires that DOE select at least three sites which were not previously nominated. These could include sites not nominated for the first repository, as well as crystalline rock sites.

In response to the concern raised in your letter, DOE believes that a sufficient number of crystalline rock bodies will be suitable for nomination for the second repository. This conclusion is based on DOE's knowledge to date on crystalline rock bodies, confidence in the region-to-area screening methodology to select the most favorable areas for further investigation, and the large size of the areas, which ensure wide flexibility in locating preferred sites. The number of candidate areas to be selected for further study will additionally ensure high confidence in finding suitable sites in crystalline rock. Therefore, DOE believes that the scenario posed in your letter is highly unlikely.

I hope that I have adequately addressed the concern raised in your letter. Your continued interest in the Civilian Radioactive Waste Management Program is appreciated.

Yours truly,


John S. Herrington



Congress of the United States
House of Representatives

STEVE NEAL
6TH DISTRICT, NORTH CAROLINA

October 22, 1985

The Honorable John S. Herrington
Secretary of Energy
1000 Independence Avenue, SW
Washington, D.C. 20585

Dear Mr. Secretary:

This month the Association of Engineering Geologists held its convention in my hometown of Winston-Salem, North Carolina. You will be interested in knowing that the subject of identifying a medium for permanently repositing high level nuclear waste was highlighted at the convention. Some of the members expressed the opinion that crystalline rock may not be appropriate for storing high level nuclear waste, since crystalline rock is subject to fracturing. If the rock should fracture, it may allow unacceptable levels of groundwater to seep into the repository.

I understand that next year DOE will begin field studies of approximately 17 crystalline rock bodies to determine which rock bodies are best suited for the purpose of storing high level nuclear waste. In the event that DOE geologists should find none of the rock bodies suitable as a repository, what would be the next logical step in the process? Would DOE go to the next rock body down on the list, number 18, or would the Department feel compelled to reassess the Crystalline Repository Program?

This is an important question, Mr. Secretary. I appreciate the difficult nature of the problem of finding a repository for high level nuclear waste. You must solve difficult physical problems, but you must also maintain the public trust in the process. The Congress and the general public must be assured that the government will not take precipitous actions for the sake of meeting arbitrary time schedules. There is some urgency in resolving this problem but we should not lose sight of the primary goal of your mission; that is, the safeguarding of this and future generations from exposure to these dangerous substances.

Thank you very much for your consideration of these questions.

Sincerely yours,


STEPHEN L. NEAL
U.S. Congressman

SLN:rw



Department of Energy
Washington, D.C. 20585

NOV 12 1985

Honorable George A. Sinner
Governor of North Dakota
Bismarck, North Dakota 58505

Dear Governor Sinner:

This is in response to your letter of October 4, 1985, regarding the Department of Energy's (DOE) Crystalline Repository Project (CRP), and specifically, the screening methodology which will be used by DOE at this stage of the project to select areas for more detailed study.

First, I want to provide some background information to my response to your specific concerns. DOE is currently studying nine potentially acceptable sites in the West and Gulf Region for possible further study as sites for the first geologic repository. A search for a possible second high-level radioactive waste repository site is also underway in 17 States in the North Central, Northeastern, and Southeastern regions of the United States. Recently, regional environmental and geologic data (from literature only) were gathered on 235 rock bodies in the three regions. These data were presented in final form for rock bodies under consideration in Minnesota in the North Central Regional Characterization Reports (enclosed) which were released on September 11, 1985. DOE is now applying a detailed region-to-area screening methodology (enclosed) to the regional data base. The application of this methodology will result in the identification of approximately 15-20 candidate areas for field work during the next phase of the project.

In regard to the concerns raised in your letter, this region-to-area screening methodology has been developed in consultation with the 17 involved States. It is a data-intensive methodology which uses a number of geologic and environmental variables based on DOE's "General Guidelines for the Recommendation of Sites for Nuclear Waste Repositories" (10 CFR Part 960). The methodology employs three steps. In the first step, DOE uses disqualifying factors to eliminate sites from further consideration. These disqualifiers are Federal and State protected lands, components of the National Forest lands, population density and distribution, and deep mines and quarries.

In the second step, environmental and geologic variables are used to evaluate potential adversity and favorability of areas not disqualified under Step 1. Examples of these variables are surface water bodies, major ground-water discharge zones, seismicity, population density, proximity to highly populated areas, and proximity to Federal and State protected lands.

Step 3 focuses on applying sensitivity analyses to the results of Step 2 through such techniques as varying certain assumptions and considering additional Step 2 variables.

As a final check, DOE will conduct a complete review of the results of the region-to-area screening methodology (Steps 1-3) to ensure its accuracy and technical defensibility, and to conduct a review of the qualitative/descriptive literature to ensure that the more favorable areas warrant further examination in the area phase of site screening.

The results of region-to-area screening will be documented in a draft Area Recommendation Report, which is scheduled for release by the end of 1985 for State and Indian Tribe review and comment. I will send that document to you when it is released.

The western Minnesota rock bodies within close proximity to the North Dakota border are part of the "Undifferentiated Granite" group and lie in the following western Minnesota counties as shown in the enclosed index maps contained in Volume 2 of either of the North Central Regional Characterization Reports:

Kittson	Polk	Norman	Becker
Roseau	Pennington	Mahnomen	Wilkin
Marshall	Red Lake	Clay	Otter Tail
Traverse	Grant	Douglas	

Following application of Steps 1 through 3, if a favorable rock body is identified in western Minnesota, DOE will conduct a final review including a check of the data contained in the Regional Characterization Reports on the identified candidate areas. At that time, data from North Dakota which relates to the application of Step 2 and 3 variables will be reviewed to determine its effect on the favorability of the candidate area. Also, DOE will consider any comments made on the draft Area Recommendation Report, including comments from North Dakota, before finalizing the report.

Your interest in the Civilian Radioactive Waste Management Program is appreciated. Should you require any additional information or have any further questions, please let me know.

