



Department of Energy  
Washington, D.C. 20585



November 6, 1980

Marshall E. Miller, Esq.  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Re: Proposed Rulemaking on the Storage and Disposal of  
Nuclear Waste (Waste Confidence Rulemaking), NRC Docket  
No. PR-50,51 (44 FR 61372)

Dear Mr. Miller:

The State of Wisconsin has filed and served in the above-entitled proceeding a Supplemental Statement dated October 10, 1980. The State indicated that its late filing was necessitated by the State's recent receipt of a draft document entitled, ONWI-50, "Crystalline Intrusives in the United States and Regional Geologic Characteristics Important for Storage of Radioactive Waste." This report was intended to provide information to serve as a basis for further studies of granite formations where mined geologic repositories for nuclear waste possibly might be located. The State said that the document "contains serious technical inadequacies," and complained that the United States Department of Energy (DOE or the Department) did not furnish ONWI-50 to the State of Wisconsin earlier. Attached to the State's Supplemental Statement were copies of three recent letters to DOE from State officials.

The State's Supplemental Statement seeks to establish that DOE is not in fact committed to involving States in a process of consultation and concurrence in the selective screening investigations for possible sites for mined geologic disposal. The Department does not feel that the letters provided by the State contain all the appropriate information to describe recent exchanges between DOE and the State of Wisconsin. So that the record herein will not be incomplete, DOE herewith is furnishing copies of DOE's replies to the recent letters from Wisconsin State officials (Enclosures 1 to 5). In summary, DOE's replies point out that the draft document, ONWI-50, does not reflect an official DOE position. ONWI-50 was prepared by Dames and Moore as consultants to the Office of Nuclear Waste Isolation, a project management office operated for DOE by the Battelle Memorial Institute. DOE does not believe that the draft contains sufficient information to support all the conclusions therein and is seeking to revise it as required.

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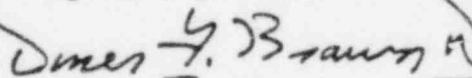
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For example, the listing in the draft report referred to in the State's Supplemental Statement is not "a ranking of thirty-four (34) sites" as claimed but is actually entitled "Partial Listing of Areas in Crystalline Intrusive Rock which May Contain Potential Sites for High-Level Radioactive Waste Repositories." As stated in the telegram of October 3, 1980 to Governor Dreyfus (Enclosure 1), DOE believes that no basis is provided in the draft report for the listing in the table. The Department definitely does not consider the areas listed to represent areas selected for further study. Furthermore, the table is not in any way a ranking but is keyed to an accompanying map. Although the table apparently was written to provide examples, DOE believes it should be removed from a final edition of the report.

The Department is concerned over the allegations that the existence of the draft report was not revealed in any meetings. The draft report was discussed with State officials at the July 9, 1980 meeting referred to in Wisconsin's Supplemental Statement. (In fact, DOE's revelation of the existence of the report must have been the basis for the specific request for the report referred to on page 2 of the State's filing.) However, as specifically expressed at that meeting by Dr. Heath, DOE was unable to release the report earlier because DOE felt an obligation to first notify officials of other States in which it was also recommended that further studies be conducted. Subsequently, DOE has notified 16 States of its interest in studying granite formations underlying those States and provided them with copies of ONWI-50.

In previous submissions in this proceeding, DOE has addressed at length the Federal Government's commitment to effectively include State and local governments in the decisionmaking process for disposal of nuclear waste. See, e.g., DOE CS at II-11 to II-22 and App. B; and DOE PS at III-26 to III-31. DOE reiterates that commitment, and the attached letters from DOE to the State of Wisconsin further demonstrate the extent of DOE's efforts to involve the States in the waste disposal program.

