

Western Interstate Energy Board/ WINB

12

Alberta
Arizona
British Columbia
California
Colorado
Montana
Idaho
Nebraska
Nevada
New Mexico
Oregon
Saskatchewan
Utah
Washington
Wyoming

Tony Usibelli
Chairman

Douglas C. Larson
Executive Director

February 5, 2009

U.S. Nuclear Regulatory Commission, Secretary
ATTN: Rulemakings and Adjudication Staff
Washington, DC 20555-001

Re: Consideration of Environmental Impacts of Temporary Storage of Spent Nuclear Fuel After Cessation of Reactor Operation (NRC-2008-0404)

We appreciate the opportunity to review and respond to NRC's proposed revision of the findings by which it determines that it may "continue to license reactors (in) reasonable confidence that the wastes can and will in due course be disposed of safely."

The Western Interstate Energy Board is an organization of 12 western states and three western Canadian provinces. The governor of each state appoints a member of the Board, which serves as the energy arm of the Western Governors' Association. Much of the work of the Board is conducted through Committees. The High-Level Radioactive Waste Committee consists of nuclear waste transportation experts from state energy, public safety, and environmental agencies, and works with the U.S. Department of Energy to develop a safe and acceptable system for transporting spent nuclear fuel and high-level waste under the Nuclear Waste Policy Act. Therefore, the Committee's response to NRC's proposed revision of its "waste confidence" rule focuses primarily on transportation issues.

As we understand the results of its 1990 review, the NRC, before issuing a license for a new nuclear power reactor, must have reasonable confidence that:

1. Safe disposal of HLW and SNF in a mined repository is technically feasible;
2. At least one mined geologic repositories (with sufficient capacity) will be available within the first quarter of the 21st century;

3. HLW and SNF will be managed in a safe manner until sufficient repository capacity is available;
4. If necessary, SNF can be safely stored (in pools or in onsite or offsite ISFSIs) for at least 30 years beyond the license term¹ of the proposed new reactor;
5. If needed, other storage in onsite or offsite ISFSIs will be made available.

The currently proposed revision would modify the terms of findings #2 and #4:

1. Same
2. Sufficient mined repository capacity will be available to dispose of the SNF generated by a new reactor within 50-60 years after its licensed operation. (I.E. By 2120 or 2130 for a new reactor licensed in 2010 for an initial 40-year term and an expected 20-year extension.)
3. Same
4. SNF can be safely stored (in pools or in onsite or offsite ISFSIs) for at least 60 years beyond the license term of the proposed new reactor. (I.E. Through 2130 for a new reactor licensed in 2010.)
5. Same

In addition, NRC seeks specific comment whether confidence in findings #3-5 is now such that finding #2 now requires no date at which a disposal facility can reasonably be expected to be available.

Our comments include:

1. In judging the safety and security of onsite storage for time periods extending to the middle of the next century, NRC should seriously consider the safety of subsequent pick-up and transport.

We appreciate that, under current arrangements, pickup and transport are primarily DOE and DOT responsibilities. NRC's direct transportation responsibility is the licensing of interim storage systems and the certification of transport casks. However, distinctions in agency responsibilities do not dispose of policy linkages. Onsite storage systems may be safe for 100 years, yet be unsafe for subsequent pickup and transport for distances of hundreds or thousands of miles. There is no evidence in the discussion of finding #4 that the safety of subsequent pickup and transport has been addressed, by NRC or others. NRC should directly address questions regarding pick up and transport of spent fuel whenever these are expected to occur, and do so by involving responsible state authorities in the inquiry.

A recent report by the California Energy Commission raises these concerns regarding its San Onofre and Diablo Canyon nuclear plants: "Utility dry cask

¹ The full 40-year initial license, plus any license extension.