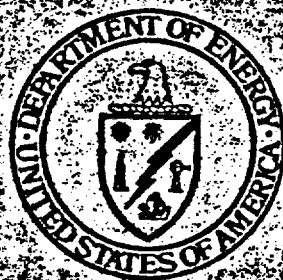
Sincerely,



Ben C. Rusche, Director
Office of Civilian Radioactive
Waste Management

Enclosures

**REGION-TO-AREA SCREENING METHODOLOGY
FOR THE
CRYSTALLINE REPOSITORY PROJECT**



APRIL 1985

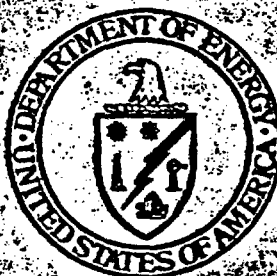
*Noted by D. Gombert, X-6560, for review of the
Gombert file.*

**U.S. DEPARTMENT OF ENERGY
OFFICE OF CIVILIAN RADIOACTIVE WASTE MANAGEMENT
CRYSTALLINE REPOSITORY PROJECT OFFICE**

DOE/CH-5(1)

FINAL

**NORTH CENTRAL REGIONAL ENVIRONMENTAL
CHARACTERIZATION REPORT:
VOLUME 1**



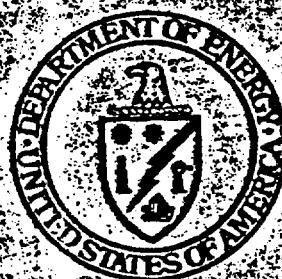
AUGUST 1985

**U.S. DEPARTMENT OF ENERGY
OFFICE OF CIVILIAN RADIOACTIVE WASTE MANAGEMENT
CRYSTALLINE REPOSITORY PROJECT OFFICE**

DOE/CH-8(1)

FINAL

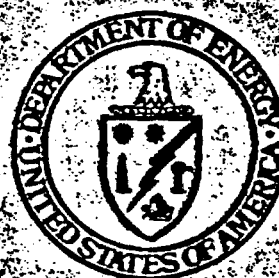
**NORTH CENTRAL REGIONAL GEOLOGIC
CHARACTERIZATION REPORT:
VOLUME 1**



AUGUST 1985

**U.S. DEPARTMENT OF ENERGY
OFFICE OF CIVILIAN RADIOACTIVE WASTE MANAGEMENT
CRYSTALLINE REPOSITORY PROJECT OFFICE**

**RESPONSE TO STATE COMMENTS ON THE REVISED DRAFT
NORTH CENTRAL REGIONAL CHARACTERIZATION REPORTS
FOR THE CRYSTALLINE REPOSITORY PROJECT**



AUGUST 1985

**U.S. DEPARTMENT OF ENERGY
OFFICE OF CIVILIAN RADIOACTIVE WASTE MANAGEMENT
CRYSTALLINE REPOSITORY PROJECT OFFICE**

Final August 1985
DOE/CH-8(2) North Central Regional Geologic Characterization Report: Volume 2, Plates
U.S. Department of Energy, Office of Civilian Radioactive
Waste Management, Crystalline Repository Project Office

Final August 1985
DOE/CH-5(2) North Central Regional Environmental Characterization Report: Volume 2, Plates
U.S. Department of Energy, Office of Civilian Radioactive
Waste Management, Crystalline Repository Project Office

State of North Dakota

OFFICE OF THE GOVERNOR
BISMARCK, NORTH DAKOTA 58505

GEORGE A. SINNER
GOVERNOR

(701) 224-2200

October 4, 1985

Mr. Ben Rusche, Director
Office of Civilian Radioactive
Waste Management
Department of Energy
Forrestal Building
1000 Independence Avenue Southwest
Washington, D.C. 20585

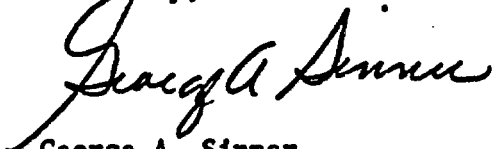
Dear Mr. Rusche:

In a letter from Governor Rudy Perpich of Minnesota, it has come to our attention that several granite rock formations which straddle the North Dakota-Minnesota border may be under consideration for a high-level radioactive waste disposal site in Minnesota.

The purpose of this letter is to inquire what criteria/screening methodology will be applied in the consideration and site selection process. We are especially interested as to whether the screening methodology takes into consideration elements on the North Dakota side of the border, such as population density, proximity to highly populated areas, proximity to surface and ground water supplies, and federal and state protected lands when considering a location which may be just inside the Minnesota side of the border or vice versa.

We would appreciate any information you could provide us in regard to this subject at your earliest convenience.

Sincerely,



George A. Sinner
Governor

GAS:lk

102005



THE SECRETARY OF ENERGY
WASHINGTON, D.C. 20585

NOV 8 1985

Honorable Joseph E. Brennan
Governor of Maine
Augusta, Maine 04333

Dear Governor Brennan:

In response to your letter of October 21, 1985, concerning the Crystalline Repository Project (CRP), I am pleased to assure you that the Department of Energy has no intention or plan to include sites in crystalline rock States as possible candidates for the first nuclear waste repository.

The testimony of William J. Purcell quoted in your letter was given in response to a pre-hearing question submitted by the Subcommittee on Energy, Conservation and Power of the House Energy and Commerce Committee. While the Department's position is that the Nuclear Waste Policy Act (NWPA) would allow a crystalline site to become the location of the first repository, the possibility of turning to a crystalline site for the first geologic repository is remote. Let me explain why this is so.

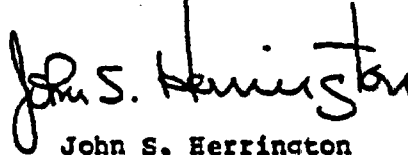
First, none of the nine potentially acceptable sites identified for the first repository is expected to be disqualified under the Department's repository siting guidelines. Early next year we expect to nominate five of these sites as suitable for site characterization and recommend at least three of the nominated sites to the President for approval to begin characterization. Thus, the first repository program will have a sufficient number of both potentially acceptable sites and nominated sites to make it extremely unlikely that additional sites from the second repository program will be needed for consideration in the first repository program.

Second, the CRP will not be at the present stage of the first repository program for five or six years. Consequently, considering the minimum times for preliminary field work and site evaluations, site characterization, licensing by the Nuclear Regulatory Commission, and construction, crystalline sites do not constitute a timely programmatic alternative for meeting the first repository program's goal of beginning repository operations by 1998, as directed by the NWPA.

Third, because of the care the Department is taking in complying with the requirements of the NWPA in evaluating the nine sites under consideration for the first repository, we foresee no substantial legal or technical delays in carrying out our responsibilities under the law.

I hope that this has been responsive to the issues and concerns you raised. Please contact me if you have further questions or require additional information about the Nuclear Waste Management Program.

Yours truly,

A handwritten signature in dark ink, appearing to read "John S. Herrington". The signature is fluid and cursive, with the first name "John" being particularly prominent.

John S. Herrington



State of Maine

OFFICE OF THE GOVERNOR

AUGUSTA, MAINE 04333

October 21, 1985.

Secretary John Herrington
Department of Energy
Mail Stop S-1
Forrestal Building
1000 Independence Avenue
Washington, D.C.

