Comments on the April 15, 1980 Proposed Rulemaking on the Storage and Disposal of Nuclear Waste (Waste Confidence Rulemaking) Statement of Position of the United States Department of Energy, Prepared by James Leverance, Wisconsin Department of Natural Resources, Submitted on Behalf of the State of Wisconsin, July 7, 1980.

The Statement of Position filed by the Department of Energy was substantively analyzed. The following comments question the technical basis underlying specific conclusions drawn in the Statement of Position.

Unless and until these questions are addressed and resolved satisfactorily by the Department of Energy confidence that a nuclear waste facility will be in place as predicted, cannot be assumed or assured.

Page I-20 - What is meant by "proposed specific proposed performance objectives"?

Page I-21, #4 - Please describe what no unreasonable environmental impact means. This statement is presumptive. Utilized as a conclusionary statement prior to accumulation of facts and data supporting its basis renders it useless. The entire process documenting the method of disposal through the appropriate regulatory procedures should be the method utilized in allowing the decision-makers to arrive at this conclusion.

Page I-23 - Within this listing of significant factors that could influence the timing and schedule of a repository are probable legal challenges by private, local or state parties.

Page II-18, Objective 6 - Within the discussion it is stated that a reliance cannot be placed on scientific breakthroughs. To completely discount any future and possibly better methods of disposal or neutralization, especially when considering the time frames being proposed, would defeat the waste management purpose of safe and environmentally acceptable nuclear waste disposal.

Page II-279, first paragraph - The calculated dose is expressed for receptors residing at a position 3 1/2 miles from the release point. What would the controlling dose be to workers at the release point assuming these same accident conditions? The next paragraph does list dose limits for specific organs for on-site workers as suggested by the International Commission on Radiological Protection.

Page II-280, II.F.3.5., Waste Emplacement and Retrieval Considerations - This section should consider a "worst case" scenario. Reliance on a second repository would be impossible if the first repository would entail or suffer engineering problems prior to the second repository's completion. Broad contingency plans need to be developed in order that an established procedure can be implemented to deal with potentially hazardous situations.

Page II-295, II.F.4.3.8., Transportation Impacts, last sentence - The transportation impacts for both site construction and operation could be very large dependent on repository location.

Discussion of impacts within this document highlight the move "favorable" impacts of repository construction. I believe an objective discussion should address impacts, both pro and con, and their relationship to the project.

Page II-296, II.F.4.3.9., Socioeconomic and Institutional Impacts, second paragraph - While some proposed repository sites may not experience unmanageable levels of growth, others will need careful planning. Repository location will undoubtedly favor more rural areas in order to avoid large population centers; therefore, these impacts may be far greater than is indicated here.

A repository in a rural area near small population centers could result in the "boom-bust" situation that occurred with many short-term mining operations. These local economies experienced rapid growth and expansion during development but suffered severe economic reversal upon mining closure. Thus, dependent on location, a repository could significantly impact certain rural areas. These impacts should be considered.

Page II-296, II.F.4.4., Environmental Summary, first paragraph - It is stated "land use and water use are site specific, but the amounts required are small in terms of environmental impacts. A repository will pose non-radiological impacts similar to those encountered in a sizeable deep-mine type of complex."

The impacts in all major environmental areas - water quality, air quality, land use, etc., are potentially very great. This proposed development wherever it occurs is a major mining operation with significant surface and subsurface physical facilities. In no respect should it be considered as insignificant as the above statements would lead one to believe.

Page III-22, III.C.1.3., Detailed Site Characterization - During this phase of the proposed process, is all the necessary land needed for a repository purchased? Expanded below:

1. Does the purchase based on an already narrowed approach of site selection (banking) through the gathering of scientific and environmental data guarantee its development as a repository? If not, what future use will lands purchased for banking be used if found unacceptable as repository sites?

Page III-32, III.C.3.1., Establishment of Regulatory Requirements for Mined Geologic Disposal - Within the process for narrowing the selection process for a suitable repository site:

1. Will sites that have a test shaft and exploratory tunnel receive any high level nuclear wastes for monitoring or test purposes?

   a. If so, will these sites be licensed by the NRC? I am concerned that the mere process of narrowing the selection process to a few candidate sites accompanied with construction of a shaft and exploratory tunnel(s), may involve an ex post facto approval of their suitability.

Sites being examined for suitability receiving high level radioactive wastes, even for test purposes, should be licensed by the NRC.

All sites determined to be unacceptable following testing and analysis should be closed pursuant to a coordinated federal/state closure plan encompassing site rehabilitation and other contingencies.

Page III-38, III.D.1.2.1., Program Strategy - All comments received on the Draft Generic Environmental Impact Statement on the Management of Commerically Generated Radioactive Waste should be addressed within the Final EIS scheduled for issuance by October, 1980.

Page VI-II, VI-E, Transportation Considerations #3 - With the understanding that 90 percent of the transportation of high level radioactive materials is scheduled to be performed by railroads:

1. Is a parallel program currently being developed to identify specific rail routes that will need:

   a. preservation from railroad abandonment

   b. upgrading in order to accommodate increased or heavier loads to meet safety standards.

2. Will the costs of revitalizing and rehabilitating the railroads be accomplished through a federal aids program or will these costs be incorporated into a user charge to the utility customer?

Transportation impacts through the use of a reliance on the railroads could thus add significantly to the cost of the consumer using nuclear generated power.

JL:mh