

September 8, 2006

The Honorable Pete V. Domenici  
Chairman, Committee on Energy  
and Natural Resources  
United States Senate  
Washington, D.C. 20510

Dear Mr. Chairman:

On August 3, 2006, Mr. Martin Virgilio, of the Nuclear Regulatory Commission staff, appeared before the Committee on Energy and Natural Resources to give testimony regarding S. 2589, "Nuclear Fuel Management and Disposal Act." From that hearing, you forwarded questions that were submitted for the hearing record. In particular, you asked the Commission for its views on Section 9, which presumes that sufficient capacity to dispose of spent nuclear fuel and high-level radioactive waste resulting from reactor and related nuclear facilities will be available in the future. This provision would obviate the need for the Commission to make future policy decisions regarding waste confidence.

The Commission has determined as part of the so-called "waste confidence rule" at 10 CFR 51.23 that commercial spent nuclear fuel can be safely managed at either onsite or offsite independent spent fuel storage installations. I believe that the Commission should continue to have the authority to make such determinations in the future to ensure public health and safety and increase public confidence. As a result, I believe that Section 9 should not be retained.

Sincerely,

**/RA/**

Gregory B. Jaczko

cc: Senator Jeff Bingaman

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