Very truly yours,



Omer F. Brown, II  
Attorney  
Office of the General Counsel

Enclosures:  
As stated

cc: As indicated on attached  
service list

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U.S. DEPARTMENT OF ENERGY  
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6. FROM COLIN A. HEATH

7.   
 (Signature of authorizing official)

8. DATE 10/3/80

9. TO THE HONORABLE LEE SHERMAN DREYFUS  
 GOVERNOR OF THE STATE OF WISCONSIN  
 THE STATE CAPITOL  
 MADISON, WISCONSIN

COMMUNICATION CENTER ROUTING

69 Elite 69 Pica

I UNDERSTAND THAT YOU HAVE EXPRESSED CONCERN ABOUT  
 THE DRAFT REPORT "CRYSTALLINE INTRUSIVES IN THE  
 UNITED STATES AND REGIONAL GEOLOGIC CHARACTERISTICS  
 IMPORTANT FOR STORAGE OF RADIOACTIVE WASTE"  
 CONCERNING GRANITE FORMATIONS IN THE UNITED STATES  
 WHICH WAS RECENTLY MADE AVAILABLE TO YOUR STAFF.

I UNDERSTAND THAT BECAUSE REPORTS AND STATEMENTS  
 HAVE BEEN MADE BY DIFFERENT REPRESENTATIVES THAT  
 THE CURRENT STATUS OF OUR ACTIVITIES MAY NOT HAVE  
 BEEN CLEARLY COMMUNICATED TO YOU. FURTHERMORE  
 BE BRIEF-ELIMINATE UNNECESSARY WORDS

10. ORIGINATOR (On separate lines, Enter Name, Routing Symbol, & Tel. No.)

Colin Heath  
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11. CLASSIFIED BY (If different from Originator)

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Enclosure 1

PAGE 2

TO: THE HONORABLE LEE SHERMAN-DREYFUS

- I WISH TO RESTATE THAT THE DRAFT REPORT THAT YOU HAVE RECEIVED DOES NOT REPRESENT AN OFFICIAL DOE POSITION.

— AS WE DISCUSSED IN OUR MEETING ON JULY 9, THE DRAFT REPORT SUMMARIZES INFORMATION CONCERNING GRANITE FORMATIONS IN EIGHT REGIONS IN THE UNITED STATES. THIS INFORMATION AND THAT CONTAINED IN THE REPORT EARLIER PROVIDED TO YOU FORM THE BASIS FOR OUR INTEREST IN THE GRANITE OF THE LAKE SUPERIOR REGION AND THE APPALACHIAN CHAIN. AS YOU KNOW, THE DOE PROGRAM IS ALREADY INVESTIGATING OTHER GEOLOGIC MEDIA.

WE DO NOT BELIEVE THAT THE DECEMBER 1979 DRAFT CONTAINS SUFFICIENT INFORMATION TO SUPPORT ALL THE CONCLUSIONS THEREIN AND ARE SEEKING TO REVISE IT AS REQUIRED. NO BASIS, FOR EXAMPLE, IS PROVIDED TO EXPLAIN THE LISTING OF 36 DIFFERENT AREAS OF THE UNITED STATES, INCLUDING AREAS OF WISCONSIN, AS POSSIBLY CONTAINING POTENTIAL SITES. AS MR. NEFF OF DOE REQUESTED IN HIS LETTER OF SEPTEMBER 22, WE SEEK THE ASSISTANCE OF STATE OFFICIALS IN REVIEWING AND REVISING THE REPORT.

— AS WE PREVIOUSLY DISCUSSED, SINCE THE PRESIDENTIAL ANNOUNCEMENT ON THE NUCLEAR WASTE PROGRAM IN FEBRUARY, WE HAVE BEEN WORKING WITH MEMBERS AND STAFF OF THE STATE PLANNING COUNCIL TO ESTABLISH A MECHANISM FOR WORKING WITH STATES IN OUR PROGRAM.

TO: THE HONORABLE LEE SHERMAN DREYFUS

ON JUNE 3, 1980 THE COUNCIL RECOMMENDED THAT LETTERS BE SENT TO ALL 50 GOVERNORS AND CHAIRMEN OF TRIBAL COUNCILS TO INFORM THEM OF THE NATIONAL SCREENING PROCESS AND TO ASK FOR COMMENTS ON THE PROCESS. SUCH A LETTER WAS SENT TO YOU ON JULY 3, 1980.

