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WASHINGTON, D.C. 20515

November 20, 1979

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Honorable Joseph M. Hendrie  
Chairman  
Nuclear Regulatory Commission  
Washington, D.C. 20555

Dear Dr. Hendrie:

On August 3 we wrote to you about our concern over the Nuclear Regulatory Commission's (NRC) dissemination of a report sponsored by the National Academy of Science (NAS) that advocated a needless delay in nuclear waste solidification but which the NAS considers to be "flawed." Even though we have not yet received your response, we feel compelled to write again about what appears to us to be very unwise policies more recently being pursued by the NRC in other aspects of the disposal of high-level wastes. Both of us are on subcommittees of the Science and Technology Committee and so are involved in authorization and oversight for the Department of Energy waste-management program. One of us is on the Energy and Environment Subcommittee of the Interior and Insular Affairs Committee, which is involved in regulatory oversight for NRC activities.

Our particular concern is the NRC plans for requirements on the DOE before it can license the first high-level waste repository. We understand that the DOE would be required to sink three to five shafts, do underground excavations, and conduct tests in each before initiating the licensing of the first repository. We are concerned because we believe this requirement is unneeded on the basis of current technical facts, does not conform with the responsibility of the NRC, does not heed the current advice of the Congress about repositories, will cause undue delays, is a needless large expense to the public, and unnecessarily agitates the various localities where tests would be conducted but where there is little chance that a repository will be constructed.

On the basis of convincing testimony before the Subcommittee on Energy Research and Production of the Committee on Science and Technology on May 15, 15, and 17, we believe the DOE can now proceed with a safe repository using existing technical knowledge and repository tests which have been completed in salt and are underway in granite and basalt. House bill H.R. 3000 for the DOE FY 1980 authorization specified a study for a technology-demonstration repository for high-level wastes at, or next to, the Nevada Test Site or the Hanford reservation and also directs the DOE to look first at existing locations of high-level wastes for locating a permanent repository. These provisions tend to narrow the site locations to areas that are already tested, thus tending to vitiate what appears to be NRC's desire for a basically new phase of exploration and tests.

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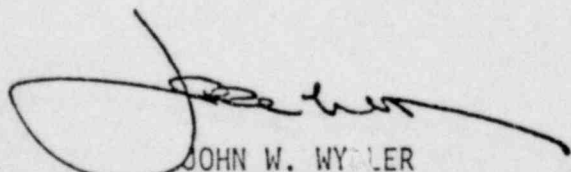
We fail to see how the Atomic Energy Act, as amended, provides the NRC with authority to require extensive tests on three to five sites. The NRC responsibility is to protect the public health and safety not to specify the repository development program of the DOE. Since each of these three to five tests would probably cost between \$50 to \$100 million, an independent Commission is thereby effectively determining major expenditures in the budget of an executive department. We wish to know on what specific statutory basis such an approach is founded.

We are also concerned about the change of the NRC waste-repository policy implied by this new requirement for multiple geological tests. The former policy contained in the June 11, 1979, NRC letter from John Mari to Sheldon Meyers of the DOE places reliance on the engineered barriers, such as waste solidification and canister metallurgy, rather than geological barriers. On the basis of the findings of our hearings, we support the policy articulated in that letter.

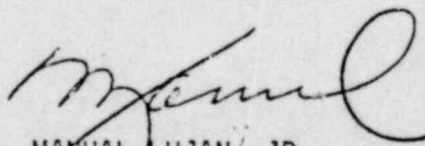
If the NRC intends to pursue this waste-repository policy of requiring multiple geologic investigations, we want to know how this policy is justified in light of the objections we have raised in this letter. In addition, we want to know the details about the following specific concerns stemming from such a policy. We wish to know approximately how many lives would statistically be expected to be lost among construction workers during these multiple mining investigations and also among the public from possible failures of a repository (located without multiple investigations). Also, we wish to know what specific tests the NRC is planning to require at the downhole locations and what these tests add to the data obtained from existing tests in various geologic media. In this connection, we wish to know why laboratory tests with drilling cores would not substitute for extensive downhole tests at specific sites. Finally, we wish to know how many years these tests would take in the proposed downhole locations and how this testing period complies with the national schedule for waste management.

This inquiry is motivated by our desires to move expeditiously in waste disposal so that nuclear energy can continue to play a role in the nation's energy needs. We all strive to be responsible custodians of the nation's resources, and to maintain an efficient Government based upon expressed advice of the Congress. We believe the topics we have raised are serious. We desire a detailed explanation as soon as is practicable.

Sincerely,



JOHN W. WYLER  
Ranking Minority Member  
Committee on Science  
and Technology



MANUEL LUJAN, JR.  
Member, Committee on  
Science and Technology  
Member, Committee on Interior  
and Insular Affairs