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March 1, 1983

Dr. Critz George  
 U.S. Department of Energy  
 Salt/Granite Project Team  
 Division of Waste Repository  
 Deployment  
 Washington, D. C. 20545

Dear Dr. George:

I would like to take this opportunity to respond to the comments of the State Geologists Technical Review Group (SGTRG) and the U.S. Department of Energy (DOE) response thereto by Carol Hanlon which you submitted to us by letter dated February 3, 1983, with respect to the Mississippi comments on the draft Site Characterization Plan (SCP). There are several issues regarding the "peer review" of the Mississippi comments which appear to have created some confusion and have been left open-ended.

Carol correctly noted in her letter to Dr. Hambleton that the meeting of November 9-10, 1982, highlighted several issues: DOE/State interactions; adequacy of the SCP; adequacy of the data base supporting the Location Recommendation Report (LRR); and State involvement in the development of the work plan. She was also correct in noting the existence of a communication problem. Since a communication problem did exist, the peer review meeting was anything but an effective forum for the State of Mississippi and the DOE (and contractors) to deliberatively discuss the adequacy of the SCP. The meeting did nothing more than provide a facilitated means for DOE to announce a major programmatic change with a complete departure from previously announced DOE program schedules. I realize, as surely DOE must have when the letter to Dr. Hambleton was authored, that the issue of program schedules has become somewhat moot as a result of the passage of PL 97-425; however, the issue of DOE/State interaction is not moot especially now that Mississippi has been formally notified that Richton and Cypress Creek Domes are potentially acceptable sites for a nuclear waste repository.

For an effective Federal/State relationship to exist, it is imperative that a viable consultation and cooperation mechanism exist and for lines of communication to remain open. In all of the information and correspondence that was exchanged between DOE and this office prior to the November 9 meeting, there was

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not so much as a hint that the program redirection announcement was being considered, let alone imminent. The staging of the announcement in Columbus was certainly not consistent with a cooperative Federal/State relationship and in fact was justification for deepening the chasm of governmental distrust to which was alluded in Carol's letter.

The letter to Dr. Hambleton spoke of the dismay over the information discussed on November 9-10, 1982, as being critical of "a change of agenda or an example of failed communication on the part of DOE". I have enclosed copies of the two pieces of correspondence received by this Agency from NPO shortly before the November "peer review" meeting. Please note in Mr. Neff's letters no mention of the impending change of agenda. To be sure, it was the opinion of the Mississippi Nuclear Waste Technical Review Committee and the Energy & Transportation Board that the DOE was making a good faith effort toward initiating a conflict resolution process. The meeting not only did not resolve any conflict between the State and DOE, but may have created some conflict between the DOE and the SGTRG.

It is apparent to us that DOE chose to use the November 9-10 meeting as a sounding board for the unveiling of still another change in program direction. The meeting curiously had "representatives" from all four of the states that would be impacted by the program change. Whether by design or coincidence the means was available through which the revelations of the meeting could be filtered back to the respective states. Even though the new Nuclear Waste Policy Act has tempered the situation to some degree, the states will retain a certain sense of urgency to keep on guard for sudden or subtle program changes. That situation cannot possibly enhance the Federal/State cooperative spirit.

The remainder of my comments are directed at technical issues which were addressed in the January 13, 1983, letter to Dr. Hambleton. Since 1976, the DOE and its predecessor agency conducted a rather extensive series of Regional and Area Characterization studies in the Gulf Interior Region (GIR) Salt Dome Basin, in the Palo Duro and Dalhart sub-basins of the Permian Basin and in the Paradox Basin. Area Geological Characterization Report, Area Environmental Characterization Report and LRR's were the Battelle (ONWI) products of that research. Those documents have been commented upon extensively by the State of Mississippi. One of the most important comments by the State on the GIR LRR, ONWI-109, was that the data base was inadequate to the extent that comparable data upon which to base screening decisions on the seven domes in the GIR was not in evidence. That point was further advanced in the comments provided to DOE on the draft ONWI document, ONWI-293, the Site Characterization Plan. The comments prepared and submitted by the State to the SGTRG on November 9, took the Site Performance Criteria, DOE/NWTS-33(2) and addressed those criteria as screening criteria. Nowhere in our presentation was the issue of a communication problem addressed by the State. That was not, nor was it ever intended, to be a "technical" issue to be presented by the State for consideration by the SGTRG. It

