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

June 26, 1991

CHAIRMAN

The Honorable J. Bennett Johnston, Chairman  
Committee on Energy and Natural Resources  
United States Senate  
Washington, D. C. 20510

Dear Mr. Chairman:

As part of its continuing effort to keep your Committee informed of the Commission's views on national energy strategy legislation, I am pleased to provide you our comments on S. 1220 as reported by the Senate Committee on Energy and Natural Resources. Titles VIII (Advanced Nuclear Reactor Commercialization), IX (Nuclear Reactor Licensing) and X (Uranium) affect the Commission and, therefore, our comments are directed towards those titles.

Title VIII--Advanced Nuclear Reactor Commercialization

-- Sections 8013(b)(1)(B) and 8104(a)(1) contemplate that the Commission will be able to certify standardized advanced light water reactor designs by 1995. Our current estimate is that it is unlikely that the Commission will be in a position to complete certification of an evolutionary light water reactor design before the 1994-1995 time period or complete certification of a passive reactor design before 1996.

Title IX--Nuclear Reactor Licensing

-- The Commission continues to believe that it currently has ample authority under the Atomic Energy Act to implement the goals of standardization and reform of the licensing process as adopted by the Commission in Part 52 of its regulations. The full United States Court of Appeals for the District of Columbia Circuit has granted the Commission's petition for en banc review of Part 52. The Commission believes that its view that Part 52 is consistent with the Atomic Energy Act may ultimately prevail before the court.

-- While the Commission believes that legislation to validate Part 52 may not be required, if the Congress determines that further immediate revision of the nuclear licensing process, beyond that provided in part 52, is necessary through S.1220, the Commission would support and endorse that legislation. The Commission agrees with the goals of Title IX of S. 1220, which would streamline the licensing process by giving the Commission

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additional authority to provide for the timing and the format of post-construction hearings. At the same time it would ensure fair and adequate access by the public to raise any concerns about plant safety. The support for this title is, of course, directed to the current provisions of S. 1220 and should not be taken as support for any amendments which might modify what we perceive as a fair and efficient process. Additionally, the Commission would oppose any legislation that would preclude it from properly taking new safety information into account, from reviewing the facility for conformance with acceptance criteria prior to plant operation, or that would diminish the discretion the Commission has under current authority.

#### Title X--Uranium

##### Subtitle A--Uranium Enrichment

-- The legislation should be revised to provide that once a uranium enrichment facility is licensed by the Commission, the United States Enrichment Corporation must comply with the Commission's substantive decommissioning regulations. We also note that the provisions in the legislation do not necessarily assure adequate decommissioning funding. One option would be for legislation to provide that the Corporation be subject to the Commission's decommissioning funding regulations, rather than the statutory provisions, once it is licensed by the Commission.

-- The legislation should explicitly authorize the Commission to charge the Corporation user fees. We are required to collect 100% of our budget in user fees and fairness dictates that it be clear that the Corporation must pay for services rendered to it by the Commission.

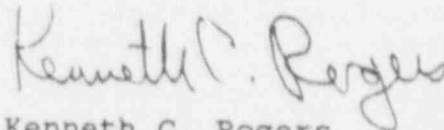
-- The legislation needs to address whether the Commission is to license the research and development facilities of the Corporation.

##### Subtitle B--Uranium

-- Section 10213 would charge the Commission with the responsibility for identifying properties that are within the vicinity of active uranium mills that are contaminated with residual byproduct material. The Department of Energy has had the responsibility under the Uranium Mill Tailings Radiation Control Act for Title I property and has established a contractor structure and procedures for identifying vicinity properties. In light of the expertise it has developed in carrying out this responsibility, DOE should be responsible for identifying vicinity properties at the active sites.

-- While the Commission takes no position on whether it is appropriate to reimburse uranium mill licensees for a portion of their cleanup costs, the Commission notes that section 10231 provides that mill tailing cleanup costs must be incurred prior to the year 2003 to be eligible for reimbursement. This would provide a strong incentive for companies to decommission a mill to qualify for the reclamation funds, even where it might be viable for the mill to operate after 2002. Provision should be made to allow a facility to remain open after 2002 and still obtain financial relief for tailings generated in the production of government-purchased uranium. Costs could be estimated and the appropriate amount placed in an escrow account for use when reclamation is actually accomplished.

Sincerely,



Kenneth C. Rogers  
Acting Chairman

cc: Senator Malcolm Wallop