Dear Secretary Herrington:

I was distressed to read recent comments attributed to the Department of Energy on the status and relation of the first round repository states and second round states involved in the Crystalline Repository Project (New York Times, Monday, October 14, 1985). If the sites in the first round "proved unsuitable or legal challenges delayed the process," the article said, "the first repository could be placed in one of 17 states under consideration for a second facility". These statements, if accurately reported, which suggest that the level of legal action taken by a state might be sufficient to induce the Department to move on to other states, are extremely discouraging and disquieting. (Aren't you just encouraging legal suits by those of us in the crystalline states?) Is this the message you want to send to us?

William J. Purcell, Associate Director of OCRWM, in recent testimony in St. Paul, Minnesota before the Subcommittee on Energy, Conservation and Power of the House Energy and Commerce Committee, stated that "the Office of General Counsel has advised us that nothing in the Act would preclude, or prohibit, considering a site, identified as part of the crystalline program, for the first repository in the event that all first round sites under consideration were found to be inadequate."

If all the first round of sites are technically "inadequate," that is defensible. If they are "inadequate" as a result of a slow down in the 1998 timetable due to legal challenges, that is not defensible. Mr. Purcell stated in his testimony that "one of the DOE's policy goals is that the program must be credible to the public by virtue of its integrity and technical excellence." I agree, the program must be credible. This situation would do nothing to advance that goal.

A member of my staff spoke with Hunter Weiler of DOE's OCRWM concerning the New York Times article and was told that it would require an amendment to the NWPA to make such a change, that the DOE could not do it on its own.

What is your interpretation of the law? Under what conditions would the DOE abandon considerations of first round sites for first repository and begin to look at areas in the crystalline states for the first repository? Would it take an amendment to the NWPA to make this change? Is it currently your plan to include crystalline states as possible candidates for the first repository?

10-20-85

I would appreciate receiving your response to my questions prior to the DOE public meeting scheduled for November 13th in Portland, as I'm sure it will be one of the issues raised at that meeting.

I'm looking forward to receiving your letter.

Sincerely,


JOSEPH E. BRENNAN
Governor

JEB/gd

cc: Nancy Brenerman, Special Assistant to the Governor
Walter Anderson, State Geologist
Dr. Marc Loiselle, Senior Geologist
Senator Judy Kany, Chair of the Advisory Commission on
Radioactive Waste

The New York Times 10-14-85

Nuclear Waste Repository May Not Be in the West

A16

Special to The New York Times

BOSTON, Oct. 13 — The nation's first repository for high-level nuclear waste could be in the East or Middle West rather than in the West, according to the Department of Energy.

Several sites, mostly in the West, are now being evaluated for long-term storage of the radioactive waste, but the department said it would tell a House subcommittee Tuesday that if those proved unsuitable or legal challenges delayed the process, the first repository could be placed in one of 17 states under consideration for a second facility.

The second group includes Minnesota, Michigan, Wisconsin, Vermont and all the states on the Eastern Seaboard except Delaware and Florida.

"It's important that the second-round states realize that, given technical and procedural problems with the first-round states, the Energy Department might end up considering them for the first repository," said Representative Edward J. Markey of Massachusetts, chairman of the Energy and Commerce Subcommittee on Energy Conservation and Power, which will hold the hearing Tuesday in the Minnesota Capitol in St. Paul.

The Nuclear Waste Policy Act of 1982 required the selection of two sites, with deadlines for study and selection of the first three to four years ahead of the second. But the head start could be narrowed by technical or legal problems. Environmental organizations and most of the states listed in the first round are already suing the Department of Energy over the way it chose those sites.

The department named nine states as potential sites in February 1983. Last December the agency issued a draft report announcing five leading candidates: Davis Canyon, Utah; Richton Dome, Miss.; Hanford, Wash.; Yucca Mountain, Nev., and Deaf Smith County, Tex.

According to Ginger King, a spokesman for the department's Office of Civilian Radioactive Waste Management, three sites will be formally recommended for extensive analysis at the end of the year.

David M. Berick, director of the Nuclear Waste and Safety Project at the Environmental Policy Institute, a non-profit lobbying and research organization based in Washington, argues that the selection criteria for the first group were arbitrary because the deadline was so early.

"Hanford and Nevada were picked because the Department of Energy owned them," he said. "No one said basalt was the best site to put waste in," he said, referring to the geologic character of the Hanford site. "I have yet to come across anybody in the technical community that thinks that site could be developed."

Many of the department's critics believe it has done a more reasoned job in picking the second group of potential sites, which include 235 crystalline rock bodies, mostly granite and shale, in the 17 states. It plans to narrow the field to "approximately 15 to 20 areas in 4 to 6 of those 17 states" around the end of this year, Mrs. King said.

Questions Over Granite

Sharp opposition has already surfaced in some of the second-round states. Gov. Madeleine M. Kunin of Vermont, for example, has urged the Secretary of Energy and the other 16 governors to work to scrap the whole process and to move to above-ground, interim storage until more is known about the safety of burying the long-lived wastes. In addition, Mrs. Kunin

has argued that granite would make a poor storage medium because it is usually cracked.

"Most of the granites, unfortunately, are very jointed, with a lot of cracks and fractures in them," says David F. Grandstaff, a geologist at Temple University in Philadelphia. "The big fear is that water would get into one of these fractures, and move very quickly."

Despite the long period that the question has been under study, nearly all the fuel ever used in civilian reactors in this country is still situated in pools of water at the reactors. The act requires that the first repository be ready in January 1998, by which time many of the pools are projected to be full, but the Energy Department is expected to miss many of the interim deadlines the law specifies, and some experts believe it will miss the opening date, too.



Department of Energy
Washington, DC 20585

EXAMPLE

NOV 7 1985

Honorable Orrin Hatch
United States Senate
Washington, D.C. 20510

Dear Senator Hatch:

On October 16, 1985, we provided you a copy of the comments of the National Academy of Sciences' Board on Radioactive Waste Management on the ranking methodology that the Department of Energy proposed for use in developing recommendations for site characterization for the first nuclear waste repository. After considering the Board's recommendations, the Department has decided to ask that the Board undertake an independent review of the application of the methodology. Enclosed is the letter I have sent to the President of the National Academy of Sciences, Dr. Frank Press, requesting such a review.

To allow sufficient time for our application of this complex methodology and to accommodate the further review by the Board, the Department expects to publish the environmental assessments and nominate and recommend sites by the end of February 1986.

