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***Comment Response Document for The
Secretary of Energy's "Report to Congress
on Reassessment of the Civilian Radioactive
Waste Management Program"***

November 1990

***U.S. Department of Energy
Office of Civilian Radioactive Waste Management
Washington, DC 20585***

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SUMMARY

On November 29, 1989, the Secretary of Energy published his "Report to Congress on the Reassessment of the Civilian Radioactive Waste Management Program" (Report) and sent copies to numerous interested parties for their review and comment. Twenty-five letters commenting on the Report were received. The DOE is issuing this comment-response document now to provide a further information base for discussions at the upcoming workshops to develop additional strategic principles for the program. The comment-response document provides a synopsis of the comments and the DOE's current responses to those comments. The DOE's views on these matters will be further reflected in the draft Mission Plan Amendment, to be issued for public comment following discussions at the upcoming workshops. Also included in this document as appendixes are (1) a list of commenters; (2) a matrix, or crosswalk, that maps the comments highlighted in each letter to the appropriate section of the response summary that addresses that comment; (3) copies of the comment letters with specific comments bracketed for response; and (4) copies of DOE response letters.

The DOE identified 130 comments and classified them into the following seven categories: management, institutional, regulatory, transportation, monitored retrievable storage, scheduling, and the repository. The DOE has considered all comments received, including those unrelated to the Report.

In general, the comments supported the Secretary's revised program strategy, including the reorganization of the Office of Civilian Radioactive Waste Management (OCRWM), the appointment of an OCRWM Director, and a more aggressive management of the waste management program. Although many commenters stated their concern about the delay in the repository schedule, most agreed that the revised schedule was a more accurate indication of the amount of work to be accomplished prior to waste acceptance at the repository. There were many comments supporting the emphasis on surface-based testing and the DOE's new approach to the scientific investigation of Yucca Mountain. Many commenters indicated that some linkages should be maintained between the repository and monitored retrievable storage facility (MRS) and that the MRS facility should not become the de facto repository. Others noted that the schedule adjustments will actually reduce the time available for certain transportation-related activities, including route selection, mix of transport modes, and provision of emergency response training. There were also numerous comments on the role of affected parties in the DOE's management of the waste program.

The DOE will provide further opportunities to interested parties, such as the upcoming workshops on additional strategic principles for the program, to discuss issues raised in these comments.

INTRODUCTION

On November 29, 1989, the Secretary of Energy published his "Report to Congress on the Reassessment of the Civilian Radioactive Waste Management Program" (Report), and sent copies to numerous interested parties for their review and comment.

This document summarizes comments received on the Report and presents the DOE's current responses to those comments as a basis for further discussions. Included as appendixes are a list of commenters, a crosswalk showing where each comment is addressed, the comment letters themselves with specific comments delineated, and the DOE's responses to those letters.

Twenty-five individuals or organizations submitted comments on the Report. The DOE identified 130 individual comments and classified them into the following seven categories:

1. Management (M)
2. Institutional (I)
3. Regulatory (R)
4. Transportation (T)
5. Monitored Retrievable Storage (MRS)
6. Scheduling (S)
7. Yucca Mountain (YM)

For the responses, comments were then grouped into more specific topics under each of the major headings. The DOE attempted to respond to all comments.

MANAGEMENT (M)

SYNOPSIS OF COMMENTS

Commenters addressed management issues more than any other single topic. In general, they were highly critical of the DOE's management of the waste disposal program in the past, but they supported the Secretary's efforts to improve program management.

Numerous commenters supported the reorganization of the Office of Civilian Radioactive Waste Management (OCRWM); the appointment of an OCRWM Director; and more aggressive management of the waste-management program, including gaining access to, and investigating the Yucca Mountain site. Industry commenters and others urged that the DOE strengthen its management of the program by implementing direct-line reporting, hiring a management integration contractor with

a record of success in project management, exercising greater control over contractors and the national laboratories, reducing the number of national laboratories involved in the program, consolidating the overall management of the scientific effort, ensuring continuity of management structure, and emphasizing quality assurance.

Commenters further stated that past delays and cost overruns are symptomatic of past program management. For the program to succeed, they suggested, it must be given the highest priority in the Federal Government, and the Secretary must be personally and closely involved.

Commenters from industry suggested that schedules for the involvement of other government agencies be more closely integrated into overall program planning, and that the Secretary should endeavor to gain the support of other agencies and Departments. One commenter endorsed the DOE's decision to pursue site access through litigation.

Commenters from industry and the State of Nevada expressed interest in the outcome of OCRWM's reorganization and asked for an opportunity to review the "management review" due at the end of January 1990. Industry commenters asked to review OCRWM's reorganization plan before it is implemented, suggesting that the experience of utilities could be valuable in this and other areas.

The State of Nevada and others expressed concern about how the reorganization, direct line reporting, and centralization of decisionmaking power at Headquarters would affect coordination with affected parties. Several commenters noted that the DOE's revised approach depends on external factors, including litigation, modification of statutory linkages between the MRS facility and the repository, and pending regulatory actions. It was also noted that certain activities, such as litigation, will do little to enhance public confidence in the program.

Numerous commenters noted that the Report did not address costs and budget issues. Commenters requested detailed information on the Nuclear Waste Fund, including receipts and disbursements, how much has been spent on contractors, the effect of delays on the cost of the program and the fee structure, and what efforts have been made to recover "wasted" funds. One commenter requested more details on changes in contractor support. Another commenter suggested that the DOE give priority to local businesses and organizations in awarding contracts. One commenter suggested that the DOE has had a history of close relationships with certain contractors in Nevada, which could be viewed as improper.

Industry representatives asked whether the DOE will address the issue of payments to the Nuclear Waste Fund for the disposal of defense high-level waste. They suggested that the DOE will need to develop a funding mechanism to accommodate the added costs of at-reactor fuel storage if the DOE is unable to meet its commitment to accept

waste in 1998 under the standard contract with the utilities (10 CFR Part 961). They further recommended that 10 CFR Part 961 be revised to include schedules and milestones and performance standards, and an industry right to review the program. Commenters suggested that there is a need to regain public confidence in the DOE before confidence in the nuclear power option will be established.

RESPONSE

Program Management in the Past (M-1)

Commenters expressed concern that the waste-management program has had difficulties in meeting milestones in the past. Significant progress has been made in implementing statutory requirements, and the highest priority has been assigned to building an unimpeachable technical program and an inclusive institutional program that is aimed at establishing public confidence. In attempting to meet these objectives, it has been necessary in some instances to adjust milestones.

At the same time, the DOE understands the needs of the nuclear utilities to plan for the management of spent fuel in the future, and high priority is being given to meeting the 1998 target date for waste acceptance. The DOE agrees with comments that it needs to strengthen management practices. The DOE has obtained a management review by a major management consulting firm, and is now implementing a "Management Systems Improvement Strategy." Furthermore, the DOE believes that strengthening management practices will help it to meet the needs of the Nation's utilities and their ratepayers, as well as commitments to public health and safety and the environment.

Management Approach (M-2)

The DOE agrees with comments that there are opportunities to take a more aggressive stance in the program under certain conditions. As discussed in the Report, the DOE has taken a more active posture toward the State of Nevada's refusal to issue the permits needed for scientific investigations at the Yucca Mountain site. On September 19, 1990, the Ninth Circuit Court of Appeals rejected Nevada's effort to "disapprove" the Yucca Mountain site, finding that Nevada's attempted legislative veto of the Secretary's site characterization activities is preempted by the NWPAA. Secretary Watkins has also urged Congressional leaders to consider legislation to ensure that DOE can obtain access to the site. The DOE regrets the need to initiate litigation against the State in this matter and did so only as a last resort. The decision to proceed aggressively must be balanced against the need to gain public confidence in the program. The DOE believes that in the long run the waste-management program will succeed only if it is responsive to the concerns of affected parties.

The DOE is endeavoring to integrate the activities of other agencies involved in the program and actively seeks their support.

Program Reorganization (M-3)

The DOE agrees with comments that the appointment of a Congressionally confirmed OCRWM Director is crucial to improving management. On April 5, 1990, John Bartlett was confirmed as Director of OCRWM. Dr. Bartlett undertook a comprehensive review of the program and reorganized OCRWM to better accomplish the mission of the program. The reorganization was guided, as appropriate, by the results of a management review conducted by an independent management consultant. The management review itself was a DOE document that was not issued for public review. As part of the reorganization the Director has also established a management structure that will increase management accountability. Improved management practices and establishment of direct line reporting between the Yucca Mountain Project Office and DOE Headquarters should enhance the DOE's managerial continuity and accountability. The Director also issued a "Management Systems Improvement Strategy," which requires the use of the systems engineering approach to systematically organize and manage the waste management program. In response to concerns expressed by the State of Nevada and local governments, the DOE believes more direct communications between Headquarters and the Project Office will improve coordination internally and with affected parties, by providing a timely flow of information and guidance; rapid evaluation of policy and technical issues; rapid processing of requests for financial assistance; and direct access to decisionmakers at Headquarters.

Commitment of Senior Management (M-4)

The DOE agrees with comments that the program must be given highest priority by the Federal Government and that the Secretary of Energy must be closely and personally involved in the waste-management program. Secretary Watkins has demonstrated his resolve to set the waste-management program back on course by strengthening management and creating a new culture for institutional relations. The Secretary will also advocate programmatic initiatives both within the Administration and in the Congress, to give the program the national prominence needed. In October 1990, the Secretary wrote letters to Congressional leaders to seek Congressional action in support of the DOE's effort to gain access to the Yucca Mountain site.

Role of Contractors and National Laboratories (M-5)

The DOE is reviewing and evaluating the role of contractors and the national laboratories in the waste-management program. Removing any overlapping or

duplicative work by contractors and national laboratories is essential. The DOE is conducting negotiations with a potential management and operating contractor to assist in overall program coordination and consolidation of scientific investigations.

The DOE agrees with commenters' suggestions that contractors be hired on the basis of their experience in successfully completing projects. This is already one of the criteria for selecting contractors.

The DOE also agrees with the suggestion that preference should be given to contractors in affected States and communities. The DOE contractors in Nevada have received the largest single share of all funds spent on the Yucca Mountain project. Once the DOE initiates on-site activities at the Yucca Mountain site or an MRS site, hiring local contractors, including contractors in rural areas affected by the project, is expected to be a routine matter of practice.

Costs and Budgets (M-6)

As commenters observed, the Report did not address costs and budgets; these issues are addressed in other documents, such as the annual reports on the total system life cycle cost. At the same time, the DOE agrees that cost control is an important program objective.

The DOE will pay for the disposal of defense high-level waste. Although the DOE is committed to paying its full share plus accrued interest before waste acceptance at the repository, no monies have been paid to date. Several payment schedules for the DOE-generated waste are currently under consideration.

INSTITUTIONAL (I)

SYNOPSIS OF COMMENTS

The State of Nevada criticized the Report for not addressing the role of affected parties in overseeing the program and for not recognizing the full spectrum of program complexities. Local governments reminded the DOE of their special role and needs as affected parties and urged that they be adequately compensated. They pointed to the need for adequate financial assistance and asked that the DOE streamline its grant-approval process. Local governments also suggested a more active approach to involving them in and advising them of program decisions, including activities in the licensing process. Local governments in Nevada requested a more formal process of consultation and cooperation.