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was only after the departure on November 9 from the DOE announced agenda (ref: letter Neff to Green, October 26, 1982) that lack of communication became an issue. The only "issues" presented by Mississippi for the consideration of the SGTRG and comment by ONWI are those in our written statement of November 9, 1982. We have yet to receive comments from ONWI or DOE or SGTRG or anyone else on the prepared text of our presentation. We have not even received any indication that our presentation will rate a response.

It was noted on the second page of Hanlon's letter to Dr. Hambleton, that she was dismayed that the information discussed on November 9-10 was viewed and criticized by the SGTRG - and the representatives of the State - as either a change of agenda or an example of failed communication by DOE. The fact remains, and an electronic recording of same was made, that both the members of SGTRG and the State of Mississippi made a good faith effort to comply with the announced DOE agenda. It was DOE that broke with the agenda and changed the meeting from one of frank productive technical discussion to one of a policy decision announcement. Neither the SGTRG nor the technical representatives of the State of Mississippi were prepared or in a position of authority to even discuss a DOE management level policy change. The fact that the DOE was unable, for whatever reason, to meet previously announced program schedules was not a point which the State, and I doubt the SGTRG, was prepared to discuss.

The major point over which there is continued disagreement is whether the existing geologic, engineering, environmental and socioeconomic data bases are adequate to make screening decisions. The die has been cast, and DOE's decision made that a prime salt site would be selected on the existing data base; however, again I must reiterate, that was not the purported purpose of the meeting. The purpose of the meeting was, as noted in Hanlon's letter, to discuss the comments of the State of Mississippi on the adequacy of the SCP. I am in agreement that the SCP adequacy is not a moot issue, but rather one that will become very germane if a Site Recommendation Report (SRR) for dome salt enters the NRC's licensing arena.

Dr. Hambleton, in the report of SGTRG, accurately raised the point of resolution of issues at Richton and Vacherie. Of concern to me is whether any of the issues will even be addressed by DOE. Those issues that we presented on November 9 have still yet to be addressed by DOE or ONWI and there has been no communication between the Department or ONWI and the Mississippi Nuclear Waste Technical Review Committee or this Agency as to a "new program" for attempting to resolve the issues. Hanlon noted in her letter that Mr. Forsythe, Dr. Woolsey and I commented strongly on the proposals outlined in the SCP to address the issues communicated by the State to the SGTRG. As stated by the delegation from Mississippi in the paper, the draft SCP did address all of the currently known issues with the possible exception of Holocene uplift and dome stability; however, it was only when the two phases of site characterization - location phase and detailed site characterization - were combined, that the issues were so addressed. We have not stated, nor are we about to state, that the issues necessarily can be resolved. Until February 14, 1983, the State had not seen the Activity Plan by which those issues will even be attempted to be resolved.

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Those issues identified by the State and to a great extent, ONWI, in the SCP were those identified from the limited data that had been collected in the Mississippi Study Area at that time. It is our continued opinion that the data base from the Mississippi Study Area is not sufficient to allow adequate comparison with the North Louisiana or East Texas Basins specifically, and very likely inadequate to allow more than a shallow comparison of the GIR with the Palo Duro beds of the Permian Basin or the beds in the Gibson Dome area of the Paradox Basin.

There was one paragraph in the letter to Dr. Hambleton which dealt with the subject matter of the November 9, 1982, meeting. I believe that the record of the Mississippi comments on ONWI-109, the AGCR, the AECR and the comments presented on November 9, 1982, is sufficient documentation so as not to require any further comment on our part other than the fact that it was those written comments which served as the basis for the State's review of the draft SCP.

