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Secretary of the Commission
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

ATTN: Docketing and Service Branch

Dear Mr. Secretary:

The following comments concern the proposed General Statement of Policy with regard to the licensing of a geologic high-level waste repository. (43 F.R. 53869 [Nov. 17, 1978]). The comments are made on behalf of Southwest Research and Information Center, Inc., of Albuquerque, New Mexico.

GENERAL COMMENTS:

*Public confidence in federal waste management programs will never be achieved without the existence of an independent regulatory review of proposed actions. For this reason we are supportive of the NRC's actions in preparing for what we hope is the eventuality of licensing authority over the proposed WIPP project.

*This statement of policy is said to apply to licensing of a high-level waste repositories. We assume that the same procedures would apply to a transuranic waste facility, assuming licensing authority were extended to it.

*Comment on this proposed statement of policy was in some instances made difficult by the lack of proposed regulatory language. Without this text it was difficult to analyze certain important concepts. Should this statement of policy be translated into regulations a period of comment on proposed regulations should be offered.

Early Notification to States and Other Interested Parties:

The early notification procedures should explicitly recognize the role of the other interested parties in the licensing review. Specifically, staff offers to meet with "state and local officials" should be extended to representatives of citizen organizations. Secondly, the establishment of public document rooms in the affected region should be codified in the regulations.

Licensing Procedures:Review of DOE site selection:

The description of the early site selection procedures reveals an important policy determination by the NRC. Specifically, the procedures contemplate DOE presenting NRC with one site, which NRC would informally review. While this procedure is very much in line with named reactor licensing processes, it fails to recognize the unique aspects of licensing the first high-level waste repository. The special problems inherent in licensing the first high-level waste repository suggest rather that a variety of sites be presented to the



Licensing Agency. (See, Interagency Review Group on Nuclear Waste Management, Subgroup Report on Alternative Technology Strategies for the Isolation of Nuclear Waste, Draft, at pp. 25-39[October, 1978]). While the issue of whether these sites should be in the same or a variety of media is yet unresolved, there is apparently concurrence that a detailed comparison of alternatives is important. The requirements of NEPA include such a detailed discussion of alternatives. (Subgroup Report at 44-45). This NEPA requirement is, of course, applicable to both DOE's and NRC's actions. Additionally, public confidence in the site selection process will be strengthened by the comparison of alternative sites. (Subgroup Report at 48-51).

The statement of policy should acknowledge the need for information of a different sort than that presented in the normal licensing review. The applicant's affirmative duty to present alternatives and the need to discuss these alternatives during the licensing procedure should be incorporated into this policy statement.

Review of Repository Development:


The proposed licensing policy would allow DOE to begin construction prior to completion of the licensing procedure. Balanced against the supposed need for further information is the "momentum" which the project will have gained through construction of the shaft. (NRC is not, in its other licensing programs, oblivious to the pressure engendered by completed construction and prior licensing construction bans are found in other regulations.) In the absence of a convincing demonstration of the significance of the information revealed by shaft construction, one must question whether this bifurcated licensing procedure is necessary.

In any event, it is clear that licensing review should not be deferred altogether until the shaft is constructed, as advocated by some within DOE. In addition to the issue of "momentum," the consequences of improper shaft construction necessitate licensing approval prior to construction. The statement indicates that any hearing held would be held in accordance with current NRC hearing procedures. NRC hearings, in other realms, have suffered from the inability of citizen groups to participate fully because of inadequate funding. It is particularly important that this imbalance be redressed in waste repository licensing where so many important theories will first be tested under adversarial proceedings.

License Amendment (As Needed):

The proposed policy allows for license amendments in certain situations. Again, in the reactor licensing context amendments to licenses are unextraordinary. In the context of licensing a waste repository, however, so-called "amendments" could well change totally the nature of the operation as originally licensed. To permit a drastic change in the scope of a proposed project creates the possibility of the distortion of the licensing process through pressures created by the existence of an "already licensed facility."

Respectfully submitted,


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