Many commenters requested more information on the nature of changes described in the Report or stated that the Mission Plan needs to be revised to reflect these changes. The State of Nevada was especially concerned that the changes proposed in the Report need to be discussed in the Mission Plan Amendment and issued for public review and comment and accepted by the Congress before they can be implemented. The State also asked that the DOE release other documents, such as the fee adequacy report. The State was critical of a DOE presentation to the Nuclear Regulatory Commission (NRC) on December 20, 1989, concerning regulatory reform, and suggested that any proposed changes in the DOE's regulatory strategy must be presented in the Mission Plan Amendment.

The Duckwater Shoshone Indian Tribe requested that they be designated an affected Indian Tribe.

One State commenter suggested that the delayed repository schedule should not be used as a justification for deferring work and the involvement of affected local governments. Lincoln County, Nevada expressed concern about the delay in determining impacts.

Another commenter emphasized the need for the DOE and the Congress to recognize the importance of evaluating potential impacts on communities to gain an understanding of the effects of the repository.

RESPONSE

Consultation with Affected Parties (I-1)

The DOE agrees with comments that consultation with affected parties is critical to the success of the waste-management program and remains committed to pursuing both formal and informal links with affected parties. The DOE's initiatives to encourage the participation of affected parties in policy development and decisionmaking will be discussed in the Mission Plan Amendment. Consistent with the approach taken in developing the National Energy Strategy and the 5-Year Plan for Environmental Restoration and Waste Management, the DOE will be seeking opportunities for affected and involved parties to participate further in the reframing of the Civilian Radioactive Waste Management Program.

Although the Secretary of Energy has, on several occasions, proposed to enter into negotiations with the State of Nevada for a consultation and cooperation (C&C) agreement under Section 117(b) of the Nuclear Waste Policy Act (NWPA), as amended, the State has preferred to address procedures for interactions through informal consultation. Although the DOE still hopes to reach a C&C agreement with

the State, it welcomes continued informal interactions with all interested parties, including, for example, consultation workshops and meetings with the State, affected local governments, and the NRC concerning the Site Characterization Plan (SCP), State participation in monthly Yucca Mountain Project Office management meetings, and public participation in project update meetings.

Although the C&C agreement provided under Section 117(b) of the Act does not apply to affected units of local government, the DOE will welcome the opportunity to consult and cooperate with all affected local governments and to develop criteria, guidelines, and goals to guide interactions throughout the development of the waste-management system.

Program Oversight (I-2)

The DOE believes that independent monitoring and participation by affected parties contributes to the overall success of the repository, MRS facility, and transportation programs. To that end, the DOE has provided funding to support the participation of affected parties in a variety of technical and institutional activities as well as attendance at meetings of the NRC and the Nuclear Waste Technical Review Board. In the scientific investigation program at Yucca Mountain, the DOE has attempted to extend opportunities for the State of Nevada and affected local governments to participate in, and influence the direction of the program. The DOE welcomes initiatives on the part of affected parties and is willing to work with them to identify how their participation in the program can be expanded constructively.

Financial Assistance (I-3)

The DOE agrees that adequate financial assistance must be available to ensure that affected parties are equipped to exercise their independent oversight responsibilities to the fullest extent possible and to ensure mitigation of program impacts. The DOE has streamlined the process for awarding financial assistance, but in the interest of further facilitating the involvement of affected parties, financial assistance policies are being reevaluated.

Revisions to the Mission Plan (I-4)

The Mission Plan Amendment will discuss the program changes and initiatives proposed in the Report and present a comprehensive strategy for the waste-management program that reflects the new Director's goals and initiatives. Other major program documents are being revised to reflect the initiatives by the Secretary and the new Director.

Special Concerns in Nevada (I-5)

Many commenters urged the DOE to take a more aggressive posture with respect to site characterization. On September 19, 1990, the Ninth Circuit Court of Appeals rejected the State of Nevada's efforts to block DOE's access to the Yucca Mountain site. The DOE resubmitted to the State the applications for the permits needed to conduct scientific investigations at the site. The importance of impacts associated with the repository, if the site is found to be suitable, to both affected communities and the program is recognized and progress is being made to assess potential impacts. Delays in the repository schedule will also delay the actual occurrence of impacts.

The Department of the Interior has the mandated responsibility under the NHPA for making the determination regarding the Duckwater Shoshone's application for designation as an "affected Indian Tribe." The DOE is currently working with sixteen Indian Tribes with cultural and religious ties to the Yucca Mountain candidate site, including the Duckwater Shoshone Tribe, to protect and preserve cultural resources.

REGULATORY (R)

SYNOPSIS OF COMMENTS

The State of Nevada criticized the DOE's position on regulatory reform, as described in a presentation by the DOE to the NRC on December 20, 1989. The DOE's remarks, according to the State, suggested that the DOE has little confidence in the Yucca Mountain site and that the DOE is improperly seeking to influence the regulations being revised by the EPA to fit the characteristics of the site. Furthermore, the State claimed that the interactions proposed by the DOE among the DOE, the NRC, the EPA, the State, and industry in developing regulations compromise the integrity and objectivity of regulatory bodies. This approach, claimed Nevada, discredits the Report, and any effort to "streamline" the licensing process or revise the regulatory framework of the program should be addressed in the Mission Plan Amendment. On the other hand, industry commenters supported the DOE's regulatory reform initiatives.

The NRC recommended that the DOE and the NRC begin developing detailed schedules and milestones for their interactions in 1990 and 1991. The NRC stated that interactions on the following items are especially important: NRC acceptance of the OCRWM's quality-assurance program; consultations during the NRC's refinement of regulatory requirements; support for surface-based testing at Yucca Mountain scheduled to begin in January 1991; and support for exploratory-shaft construction, scheduled to begin in November 1992. The NRC added that interactions should begin as soon as possible to clarify what activities are required from the NRC to support the DOE's MRS schedule. The NRC noted that it is not clear how the restructured program will

address the development of the License Support System (LSS) and suggested that future schedules include LSS design and development.

The EPA noted its current efforts to revise its regulations on radioactive-waste regulations (40 CFR Part 191), suggesting that these regulations could play an important role in building public confidence. Another commenter suggested that the DOE work closely with the NRC to ensure that scientific investigations are performed to acceptable standards. Other commenters encouraged the DOE to create an integrated regulatory effort.

RESPONSE

Regulatory Reform (R-1)

The DOE regulatory reform initiative is an effort to ensure that the regulatory standards are the most realistic that can be reasonably achieved. The course of action proposed by the DOE is not inconsistent with the evolving nature of 10 CFR Part 60 and the need to consider, by establishing realistic criteria, characteristics that may be unique to certain sites or host rocks. An example of this is the rulemaking that was undertaken by the NRC to revise 10 CFR Part 60 to address waste emplacement in the unsaturated zone (50 FR 29641). The consideration of particular site or host rock characteristics in establishing reasonable criteria should not be confused with determining the appropriateness of the criteria on the basis of whether a particular site can meet them.

There is ample precedent for cooperative efforts by technical experts from government, scientific, professional, and industry organizations, in support of the formulation of proposed standards. Such interactions would not dilute the regulatory objectivity of the NRC, since any products resulting from these interactions would be used by NRC in an official review only if the standard had first been reviewed and evaluated, and found to be acceptable by the NRC.

Regulatory Compliance (R-2)

The DOE's plans for demonstrating compliance with 10 CFR Part 60 and 40 CFR Part 191 are discussed in the Site Characterization Plan. The DOE is closely following developments in 10 CFR Part 60 and 40 CFR Part 191. The DOE is interested in ensuring that future changes to both of these regulations result in criteria that are reasonable, not just for the Yucca Mountain site, but for any site.

In August 1990, the National Academy of Sciences' Board of Radioactive Waste Management issued a comprehensive review of the civilian radioactive waste

management program. The Board concluded that the program is unlikely to succeed in its current form. It suggested several measures for restructuring the regulatory compliance process. DOE appreciates the Board's report and is now evaluating its approach to regulatory compliance in view of the Board's recommendations.

Interactions with the NRC (R-3)

The DOE agrees on the need to schedule interactions with the NRC on the many complex issues that need to be addressed. A formal schedule of DOE/NRC interactions has been in place since 1989, and periodic meetings are held, which are publicly announced, to discuss the schedule. Topics that have been considered include site characterization, study plans, quality assurance, design process, technical and regulatory positions (technical exchanges), and the waste-acceptance process. This schedule of interactions will be continuously revised as the DOE and the NRC consult to identify additional topics that need to be discussed.

A memorandum of understanding between the NRC and the DOE to delineate responsibilities for system development and operation and to clarify the relationship between the Licensing Support System (LSS) Administrator and the DOE is being prepared. Before preparing a detailed schedule for LSS design and development, the relationship between the DOE and the NRC with respect to the LSS should be clearly established. The development of the LSS will be paced to complement the repository schedule.

The DOE expects to work closely with the NRC to ensure that the data generated by scientific investigations will support the licensing process.

TRANSPORTATION (T)

SYNOPSIS OF COMMENTS

Several commenters, including the Western Interstate Energy Board, observed that the transportation schedule has been accelerated by 5 years by the DOE's plan to begin accepting waste at an MRS facility in 1998. As a result, commenters felt that many transportation planning activities may have to be compressed, including route selection, selection of transportation modes, and emergency-response training. Commenters sought clarification of the DOE's plans in these areas. In addition, they claim that some activities that were to have been performed in sequence will now have to be performed in parallel.

The Western Interstate Energy Board requested that the DOE develop criteria for selecting highway routes immediately and designate routes from reactors to the MRS when the MRS site is selected.

Commenters inquired about the DOE's plans to implement Section 180(c) of the NHPA, as amended, which requires that the DOE provide funding for training to governments through whose jurisdiction waste will be transported. They specifically requested that the DOE define the breadth of training to be provided under Section 180(c) and begin providing training immediately after the routes are identified. The State of Nevada and others expressed the concern that training assistance prior to 1998 would only focus on shipments from reactors to the MRS facility, and they asked that training and transportation planning not be limited to the MRS facility before 1998.

Commenters also requested that the DOE complete its study of lessons learned from the Waste Isolation Pilot Plant (WIPP) program.

Several commenters in Nevada expressed concern about the effect of the 4-year reduction in the MRS schedule on transportation planning would have on them. They encouraged the DOE to commence early activities to resolve transportation-related issues of concern to affected units of local government in Nevada, and that they be involved early in the process.

RESPONSE

Schedules (T-1)

The DOE recognizes that the schedule for some transportation activities, including operational planning and meeting the requirements of Section 180(c), may be condensed or performed in parallel if waste will be accepted at an MRS facility in 1998. In planning for transportation operations, the DOE assumes that shipments to the MRS facility will begin in 1998; the specific requirements for the transportation system will depend on the projected number of shipments. The DOE expects to select an approach for managing the transportation system by 1994, and to begin the cask acquisition process between 1994 and 1995. It will then identify the mix of transportation modes (truck and rail) and issue the cask fleet contract between 1995 and 1997. Operational procedures will be finalized before shipments begin in 1998. The DOE has developed and will soon issue for comment a draft strategy for implementing the training and assistance requirements of Section 180(c) of the NHPA, as amended. Thereafter, the DOE will develop an implementation plan for assistance to Indian Tribes, States, and local governments for training, and develop the process for awarding and administering funds to eligible parties by 1993. After determining the preliminary mix of transportation modes, and identifying potential routes for training

purposes, the DOE will begin providing assistance and training from three to 5 years before shipments begin.

Route Selection (T-2)

Route selection criteria for actual shipments will be in place as part of the operational procedures prepared well before shipments begin in 1998, consistent with the DOE's role in overseeing transportation operations and the carriers' need to make specific routing decisions to account for adverse transportation conditions. Criteria to determine the potential routes that qualify for assistance under Section 180(c) will be developed prior to the determination of the potential routes.