Sincerely,


Ben C. Rusche, Director
Office of Civilian Radioactive
Waste Management

Enclosure

U.S. DEPARTMENT OF ENERGY
memorandum

DATE: NOV 7 1985

BY TO
IN OF: RW-1

SUBJECT: INFORMATION: Identification of Potentially Acceptable Sites In Crystalline Rock

TO: The Secretary

Background:

The Crystalline Repository Project (CRP) is investigating crystalline rock bodies in the eastern United States for the possible location of a repository for high-level radioactive waste and spent nuclear fuel. This investigation is conducted in accordance with the Nuclear Waste Policy Act (NWPA). Late this year the Office of Civilian Radioactive Waste Management is planning to issue, for State and Tribal review and comment, the draft Area Recommendation Report (ARR) for the CRP. This report will identify, from the 235 rock bodies in 17 States under consideration at this time, approximately 15 candidate areas that will be studied in detail during the next phase of the CRP. During subsequent phases it is anticipated that the 15 areas will be narrowed down to five or fewer for nomination for site characterization, leading to eventual recommendation of a site for the second repository. The draft ARR will also provide the evidence required by the Department's Siting Guidelines for the identification of potentially acceptable sites.

Discussion:

The Department has stated for nearly 2 years that the ARR will provide the basis for the identification of potentially acceptable sites. The identification will make operative NWPA provisions concerning consultation and cooperation agreements, the certification of affected Indian Tribes by the Department of the Interior, and financial assistance grants for affected States and Indian Tribes. For these reasons, I have approved the proposed identification of potentially acceptable sites in the draft ARR. This proposed identification is made in anticipation of the Department identifying potentially acceptable sites in crystalline rock once the ARR is finalized.

The action memorandum to me on this issue is attached for your information.


Ben C. Rusche, Director
Office of Civilian Radioactive
Waste Management

Attachment

U.S. DEPARTMENT OF ENERGY
memorandum

DATE: NOV 1 1985

RE: TO
ATTN OF: RW-20

SUBJECT: ACTION: Identification of Potentially Acceptable Sites In Crystalline Rock.

TO: Ben C. Rusche, RW-1

Background:

The Crystalline Repository Project (CRP) is investigating crystalline rock bodies in the eastern United States for the possible location of a repository for high-level radioactive waste and spent nuclear fuel. This investigation is being conducted in accordance with the Nuclear Waste Policy Act (NWPA). Late this year the Department will issue, for State and Tribal review and comment, the draft Area Recommendation Report (ARR) for the CRP. This report will identify, from the 235 rock bodies under consideration at this time, approximately 15 candidate areas which will be studied in detail during the Area Phase. The report will also provide the evidence required by Section 960.3-2-1 of the Department's Siting Guidelines for the identification of potentially acceptable sites.

Discussion:

The designation of potentially acceptable sites at the time of finalization of the ARR will make operative certain NWPA provisions concerning potentially acceptable sites. These provisions include Section 117(c) concerning written consultation and cooperation agreements and Sections 116(c) and 118(b) concerning grants for affected States and Indian Tribes. In addition, the designation of potentially acceptable sites is necessary to trigger the certification of affected status for Indian Tribes with off-reservation treaty rights by the Department of the Interior (DOI). Such an identification when the final ARR is issued would provide a basis for formal interaction with Indian Tribes. The Department has stated for nearly 2 years that the ARR will provide the basis for the identification of potentially acceptable sites.

The major alternative opportunity for identifying potentially acceptable sites would be in a separate decision document to appear sometime during the Area Phase.

In summary, the identification of proposed potentially acceptable sites in the draft ARR is recommended because:

- (1) the proposed identification can be made in accordance with the provisions in 10CFR 960-3-2-1;
- (2) the final designation will provide a basis for certification of affected Indian Tribes by DOI, providing grants to affected States and Indian Tribes, and entering into consultation and cooperation agreements with affected States and Indian Tribes;

- (3) the final designation will fulfill the Department's commitment regarding identification of potentially acceptable sites in the ARR.

Recommendation:

It is recommended that approval be given for the proposed identification of potentially acceptable sites in the draft ARR subject to CRP's ability to make the findings required in 10 CFR Part 960.3-2-1. This proposed identification is made in anticipation of DOE's identifying potentially acceptable sites in crystalline rock once the ARR is finalized.



William J. Purcell
Associate Director
for Geologic Repositories
Office of Civilian Radioactive
Waste Management

APPROVED:



DISAPPROVED:

DATE:

11-7-85

Concurrences:

See Tab A
Assistant Secretary for
Environment, Safety, and Health

See Tab B
General Counsel

DOENEWS:

NEWS MEDIA CONTACT:
Neal Duncan, 202/252-2835

RADWASTE

FOR IMMEDIATE RELEASE
OCTOBER 18, 1985

DOE RENEWS GRANT FOR NATIONAL CONFERENCE OF STATE LEGISLATURES

The U.S. Department of Energy (DOE) has renewed a grant with the National Conference of State Legislatures (NCSL) designed to promote effective communication between DOE and state legislators about the national high-level nuclear waste disposal program.

"The renewal of the NCSL grant emphasizes the importance we place on keeping State officials informed while seeking their recommendations and advice in the development of an integrated system for permanent disposal of spent nuclear fuel and high-level radioactive waste," said Ben C. Rusche, Director of DOE's Office of Civilian Radioactive Waste Management (OCRWM).

The \$222,466 grant extension will permit NCSL to: prepare and distribute written information on repository issues; conduct meetings with state legislators; hold state/regional meetings; answer legislative requests for information; and keep files on relevant state legislation.

-DOE-

R-85-132

NUCLEAR

DOE NEWS:

NEWS MEDIA CONTACT:
Ginger King, 202/252-2835

FOR IMMEDIATE RELEASE
December 24, 1985

DOE SENDS MRS PROPOSAL TO NRC AND EPA FOR REVIEW

The Department of Energy (DOE) yesterday submitted review copies of a proposal for a Monitored Retrievable Storage (MRS) facility to the Nuclear Regulatory Commission (NRC) and the Environmental Protection Agency (EPA). Copies also have been sent to the state of Tennessee.

The Nuclear Waste Policy Act of 1982 directs DOE to submit a proposal to Congress that addresses the need for and feasibility of an MRS facility, specific sites where DOE believes the facility should be built, and the environmental impacts of incorporating it into the waste management system.

In the review documents, DOE recommends that Congress: approve the construction and operation of an MRS facility at the Clinch River Breeder Reactor site in Roane County, Tennessee; limit the storage capacity of the facility to 15,000 metric tons of spent nuclear fuel; preclude waste acceptance by the MRS facility until a construction authorization for the first geologic repository is received from the NRC; and authorize DOE to implement its recommended program for state and local participation.

DOE expects to submit the MRS proposal to Congress, along with the comments from NRC, EPA and Tennessee, early in February 1986.

Copies of the review documents will be available for inspection during January in the reading rooms and information offices on the attached list.

