



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

JUN 03 1994

The Honorable Charles K. Scott  
Wyoming Senate  
Senate District 30 - Natrona County  
5808 Bates Creek Route  
Casper, Wyoming 82604

Dear Senator Scott:

I am writing in response to your April 26, 1994, letter concerning a possible independent spent fuel storage installation in the vicinity of Rivertown, Wyoming. In that letter you asked three questions; the following is a reply to each.

1. *"My understanding is that such a facility would need a license or permit from the Nuclear Regulatory Commission to construct and operate such a facility. Is that correct? Would your office be responsible for evaluating such an application?"*

Your understanding is correct; such a facility would need a license from the Nuclear Regulatory Commission (NRC) to store spent nuclear fuel. My Branch would be responsible for conducting this safety and environmental review in support of that licensing action. The operative rules that apply are 10 CFR Parts 51 and 72; I have enclosed copies of these rules.

2. *"If your office would be responsible for such a license, have you received any application or formal inquiry from New Corporation?"*

We have received neither an application nor any formal nor informal inquiry from the New Corporation concerning this possible facility.

3. *"Our state laws are currently largely silent on such a facility as this is something new to us. We may need to consider legislating on such a facility. Is there a chance that federal law would preempt state law particularly on issues of whether or not the facility was allowed at all and what technical requirements would be imposed to ensure safety?"*

The question of Federal-state preemption is complex; but in simple terms, the Federal agency NRC, has exclusive authority to regulate facilities with regard to radiological health and safety matters. State and local authorities can continue to enforce laws pertaining to their historic responsibility for determining need, reliability, cost and other traditional state concerns.

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The Honorable Charles K. Scott

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An additional factor is that state and local agencies can potentially become parties in a hearing on the record for our proposed licensing actions in this type of activity. Our rules of practice that apply to such a proceeding are contained in 10 CFR Part 2, Subpart G, also enclosed.

I hope that these answers and the enclosed documents are helpful to your understanding of this matter. Please do not hesitate to contact me again should you have any further interest.

Sincerely,

Original Signed By:  
Charles J. Haughney

Charles J. Haughney, Chief  
Storage and Transport Systems Branch  
Division of Industrial and  
Medical Nuclear Safety, NMSS

Enclosures:  
10 CFR Parts 2, 51, and 72

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