

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION  
BEFORE THE COMMISSION

-----X  
In the Matter :  
of :  
Proposed Rulemaking On Storage :  
and Disposal of Nuclear Waste, :  
10 CFR Parts 50 and 51 :  
-----X

NOTICE OF INTENT TO PARTICIPATE  
AS A FULL PARTICIPANT

ROBERT ABRAMS  
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Tel. No. (212) 488-7565

Dated: November 21, 1979

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Robert Abrams, Attorney General of the State of New York, hereby gives notice of his intent to participate in the above proceeding as a full participant pursuant to the Commission's notice of proposed rulemaking, 44 Fed. Reg. 61372 (October 25, 1979).

As a trustee and guardian of the interests of the People of New York State, and chief legal officer of the State, the Attorney General is responsible for protecting the health, safety and welfare of its citizens, their natural resources and the quality of the environment of New York State. This responsibility requires the Attorney General to consider with utmost seriousness questions

raised by this proceeding and to participate in the examination and resolution of the issues presented. This office has intervened in Federal administrative proceedings having a potentially significant effect on the environment within New York State, including proceedings before this Commission.

All communications concerning this proceeding should be sent to:

Robert Abrams  
Attorney General of the  
State of New York  
Environmental Protection Bureau  
Two World Trade Center  
New York, New York 10047  
ATTENTION: EZRA I. BIALIK  
Assistant Attorney General  
JOHN W. CORWIN  
Assistant Attorney General

Qualification to Participate

As previously noted, this office has participated in several proceedings before this Commission, including GESMO and the Table S-3 proceeding.

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### Preliminary Statement of Position

It is the position of Attorney General Robert Abrams that at this time there is no sufficient factual basis for confidence that radioactive wastes from nuclear facilities can be safely disposed of by any given date. While some literature in the field may express hope that safe disposal will be possible, hope alone is no basis for assurance.

No methodology for the safe disposal of high-level nuclear waste has been devised, let alone proven, despite many years of research. A great deal of work needs to be done before it will be possible even to predict if any of the methods now under study might some day be implemented.

Many other questions need to be answered before the Nuclear Regulatory Commission can have a basis for confidence that radioactive waste can be safely disposed of. Among these questions are whether the disposal method would (i) assure public safety, (ii) be environmentally sound, or (iii) be economically feasible. Another question is whether the States in which potential disposal sites may exist would agree to the establishment of repositories. To date, these questions are unanswered.

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In view of the extreme toxicity of radioactive wastes and the enormous environmental harm they can produce for hundreds of thousands of years, the Commission should not license any new facilities unless and until safe ultimate disposal methods have been proven and shown to be economically and environmentally feasible, and until suitable repositories have been selected with State approval. The NRC should not proceed while all of the major questions concerning waste disposal remain unanswered. For this Commission to continue licensing facilities, as it has in past years, on the mere hope or guess that safe disposal will become available at some future date is irresponsible, and contrary to the Commission's duty to assure public safety and health.

#### Conclusion

The Commission should find that there is no assurance at this time that radioactive wastes can be permanently disposed of in a safe and feasible manner. It should therefore impose a moratorium on licensing new facilities during this rulemaking proceeding and until answers to all of the open questions have been provided.

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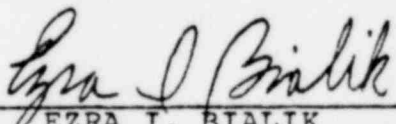
Discovery Procedures

The issues that will be raised in this rulemaking are likely to be complex and technical, and the decision which the Commission will have to reach is of great importance. Every effort should be made to ensure that as complete a record as possible is developed, and that all sources of information are brought before the Commission.

We therefore submit that discovery procedures pursuant to 10 CFR Part 2 should be employed. Such procedures, we hope, will improve the quality of our contribution to the record. However, the procedures should be amended to exempt citizen groups and individual participants from being subject to discovery, lest they be unduly burdened or deterred from participating.

Dated: New York, New York  
November 21, 1979

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By   
EZRA I. BIALIK  
Assistant Attorney General

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