-DOE-

DOE FACILITIES WHERE REVIEW DOCUMENTS FOR A PROPOSED MONITORED
RETRIEVABLE STORAGE FACILITY WILL BE AVAILABLE DURING JANUARY

DOE PUBLIC READING ROOMS:

(Open at the indicated times Monday through Friday, except
Federal holidays and where noted below)

DOE Public Reading Room
Forrestal Building, Room 1E-190
1000 Independence Avenue, S.W.
Washington, D.C. 20585
8:00 a.m. to 4:00 p.m.

Albuquerque Operations Office
Kirkland Air Force Base
National Atomic Museum Library
Public Reading Room
Albuquerque, New Mexico 87115
(505) 844-8443
9:00 a.m. to 5:00 p.m.

Chicago Operations Office
9800 South Cass Avenue
Argonne, Illinois 60439
8:00 a.m. to 5:00 p.m.

Idaho Operations Office
550 Second Street
Headquarters 199
Idaho Falls, Idaho 83401
(208) 526-0271
8:00 a.m. to 5:00 p.m.

Nevada Operations Office
Public Docket Room
2753 S. Highland Drive
Las Vegas, Nevada 89114
(702) 734-3521
8:00 a.m. to 4:30 p.m.

Oak Ridge Operations Office
200 Administration Road
Room G208, Federal Building
Oak Ridge, Tennessee 37830
(615) 576-1218
8:00 a.m. to 4:30 p.m.

(MORE)

Richland Operations Office
Hanford Science Center-
Rockwell Hanford Operations
825 Jadwin Avenue
Federal Building
Richland, Washington 99352
(509) 376-8273
Sunday 1:00 p.m. to 5:00 p.m.,
Monday through Saturday 9:00 a.m. to 5:00 p.m.

San Francisco Operations Office
1333 Broadway
Wells Fargo Building
Reading Room, Room 240
Oakland, California 94612
(415) 273-4358
8:30 a.m. to 4:00 p.m.

Savannah River Operations Office
211 York Street, N.E.
Federal Building
Aiken, South Carolina 29801
(803) 725-3267
8:30 a.m. to 4:00 p.m.

DOE INFORMATION OFFICES:

Louisiana Minden DOE Information Office
221 Main Street
Minden, Louisiana 71055
(318) 371-0369
10:00 a.m. to 2:00 p.m.

Mississippi Richton DOE Information Office
103 Dogwood Avenue
Richton, Mississippi 39476
(601) 778-6948
Thursday & Saturday 8:00 a.m. to 5:00 p.m.,
Monday & Tuesday 5:00 p.m. to 9:00 p.m.

Texas Hereford DOE Information Office
115 E. First Street
Hereford, Texas 79045
(806) 364-0101
Monday - Friday 10:00 a.m. to 1:00 p.m.
and 2:00 p.m. to 6:00 p.m.

(MORE)

Texas

Tulia DOE Information Office

102 SE Second Street

Tulia, Texas 79085

(806) 995-2519

Tuesday - Friday 2:00 p.m. to 6:00 p.m..

Saturday 10:00 a.m. to 2:00 p.m.

Texas

Vega DOE Information Office

385 South

Vega, Texas 79092

Phone: to be determined

Hours: to be determined

Utah

Moab Nuclear Waste Information Office

Desert Plaza

471 South Main Street

Moab, Utah 84532

Utah

Monticello Nuclear Waste Information Office

San Juan County Courthouse

117 South Main Street, Room 12

Monticello, Utah 84535

(801) 587-2231, Extension 28

RADWASTE

DOENNEWS:

NEWS MEDIA CONTACT:
GINGER KING, 202/252-2835

EMBARGOED FOR RELEASE UNTIL
1:00 p.m. (EST) January 16, 1986

DEPARTMENT OF ENERGY ISSUES DRAFT AREA RECOMMENDATION REPORT

In accordance with the provisions of the Nuclear Waste Policy Act of 1982 (NWP), the U. S. Department of Energy today issued for public comment a draft Area Recommendation Report (ARR) which identifies 12 proposed potentially acceptable sites for a second high-level waste repository, should Congress eventually direct construction of such a facility.

The draft ARR identifies areas in 7 states in an early stage of a multi-step procedure for selecting an acceptable site.

The NWP requires DOE to identify a potential site for construction of a second nuclear waste repository but does not authorize its construction. Construction would require additional Congressional action. If approved by Congress, the repository would begin operation about 20 years from now.

The search for candidates for a second geologic repository is part of a major program being carried out by DOE's Office of Civilian Radioactive Waste Management. Under the NWP, DOE is directed to develop a permanent disposal system for spent nuclear fuel and high-level radioactive waste. DOE has previously identified nine potentially acceptable sites in six States for the first repository.

In the draft ARR, the Department selected 12 areas as proposed potentially acceptable sites where the DOE proposes to do field studies:

(MORE)

R-86-003

<u>State</u>	<u>Size</u> (sq. mi.)	<u>Counties</u>
Georgia	214	Lamar, Monroe & Upson
Maine	92	Hancock & Penobscot
Maine	385	Androscoggin, Cumberland & Oxford
Minnesota	300	Marshall, Pennington, Polk & Red Lake
Minnesota	113	Norman and Polk
Minnesota	397	Benton, Mille Lacs, Morrison & Sherburne
New Hampshire	78	Cheshire, Hillsborough, Merrimack & Sullivan
North Carolina	142	Franklin, Johnson & Wake
North Carolina	105	Buncombe, Haywood & Madison
Virginia	209	Bedford
Virginia	307	Halifax & Pittsylvania
Wisconsin	1094	Langlade, Marathon, Menominee, Oconto, Portage, Shawano & Waupaca

Portions of the proposed potentially acceptable site in Wisconsin are within the Menominee and Stockbridge-Munsee Indian Reservations and portions of one of the sites in Maine are within the Penobscot and Passamaquoddy Reservations.

DOE's screening process consists of three phases: a national survey, regional studies and area studies. A national survey identified 235 rock bodies in three regions spanning 17 states. Those 17 states are: Connecticut, Georgia, Maine, Maryland, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia and Wisconsin.

(MORE)

R-86-003

DOE has performed region-to-area screening resulting in a proposed narrowing of the number of rock bodies under consideration from 235 areas to 12 proposed potentially acceptable sites.

DOE will conduct public briefings and formal hearings in each of the 17 states during the 90-day comment period on the draft ARR. Following consideration of the comments received, the final ARR is scheduled to be released in Summer 1986.