Training Assistance (T-3)

The DOE agrees with comments that initiation of the training process for eligible jurisdictions should begin soon after potential routes are identified; with such training assistance to precede waste shipments by three to 5 years.

As indicated above, the DOE has developed a strategy for determining what training assistance will be required under Section 180(c). After review from interested parties, this strategy will serve as guidance on how to implement the requirements. The DOE is now assessing current training capabilities. The DOE has an ongoing program to incorporate the lessons learned from the WIPP transportation program. The training assistance offered by the WIPP is one of the models being assessed in the implementation plan for Section 180(c). As shipments to the WIPP get underway, the DOE will continue to use the WIPP's experience as a resource in planning for shipments under the civilian waste-management program.

Nevada Transportation Issues (T-4)

The DOE recognizes the concerns of affected local governments in Nevada about transportation planning. The Nevada counties through which waste could be transported will be eligible to receive financial assistance to participate in transportation planning. The DOE notes that affected counties in Nevada are currently funded to assess transportation impacts to their jurisdictions. Routing for potential shipments will follow Department of Transportation regulations.

MONITORED RETRIEVABLE STORAGE (MRS)

SYNOPSIS OF COMMENTS

Many commenters supported the DOE's commitment to begin accepting waste in 1998, but they raised concerns about the method of siting, statutory linkages between the repository and MRS schedules, focus of the overall program, and contingency planning in the event the 1998 date is not met.

While several commenters agreed with the need to decouple the schedule for the MRS facility from that of the repository, one noted that some linkages are needed to prevent the MRS facility from becoming a de facto repository, and others stated that linkages should not be modified until a volunteer host is located. Another commenter expressed the concern that modification of linkages will result in the MRS facility and the repository both being located in Nevada.

Commenters urged that the MRS facility be sited through the efforts of the Nuclear Waste Negotiator, or a negotiated process. Utility industry commenters urged that the DOE lobby actively for the appointment of the Nuclear Waste Negotiator.

Commenters from industry, local government, and others expressed concern that the DOE's new emphasis on the MRS facility might divert attention and resources from the repository, and they urged that the repository remain the main focus of the program. Commenters further stated that the DOE needs to demonstrate success with the MRS facility to build confidence in the overall program, and that repository-related affected units of local government should be involved in MRS activities. One local government in Nevada suggested that to save costs, the DOE should consider recommending at-reactor storage until the waste-disposal issue is resolved.

Commenters from the utility industry expressed concern that the Report does not address whether the MRS facility can accommodate their storage needs between 1998 and 2010. They asked what contingency planning has been done if the 1998 goal for waste acceptance is not met, as well as what plans the DOE has to assist utilities that exhaust their storage capacity before 1998. One commenter said that in order for the MRS facility to make a contribution to the waste management program, the DOE must meet an MRS delivery schedule that is closely correlated to the availability of utility storage capacity.

RESPONSE

Nuclear Waste Negotiator (MRS-1)

The DOE agrees with commenters that the most desirable means of obtaining an MRS site is through a negotiated siting process. The President nominated Mr. David H. Leroy, former Lieutenant Governor of Idaho, to be the Nuclear Waste Negotiator. Mr. Leroy was confirmed by the Senate on August 4, 1990. The DOE will support the Negotiator as requested.

Linkages Between the Repository and MRS (MRS-2)

Linkages between the repository and MRS schedules in the NWPA, as amended, would make it impossible for the DOE to accept waste at an MRS facility by 1998, given the revised schedule presented in the Report. The DOE also recognizes that the linkages serve important institutional purposes by providing assurances that the MRS facility will not become a de facto repository. The DOE believes that alternative measures can be incorporated into an agreement with a host that provide these same assurances. The DOE has no plans to develop an MRS facility in Nevada and the Amendments Act expressly forbids it.

The DOE agrees with the comment that the repository must remain the central focus of the waste-management program. New initiatives in the MRS program do not reduce the DOE's commitment to the repository. The DOE considers the MRS facility to be an integral part of the total waste-management system, not a separate facility that could replace the repository. The DOE believes that, by providing valuable experience with licensing and institutional matters, successful development of an MRS facility will increase the likelihood of success with the repository.

Contingencies and Fuel Acceptance (MRS-3)

Commenters noted that the MRS facility could be delayed or not provide sufficient storage to meet the needs of utilities before 2010 when the repository is expected to be available. To accept fuel in 1998 at an MRS facility, a site must be selected by the end of 1992. If the DOE is delayed significantly in meeting this early milestone, it will develop contingency plans at that time that will address its commitments to utilities and the utilities' need for fuel storage. A fully developed MRS facility is expected to preclude the need for additional at-reactor storage space for spent fuel storage between 1998 and 2010 and beyond.

The DOE disagrees with the suggestion that it recommend at-reactor storage in lieu of a repository or MRS facility. Long term at-reactor storage will not address

commitments to the utilities and their ratepayers, nor does it contribute to the development of the overall waste-management system.

SCHEDULING (S)

SYNOPSIS OF COMMENTS

The majority of commenters believe the new schedule for the waste management program is more realistic than previous schedules, and will allow time for scientific investigations necessary to determine the suitability of the Yucca Mountain site. Some expressed concerns about continuing delays in the program and urged the DOE to adhere to the new schedule. Some commenters expressed the concern that the schedule may be too ambitious, given current litigation, history of the program, management reorganization, regulatory reform, and uncertainties in MRS facility siting. An affected local government in Nevada noted that the schedule in the Report does not allow sufficient time for EIS scoping or legal challenges to the sufficiency of the EIS for the repository or the MRS facility. Another local government suggested that EIS scoping could begin earlier than presently scheduled. One commenter asked how the licensing process would be delayed if another repository site needs to be chosen. There was also a concern expressed about the relative durations allotted for preparation of the license application for the MRS facility and the repository. Commenters suggested that the DOE develop schedule, cost, and technical baselines, and evaluate all activities and schedules in light of overall project requirements. A utility commenter noted that activities on the Secretary's near-term decision plan must be completed by the end of 1990 to permit site characterization work to begin at Yucca Mountain by January 1, 1991, and that the DOE must move expeditiously to meet this deadline. They further suggested that this was too short a period. Commenters asked about how the schedule will be affected if Yucca Mountain is determined to be unsuitable.

RESPONSE (S-1)

The DOE recognizes the need to develop and maintain a realistic program schedule and that proven adherence to such a schedule will lead to confidence in the DOE's ability to manage such a complex project. As noted in the Report, a cornerstone for the revised schedule is the DOE's focus on early evaluation of the suitability of the Yucca Mountain site. The DOE believes that the new schedule, based on this new focus represents a more realistic time frame for studying the Yucca Mountain site. A detailed schedule for the MRS facility is now being developed, which includes time for EIS scoping. It is not feasible to include in program schedules accurate estimates of the time required for litigation, which is beyond the DOE's control. The significant

period for preparing the license application for the MRS facility is March 1993 to July 1995; for the repository, the period is October 1997 to October 2001.

Commenters were concerned that the new schedule may appear to indicate a retreat from the repository program. The DOE reaffirms its commitment to the scientific characterization of Yucca Mountain as a potential repository site—the new schedule should in no way be interpreted as a retreat from that commitment.

Commenters noted that certain milestones on the new schedule may be ambitious and noted in the Report that the schedule is based on the optimistic assumption that scientific investigations of Yucca Mountain will begin by January 1, 1991. The DOE intends to expeditiously implement the Site Characterization Plan, and believes that the new schedule can accommodate some schedule adjustments and still meet overall program objectives.

As noted in the Report, the DOE is establishing technical, cost, and schedule baselines, to facilitate program control.

Contingency planning in the event that Yucca Mountain is determined to be unsuitable is discussed in the next section.

YUCCA MOUNTAIN (YM)

SYNOPSIS OF COMMENTS

Commenters generally endorsed the DOE's new emphasis on surface-based testing and early evaluation of potentially disqualifying conditions at Yucca Mountain, but they differed sharply on the adequacy of the surface-based testing program.

One commenter suggested that the DOE must achieve a balance between the desires of scientists, who would like to pursue research of "personal and professional interest", and the need to investigate and resolve scientific questions aimed at determining the suitability of the site.

Several utility commenters stated that the surface-based testing program alone could not determine whether the site is suitable and suggested that underground tests are required to evaluate site suitability. In the same vein, commenters suggested that surface-based and underground activities should be conducted concurrently, or begin at the earliest opportunity. The State of Nevada suggested that the period allotted for surface-based testing is not long enough, and that the surface-based testing program should not begin until the exploratory shaft facility (ESF) design is finalized.

Several commenters observed that the Report contains no information on how the DOE will determine site suitability prior to construction of the ESF. The State of Nevada added that surface-based tests should not begin until the DOE can offer assurances that the interaction between surface-based tests and the ESF would not compromise the ability to gather data or the ability of the site to contain waste. The State also claimed that the planned surface-based testing program would provide no more substantiation of site suitability than the Secretary's May 1986 preliminary determination of suitability. In addition, the State suggests that there is no information in the Report regarding methods for determining site suitability prior to the ESF.

The State of Nevada claimed that the SCP should be considered invalid and revised because they interpret the Secretary's plan as a restructuring of the planned program described in the SCP.

Several commenters urged that the DOE recommend to the Congress its preference for more than one candidate site for the repository.

The State of Nevada suggested that the Report appears to validate its contention that the program at Yucca Mountain is technically unsound, and suggested that the DOE should make a formal finding that the site is unsuitable and report it as such to the Congress.

Many commenters observed that the DOE has no contingency plans in the event that Yucca Mountain is found to be unsuitable and suggested that this is an essential part of the program. One commenter asked how long the program would be delayed if Yucca Mountain is determined to be unsuitable.

RESPONSE

Surface-Based Testing (YM-1)

The DOE agrees that the surface-based testing program alone will not be sufficient to determine whether the site is suitable. The suitability of the site can be established only after the site characterization program is completed which includes both surface-based and underground testing. The new focus on the surface-based testing program is intended primarily to provide early warning of conditions that could so adversely affect performance that the site would be considered unsuitable. It is not intended to demonstrate conclusively that the site is suitable. Moreover, the DOE recognizes that the surface-based and in situ (underground) testing programs must be integrated so that they are compatible and complementary. The early focus on surface-based testing does not mean that the DOE considers underground testing to be any less important or

that any specific amount of surface-based testing is needed before underground testing begins. In fact, the Secretary's revised schedule includes more time for both surface-based and in situ testing than was indicated in the SCP.

The DOE does not believe that the Report was the appropriate forum for a detailed discussion of how it will determine site suitability. The DOE has established a surface-based testing prioritization task group that is reviewing the planned testing program and will make recommendations on any resequencing needed to provide an early focus on site conditions that have the potential to have significant adverse effects on performance. The DOE also has an extensive in-house effort underway to develop a methodology for evaluating site suitability that could be used throughout site characterization. The DOE is considering the views of the NRC, the State of Nevada, the Nuclear Waste Technical Review Board, affected local governments, and industry on prioritization of surface-based testing and evaluation of site suitability.

Concerns were expressed that the surface-based testing program could complicate later data gathering activities in the ESF or affect the long-term integrity of the repository. These issues are now being addressed as part of a study of alternative ESF configurations and construction methods (ESF Alternative Configurations Study). This study will consider the use of the ESF during site characterization, the compatibility of the ESF with the surface-based testing program and conceptual repository design, and the potential impacts of ESF construction and testing on the waste isolation capability of the site.