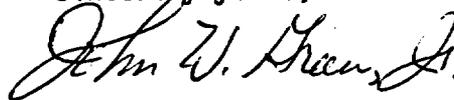
Beginning in early 1981, representatives from Mississippi, Louisiana and Texas worked with ONWI, DOE, U.S. Geological Survey (USGS) and several subcontractors on the Site Characterization Plan. Many of the geotechnical, socio-economic and environmental issues cited for continued evaluation in the Plan were the product of input from Mr. Alvin Bicker, the State Geologist of Mississippi, and me. From January to June of 1981, we participated in good faith with DOE, USGS and our counterparts from Texas and Louisiana in developing the boilerplate for the "Strawman" Site Characterization Plan. In late June, 1981, a series of meetings was conducted by Battelle in Austin, Baton Rouge, and on June 25, 1981, in Jackson, with the technical communities of the respective states. It was at that June 25, 1981, meeting at the Mississippi Research and Development Center that Battelle - not DOE - unveiled the details of Location Studies to be performed prior to the initiation of detailed site characterization studies. We were informed at that meeting that the Location Phase screening studies would address only a limited number of issues. Prior to that time we understood the Location Phase was to be the ultimate screening of those domes surviving the "viability studies". Viability studies, we understood, were to have been conducted on issues raised for Oakwood, Vacherie, Cypress Creek and Richton Domes (ref. ONWI-109 Draft, March 31, 1981). Those domes, if any, surviving the viability studies, would then be subjected to an intensive program of Location Phase studies in which all of the "screening" criteria identified in ONWI-33(2) would be addressed. The question was posed to the state's technical community by Mr. Dill Shipler and Mr. Owen Swanson, that given certain issues for both Richton and Cypress Creek Domes, what did the State want done to resolve those issues. The State had had less than one day to digest the new program, and was in no position to develop for Battelle an activity plan to attempt resolution of the noted issues that had been raised. That meeting and the associated circumstances prompted the July 2, 1981, letter from W. G. Ball to J. O. Neff. You will note in Mr. Ball's letter, first paragraph, that the purpose of the state's technical involvement in the plan was not to develop the plan for DOE, but rather to participate in its development, critically review it and request or suggest modifications to it as appropriate. This State has not taken a position of not being completely involved as an advocate of the State of Mississippi, in the development and implementation

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of DOE programs in this State. This State, through its several governmental and institutional agencies, and at significant State and DOE expense, has, in good faith, attempted to provide positive, constructive criticism of ONWI documents and DOE programs since August, 1980. It is not only our intention to continue in this posture, but it is required by state law.

In summary, I would like you to know that several hundreds of man-hours at considerable State and Federal expense were dedicated by the State of Mississippi in preparing for and delivering our comments on the Draft SCP to the SGTRG on November 9, 1982. The presentation was developed and delivered in a good faith effort and, as was required by the Nuclear Waste Technical Review Committee and the Energy and Transportation Board, devoid of emotionalism and accusation. We have yet to be shown the courtesy of a response to the issues we presented by either DOE or its contractor, Battelle, which was supposed to occur between 1:00 and 3:30 P.M. on November 9. It is my opinion that passage of PL 97-425 has not made the issue moot, but has heightened the need for forthright candor and frankness between DOE and those states in which potential nuclear waste repository sites are located. I hope timely and complete exchange of information between DOE and the states, which is required under the Nuclear Waste Policy Act of 1982, will be rigorously adhered to in the future dealings between DOE and the State of Mississippi.

Sincerely yours,



John W. Green, Jr.  
Nuclear Waste Program Manager

JWG,jr:F:br  
Enclosures

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Mr. William A. Wilkerson (NWPAC)  
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Mr. Wilbur G. Ball (E&T Board)

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