In addition to the 12 areas proposed as potentially acceptable sites, an additional eight areas located in Georgia, Minnesota, Virginia and Wisconsin, which meet the requirements for identification as potentially acceptable sites, will retain their designation as candidate areas; and the DOE may formally identify any or all as potentially acceptable sites in the event that one or more of the proposed potentially acceptable sites proves unsuitable before finalizing the ARR or during the area phase. These additional eight areas are:

<u>State</u>	<u>Size</u> (sq. mi.)	<u>Counties</u>
Georgia	67	Gwinnett & Walton
Minnesota	249	Becker, Clearwater & Mahnomon
Minnesota	171	Pope, Stearns & Todd
Minnesota	60	Big Stone, Stevens & Swift
Minnesota	287	McLeod, Nicollet, Renville & Sibley
Minnesota	70	Marshall
Virginia	64	Goochland, Hanover & Louisa
Wisconsin	171	Ashland, Bayfield & Sawyer

In the upcoming area phase, which will start when the final ARR is issued, DOE will do field studies at each of the potentially acceptable sites. Field work will include collection of geologic, environmental, socioeconomic and transportation data. Field work will commence after the issuance of an Area Characterization Plan expected to be completed in early 1987.

NOTE: A press briefing announcing this proposed decision can be heard nationwide January 16 (1 p.m. to 11 p.m., EST) and January 17 (8 p.m. to 11 p.m., EST) by telephoning 900/410-1222. The telephone charge is 50 cents for the first minute and 35 cents for each additional minute.

A similar press release is being issued simultaneously by DOE Chicago Operations.

STATEMENT BY
BEN C. RUSCHE
DIRECTOR
OFFICE OF CIVILIAN RADIOACTIVE WASTE MANAGEMENT
U.S. DEPARTMENT OF ENERGY

BEFORE A PUBLIC MEETING
NASHVILLE, TENNESSEE
JANUARY 18, 1986

Mr. Boner:

It is a pleasure to accept your invitation to meet today in Nashville to discuss the Department of Energy's proposal to build a Monitored Retrievable Storage (MRS) facility in the State of Tennessee. With me are Joe LaGrone, Manager of DOE's Oak Ridge Operations Office; Pete Gross, the MRS Program Manager at Oak Ridge; and Roger Hilley, Associate Director for Storage and Transportation Systems within the Office of Civilian Radioactive Waste Management.

Before getting into a detailed discussion of the MRS proposal, I would like to acknowledge the positive experience that the Department has had over the course of the last year in dealing with the State of Tennessee, local governments, and the public. In particular, I would like to express my appreciation to Governor Alexander and his Safe Growth Council, and to Jim Word, Commissioner of Health and Environment, for their vigorous efforts to assure that the siting, construction, and operation of an MRS facility will be environmentally acceptable and fully protective of the public health and safety. I would also like to highlight the professional, committed involvement of the 31 local government officials and citizens from Roane County and the City of Oak Ridge who formed the Clinch River MRS Task Force to review the MRS proposal. That effort is worthy of commendation.

The constructive efforts of the State and local government officials as well as private citizens should be a model for future Federal/State interactions.

I would now like to share with you some background on the Nuclear Waste Policy Act of 1982 (NWPA) and the national program that has been developed to implement it.

The Nuclear Waste Policy Act was passed in December of 1982, setting in place one of the most challenging and complex programs that the Nation has ever sought to implement. It is an important and historical undertaking and I am honored that the President and the Congress have seen fit to ask me to be involved.

Congress recognized that a potential national problem had been created by several decades accumulation of spent nuclear fuel from the Nation's commercial nuclear power reactors and the high-level radioactive waste coming from our national defense activities.

Today, such spent fuel and high-level radioactive waste is stored in the basins of 95 commercial reactors and at three defense facilities located in more than 27 states. The current inventory of spent fuel is about 10,000 metric tons. The total amount of existing defense waste, when processed for disposal in a repository, will amount to the equivalent of the commercial spent fuel already produced. Of the amount of

commercial spent fuel, reactors in Tennessee currently have about 150 metric tons stored in basins at the reactor locations. Our latest projections indicate that the spent fuel that will be discharged over the life of the nuclear power plants currently licensed to operate or scheduled to come on line will total over 100,000 metric tons, all of which is to be disposed of in a permanent geologic repository.

The physical volume of this material is actually quite small. If all the currently existing spent fuel were to be stacked on a football field, it would only be about three feet high. Because the spent fuel is potentially hazardous, it must be disposed of in a secure manner that isolates it from the biosphere for approximately 10,000 years. It is for that reason that Congress determined that geologic disposal was the right choice for permanent disposal in America.

The legislation that Congress crafted after considerable debate is remarkable in that there is general agreement on the need for a permanent solution among the constituent groups--States, Indian Tribes, local governments--and the nuclear industry. As I travel the country and speak before assemblies such as this and later have the opportunity to meet personally with individuals and talk about the program, I'm continually impressed by the consensus that exists about the solution to the problem and its importance to this generation of Americans. I'm

also continually reminded that despite this consensus, there are strong differing viewpoints about the specific implementation of various aspects of the program. But that's as it should be. In a pluralistic society such as ours, reasoned and informed public debate about major issues before us inevitably leads to better solutions.

The Act is complex and contains a number of key provisions which must be successfully implemented in order for us to meet our joint responsibilities. These are to:

- o Protect the public health and welfare and the environment;
- o Site, obtain a license, construct, and operate geologic repositories for the safe, permanent disposal of spent nuclear fuel and high-level waste;
- o Accept radioactive waste and spent nuclear fuel for disposal beginning in January 1998;
- o Provide for the safe transportation of waste for disposal;
- o Involve States and Indian Tribes and provide for full and open public participation in the program;
- o Ensure that the program operates on the basis of full cost recovery with revenues derived from the generators of the waste; and,
- o Submit a proposal to Congress to construct a Monitored Retrievable Storage facility.

It is this last provision that commands our attention today.

Congress found that Monitored Retrievable Storage facilities could be an option for providing safe and reliable management of radioactive waste. Accordingly, Congress directed the Department of Energy, as provided for by Section 141 of the Act, to perform a comprehensive and detailed study of the need for and feasibility of Monitored Retrievable Storage.

Before getting into the details of the proposal, I'd like to draw your attention to the exhibit in the front of the room that portrays what an MRS facility is and what it would do as a component of an integrated waste management system. (Exhibit Attached) The facility would receive, consolidate, and package spent fuel for emplacement in the geologic repository. The principal waste preparation functions would be spent fuel consolidation and the loading of canisters. Consolidation simply means rearranging the spent-fuel rods into a tighter array for greater efficiency in storage, handling, transportation, and disposal.