In response to the comment that surface-based testing and in situ testing in the ESF should proceed concurrently, the DOE believes it is more desirable to begin with an early emphasis on surface-based testing. This allows surface-based testing to proceed while the ESF design and construction are being completed. Moreover, by focusing first on surface-based testing, the DOE will have additional information to consider in the design and construction of the facility.

Site Characterization Plan (YM-2)

The DOE disagrees with the comment that the SCP should be considered invalid and reissued in draft form. The decision to focus initially on surface-based testing does not invalidate the bases for identifying what information about the site will be collected during site characterization nor the plans for obtaining this information through both surface-based and in situ testing. Nearly half the studies described in the SCP involve surface-based testing or monitoring activities that are essential for gathering the data needed to evaluate site suitability. The surface-based tests that are likely to be the initial focus of site characterization are a subset of those tests described in the SCP. As indicated above, the DOE is currently evaluating the surface-based testing program to ensure that it provides an early indication of site conditions that may so adversely

affect performance that the site should be considered unsuitable. Significant changes in the Site Characterization Plan will be reported in the progress reports on the scientific investigation program for the Yucca Mountain site. Changes in the testing program will be described in new or revised study plans.

Contingency Planning (YM-3)

Commenters contended that the DOE needs to develop contingency plans in the event the Yucca Mountain site is found to be unsuitable. If the site is determined to be unsuitable, the DOE is required to stop work and make a recommendation for further action to Congress within 6 months. At that time, the DOE would assess how long the program would be delayed. The DOE will take the following contingency steps in the meantime:

- Support the Nuclear Waste Negotiator as requested.
- Review lessons learned from previous siting efforts.
- Keep abreast of foreign repository programs for potential applicability to the U.S. effort.

Long-term at-reactor storage will not address the DOE's commitments to the utilities and their ratepayers, nor does it contribute to the development of the overall waste-management system. (See MRS-3.)

Other Issues (YM-4)

Regarding the need for multiple sites, the DOE agrees with current law that only one site at a time should be characterized. This enables the Department to concentrate its limited resources on determining the suitability of Yucca Mountain.

The Report did not suggest that the program at Yucca Mountain is technically unsound; it outlines initiatives for improving management and for focusing scientific investigations on the early evaluation of potentially disqualifying conditions, as suggested by a number of comments on the Site Characterization Plan.

APPENDIX A
LIST OF COMMENTERS

LIST OF COMMENTERS

<u>Organization</u>	<u>Date of Letter</u>	<u>Author</u>
U.S. Representative	11/30/89	James H. Bilbray
U.S. Senator	12/01/89	Richard H. Bryan
Duckwater Shoshone Tribe	12/04/89	Jerry Millett
Southern States Energy Board	12/06/89	Kenneth J. Nemeth
Board of County Commissioners Nye County, Nevada	12/07/89	Robert N. Revert
City of Caliente Nuclear Waste Project	12/20/89	George T. Rowe
Board of County Commissioners Lincoln County, Nevada	12/20/89	Keith Whipple
Arkansas Public Service Commission	01/08/90	Patricia S. Qualls
Board of County Commissioners Clark County, Nevada	01/09/90	Bruce L. Woodbury
Board of County Commissioners Esmeralda County, Nevada	01/11/90	Brad Mettam
State of Nevada Agency for Nuclear Projects Nuclear Waste Project Office	01/12/90	Robert R. Loux
State of Florida Public Service Commission	01/12/90	Michael M. Wilson
Western Interstate Energy Board	01/12/90	Richard H. Watson
Nevada Nuclear Waste Study Committee	01/12/90	Robert C. Dickinson
American Committee on Radwaste Disposal	01/12/90	William W. Berry

LIST OF COMMENTERS

<u>Organization</u>	<u>Date of Letter</u>	<u>Author</u>
U.S. Council for Energy Awareness	01/16/90	Harold B. Finger
United States Department of the Interior	01/16/90	Dallas L. Peck
Edison Electric Institute	01/17/90	William McCollam, Jr.
American Nuclear Energy Council	01/18/90	Edward M. Davis
United States Nuclear Regulatory Commission	01/25/90	Kenneth C. Rogers
Southern California Edison Company	02/20/90	Howard P. Allen
Wolf Creek Nuclear Operating Corporation	02/21/90	Forrest T. Rhodes
Public Service Electric and Gas Company	02/22/90	James Ferland
Gulf States Utilities Company	04/17/90	James C. Deddens
United States Environmental Protection Agency	No date	William G. Rosenberg

APPENDIX B
COMMENT AND RESPONSE CROSSWALK

COMMENT AND RESPONSE CROSSWALK

<u>Comment Number</u>	<u>Location of Responses</u>	<u>Commenter</u>
U.S. Representative 1	See DOE Response Letter.	James H. Bilbray
U.S. Senator 1	M-1; YM-4	Richard H. Bryan
2	YM-1,4	
3	M-2	
4	See DOE Response Letter.	
5	See DOE Response Letter.	
6	See DOE Response Letter.	
7	See DOE Response Letter.	
8	See DOE Response Letter.	
9	See DOE Response Letter.	
Duckwater Shoshone Tribe 1	I-5	Jerry Millett
Southern States Energy Board 1	M-3,4	Kenneth J. Nemeth
2	S-1	
3	MRS-2	
4	MRS-1	
Board of County Commissioners Nye County, Nevada 1	I-1,2	Robert N. Revert
2	See DOE Response Letter	
City of Caliente Nuclear Waste Project 1	I-1; T-4	George T. Rowe

COMMENT AND RESPONSE CROSSWALK

<u>Comment Number</u>	<u>Location of Responses</u>	<u>Commenter</u>
Board of County Commissioners Lincoln County, Nevada		Keith T. Whipple
1	I-5	
2	T-4	
3	M-5	
4	T-4	
5	M-5	
6	I-1	
7	T-3,4	
8	S-1	
9	S-1	
10	I-1; T-4	
Arkansas Public Service Commission		Patricia S. Qualls
1	M-1; S-1	
2	YM-3	
3	S-1	
4	M-4	
5	MRS-3	
6	MRS-3	
Board of County Commissioners Clark County, Nevada		Bruce L. Woodbury
1	I-4	
2	I-1,2,3	
3	I-1,2,3,5	
4	I-3	
5	M-3	
6	M-3	
7	M-5	
8	R-3	
9	S-1	
10	MRS-3	

COMMENT AND RESPONSE CROSSWALK

<u>Comment Number</u>	<u>Location of Responses</u>	<u>Commenter</u>
Board of County Commissioners Esmeralda County, Nevada		
1	NRR	Brad Mettam
2	YM-1	
3	MRS-2; T-1,4	
4	T-1,2,3,4	
State of Nevada Agency for Nuclear Projects Nuclear Waste Project Office		
1	MRS-2; M-2,3; R-2	Robert R. Loux
2	I-4	
3	YM-2	
4	YM-1	
5	R-1,2,3	
6	R-1,2,3	
7	R-1; I-4	
8	YM-1	
9	YM-1	
10	T-1,4	
11	MRS-2; I-4	
12	I-1,2	
13	M-1,3,4; I-1,2,3,4,5; MRS-1,2; YM-1,2	
14	I-4	
15	R-1,2,3	
State of Florida Public Service Commission		
1	M-1	Michael M. Wilson
2	M-1,2,3,5	
3	M-3	
4	M-6	
5	M-6	
6	MRS-3	

COMMENT AND RESPONSE CROSSWALK

<u>Comment Number</u>	<u>Location of Responses</u>	<u>Commenter</u>
Western Interstate Energy Board		Richard H. Watson
1	T-1,2,3	
2	T-1,2,3	
3	T-1,3	
4	T-1,2,3	
Nevada Nuclear Waste Study Committee		Robert C. Dickinson
1	NRR	
2	NRR	
3	I-3	
American Committee on Radwaste Disposal		William W. Berry
1	M-3	
2	M-1,4	
3	M-2,4	
4	M-2,3,4; S-1; I-4	
5	M-6	
6	M-1; MRS-3	
7	S-1	
8	M-3,4	
9	M-3,4	
10	M-5	
11	M-2,4	
12	S-1	
13	M-1	
14	M-4; MRS-3	
15	R-1,2,3	
16	MRS-1	
17	YM-1	
18	M-2	
19	YM-1	
20	YM-3	
21	S-1	
22	MRS-1,2,3	

COMMENT AND RESPONSE CROSSWALK

<u>Comment Number</u>	<u>Location of Responses</u>	<u>Commenter</u>
U.S. Council for Energy Awareness		Harold B. Finger
1	NRR	
2	S-1	
3	MRS-2,3	
4	S-1; M-3,4,5	
5	NRR	
United States Department of the Interior		Dallas L. Peck
1	NRR	
2	YM-1	
Edison Electric Institute		William McCollam, Jr.
1	NRR	
2	M-3,4	
3	YM-1; R-1	
4	M-1	
5	M-1; MRS-3	
American Nuclear Energy Council		Edward M. Davis
1	NRR	
2	M-2,4	
3	M-3	
4	S-1	
United States Nuclear Regulatory Commission		Kenneth C. Rogers
1	NRR	
2	R-3	
3	R-3	
Southern California Edison Company		Howard P. Allen
1	MRS-2,3	

COMMENT AND RESPONSE CROSSWALK

<u>Comment Number</u>	<u>Location of Responses</u>	<u>Commenter</u>
Wolf Creek Nuclear Operating Corporation		Forrest T. Rhodes
1	MRS-2; M-3,6	
2	M-1; MRS-3	
Public Service Electric and Gas Company		James Ferland
1	S-1	
2	MRS-3	
3	MRS-2, M-4	
4	S-1	
5	M-3,5	
Gulf States Utilities Company		James C. Deddens
1	M-1; MRS-3	
2	MRS-3	
3	M-1; MRS-3	
United States Environmental Protection Agency		William G. Rosenberg
1	MRS-2	
2	R-2	

Summary of Comments Received and Near-Term Accomplishments

Twenty letters were received commenting on the report. With few exceptions, the responses supported the Secretary's revised program strategy. Many commenters urged the quick nomination and confirmation of a new permanent director for the Office of Civilian Radioactive Waste Management (OCRWM) and supported the recommended organizational changes. Many commenters indicated that some linkages be maintained between the repository and monitored retrievable storage facility (MRS) and that the MRS should not become a de facto repository. Others expressed the need for increased attention to the transportation aspects of the program, including provision of emergency response training; and need for closer cooperation with the affected communities. Some commenters stated that the revised strategy did not go far enough.

The Secretary has approved an interim functional realignment for OCRWM which is consistent with the results of the independent management assessment conducted at his direction. This interim shift preserves the permanent director's options in fully reviewing organizational requirements. In addition, a more sharpened focus on a number of aspects of the program has also been directed. The combination of the two will enable the program to move forward more effectively and meet the objectives of the plan outlined in the report submitted to the Congress.

Since late November, when the report was submitted to the Congress, the following actions have been accomplished:

- nomination of a permanent OCRWM director; and
- initiation of litigation against the State of Nevada to obtain the necessary authorizations to conduct scientific investigations at the Yucca Mountain site.

To ensure that the program is responsive to the needs of all participants, the Department will endeavor to work closer with industry and the affected parties. The Near Term Decision Plan will be distributed every other month to keep interested parties informed of program status and the Department's progress in meeting its commitments. Further, there will be more opportunity for involvement by the public and others on major program plans. As discussed above, the Mission Plan Revision, which will include discussion of contingency efforts, is under development and will be provided for review and comment in June. The cost baseline is under development and due out also in June.

