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U.S. House of Representatives
Committee on Energy and Commerce
 Room 2125, Rayburn House Office Building
 Washington, DC 20515

February 12, 1987

The Honorable John S. Herrington
 Secretary
 Department of Energy
 Washington, D.C. 20585

Dear Mr. Secretary:

In my letter of February 2 I indicated that I hoped to be able to work with you on nuclear matters. In this regard I am very disappointed by your perfunctory response to my request for information regarding the Department's plans for implementing the Nuclear Waste Policy Act.

The letter fails to answer fully any of the questions posed in my February 2 letter. It is true, as your response indicates, that the draft Amendment to the Mission Plan does not set forth the legal basis for your decision to delay work required by the Nuclear Waste Policy Act. This is why I asked you for a legal analysis, including a justification of your actions in light of memoranda from your own General Counsel and the General Accounting Office casting serious doubt on the legality of your decisions.

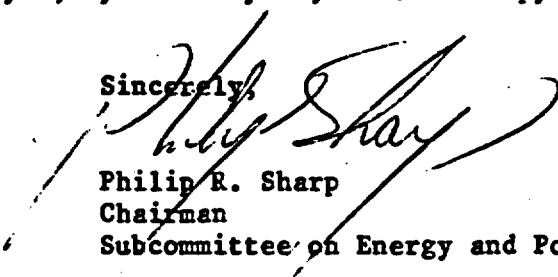
With respect to my question regarding the Department's obligation to accept waste, I cannot accept your assertion that it would be imprudent for you to respond to my request for information regarding DOE's standard waste contract. The draft Amendment cites the Department's obligations under this contract as the basis for your forthcoming MRS proposal. Moreover, since the standard contract has been published in the Federal Register, it should be possible for you to provide the very basic information I requested. Two of the critical issues that the Congress must address in evaluating your proposal to use the MRS to accept waste prior to the operation of a repository are whether such acceptance is permitted under the Act, and what, if any, liabilities could be incurred by the Government. Since you are requesting Congressional review of the amendment now, and not in 1998, these legal issues must also be addressed now.

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 PDR COMMS NRCC
 CORRESPONDENCE PDR

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As the hearing yesterday indicated, there is intense and widespread interest in this issue among members of the Energy and Power Subcommittee. Members with a variety of positions on the appropriate answer to the waste disposal question agreed that it should be resolved in strict compliance with the law. I therefore am renewing my request for answers to the specific questions posed in my letter of February 2, by February 20, 1987. A copy of my earlier letter is attached.

Sincerely,



Philip R. Sharp
Chairman
Subcommittee on Energy and Power

PRS:ss
Attachment