The canisters of spent fuel would be loaded into casks and shipped to the repository in dedicated trains. An area for temporarily storing the spent-fuel canisters prior to shipment to the geologic repository would be provided in the waste-handling building of the facility. This facility would also have a storage yard which could provide temporary storage for up to

15,000 metric tons of spent fuel. The canisters would be stored in sealed concrete casks to allow for radiation monitoring and easy retrieval for shipment to the repository.

Now, I would like to turn our attention to the elements that are to be included in the proposal. They are:

- o A program for the siting, development, construction, and operation of MRS facilities;
- o A plan for the funding of the construction and operation of MRS facilities;
- o Site-specific designs, specifications, and cost estimates sufficient to solicit bids for the construction of the MRS facility, support Congressional authorization of the construction, and enable the completion and operation of an MRS facility as soon as practicable after Congressional authorization; and,
- o A plan for integrating the MRS facilities with other storage and disposal facilities authorized by the Act.

In formulating the proposal, we are also to consult with the Nuclear Regulatory Commission (NRC) and the Administrator of the Environmental Protection Agency (EPA).

As I'm sure you know, we have recently made available to the State of Tennessee, as well as the NRC and EPA, review copies of the MRS proposal, the related Environmental Assessment, and the Program Plan. We are planning on submitting the proposal to

Congress in early February, accompanied by the comments from EPA, NRC, and the State of Tennessee. We have worked closely and, we believe, effectively with the State and local governments in developing this proposal and have every expectation in continuing to do so should the MRS facility be approved by Congress.

I'd like to now turn briefly to the development of the MRS proposal. Initially, an MRS facility was conceived primarily as a backup for a permanent geologic repository. Its primary function would have been to provide for the contingency of significant delay in the repository program by receiving and storing radioactive waste. The principal mission would have been backup storage--its need purely contingent upon the timing and success of the repository program. Its size and function were aimed at meeting that objective.

We began, however, to reevaluate the role that the MRS should play in the radioactive waste management system. Based on a preliminary evaluation, we concluded that an integrated system, incorporating MRS as a major system element, could significantly improve the waste management system's performance in a number of critical areas. At that point, an effort was initiated to develop a preliminary analysis of the need for and the feasibility of Monitored Retrievable Storage as an integral part of the waste management system and conduct a site screening activity to locate and identify preferred and alternate sites for an MRS facility.

In late April of last year, those preliminary activities were completed and documentation was made available to the public. We identified, at that time, the site of what was to have been the Clinch River Breeder Reactor as the preferred MRS site. Two other alternative sites, also in Tennessee, one on DOE's Oak Ridge Reservation and the other, TVA's Hartsville Nuclear Power Plant site, were identified as preferred alternatives.

Since that time, we have worked closely with Tennessee, principally through Governor Alexander's Safe Growth Council. In order to support their review of the proposal, we provided a grant of \$1.4 million. They in turn provided \$100,000 each to the Clinch River MRS Task Force and the Hartsville Area Study Group to study the MRS proposal. The Clinch River MRS Task Force completed their review in October of last year and issued a report entitled "Recommendations On The Proposed Monitored Retrievable Storage Facility."

If I can digress for a moment here, for those of you who have not read this report, I commend it to your attention. Rarely have I seen such an excellent example of the results that positive Federal, State, and local government cooperation can yield. We are optimistic that this relationship will continue to grow and yield equally positive benefits in the future. I would also hope that other State and local governments would take note

of this mutually beneficial experience so that similarly close cooperation and participation might be recorded elsewhere in the program.

Our studies have led us to conclude that the addition of an MRS facility at the Clinch River site in Tennessee would significantly enhance the performance of the waste management system. Therefore, we will recommend that Congress:

- o Approve the construction of an MRS facility at a site on the Clinch River in the Roane County portion of Oak Ridge, Tennessee;
- o Limit the storage capacity at the MRS site to 15,000 metric tons of spent fuel;
- o Preclude waste acceptance by the MRS facility until a construction authorization for the first repository is received from the Nuclear Regulatory Commission;
- o Direct the Department to implement measures responsive to the concerns and recommendations of the State of Tennessee and local governments; and,
- o Direct the Department to implement the program plan accompanying the proposal.

I would like to expand on several of the elements of our proposal. The Department recognizes that Tennessee citizens are concerned over whether an MRS facility, once it is constructed and becomes operational, could become a substitute for a permanent geologic repository. To ensure that this will not

occur, the Department is recommending to Congress that it authorize the construction of an MRS facility that is linked to early operation of the geologic repository.

We intend to propose to Congress that the MRS facility not be authorized to accept waste until the Department has obtained a construction authorization from the NRC for the first permanent geologic repository, and, secondly, that the MRS facility not be permitted to store more than 15,000 metric tons of waste. By linking the MRS' operational start-up to the repository program and by limiting the amount of waste that can be accommodated, the Department has clearly demonstrated its unequivocal commitment to the permanent geologic disposal of radioactive waste.

I want to leave no doubt in anyone's mind on this crucial point. We are ready and willing to work collaboratively with your State and local authorities to assure anyone having an interest in this question that it has been satisfactorily answered. But in the end, it is the direct action of Congress and the President that provides the degree of confidence that is necessary--the same process that decided that the permanent disposal of nuclear waste in geologic media was the right choice for America.

The proposal contains extensive and unique provisions with regard to State and local involvement in the MRS program.

The most innovative and far-reaching element contained in the proposal to Congress, one that I fully endorse, is the establishment of an MRS Steering Committee to provide a formal mechanism to obtain State and local input, including recommendations and evaluations regarding the design, construction, operation, and eventually, the decommissioning of the MRS facility. This committee, composed of State and local government representatives of their own choosing, as well as DOE and industry representatives, would provide guidance, conduct evaluations, and, if necessary, recommend corrective actions with regard to the MRS facility. We are proposing that this committee's involvement be extensive and far-reaching, its involvement in the MRS program extending to a number of areas--environment, safety, and health; transportation; public information; and financial matters.

The MRS Steering Committee is but one component of a system that will directly bind the Federal Government and the State of Tennessee, through a negotiated agreement--a Consultation and Cooperation agreement. This is a formalized process that will be utilized to arrive at a mutually satisfactory approach on issues considered to be important by the parties involved. Should Congress approve the construction of an MRS facility, we are committed to seek immediately to enter into such a Consultation and Cooperation agreement with the State of Tennessee.

The MRS proposal also responds to other areas of vital interest to Tennessee. Clearly, the Department is committed to operating the MRS facility in a manner that fully protects public health and safety as well as the environment. Those elements are of paramount importance to us.

Transportation impacts are also of particular interest. We are proposing the following:

- o Upgrading of portions of the Tennessee transportation infrastructure;
- o Prenotification to the proper State authorities of planned spent-fuel shipments;
- o Assistance in ensuring that adequate emergency response capabilities are available; and,
- o Providing funding for the participation of State officials in inspecting spent fuel shipments.