APPENDIX C
LETTERS FROM COMMENTERS

JAMES H. BILBRAY
1ST DISTRICT, NEVADA

COMMITTEE ON
ARMED SERVICES

COMMITTEE ON
SMALL BUSINESS

SELECT COMMITTEE
ON AGING

Congress of the United States
House of Representatives

Washington, DC 20515

November 30, 1989

210 JAMES H. BILBRAY OFFICE BLDG.
WASHINGTON, DC 20515
(202) 225-5885
DISTRICT OFFICE:
1701 W. CHARLESTON, SUITE 30
LAS VEGAS, NV 89102
(702) 477-7000

The Honorable James D. Watkins
Admiral, U.S. Navy (Retired)
Secretary of Energy
1000 Independence Ave., SW
Washington, D.C. 20585

Dear Mr. Secretary:

I have reviewed your report to Congress concerning the problems surrounding the Department of Energy's Civilian Radioactive Waste Management Program. I am pleased that you are reassessing this program, and I hope that you will be considering some of the major concerns raised by the State of Nevada, Nevada's Congressional Delegation, and the Nuclear Regulatory Commission.

It is apparent from your report that you feel other candidate sites should be evaluated in the event that Yucca Mountain proves to be unsuitable. On page 15 you state, "Recognizing that the Yucca Mountain candidate site could be found unsuitable, the DOE will also support the Negotiator in efforts to identify alternative volunteer repository sites." This statement is consistent with what you told Governor Miller, myself, and the rest of the Nevada Congressional Delegation during our April 22, 1989, meeting with you and your staff.

1 I agree with you that other sites should be characterized in the event that Yucca Mountain proves to be unsuitable for the repository. From the evidence that I have seen to date, it seems that Yucca Mountain will in fact be rejected as a candidate site. I urge you, therefore, to recommend to Congress your preference of having more than one candidate site for a high level waste repository. Clearly, the public interest is not served by a civilian radioactive waste management program that places all of its marbles in one bag.

Sincerely,

James H. Bilbray
Member of Congress

8901670

United States Senate

WASHINGTON, DC 20510

December 1, 1989

James D. Watkins
Admiral, U.S. Navy (Retired)
Secretary of Energy
1000 Independence Avenue SW
Washington, D.C. 20585

Dear Mr. Secretary:

1 The draft "Reassessment of the Civilian Radioactive Waste Management Program" dated November 29, 1989, concerning the restructuring of the nuclear dump project at Yucca Mountain appears to validate Nevada's longstanding belief that the program as previously conducted was technically unsound. The fact that DOE is now publicly acknowledging the failure of the program is commendable.

2 I do not believe, however, that your "restructured" approach goes far enough or is likely to solve the nuclear waste problem the nation faces. As I indicated to you in my letter of July 18, 1989, the many technical problems that the Yucca site faces are well documented, and I called upon you to use your existing legal authority to determine the site unsuitable and report to Congress, as allowed by law, a new approach to this vexing national environmental concern. Governor Miller, in his November 14, 1989, letter to you, elaborated on the geological and hydrologic deficiencies of the Yucca site that clearly indicate the site is unsound for a repository and will ultimately be disqualified. If this process is ever to succeed, it is essential that a variety of sites that may prove suitable be considered.

3 Because the State of Nevada remains resolute in its opposition to this project, your new approach depends mainly on litigation to set the future course and timing of the nation's quest to solve the nuclear waste environmental crisis. The litigation itself is likely to be contentious, lengthy, and expensive and will reach issues going to the heart of the constitutional relationship between the States and the Federal government. That approach will do little to enhance public confidence in the program.

I am increasingly concerned about the waste of utility consumers' and taxpayers' dollars that this program has caused. I would appreciate your providing to me as soon as possible the following information:

- 4 1) What steps will DOE now take to recover funds that have been wasted in this program if there was negligence or incompetence evident in the work of the contractors who have conducted the existing scientific studies?
- 5 2) What is the total amount so far collected in the Nuclear waste fund, what uncollected amounts are owed to the fund, and what amount has been expended from the fund on the existing program?
- 6 3) Of the expenditures from the fund, what amount has been spent by DOE directly and what amount has been expended through private contractors?
- 7 4) Please provide a list of the contractors who have participated on the program and the aggregate amount that each contractor has received from the nuclear waste fund and what work was performed.
- 8 5) Please provide a detailed explanation of the status of the existing data DOE has collected on Yucca Mountain. Will the existing data be utilized in the new scientific analysis of the site, will it be entirely supplanted by new data, or will the existing data be used selectively in the new program?
- 9 6) What effect will the further delay of the program have on its ultimate cost, and will the existing fee for the nuclear waste fund have to be increased over time to support the program?

In light of the commitment to improving communications between DOE and Nevada officials that Mr. Leo Duffy of your staff made at yesterday's briefing on this matter, I am looking forward to a prompt and comprehensive reply, and I will look forward to discussing your revised plan with you in the future.

Sincerely,

RICHARD H. BRYAN
United States Senator

Jerry Millett
Tribal Chairman

Tony Baca
Vice-Chairman

Steven Mike
Secretary

Henry Blackeye, Sr.
Member

Boyd Graham
Member

Duckwater Shoshone Tribe

P.O. Box 68
Duckwater, Nevada 89314
(702) 863-0227

Jerry Millett
Tribal Manager

Robert Ketchum
Admin. Assistant

Roberta Thompson
Finance Director

Anita Davis
Secretary

Mary Lou Gomes
Health Director

04 December 1989

James D. Watkins
Admiral, U.S. Energy (Retired)
Secretary of Energy ~ ~ ~
1000 Independence Ave., S.W.
Washington, D.C. 20585

Dear Mr. Secretary,

I am pleased to hear the DOE is seeking a revised strategy in it's attempt to characterize Yucca Mountain, in Nevada, for Americans first deep geologic nuclear waste repository. The DOE is finally facing the technical and political realities of the situation. To this, I would like to add the need for involvement from the Western Shoshone Nation and it's local governments.

The Nuclear Waste Policy Act of 1982 provides for the designation of any Indian tribe whose off reservation treaty possessory and usage rights that may be substantially and adversely affected by the siting and construction of a nuclear waste repository as an "affected Indian tribe". An affected Indian Tribe has the significant right under the Act to participate in the site characterization process.

The Yucca Mountain site lies squarely in the heart of the ancestral homeland of the Western Shoshone Nation. The Duckwater Shoshone Tribe has submitted a petition for affected Indian tribe status. The petition asserts the of reservation rights reserved to the Western Shoshone Nation recognized in the 1863 Treaty of Ruby Valley that will be substantially and adversely affected. The Duckwater Shoshone Tribe is one of nine Western Shoshone local governing entities, meeting the threshold requirements for affected Indian tribe status.

This letter is to urge you to give the most careful consideration to the Western Shoshone's participation in the DOE's restructured site characterization program. A repository at Yucca Mountain will alter irreversibly the physical environment of the Western Shoshone Nation.

With regards,

Jerry Millett
Jerry Millett, Chairman
Duckwater Shoshone Tribe

JM:ad

8901695

SOUTHERN STATES ENERGY BOARD

3091 Governors Lakes Drive
Suite 400
Norcross, Georgia 30071
(404) 242-7712

December 6, 1989

Admiral James D. Watkins
Secretary of Energy
U.S. Department of Energy
Office of Civilian Radioactive Waste Management
RW-1
1000 Independence Avenue, SW
Washington, D.C. 20585

Re: Letter from Admiral Watkins dated November 29, 1989;
Comments on:
Report to Congress on Reassessment of the Civilian Radioactive
Waste Management Program (DOE/RW-0247)

Dear Admiral Watkins:

The Southern States Energy Board appreciates the opportunity to comment on the above-referenced document, which details the U.S. Department of Energy's (DOE's) efforts to achieve the goal of developing and implementing an acceptable geologic repository program. SSEB agrees with you that changes must be made in the civilian nuclear waste management system if the repository program is to be effectively established. Furthermore, the Board applauds your commitment to improving the U.S. Department of Energy's (DOE's) record on nuclear waste management in general and on reassessing the civilian radioactive waste management program in particular.

1 SSEB recognizes your visibility and leadership role in your first year at DOE and understands the need for additional inspired leadership at DOE. The Board asks that the President act expeditiously in appointing a permanent director for the Office of Civilian Radioactive Waste Management (OCRWM). The repository program cannot move forward without strong, focused and effective leadership at OCRWM. DOE needs another James Watkins.

2 Despite the confidence SSEB has in you and your efforts to date, the Board is concerned that further delays may signal a retreat from the repository program and may undermine confidence in the department's ability to create a comprehensive plan for the safe handling, transportation and disposal of high-level radioactive wastes. The recently announced delay of repository operations from 2003 to 2010 may have been necessary to establish a realistic schedule, but additional delays will seriously undercut DOE's credibility further. The Board urges DOE to establish a realistic schedule at this juncture and adhere to it now and in the future.

3 Additionally, SSEB asks that some linkages between the Monitored Retrievable Storage (MRS) facility and the repository be retained. DOE has promised that the department will "...work with the Congress to modify current linkages and constraints on the MRS facility." It remains to be seen what these modifications will entail. Suffice it to say that SSEB remains convinced that an unlinked MRS facility or facilities may be used as a de facto repository or

8901687

Letter to Admiral James D. Watkins
December 6, 1989

Page Two

repositories. The MRS Review Commission report stated that there is no technical justification for the linkages but that some justification exists. The justification for the linkages is institutional, political and legal: they keep an unlinked MRS or other interim storage facility or facilities from becoming a permanent disposal site or sites. SSEB requests that in modifying the linkages DOE should be mindful of the concern over the creation of a de facto repository.

4 Finally, SSEB suggests that if and when DOE decides to select a site for one or more interim storage facilities, the department should do so through a negotiation process that allows a potential state to choose, or not to choose, to serve as a host. Without a voluntary negotiation process, DOE's efforts to site such a facility, if and when such efforts are undertaken, cannot and will not meet with state and public support.

Again, SSEB appreciates the opportunity to comment on the restructuring of the repository program. If I or anyone on my staff can be of any further service, please feel free to call on us.

Sincerely,

Kenneth J. Nemeth
Executive Director

KJN:jmm

cc: The Honorable Bob Martinez, Governor of Florida, SSEB Chairman

Mr. William O. Doub, SSEB Federal Representative

ROBERT N. REVERT
County Commissioner

December 7, 1989

The Honorable James D. Watkins
Admiral, U.S. Navy (Retired)
Secretary of Energy
1000 Independence Avenue
Washington, D.C. 20585

Dear Admiral Watkins:

I am sorry that your schedule did not permit you to meet with us during our recent trip to Washington, D.C. We can well imagine how busy you must have been in formulating the reorganization plan for the nation's high-level radioactive waste repository program. Perhaps during a future visit we will be able to arrange a meeting to share views about it.

As you know, Nye County is the only jurisdiction designated by Congress in the Nuclear Waste Policy Amendments Act of 1987 as an "affected unit of local government". In spite of considerable political pressure on us, including legislation (Bullfrog County) and threats to re-draw our boundaries, we have not adopted a policy of opposition to the proposed repository. We feel it is critical that we not expend our limited resources on emotional rhetoric and actions, but instead be pragmatic and professional in our repository assessment and planning efforts. We strongly support a comprehensive and credible examination of all relevant scientific data associated with the program, as well as the potential impacts on the health, safety, natural resources, and economies of our communities.

As the "situs" local government for the Yucca Mountain project, we are vitally interested in the progress of the repository program. Notwithstanding the controversy surrounding this program, we intend to continue to exercise our rights to participate in it, including monitoring the activities of the Department of Energy and its contractors. Accordingly, it is important for us to be fully informed of any and all organizational and programmatic changes.