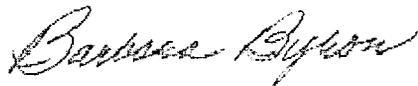
storage is an interim solution for waste disposal. PG&E's facility is designed for a lifetime of 50 years, and the canisters used in SCE's facility are designed for a lifetime of 40 years. If the spent fuel is not transported off-site within the design lives of the dry cask storage facility components, the spent fuel may need to be repackaged on-site and transferred into new storage canisters, or the current canisters or other cask storage facility components may need to be bolstered. The long-term storage, packaging, and transport of this waste add to the expense and the risk of nuclear power in California."²

2. In response to the specific question, should the Commission “now say that there is no need to be concerned about the possibility that SNF may need to be stored (indefinitely) at onsite or offsite storage facilities” (pg. 59561), our answer is “no.”

Approval of a new generation of nuclear power plants should be contingent on a credible plan by which the federal government meets its responsibilities for interim storage (onsite and/or offsite) and disposal at the back end of the nuclear fuel cycle.

At his January 14 confirmation hearing, DOE Secretary Chu stated, “The Department of Energy has an obligation, a real obligation, to provide a plan that allows for the safe disposal of nuclear waste.” In considering license applications for a new generation of nuclear power, NRC should assume no less than the DOE Secretary has vowed to provide.

Sincerely,



Barbara Byron
WIEB HLW Committee Co-Chair
California Energy Commission



Joe Strolin
WIEB HLW Committee Co-Chair
NV Agency for Nuclear Projects

2 California Energy Commission: “AB 1632 Assessment of California’s Operating Nuclear Plants,” October 2008, pg. 17.

*1600 Broadway, Suite 1700, Denver, CO 80202
Phone 303/573-8910 Fax 303/534-7309
Home Page <http://www.westgov.org/wieb/>*

Rulemaking Comments

From: Jim Williams [jwilliams@westgov.org]
Sent: Thursday, February 05, 2009 2:53 PM
To: Rulemaking Comments
Subject: WIEB Comments on Revided Proposed Waste Confidence Policy
Attachments: WIEB Comments Feb 5 2009.doc

Please find our comments attached. Thanks for the opportunity. The comments address:

*Consideration of Environmental Impacts of Temporary Storage of Spent Nuclear Fuel After Cessation of Reactor Operation
(NRC-2008-0404)*

Received: from mail2.nrc.gov (148.184.176.43) by OWMS01.nrc.gov
(148.184.100.43) with Microsoft SMTP Server id 8.1.291.1; Thu, 5 Feb 2009
14:53:01 -0500

X-Ironport-ID: mail2

X-SBRS: None

X-MID: 25430509

X-IronPort-Anti-Spam-Filtered: true

X-IronPort-Anti-Spam-Result: AsIEAAHSikIBLGFa/2dsb2JhbACBboEDzXGEFgY

X-IronPort-AV: E=Sophos;i="4.37,386,1231131600";
d="doc'32?scan'32,208,217,32";a="25430509"

Received: from ip65-44-97-90.z97-44-65.customer.algx.net (HELO
wga-internet.westgov.org) ([65.44.97.90]) by mail2.nrc.gov with ESMTP; 05
Feb 2009 14:52:59 -0500

X-MimeOLE: Produced By Microsoft Exchange V6.5

Content-Class: urn:content-classes:message

MIME-Version: 1.0

Content-Type: multipart/mixed;

boundary="----_=_NextPart_001_01C987CB.58A41E12"

Subject: WIEB Comments on Revided Proposed Waste Confidence Policy

Date: Thu, 5 Feb 2009 12:52:58 -0700

Message-ID:

<488A0DFFC7B73740B015D30ADF4A914F0223F1F7@fs2-wga.DOMAIN-WGA.westgov.org>

X-MS-Has-Attach:

X-MS-TNEF-Correlator:

Thread-Topic: WIEB Comments on Revided Proposed Waste Confidence Policy

Thread-Index: AcmHy1gisotHrXdMSvG66YHPylezWQ==

From: Jim Williams <jwilliams@westgov.org>

To: <Rulemaking.Comments@nrc.gov>

Return-Path: jwilliams@westgov.org