I'd just like to mention something that you might have seen on your way into the meeting. We have outside a transportation cask made out of stainless steel and lead and weighing approximately 38,000 pounds that is certified by the NRC for spent fuel shipments, and although we are ten years away from the shipment of spent fuel to an MRS, the casks to be used will have many similarities to the cask outside. If you would like, after the meeting is over, go outside and have a closer look at the cask and ask questions about it. A representative of DOE will be there to answer your questions.

In addition to all those commitments I just mentioned, the Department is proposing to provide substantial financial assistance to the State of Tennessee and local governments both during the period preceding MRS operations, and subsequently, during MRS operation. For example, early financial assistance is required to begin planning for the mitigation and prevention of social and economic impacts resulting from the construction and operation of the MRS facility. The Department proposes that such payments be made annually during the preoperational phase of the MRS facility and that the amount of those annual payments approximate the taxes that a facility valued at \$1 billion would pay.

Subsequent to the initiation of operation of the MRS facility, we are proposing that the Department make payments to the State of Tennessee and local governments equal to the amounts they would receive from taxing the facility as if it were a privately owned industrial facility.

Should Congress agree that an MRS facility can contribute to the safe and efficient disposal of nuclear waste, and, later this year, approve its construction, operation could begin in late 1996.

I'd like to run through some of the milestones in the MRS schedule to give you a sense about how we would proceed:

Immediately following Congressional approval, we would seek to enter into a Consultation and Cooperation agreement with the State of Tennessee. We would also begin field data collection at that time for the environmental report. Shortly afterwards, we would initiate a variety of design and design verification activities. Information gathered during the course of the environmental evaluations and design activities will enable us to submit a license application to the Nuclear Regulatory Commission in early 1989. We would hope to receive a license from NRC approximately 30 months after submittal, or in the latter part of 1991. Construction would begin soon thereafter with completion expected in the latter part of 1995. Testing and operational demonstration of the facility would require another year, after which the facility would become operational in late 1996. Full scale operations would get underway in 1998. The facility would receive, consolidate, package, and transport to the repository between 2500 to 3000 metric tons of spent fuel per year.

I'd now like to take a look at the MRS from a national perspective and talk about some of the benefits and costs that are associated with the MRS as a component of the integrated waste management system.

- o The MRS facility would accelerate the system-wide development schedule. It would allow the Department to plan, design, and deploy major components of the waste

management system prior to similar phases of the geologic repository. Much of the essential planning for the waste management system would be simplified should an MRS facility be developed;

- o The MRS facility would permit accelerated waste acceptance from the utilities. By starting operations in 1996 and reaching full operation by 1998, the MRS facility would allow the system to receive spent fuel at full-scale rates as much as five years earlier.
- o It would improve the reliability and flexibility of the waste management system by separating the acceptance of spent fuel from reactors from its emplacement in the repository and also through the addition of significant storage capacity to the overall system;
- o It would simplify waste-handling facilities and operations at the repository; and,
- o It would improve the management and control and performance of the transportation system. Because spent fuel would be consolidated at the MRS facility and shipped in dedicated trains to the repository, a significant reduction of the number of shipments to the repository would result. It would also permit early identification of routes to the MRS site and,

therefore, increase the time available to work with State and local governments, Indian Tribes, and the public in route-specific planning.

In the proposal that is currently being reviewed, we have estimated that the cost of the MRS facility, in constant 1985 dollars, from the time Congress approves construction until it is operational, would be approximately \$970 million, of which approximately \$700 million would be actual construction costs.

The net incremental system costs, including an MRS facility, have been initially estimated to be in the neighborhood of \$2 billion. These estimates do not include avoided costs at utilities or by DOE or related financial assistance to the State and local governments. All of these expenditures would be paid out of the Nuclear Waste Fund which is derived from the generators and consumers of electricity produced by nuclear power--not from the U.S. Treasury. To put the MRS cost estimate into context, life-cycle costs for the total waste management system are currently estimated to range from \$25 billion to \$31 billion in 1985 dollars. The estimated cost of the MRS falls within the uncertainty range of the cost estimates for the waste management system without an MRS.

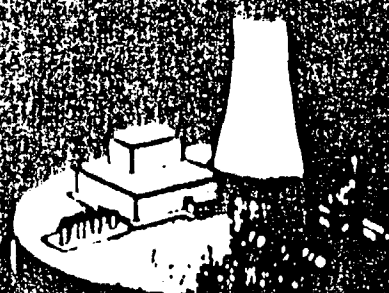
Congress and the President have acted through the NWPA to choose the responsible course for America in disposing of nuclear waste. We believe that nuclear power should be a part of the

balanced and mixed energy supply system of America where the market place chooses. But whatever your view on this subject, it is clear that both our national and economic security have benefited from these activities in the past. It is right for us, this generation of Americans who have reaped the benefits, to see to it that the waste generated from this system is properly disposed of. That's what this program is about. You in Tennessee have been both a major contributor and beneficiary of this nuclear energy. The disposal of our spent fuel is a necessary result of the electricity generated by nuclear power plants.

The course that we have outlined today assures each of us, and our heirs, that the possible adverse health, safety and environmental effects of these wastes will not be a matter for their concern. And, we believe that this course can be followed and will produce substantial benefits to your State and local communities. If I have one principal message to leave with you this morning, it is that we want to be a good corporate citizen and continue to work closely and effectively with you as this program moves forward.

Mr. Boner, this concludes my formal remarks. I will be happy to answer any questions you may have.

Distribution of Waste Management Functions In a System With an Integrated MRS Facility



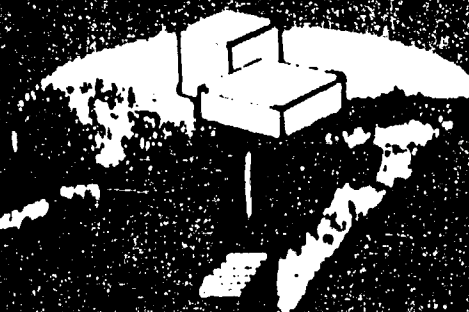
Reactors

- Storage Until Waste System Begins Operation
- Packaging for Transport to MRS
- Federal Acceptance



MRS Facility

- Managing At-Reactor SF Acceptance
- Scheduling and Controlling Transport to MRS
- SF Receipt, Inspection and Accounting
- Consolidation, Packaging and Conditioning for Disposal
- Monitored, Retrievable Storage
- Controlling Transport to Repository
- Special Packaging, Repair and Testing



Repository

- Emplacement
- Long-Term Containment

Legend:

MRS: Monitored Retrievable Storage
SF: Spent Fuel