1 We are particularly interested in receiving from the Department of Energy, as early and in as much detail as possible, information about the planned "re-direction" of the program. In that connection, we were disappointed that no effort was made to brief us or our representatives on the recently announced program changes. As of this writing, no representative of Nye County has received even so much as a phone call, not to mention documents, regarding your reorganization plan.

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Since Nye County will continue to be on the "front lines" of the repository program for the foreseeable future, I would like to request that as major program decisions are reached, such as the appointment of a Negotiator, Nye County be notified as soon as possible. The impact of this program on us is too great for us to be expected to learn about developments in the newspapers or from the press releases of DOE or our Congressional delegation. To facilitate interaction with the Department of Energy, Nye County has staff available in both Washington, D.C. and Nevada. They are available at any time for briefings and meetings on repository issues.

During the recent pause in the repository program we have re-evaluated our relationship with DOE. We have concluded that in most quarters of the repository program there is:

- 1) insufficient understanding of and responsiveness to Nye County's needs and priorities,
- 2) insufficient recognition of Nye County's unique role, reflected in the Amendments Act, as the situs jurisdiction, and
- 3) insufficient understanding of the unique political position in which Nye County finds itself as a result of our decision not to oppose the repository.

Undoubtedly, some of those concerns are attributable to the political, legal, and organizational uncertainties that have plagued the program. Also, perhaps, we have not adequately made clear to DOE our own priorities.

2 In any event, we have concluded that a more formal process of consultation and cooperation should be adopted between DOE and Nye County. While DOE staff have been, for the most part, responsive to specific information requests from Nye County, we feel that our interactions to date have been characterized more by DOE reaction to Nye County requests than by a systematic and program-wide outreach process. In short, we see little evidence that consultation with affected units of local government has been incorporated in any organized and systematic way in the activities of OCRWM, YMPO, or DOE's repository contractors.

We therefore propose that soon after a new OCRWM director is appointed, DOE and Nye County representatives meet to develop a specific set of criteria, guidelines, and goals for use by both parties in the course of our interactions on the repository program.

The Honorable James D. Watkins
December 7, 1989
Page three

We welcome the new spirit of openness and technical conservatism with which you and your staff seem to be approaching the repository program. For Nye County's citizens to benefit from that spirit, we believe that it is necessary to work together to structure a more open and cooperative atmosphere within which to interact. We look forward to working with you to ensure the success of such an effort.

Sincerely,

A handwritten signature in dark ink, appearing to read "Robert N. Revert". The signature is fluid and cursive, with the first name "Robert" being more prominent than the last name "Revert".

Robert N. Revert, Chairman
Board of County Commissioners

RNR/gl

CITY OF CALIENTE NUCLEAR WASTE PROJECT

P.O. BOX 158 CALIENTE, NEVADA 89008 (702) 726 - 3679

December 20, 1989

Secretary of Energy
Washington, D.C. 20585

RE: Comments To DOE's Report On Reassessment Of The Civilian
 Radioactive Waste Management Program

Dear Admiral Watkins:

1 The City of Caliente has reviewed the enclosed comments prepared
 by Lincoln County to the subject report and is in complete support
 of said comments. Because the mainline Union Pacific railline
 bisects the downtown area of Caliente, the implications of the MRS
 to the City are of particular concern. Early involvement of the
 City in MRS related transportation issue identification and
 resolution activities is requested.

Sincerely,

George T. Rowe
Mayor

9000043

Board of County Commissioners of Lincoln County, Nevada

COUNTY COMMISSIONERS
ED WRIGHT
LENARD SMITH
KEITH WHIPPLE

P.O. BOX 90, PIOCHE, NEVADA 89043
TELEPHONE 962-5390

DISTRICT ATTORNEY
JAMES L. WADSWORTH

COUNTY CLERK
CORRINE WALKER

December 20, 1989

Secretary of Energy
Washington, D.C. 20585

RE: Comments To DOE's Report On Reassessment Of The Civilian
Radioactive Waste Management Program

Dear Admiral Watkins:

In response to your request, I am pleased to submit the following comments to the subject report on behalf of the Board of Lincoln County Commissioners. In general, Lincoln County concurs with the redirection of the civilian radioactive waste management program you have outlined. We are a bit disheartened however, by the probable extension of time in which Lincoln County will be faced with the uncertainty surrounding whether or not the repository will be built in Nevada and whether or not associated potential positive and/or negative benefits related thereto will accrue to County residents.

As one of three "affected units of local government" in Nevada, Lincoln County takes particular note to DOE's commitment to the MRS. Because the mainline Union Pacific railline providing access to the Yucca Mtn. region crosses the County and bisects our principal city, Caliente, the likelihood of dedicated train shipments resulting from inclusion of the MRS is of particular interest. Lincoln County respectfully requests to be fully included in all DOE activities to site, plan the operation of, and license an MRS facility.

Specific comments to the subject report follow:

page viii-contractor support - review should include looking into use of contractors indigenous to Nevada, particularly within rural "affected units of local government".

page ix - The decision by the Secretary to pursue decoupling of the MRS from a repository to ensure the timely availability of this facility for early waste acceptance, all but

assures that most shipments to the repository will be by rail. As a consequence, Lincoln County and the City of Caliente are now faced with a commensurately enhanced likelihood of transportation related impacts. Once a site for the MRS has been selected, every effort should be made by DOE to commence early activities to resolve transportation related issues of concern to Nevada's "affected units of local government".

5 page 4 - Direct-line reporting - As proposed, the Yucca Mountain Project Office Director will have a direct line of communication with Headquarters. However, the Nevada Operations Office (NVO) will still maintain administrative responsibility for site characterization contractual work. As a consequence, decades old "sweetheart" contracting relationships between major contractors at the Nevada Test Site and NVO may continue to constrain the efficiency, cost effectiveness, and scientific quality demanded by site characterization. The Yucca Mountain Project Office should be afforded every opportunity to retain the most appropriate contractors to conduct site characterization activities.

6 page 11 - Initiatives for schedule improvement - State and local governments are conspicuously omitted as parties with whom DOE will consult in order to reduce unresolved issues remaining at the time of repository licensing. The success of NRC's negotiated rulemaking regarding the LSS would suggest such an omission to be improper and perhaps in violation of what should be a continued spirit of cooperation by DOE.

7 Figure 1 - It will be important that the DOE not limit transportation system planning and local government emergency training to MRS related areas during the pre-1998 timeframe. Inclusion of repository related "affected units of local government" in early issue resolution and emergency preparedness activities may be important to gaining public confidence in DOE's waste management program.

8 Figure 1 - The reference schedule suggests that 13 months will be allowed for preparation of a license application for the MRS but only 12 months will be allowed for the repository. A shorter time-horizon for license application preparation for the repository versus the MRS does not make any sense.

9 Figure 1 - The schedule does not appear to anticipate nor to be tolerant of prospective legal challenges to the sufficiency of the EIS's prepared for both the repository and the MRS. If DOE is to effectively avoid litigation (highly unlikely) over the sufficiency of the EIS's, scoping and a comprehensive approach to issue evaluation

will be critical. Scoping is not even listed as an activity for the MRS.

10

Further, because the MRS is an integral part of what the Secretary refers to as a "radioactive-waste disposal system", repository related "affected units of local government" must be fully involved in all MRS siting, operational planning, and regulatory compliance/licensure activities.

11

In order to more effectively usher in your proposed redirection of the civilian radioactive waste management program, I am requesting that arrangements be made for your designee as Director of OCRWM to meet with representatives of Lincoln County in the near future. At that time we would be happy to discuss these comments and other issues in greater detail.

Sincerely,

Keith T. Whipple
Chairman

cc: Mike L. Baughman, Intertech

Jerrold L. Clark
Director
682-1784

ARKANSAS
PUBLIC SERVICE COMMISSION
1000 Center
P.O. Box C-400
LITTLE ROCK 72203

Sam L. Bratton, Jr.
Chairman
682-1453

Patricia S. Qualls
Commissioner
682-1451

Julius D. Kearney
Commissioner
682-1455

January 8, 1990

The Honorable Michael Wilson, Chairman
Florida Public Service Commission
101 East Gaines Street
Tallahassee, Florida 32399-8153

VIA FACSIMILE

Dear Chairman Wilson:

As a member of the NARUC Subcommittee on Nuclear Issues/Waste Disposal, I am pleased to see that Secretary Watkins has attempted to address the scheduling problems for the Yucca Mountain repository and the numerous management problems experienced by the Office of Civilian Radioactive Waste Management in his "Report to Congress on Reassessment of the Civilian Radioactive Waste Management Program." In general, the three major elements of his plan - restructured management, comprehensive scientific investigations of the Yucca Mountain site, and development of an integral monitored retrievable storage (MRS) program for interim needs - answer many of the concerns we have expressed in the past. However, the further delay in the operation of the repository until 2010, after an initial projected operation date of 1998 which was then revised to 2003 as recently as 1987, does raise some questions about the viability of the program.

First, it is not clear from the report what further delays would result in the operation of the repository if the Yucca Mountain site in Nevada were deemed unsuitable. Although DOE seems committed to early resolution of many of the generic issues associated with obtaining licenses for the repository from EPA and NRC, to what extent would the licensing process alone be delayed if another site had to be chosen? Without sacrificing the need for thorough scientific investigation in a one-of-a-kind project like the repository, DOE needs to make the determination of the suitability of the

January 8, 1990
Page 2

Yucca Mountain site its utmost priority to avoid further delay and expense in the program.

5 Second, it is not clear from the report whether the MRS part of the waste management program can serve the storage needs of the utilities from 1998, when it is now projected to start operating, through 2010, when the repository is scheduled to begin operating, even if the DOE is successful in obtaining Congressional approval for modifications in MRS. The interim storage plan could easily be in jeopardy if any further delays occur in the repository.

6 Finally, I am concerned about what the utilities will do about nuclear waste storage before the MRS program is implemented. Arkansas Power & Light has indicated that, even with rework, its on-site storage will reach capacity in 1996. I am sure there are other utilities which will be in the same situation of needing storage for their nuclear waste before it is available. Can DOE address the utilities' needs prior to the operation of the MRS site?

As you have requested, I am sending a copy of my comments both to you and Ron Callen. Thank you for requesting my input.

Sincerely,

Patricia S. Qualls
Commissioner

PSQ/jr

cc: Ron Callen

BRUCE L. WOODBURY
COMMISSIONER

Board of County Commissioners

CLARK COUNTY BRIDGER BUILDING
225 BRIDGER AVENUE
LAS VEGAS, NEVADA 89155
702 383-3500

January 9, 1990

James D. Watkins, Admiral
U. S. Navy (Retired)
The Secretary of Energy
Washington, D.C. 20585

SUBJECT: REPORT TO CONGRESS ON REASSESSMENT OF THE CIVILIAN RADIOACTIVE
WASTE MANAGEMENT PROGRAM

Dear Admiral Watkins:

Thank you for the opportunity to provide comment on the "Report to Congress on Reassessment of the Civilian Radioactive Waste Management Program" released by the Department of Energy in November, 1989. I have attached specific comments concerning the report for your consideration.

Clark County, as a government recognized by the Nuclear Waste Policy Amendments Act of 1987 and the Department of Energy as affected by the potential repository, is opposed to siting of the repository at Yucca Mountain. However, we have continued to review the repository program, and like other affected governments, we have had concerns about conduct of the program. While the proposed time frame seems rather ambitious given the current litigation, the proposed reorganization and other recommendations can, potentially, begin to resolve many of the problems that have plagued the repository program to date. On the whole there needs to be more information made available, however, to better describe the nature of the changes.

