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OFFICE OF SECRETARY  
DOCKETING & SERVICE  
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December 22, 1989

Mr. Samuel J. Chilk  
Secretary  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Attention: Docketing and Service Branch

Re: Review and Proposed Revision of Waste Confidence  
Decision [54 Fed. Reg. 39,767]

and

Proposed Rule -- Consideration of Environmental  
Impacts of Temporary Storage of Spent Fuel After  
Cessation of Reactor Operation [54 Fed. Reg. 39,765]

Dear Mr. Chilk:

These comments are submitted in response to the above-referenced notices by the Edison Electric Institute (EEI) and Utility Nuclear Waste and Transportation Program (EEI/UWASTE). EEI is the association of the nation's investor-owned electric utilities; its members generate approximately 75 percent of all the electricity in the nation. EEI/UWASTE is a group of electric utilities with nuclear energy programs that seeks to ensure radioactive waste management and disposal, and nuclear materials transportation systems are developed and maintained in a safe, environmentally sound, publicly acceptable, cost effective, and timely manner. EEI/UWASTE is the lead organization for utility oversight of the Department of Energy (DOE) Civilian High Level Waste Program.

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We have been involved in the consideration of the Waste Confidence issue from its inception. In particular, EEI and the Utility Nuclear Waste Management Group (a predecessor of EEI/UWASTE), participated as parties in the original Waste Confidence proceeding. We are pleased to have the opportunity to provide these comments.

### STATEMENT OF POSITION

We support the adoption of the revised Waste Confidence findings, modification of the periodicity of the Commission's review, and amendments of NRC regulations, all as proposed. The reasoning underlying each of the proposed actions is fundamentally sound and supports the Commission's determinations.

### RECENT DEVELOPMENTS

Subsequent to the publication of the Commission's proposed revision of its Waste Confidence Decision and conforming amendment to its regulations, the Secretary of Energy issued his "Report to Congress on Reassessment of the Civilian Radioactive Waste Management Program", DOE/RW-0247 (November 1989). The Secretary's Report presents a schedule showing a delay in the expected start of repository operations from the year 2003 to approximately 2010. [Report, p. vii.] In addition, the Report indicates a delay in the start of Exploratory Shaft Facility construction from the November 1989 date referenced in the Commission's proposed revised Decision [54 Fed. Reg. 39,767 at 39,783], to November 1992 [Report, p. 10, Fig. 1].

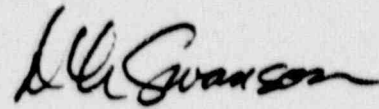
The Secretary's Report simply presents a revised schedule based upon a realistic assessment of activity durations and past experience. [Report, p. vii.] Further, the Report specifically notes that, "While the schedule identifies a substantial delay, the DOE remains committed to seeking ways to improve the schedule while satisfying all technical and regulatory requirements" [Report, p. 11]. Nothing in the Report is inconsistent with any of the proposed Waste Confidence findings, including Finding 2, wherein: "The Commission finds reasonable assurance that at least one mined geologic repository will be available within the first quarter of the twenty-first century..." [54 Fed. Reg. 39,767 at 39,768]. Further, the announcement contained in the Report that DOE will pursue a strategy of developing a Monitored Retrievable Storage facility by 1998 [Report pp. 16-19] provides additional support for Finding 5, wherein: "The Commission finds reasonable assurance that safe independent onsite spent fuel storage or offsite spent fuel storage will be made available if such storage capacity is needed." [54 Fed. Reg. 39,767 at 39,796].

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Thus, the DOE Report provides a realistic basis upon which the NRC can rely in reaching the conclusions described in the proposed revised Waste Confidence Decision.

EEL/UWASTE appreciate the opportunity to offer these comments in support of the Commission's proposed, revised Waste Confidence Findings and conforming amendments to its regulations.

Sincerely yours,

A handwritten signature in black ink, appearing to read "D L Swanson". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

David L. Swanson

DLS/chi