



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

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January 22, 1980

The Honorable Morris K. Udall, Chairman
Committee on Interior and Insular Affairs
United States House of Representatives
Washington, D. C. 20515

Dear Mr. Chairman:

This is in response to your December 7, 1979 letter relating to our recently published proposed licensing procedures for high-level radioactive waste disposal and the effect these procedures might have on the U.S. Department of Energy (DOE) plans for development of the Waste Isolation Pilot Plant (WIPP) near Carlsbad, New Mexico. Your letter raises the question of whether actions taken by the DOE at the WIPP site without the involvement of the U.S. Nuclear Regulatory Commission (NRC) might affect the licensing process for the WIPP site if it were determined at a future date that the site should be used for disposal of high-level radioactive waste.

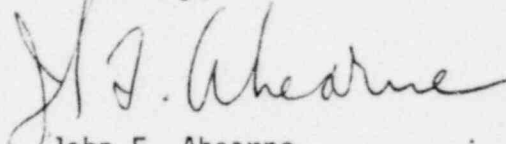
Under our proposed licensing procedures, as set forth in the Federal Register (Volume 44, No. 236, Thursday, December 6, 1979), DOE would be required to submit a report to NRC for review and comment prior to characterizing a potential repository site. This report would contain DOE's plan for characterizing the site, address the process by which the site was chosen and identify other sites which DOE considers to be alternatives to the proposed site. NRC would thus have an opportunity to review and comment on DOE's plans before DOE begins site characterization activities. In addition, NRC would have the opportunity during the formal licensing process to review and approve DOE plans for repository design and construction prior to initiation of construction activities.

If DOE were to request NRC licensing of the WIPP as a high-level waste repository after WIPP had been constructed and operated as a research and demonstration facility or a disposal facility for transuranic wastes, NRC will not have had prior opportunity to formally review DOE plans for site characterization or for repository design and construction prior to the initiation of these activities, nor would NRC be assured of appropriate opportunities to carry out inspections during the course of the work. This does not mean that DOE activities would necessarily make the facility unsuitable on technical grounds for licensing as a high-level waste disposal facility or ineligible for licensing under our proposed rules. However, by proceeding with unreviewed activities, DOE does run the risk that one or more of these activities could render the site or the facility unsuitable for licensing as a high-level waste repository or that information obtained and records maintained during these activities will not be adequate to support an NRC licensing decision. It is also possible that, when the WIPP site is compared with alternative sites as part of the NRC licensing process, it would be deemed not the most suitable of the alternatives or perhaps deemed to be unacceptable.

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In short, if DOE were considering eventual use of WIPP as a high-level waste repository, we believe DOE would be taking a substantial risk by constructing and operating the facility prior to subjecting WIPP to the full NRC licensing process proposed by the Commission. We will be pleased to provide answers to any further questions or provide you with clarification or elaboration on any of the above points at your request.

Sincerely,



John F. Ahearne

cc: Secretary of Energy