Our primary concern is that the program be conducted in a manner that will ensure that the health and safety of the citizens of Clark County, Nye County, and the State of Nevada will not be affected, and that the integrity of the environment is protected. This necessitates the development of a program that is technically sound and managed properly.

Due to the physical complexity of Yucca Mountain and the fact that many aspects of the study are essentially research projects, considerable study and oversight is necessary. It is important, therefore, that funds are available to enable the technical work to be performed to the highest standards. Adequate funding should also be made available to the State of Nevada and affected local governments to enable these entities to meet their oversight responsibilities as well as to provide continued valuable technical input to site characterization studies.

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3 On the local level, as I am sure you are aware, we are also concerned about the potential for long-term socioeconomic and transportation effects on Clark County, Las Vegas, Henderson, North Las Vegas, Boulder City and others from the proposed repository. For example, the project will result in an influx of workers and their families, many of whom will probably reside in Clark County, as has been the pattern for weapons testing activities at the test site. This will result in costs to our community for service facilities and infrastructure. It is important that DOE and Congress recognize that studies to evaluate potential community impacts are necessary to have a complete understanding of the effects of a repository on our community.

The Amendments of 1987 provided the resources for Clark County to develop a work program that would define potential impacts from the Yucca Mountain program. The proposed delay in the repository program provides the opportunity, for Clark County and the other affected Counties (Lincoln and Nye) to develop a better understanding of potential future local impacts.

4 We are hopeful that the management recommendations will assist in streamlining the operations of DOE. From a local perspective, one of the problems that we have had is the timely review of grant applications and subcontracts. The accelerated review of grant applications and contracts will greatly assist the County in carrying out its responsibilities as defined in the Nuclear Waste Policy Amendments Act.

Again, thank you for the opportunity to comment on the Report to Congress. There are positive aspects in the changes proposed by DOE. We look forward to seeing how the recommended revisions proceed forward and request the opportunity to review other documents related to the proposed changes as they are developed.

If you have further questions or comments, please do not hesitate to call me or Dennis Bechtel, of my staff, at (702) 455-4181.

Sincerely,

Bruce L. Woodbury
County Commissioner

al
attachment
L0003

SPECIFIC COMMENTS
"REPORT TO CONGRESS ON REASSESSMENT OF THE
CIVILIAN RADIOACTIVE WASTE MANAGEMENT PROGRAM"

<u>Page</u>	<u>Section</u>	
5	4	2.3 (Direct Line Reporting). Will "Direct Line Reporting" change the responsibilities of the program? Does this mean that Headquarters has more responsibility in decision-making? Will this affect coordination with State and affected local governments?
6	4	2.4 (Independent Management Review). Will there be an opportunity for input by the State of Nevada and affected units of local government on any recommendations provided by the management review team?
7	5	2.5 (Contractor Support). Is there documentation available describing the changes in more detail (which contractors were eliminated, were duties transferred?, etc.)
8	6	2.6.2 (Quality Assurance Program). The Quality Assurance Program is extremely important and should be given great emphasis. DOE should continue to work closely with the NRC, State of Nevada, and affected local governments to ensure that site characterization activities are performed to standards that will enable the suitability of the Yucca Mountain site to be evaluated.
9	8,10	2.7 (Development of a Realistic Schedule). The schedule may be somewhat ambitious given current litigation. Figure 1 on page 10 notes that scoping for the EIS will begin in October 1997. Since the end of the schedule has been extended, it would also be a good opportunity to begin scoping earlier. This will provide additional time to study potentially important socioeconomic and environmental issues. This is already recognized in the Transportation Schedule (planning begins in mid-1990).
10	16,19	4 (Monitored Retrievable Storage). Given the great cost involved with establishing a MRS, not to mention the significant questions of siting such a facility, DOE should strongly consider recommending that the waste continue to be stored on site (at the reactors) until the issue of final nuclear waste disposal is resolved.

BOARD OF COUNTY COMMISSIONERS ESMERALDA COUNTY, NEVADA

MEMBERS

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FRANK E. SMITH, VICE CHAIRMAN
HENRY B. DAHLSTROM, LIQUOR BOARD

STAFF

GRACE SHADRICK
(702) 485-3408

January 11, 1990

Mr. Sam Russo
Acting Director
Office of Civilian Radioactive Waste Management
U. S. Department of Energy, RW-1
Washington, DC 20585

Dear Mr. Russo:

The following are Esmeralda County's comments on the Report to Congress on Reassessment of the Civilian Radioactive Waste Management Program.

- 1 Review of the above document shows several improvements over the prior program direction. The streamlining of reporting to allow the Operations Offices to report directly to Headquarters may help reduce the bureaucratic delays and vacillation seen up to this point. In addition, the recognition of the impossibility of maintaining the current schedule, and the subsequent slippage of the schedule by seven years, will allow additional time for local governments to plan and conduct impact assessment on issues directly relating to the repository.
- 2 Changes in DOE's approach to the details of site characterization itself show some improvement as well. Their acceptance of the value of exploring early disqualifiers to siting the repository at Yucca Mountain indicates the possibility of a scientific, rather than a political approach to site characterization.
- 3 There are, however, areas of the report which create new concerns for Esmeralda County. The uncoupling of the MRS from the repository schedule may well prove to be a benefit to the program, wherever the repository is sited, but it raises concerns about MRS location, transportation, and emergency training. Nevada has not had a congenial working relationship with Congress over the NWPAA, and we are concerned that the legal uncoupling of the

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repository and the MRS may include removing the prohibition against siting the repository and the MRS in the same state (Sec 145[g]). Should this occur, the new critical path for activities relating to the transport of spent fuel would need to reflect a shipment start date of January, 1998. This advance of the earliest shipment date from 2003 to 1998 can pose difficulties.

4 The transportation of spent fuel, whether to an MRS or to the repository, remains a primary concern of Esmeralda County, involving as it does the health and safety of our population. The Nevada Department of Transportation is in the process of designating alternate routes for the transport of route controlled hazardous materials, including spent fuel. If the new routing meets the intent of the Hazardous Materials Transportation Act, the transport of spent fuel to either an MRS or to the repository may well travel through Esmeralda County. Issues relating to transportation, in particular routing and emergency training, must be decided and addressed prior to the 1998 planned shipment date.

5 The reassessment of the Civilian Radioactive Waste Management Program will require a reassessment of both the local government's and the State's programs to be certain that those areas whose deadlines have been advanced on the new schedule are likewise given higher priority in our programs.

Sincerely,

Brad Mettam

**AGENCY FOR NUCLEAR PROJECTS
NUCLEAR WASTE PROJECT OFFICE**

Capitol Complex
Carson City, Nevada 89710
(702) 885-3744

January 12, 1990

Mr. Samuel Rousso
Acting Director
United States Department of Energy
Office of Civilian Radioactive
Waste Management, RW-1
1000 Independence Avenue, S.W.
Washington, D.C. 20585

Dear Mr. Rousso:

RE: REPORT TO CONGRESS ON REASSESSMENT OF THE CIVILIAN RADIOACTIVE
WASTE MANAGEMENT PROGRAM, DOE/RW-0247, November 30, 1989.

Governor Bob Miller has asked that I respond to Secretary Watkins' November 29, 1989, letter in which he requested that the Governor forward comments to you on the proposed schedules contained in this Report.

Given the significance and scope of the Secretary's Report and plan for restructuring the Department's high-level nuclear waste program, and his having "concluded that the program cannot be effectively executed in its present form," I have taken the liberty to provide comprehensive comment on the Report, rather than limiting Nevada's comments to the schedules, as requested. You will find Nevada's detailed comments attached to this letter.

The Secretary's stated goals in developing the plan contained within the Report are as follows:

- * Protecting public health and safety and the quality of the environment in the management and disposal of spent fuel and high-level waste.
- * Developing an NRC-licensed geologic repository for the permanent disposal of spent fuel and high-level waste.
- * Beginning the operation of the waste-management system as soon as practicable in order to be able to accept spent fuel and high-level waste for disposal at a significant rate during the early years of operation.

- * Establishing public confidence that the management of radioactive waste is not an obstacle to the nuclear energy option.

The Report describes the plan the Secretary has developed to achieve these goals. There are three stated major elements of the plan:

- * Developing and implementing a new management structure.
- * Gaining access to the Yucca Mountain candidate site and initiating comprehensive scientific investigations as the focus of site characterization.
- * Developing options for ensuring the timely acceptance of spent fuel through the establishment of monitored retrievable storage (MRS).

In the course of reviewing the Report, we also reviewed the Department's December 20, 1989, presentation to the Nuclear Regulatory Commission, by Leo Duffy, Special Assistant to the Secretary for Coordination of DOE Waste Management. In this presentation he described the Secretary's plan to the Commissioners and elaborated on certain regulatory aspects of the plan, as they relate to required NRC facility licensing for waste management and disposal.

The Secretary's plan provides a partial framework for implementing an entirely new high-level nuclear waste management and disposal program under the Nuclear Waste Policy Act, as amended. However, the success of the plan appears to rely primarily on a number of elements that are not within the control of the Secretary. These include Congressional action to remove existing linkages between repository siting and MRS facility siting and development for interim spent nuclear fuel storage; licensing and regulatory deferrals and modifications by the NRC and Environmental Protection Agency; and DOE prevailing in litigation against Nevada for access to the Yucca Mountain site. In fact, the only major point of reliance that is within the control of the Secretary is the planned restructuring of the program management within the Department of Energy.

Mr. Duffy's presentation to the NRC was most revealing in its bold and blatant suggestion that "there is a need for a fresh look at the regulatory framework." His further remarks clearly indicate DOE's concerns that NRC and EPA licensing regulations could "undermine" the DOE's ability to develop a nuclear waste repository, and that prescriptive health and safety and environmental protection regulations are premature "until such time as we learn more about the capabilities of the entire waste isolation system, particularly the site."

In addition to openly suggesting to the Commission that its and EPA's licensing regulations be molded to fit the Yucca Mountain site, there was the further, equally astounding proposal for "collaborative interaction" among DOE, the electric utilities, the State of Nevada, and the NRC in developing repository licensing regulations and criteria as well as interpretation of the regulations.

Taken as a whole, the DOE's approach to resolving the known and expected technical inadequacies of the Yucca Mountain site and their fatal impact on repository licensing is nothing less than an arrogant invasion of regulatory objectivity and integrity, with the goal of compromising otherwise required health and safety and environmental protection standards. This hidden DOE agenda only serves to discredit and undermine the Secretary's lofty statements of his goals in the Report.

The Report states that a detailed discussion of the plan will be presented by DOE in a revised program Mission Plan, which will be issued for public review and comment by June 1990. The Nuclear Waste Policy Act requires that a comprehensive Mission Plan for the entire waste management and disposal program be submitted to Congress prior to DOE's implementation of its program. No such plan has been submitted by DOE since before Congress adopted the 1987 amendments to the Nuclear Waste Policy Act, which among other things singled out the Yucca Mountain site as the only site to be investigated for high-level nuclear waste disposal. The lack of a valid Mission Plan, coupled with the enormity of the implications of the Secretary's Report as evidenced above, requires that DOE submit a new, comprehensive program Mission Plan, as provided by the Act, before proceeding with implementation of the Secretary's new plan.

Furthermore, since the Secretary's plan restructures DOE's planned site characterization program at Yucca Mountain, the existing Site Characterization Plan should be considered invalid until a revised program Mission Plan has been accepted by Congress, and a new, conforming Site Characterization Plan has been drafted and submitted for public review, as required by the Nuclear Waste Policy Act.