RESPONSES FROM THE STATES TO THESE LETTERS WERE PROVIDED TO THE STATE PLANNING COUNCIL ON SEPTEMBER 8 AND SUBSEQUENTLY STEPS HAVE BEEN TAKEN TO NOTIFY THE 16 STATES IN WHICH WE WOULD LIKE TO STUDY GRANITE FORMATIONS AND TO ASK FOR REVIEW OF THE DRAFT REPORTS.

OFFICIALS OF STATES IN THE LAKE SUPERIOR REGION HAVE BEEN PROVIDED WITH COPIES OF THESE REPORTS AS A FOLLOW-UP TO OUR JULY 9 MEETING. PROVISION OF THESE REPORTS TO THE OTHER STATES IS NOW TAKING PLACE.

~~AS WE DISCUSSED IN JULY,~~ WE ARE FULLY PREPARED TO CONDUCT ALL ASPECTS OF THE CONSULTATION AND CONCURRENCE PROCESS UNDER A WRITTEN AGREEMENT AND ARE PREPARED TO DISCUSS SUCH AN AGREEMENT WITH WHATEVER BODY IS DESIGNATED BY THE STATE. AS YOU KNOW, WE ARE PRESENTLY WORKING ONLY WITH EXISTING DATA AVAILABLE TO US AND WE DO NOT HAVE ANY PLANS FOR FIELD WORK IN WISCONSIN AT THE PRESENT.

I REGRET ANY INCONVENIENCE THAT MAY HAVE BEEN CAUSED BY OUR PREVIOUS DISCUSSIONS OR COMMUNICATIONS AND THE DELAY IN PROVIDING THIS REPORT.

SINCERELY,

COLIN A. HEATH



Department of Energy  
Washington, D.C. 20545

OCT 23 1980

Honorable Lee Sherman Dreyfus  
Governor of Wisconsin  
State Capitol  
Madison, Wisconsin 53702

Dear Governor Dreyfus:

I have received your letter of September 9, 1980 in which you share some of your initial reactions to the draft report, "Crystalline Intrusives in the United States and Regional Geologic Characteristics Important for Storage of Radioactive Waste."

I regret the inconvenience that has been caused by our delay in releasing this draft report to you; but, as I expressed in our meeting of July 9, 1980, we were unable to release the report earlier because the Department felt an obligation to first notify officials of other States in which it was also recommended that further studies be conducted. This is the only reason that the report was not released to you earlier than this.

Since the Presidential announcement on the nuclear waste management program in February, we have been working with members and staff of the State Planning Council to establish a mechanism for working with States in our program. On June 3, 1980, the Council recommended that letters be sent to all 50 Governors and chairmen of Tribal Councils to inform them of the National Screening Process and to ask for comments on the Process. Such a letter was sent to you and to all other Governors on July 3, 1980.

Responses to these letters which had been received were provided to the State Planning Council on September 8, 1980. Subsequently, steps have been taken to notify 16 States of our interest in studying granite formations underlying those States and to provide copies of the Dames and Moore report and also the report previously supplied to Wisconsin authorities which was written by Harry W. Smedes.

While the Dames and Moore report does provide a ranking of seven regions throughout the country with regard to the desirability of further studies, we do not believe that sufficient data are presented to clearly designate any region as most preferred. We have rather elected to propose investigations of the first three regions in the ranking without accepting any

Enclosure 2

further distinction concerning their suitability until further information is available.

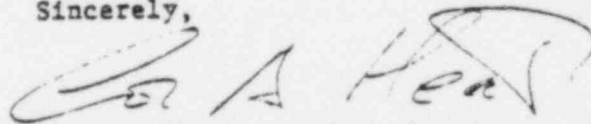
I would like to stress that these draft reports prepared by contractors do not reflect an official Department position. We view the December 1979 draft of the Dames and Moore report as requiring considerable revision and are actively engaged in preparing possible corrections. We would hope that such revision could also include review and additional data that could be supplied by individual States as was requested in the letter of September 22, 1980, from J. O. Neff of our Columbus Program Office to Mr. David Woodbury.

