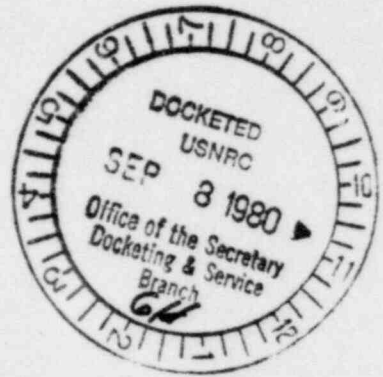


UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION



In the Matter of)
PROPOSED RULEMAKING ON) PR-50,51 (44 FR 61372)
THE STORAGE AND DISPOSAL)
OF NUCLEAR WASTE)
(Waste Confidence Rulemaking))

CROSS-STATEMENT OF POSITION OF
THE STATE OF DELAWARE

September 5, 1980

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I. THE STATEMENTS OF POSITION DO NOT DEMONSTRATE
CONFIDENCE IN DISPOSAL.

Statements filed by parties expressing confidence in safe waste disposal speak in terms of finding no reasons why safe disposal methods will not work. The documentation for present confidence does not appear to be strong.

For example, the statement of position prepared for Utility Nuclear Waste Management Group and Edison Electric Institute points out in Document 3, Long-Term Safety of Nuclear Waste Disposal a Basis for Confidence at 1-15:

"Technical experts and prestigious review committees have repeatedly agreed that disposal of nuclear waste in a mined repository is feasible and that reasonable safety criteria can be met. Positive expectation of the ability to achieve safe disposal have existed from the very beginning of waste disposal research and development work - work that began almost twenty-five years ago."

A twenty-five year effort with no definite solution gives one pause.

The Statement of the USGS is explicit in its assessment that present confidence is not possible. The need for site specific tests is set forth at 6, the requirements for licensing of the first site are mentioned at 8 and the preliminary nature of the site investigation is highlighted at 9. The nature of the chemical investigation that will be needed is listed at 12, 13.

All of the future work delineated contains the potential for encountering obstacles that are not presently contemplated. General framework and directions for research can be reliably predicted; research results cannot.

More than informed (or even documented) optimism is required for an official finding of confidence. In this connection, a particularly good point is made in New York's Statement at 6 that the Commission must distinguish between waste which exists today and wastes which will be produced in the future if new nuclear plants are licensed. More options are available in regard to generation and handling of new wastes. With the presently existing wastes, something must be done with them and the only task is to decide whether to leave them on-site or store them elsewhere. Decisions for future wastes should be made more conservatively, with one option being to have permanent disposal or reuse in place before generation occurs.

The timetable proposed coupled with the technical uncertainties outlined give rise to expectations of slippages. The Commission, in reaching its conclusion, must weigh the timetable, the uncertainties and the available storage capacity on-site. To base an industry on the present state of knowledge regarding final disposal is to build a skyscraper on a foundation of Jello.

II. AWAY FROM REACTOR STORAGE (AFR) SHOULD BE AVOIDED.

The statement submitted by the TVA sets forth in III B. of the TVA Spent Fuel Management Program Study, 1979, an analysis of the AFR option listing the advantages and disadvantages of that option. Significantly, TVA rejected the AFR option for its operation. Delaware would add to that analysis the problem of confusing AFR storage with a disposal solution.

III. EXPECTATIONS FOR CERTAINTY SHOULD NOT BECOME
UNREALISTIC.

Complete certainty of disposal safety forever will not occur. It is not realistic (even obviously impossible) to make long-term observations of a site in use before allowing it to be used, as NRDC at 3 appears to suggest should happen. The task of this proceeding, rather is to draw out the very best information available in order to allow the Commission to make its determination as to whether the best available is good enough to allow licensing that will generate new wastes.

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