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OFFICE OF THE
COMMISSIONER

The Honorable Harry Reid
SH-324
Hart Senate Office Building
United States Senate
Washington, D.C. 20555

Dear Senator Reid:

I recently had an opportunity to review the transcript of an October 2nd, 1990 hearing before the Subcommittee on Nuclear Regulation of the Committee on Environment and Public Works on the subject of the high-level nuclear waste disposal program. During the course of that hearing, you expressed a concern about the propriety of my remarks at a recent symposium sponsored by the National Academy of Sciences' National Research Council. Specifically, you observed:

I think it's important to note that the U.S. Nuclear Regulatory Commissioner, James Curtiss, at this hearing that we've heard about earlier in this hearing, a symposium that was sponsored by the National Research Council -- James Curtiss said there that -- I want everyone here to understand that I didn't make up this "juggling numbers". That is specifically what a commissioner of the Nuclear Regulatory Commission said. He said that he felt that the Energy Department should have greater freedom to "juggle numbers" as long as the overall performance of the repository wasn't too greatly affected.

At a later point in the hearing, when this issue came up again, you commented:

Mr. Chairman, you can re-juggle the words all you want, but words by the man from the Nuclear Regulatory Commission was "juggle the numbers". That's what he said. So you can juggle the words anyway you want. He said he wanted to "juggle the numbers". That's what I think is wrong.

I have since gone back and reviewed the text of my remarks, as well as the recorded tapes from the Symposium, and I want to assure you that nowhere during that Symposium did I say that the Department of Energy should be allowed to "juggle the numbers" in a manner that would circumvent the NRC's performance objectives for the repository. Indeed, as best as I can determine, this

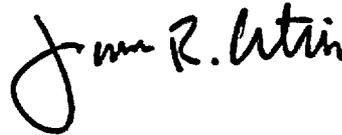
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phrase seems to have originated in a newspaper article appearing in the September 18, 1990 issue of the Las Vegas Review Journal, reporting on the Symposium (copy attached).

As the Commission's witness at the Subcommittee's hearing, Mr. Robert Bernero, pointed out, I have expressed a concern about the relationship of the Commission's regulations to the standards established by the Environmental Protection Agency (EPA). Additionally, I have commented on the workability of the provisions in the agency's existing regulations that allow NRC to specify alternative subsystem performance criteria. It is this latter point that apparently led the reporter to describe my remarks in the pejorative fashion that he did. I trust that you will see from my remarks, though, (a copy of which I am enclosing) that I neither said nor intended that the Department of Energy should be allowed to circumvent our health and safety standards by "juggling the numbers."

I thank you for the opportunity to clarify my position on this issue.

Most sincerely,



James R. Curtiss

Enclosures: as stated

cc: Senator Bob Graham
Senator Alan K. Simpson
Steve Adams, Las Vegas Journal

ulatory Agency to license the project, several federal officials said Monday.

A two-day symposium to examine problems related to licensing of the radioactive waste repository started off with calls for reevaluation of the Environmental Protection Agency's standards for the project.

The symposium is sponsored by the National Research Council, which last month issued a report criticizing EPA standards as too inflexible and unrealistic.

The EPA is revising standards designed to ensure that the underground repository, proposed 100 miles northwest of Las Vegas, will safely contain highly radioactive wastes for at least 10,000 years. The standards will set maximum levels for radioactive releases into ground water and air, and performance requirements for waste containers.

U.S. Nuclear Regulatory Commissioner James Curtis set the tone for the conference's first day when he warned in an opening speech that a complex mix of EPA standards and NRC requirements could make it difficult for the commission to license a repository.

Curtis said he was troubled by the legal difficulties that may arise from the fact the EPA standards require scientists to compute the probability of many natural events to determine whether a repository will be safe. The NRC has long used a "deterministic" method that relies more heavily on design and engineering criteria to assess risks.

"We now have what amounts to two legally distinct licensing standards: NRC's deterministic requirements . . . and EPA's probabilistic standards," Curtis said. The use of two methods to evaluate repository plans could make it difficult for the NRC to defend any license in court, he said.

"In short, while we may have reduced the technical uncertainty with such an approach, we have increased the legal uncertainty," Curtis said. Conflicts between the two risk assessment methods could "overwhelm the programs," the commissioner said.

Curtis called for the EPA to consider switching to the risk assessment method traditionally used by the NRC. He declined to say whether the EPA standards also should be relaxed to make licensing easier, but he said the Energy Department should have greater freedom to fudge numbers as long as the overall performance of the repository wasn't affected.

Not all speakers showed the same restraint.

Mel Carter, a member of the Nuclear Waste Technical Review Board, and Dede Moeller, chairman of the NRC Nuclear Waste Advisory Committee, said the EPA standards are too strict.

The EPA has said that an underground repository like the one proposed at Yucca Mountain should cause no more than 1,000 cancer fatalities over 10,000 years. That translates into one cancer death every 10 years, on average, attributed to operation of the repository and transportation of nuclear waste to the facility.

Moeller suggested that standard was unrealistically stringent. He said risk assessment experts believe radon, a radioactive gas that seeps through the ground into some homes, claims the equivalent of one life every three minutes. Although Moeller did not advocate raising the repository standard to match the risk from radon, he said he believed it could be increased to a level higher than the risk from unmined uranium ore.

The symposium is likely to hear a wider range of views today. Bob Loux, director of Nevada's Agency for Nuclear Projects, said he plans to tell the conference that it is problems with the Yucca Mountain site, not

with the EPA standards, that will make it difficult to license a repository.

Loux, who is spearheading Nevada's fight against the project, alleged in an interview Monday that the two-day conference is an attempt by the "nuclear priesthood"—pro-nuclear regulators and businesses—to interfere with EPA's effort to set reasonable standards for a repository. Loux said relaxing the standards to make it easier to win approval of a repository at Yucca Mountain would be like "having the ball in the air and moving the goal posts."

The conference also will hear today from EPA, NRC and Energy Department staff.

(From the Las Vegas Review Journal, Sept. 18, 1990)

REVISION OF EPA'S NUCLEAR WASTE SAFETY STANDARDS URGED
(By Steve Adams)

WASHINGTON.—Safety standards could loom the proposed Yucca Mountain nuclear waste repository unless requirements are revised to make it easier for the Nuclear Reg-