In particular, we do not believe that there is any basis presented for the listing of Table 12-2, "Partial Listing of Areas in Crystalline Intrusive Rock which may Contain Potential Sites for High-Level Radioactive Waste Repositories." We definitely do not consider the areas listed in any way to represent areas that have been selected for further study. Although the table was apparently written to provide examples, we believe it should be removed from the report.

With regard to the recent letter in which you joined with the Wisconsin legislative leadership, we are fully prepared to conduct our activities under the auspices of a written agreement and are prepared to discuss such an agreement with whatever body is designated by the State.

We have now received the further detailed comments on the Dames and Moore report from Mr. David Woodbury and will be providing the additional information requested under separate cover.

Sincerely,



Colin A Heath, Acting Director  
Office of Waste Isolation  
Nuclear Waste Management Programs  
Office of Nuclear Energy

Enclosure

cc: Clifford W. Krueger  
Senate Minority Leader

John C. Shabaz  
Assembly Minority Leader

William A. Bablitch  
Senate Majority Leader

Ed G. Jackamonis  
Speaker of the Assembly



Department of Energy  
Washington, D.C. 20545

OCT 23 1980

Honorable Mary Lou Muntz  
Wisconsin House of Representatives  
State Capitol  
Madison, Wisconsin 53702

Dear Ms. Muntz:

I appreciate receiving your letter of October 2 in which you amplify the comments of Governor Dreyfus concerning the release of the draft report "Crystalline Intrusives in the United States and Regional Geologic Characteristics Important for Storage of Radioactive Waste."

It is now clear that the cover letter used to transmit the draft report should have been much more specific in stating that the report is not the official position of the Department of Energy and in disclaiming the contents of Table 12-2 in the draft report. I regret very much the concern and confusion that have resulted from the listing of areas which were identified as possibly containing potential sites for radioactive waste repositories.

The draft report provides no basis to explain the listing of the 36 areas around the United States contained in Table 12-2 and Figure 12-1. We do not accept that this listing identifies areas within any State that are more suitable than others. There is certainly not adequate geological information provided to support any such identification. Furthermore, we obviously could not make such an evaluation, given the near-total absence of hydrological data in the report. It appears, rather, that Table 12-2 was included in the report as an example of areas that might be considered. We believe that the Table and associated map should be deleted from the final report as contributing nothing helpful and being mis-labeled in regards to potential for repository siting.

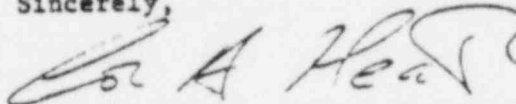
We have recently received some comments and questions concerning the draft report from the Governor's Committee on Radioactive Waste Disposal. These comments are being incorporated with other reviews currently underway within the Department so that a revised version of this screening report may be prepared. We will provide these proposed revisions to the State for review as they are developed.

Enclosure 3



I appreciate very much hearing directly your expressions of concern, and I hope that I have been able to clarify these issues. Please feel free to contact me if you have other questions.

Sincerely,

A handwritten signature in cursive script that reads "Colin A. Heath". The signature is written in dark ink and is positioned above the typed name.

Colin A. Heath, Acting Director  
Office of Waste Isolation  
Nuclear Waste Management Programs  
Office of Nuclear Energy

cc: David Woodbury  
Governor's Committee on  
Radioactive Waste Disposal

Mark Popovich  
Office of the Governor



Department of Energy  
Washington, D.C. 20545

OCT 23 1980

Honorable Joseph R. Strohl  
State of Wisconsin Senate  
State Capitol  
Madison, Wisconsin 53702

Dear Mr. Strohl:

I appreciate receiving your letter of October 2 in which you amplify the comments of Governor Dreyfus concerning the release of the draft report "Crystalline Intrusives in the United States and Regional Geologic Characteristics Important for Storage of Radioactive Waste."

It is now clear that the cover letter used to transmit the draft report should have been much more specific in stating that the report is not the official position of the Department of Energy and in disclaiming the contents of Table 12-2 in the draft report. I regret very much the concern and confusion that have resulted from the listing of areas which were identified as possibly containing potential sites for radioactive waste repositories.

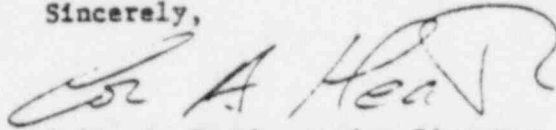
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Enclosure 4

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Sincerely,

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Colin A. Heath, Acting Director  
Office of Waste Isolation  
Nuclear Waste Management Programs  
Office of Nuclear Energy

cc: David Woodbury  
Governor's Committee on  
Radioactive Waste Disposal

Mark Popovich  
Office of the Governor



Department of Energy  
Washington, D.C. 20545

OCT 20 1980

Mr. David Woodbury, Chairman  
Governor's Committee on Radioactive  
Waste Disposal  
State of Wisconsin  
4802 Sheboygan Avenue  
Madison, Wisconsin 53702

Dear Mr. Woodbury:

I have received your letter of October 6 in which you expressed concern about our relationship with the State of Wisconsin and provided a number of specific questions concerning the Dames and Moore report.

I have responded to the eight specific questions and comments in your letter in the separate attachment. I have forwarded the specific critique prepared by Dr. Mudrey to our NWTS Program Office in Columbus, Ohio and asked that they respond to these directly.

I regret very much the inconvenience that has been caused by our delay in releasing the draft report to you; but, as I expressed in the meeting with Governor Dreyfus on July 9, we were unable to release the report earlier because the Department felt an obligation to first notify officials of other States in which it was also recommended that further studies be conducted. This is the only reason that the report was not released to you earlier than this.

Since the Presidential announcement on the nuclear waste management program in February, we have been working with members and staff of the State Planning Council to establish a mechanism for working with States in our program. On June 3, 1980, the Council recommended that letters be sent to all 50 Governors and chairmen of Tribal Councils to inform them of the National Screening Process and to ask for comments on the Process. Such a letter was sent to Governor Dreyfus on July 3, 1980. Responses to these letters which had been received were provided to the State Planning Council on September 8.

Subsequently, steps have been taken to notify 16 States of our interest in studying granite formations underlying those States and to provide copies of the Dames and Moore report and also the report previously supplied to you which was written by Harry W. Smedes.

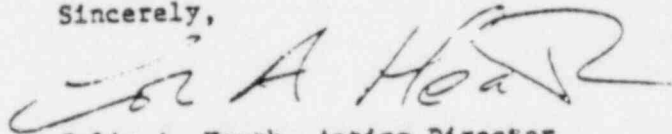
While we do feel that the draft Dames and Moore report does not contain sufficient information to support all the conclusions therein, it does provide a sufficient description of granitic regions throughout the United States to allow the designation of the three regions for further study that we are now proposing.

Enclosure 5

I appreciate very much receiving the critique from Dr. Mudrey, and I hope that this will lead to significant improvements in our data base. If our contractors do not have copies of additional references cited by Dr. Mudrey, I hope that they may be able to obtain or borrow copies from him. In addition to Dr. Mudrey's comments, I would like to provide you with the attached comments prepared by Harry Smedes, who is now a member of my staff, concerning the draft report.

I hope that the attached responses provide the information you seek. Please feel free to call upon me or Mr. Neff if there are other issues you would like to discuss.

Sincerely,



Colin A. Heath, Acting Director  
Office of Waste Isolation  
Nuclear Waste Management Programs  
Office of Nuclear Energy

2 Attachments

cc w/attachments:  
Wisconsin Congressional Delegation

Mary Louise Symon  
County of Dane, Madison, WI

John Stucker, Executive Director  
State Planning Council

Mark Popovich  
Office of the Governor



UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

IN THE MATTER OF )  
 )  
PROPOSED RULEMAKING ON THE STORAGE ) PR-50, 51 (44 FR 61372)  
AND DISPOSAL OF NUCLEAR WASTE )  
 )  
(Waste Confidence Rulemaking) )  
 )

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