Nevada firmly believes that it is imprudent and unlawful for the DOE to continue to pursue siting and developing a high-level nuclear waste disposal facility at Yucca Mountain. As you are aware, Governor Miller informed Secretary Watkins on November 14, 1989, as this Office has informed DOE in the past, that sufficient information exists about the Yucca Mountain site for it to be disqualified under the DOE's own repository siting guidelines. This and Nevada's belief that State legislative actions have resulted in a successful veto of the Yucca Mountain site, under the Nuclear

Waste Policy Act, are issues in a lawsuit filed against the Secretary of Energy this month by the Nevada Attorney General.

Notwithstanding our position regarding the invalidity of Yucca Mountain as a potential repository site, we are providing the attached comments on the Secretary's report and plan in the interest of furthering the Nation's future ability to resolve its ever-increasing nuclear waste problems. The intent of these comments is to point out that this latest DOE approach to developing a national nuclear waste management and disposal program is incomplete, misdirected, and demonstrates an arrogant and willful misunderstanding of the regulators' proper role in protecting health and safety and the environment. In its conception, the approach represents nothing more than yet another patchwork attempt by DOE to "fix" the most obvious, while ignoring the most fundamental problems of the program.

Governor Miller has informed me that he looks forward to Secretary Watkins' response to the comments provided in this letter and attachment.

Sincerely,

Robert R. Loux
Executive Director

RRL:cs
attachment

cc: Governor Bob Miller
Admiral Watkins
Nevada Congressional Delegation

COMMENTS OF THE STATE OF NEVADA
REGARDING THE UNITED STATES DEPARTMENT OF ENERGY

REPORT TO CONGRESS ON REASSESSMENT OF THE
CIVILIAN RADIOACTIVE WASTE MANAGEMENT PROGRAM
DOE/RW-0247, November 30, 1989

JANUARY 12, 1990

The Report to Congress on Reassessment of the Civilian Radioactive Waste Management Program of the Department of Energy opens by stating, "[T]he Secretary has initiated a management action plan that contains three major elements:

- * Developing and implementing a new management scheme.

- * Gaining access to the Yucca Mountain candidate site and initiating comprehensive scientific investigations as the focus of site characterization.

- * Developing options for ensuring the timely acceptance of spent fuel through the establishment of monitored retrievable storage (MRS)."

1 The principle elements of the plan, many of which are discussed in this review, are described in the reassessment report. In sum, the Secretary of Energy has laid a framework for implementing an entirely new high-level nuclear waste management and disposal program under the Nuclear Waste Policy Act, as amended. The Secretary's report, together with official statements of top-level Departmental representatives relative to the report, reveals that the successful implementation of this new program relies primarily on a number of elements that are not within the control of the Secretary. These include statutory amendment, regulatory modification, and DOE prevailing in litigation against Nevada for access to the Yucca Mountain site. In fact, the only major point of reliance that is within the control of the Secretary is the restructuring of the program management within the Department of Energy.

2 If the restructuring plan is to be implemented, and the Department intends to proceed with site characterization at Yucca Mountain (an action which Nevada does not believe to be justified under current circumstances), the Secretary must commit now to two near-future actions.

First, the Plan states a "draft" of a revised Mission Plan, describing how DOE intends to implement the new program, will be issued for public review and comment by June 1990. This should be a complete revision of the Mission Plan, rather than one that is only revised for selected topics, as has been DOE's past practice.

The Department has not finalized any Mission Plan since Congressional adoption of the 1987 amendments to the Nuclear Waste Policy Act, which made many fundamental policy changes, including naming Yucca Mountain as the single site for characterization. With the broad range of changes in the program, including this latest so-called restructuring plan, it is necessary to describe and evaluate the DOE's current comprehensive plans for program implementation in the context of all of the statutory requirements for the contents of the Mission Plan, as laid out in Section 301(a) of the Nuclear Waste Policy Act. This is especially important in light of the gravity of the Secretary's conclusion "that the program cannot be effectively executed in its present form." If, indeed, the program is planned to be executed according to this redirected and restructured approach, there must be a new, comprehensive Mission Plan which fully describes all aspects of the DOE's new program. Of course, the agency and public comment, and DOE response provisions, in Section 301(b), also should govern, considering the Congress and DOE have cast an entirely revised program since 1987.

The Congress did not change Section 301 of the Nuclear Waste Policy Act in its 1987 amendments. Therefore, it must be interpreted that there remains the congressional intent that a valid mission plan, providing "an informational basis sufficient to permit informed decisions" (Sec. 301(a)), be presented to the Congress and the public before the DOE's planned program is acceptable for execution. In view of this, it is premature for DOE to seek changes in the statute, as announced in the restructuring plan, prior to their being evaluated in a Mission Plan, as required in the Nuclear Waste Policy Act. Also, implementation of the new program pursuant to the Nuclear Waste Policy Act, as amended, and according to the restructured plan, without benefit of a valid Mission Plan, does not conform to the requirements of the Nuclear Waste Policy Act.

3 Second, in view of the fact that a major element of implementation of the restructured plan is DOE's new schedule for site characterization, which involves the reevaluation of surface-based test plans as well as the earlier decisions regarding location and other aspects of the Exploratory Shaft Facility (ESF), the current Site Characterization Plan for the Yucca Mountain site should be considered invalid until an acceptable Mission Plan is adopted. At that time, the DOE's new plans for characterization of the Yucca Mountain Site should be developed to conform with the accepted program, as defined by that Mission Plan. The revised Site Characterization Plan should be submitted for public and NRC review as required by the Nuclear Waste Policy Act and NRC regulations.

4 While the need for a new definition of the DOE's program in a valid Mission Plan and a revised Site Characterization Plan does not preclude implementation of surface-based scientific investigation of the site, as contemplated in the restructured

plan, it is advisable that such a program not begin until two fundamental concerns are resolved. First, the Exploratory Shaft Facility plans should be sufficiently developed to provide assurance that surface-based testing and ESF development do not interact in a manner that would compromise the ability to collect needed site characterization data, or the validity of that data. And second, the ESF and surface-based testing plans should be evaluated to assure that, together, they do not result in impacts that may compromise the site's potential waste isolation capabilities. In past planning, these two concerns, and others, have led DOE, with the agreement of the Nuclear Regulatory Commission staff, to employ the rationale that surface-based testing should not begin until its relationship to ESF development is defined and the expected impacts are identified and considered acceptable.

5 A growing body of information in the record, including Special Assistant Duffy's December 20, 1989, presentation to the Nuclear Regulatory Commission, suggests that the DOE is experiencing increasing difficulty in developing its plans for demonstrating to the NRC that the Yucca Mountain Site conforms with the requirements of the NRC's repository licensing rule, 10 CFR Part 60, and the Environmental Protection Agency's yet to be promulgated standards for environmental protection at a repository, 40 CFR Part 191. Mr. Duffy made the statement to the Commission that "there is a need for a fresh look at the regulatory framework in the program."

Upon further elaboration, Mr. Duffy suggested that it was premature both for NRC to further interpret how the licensing rule is to be applied, and for the NRC to promulgate additional rules in specific topical licensing areas. He added these ongoing activities by the NRC should be deferred until the DOE has collected more Yucca Mountain Site data. The astounding implication of his suggestion to the NRC is that the repository licensing regulations should be developed to fit the site's characteristics, after DOE has a better understanding of what might be the more troublesome aspects of its required demonstration to the NRC of reasonable assurance that the site's waste isolation performance will meet the regulations. He compounded this arrogant attempted invasion of regulatory objectivity and integrity by further suggesting that there be "collaborative interaction" among NRC, DOE, other federal agencies and boards, the State of Nevada, and the nuclear industry in "joint development of regulatory criteria."

6 The reassessment report states, "Regarding interactions with the Environmental Protection Agency, the DOE is reviewing the drafts of the revised standards in 40 CFR Part 191, in order to identify any concerns that could undermine DOE's ability to develop a repository or MRS facility." This statement reinforces our observation regarding DOE's newly emerging apparent concerns about the Yucca Mountain Site's ability to comply with regulatory

standards. Throughout the period of DOE's development of the Yucca Mountain Site Environmental Assessment and Site Characterization Plan, when the DOE was questioned about the site's ability to conform with a yet-to-be-promulgated EPA standard, the response was that the site could meet any standard that might be established by EPA. Now, from this current statement, and those of other DOE representatives in the recent past, it appears that there is considerable concern about compliance, to the extent that DOE is seeking, improperly, to assure that the regulations fit what it believes to be the waste isolation performance characteristics of the site, regardless of what independent, objective health and safety and environmental protection criteria might otherwise require.

The presentation of Special Assistant Leo Duffy to the NRC is particularly revealing in this regard, as it relates to regulations involving the engineered barrier system at a repository. His statement on this matter is as follows:

"The Department believes it would be particularly useful to allow credit for an improved engineered barrier system (EBS) in the regulatory analysis to show compliance with the EPA total system performance standard. Specifically, credit should be allowed for the waste package for a life greater than 1000 years. While it is understood that the present waste package performance requirement in 10 CFR Part 60 could be subject to varying interpretations, it appears that they preclude such a consideration. As stated earlier, it is premature to provide such prescriptive subsystem requirements until such time as we learn more about the capabilities of the entire waste isolation system, particularly the site." (emphasis added).

7 If, in fact, the DOE believes there is a need to revise the regulatory framework in order to carry out its assignment to site and develop a safe and acceptable high-level nuclear waste repository at Yucca Mountain, the only appropriate vehicle available to the DOE under the Nuclear Waste Policy Act to identify, describe and justify this need is the Mission Plan, as defined in the Act. In making individual, unilateral attempts at compromising regulatory commitment, objectivity and rigor, the DOE is, again, operating in a manner that is counterproductive to its stated goal of improving public confidence in the nation's ability to safely manage and dispose its high-level nuclear wastes.

8 In the DOE's approach to restructuring its program, the shift to an early emphasis on surface-based investigations is attributed in part to a new DOE responsiveness to suggestions made by the Nuclear Regulatory Commission, the nuclear industry, and the State of Nevada. We are not convinced that the approach represents a response to some of our earlier suggestions along these lines because DOE's actual plans for restructuring of site investigations are not yet available. The DOE's proposed schedule appears to

indicate that a revised approach to surface-based work will be completed in September 1990, with new ESF configuration decisions to follow, in December 1990. Until this new approach is reviewed in its entirety, it is not possible to determine whether such plans conform with acceptable standards of scientific investigation. It seems unlikely that the approach conforms with Nevada's earlier suggestions regarding the need to complete critical and conservative scientific evaluations related to known disqualifying site characteristics prior to initiating the exploratory shaft program. This conclusion is based on the short period of time scheduled, between January 1991 and November 1992, for surface-based testing "aimed specifically at evaluating whether the site has any features that would indicate that it is not suitable as a potential repository site." The period of time scheduled for such work is insufficient to carry out the intense data collection, analysis and evaluation necessary to support any additional potential suitability, or unsuitability, determinations. Furthermore, there is no information in the plan regarding how such a determination will be made prior to DOE's crucial decision to initiate an exploratory shaft.

9 By all appearances, the rescheduling of surface-based testing and the beginning of ESF construction, at best, reflects DOE's latest estimate of what progress is achievable under the current circumstances of its program planning and status (e.g., availability of site study plans and an acceptable quality assurance program). It does not reflect a new commitment by DOE to dedicated scientific investigation and rigorous evaluation of results prior to a decision to return to its ESF construction initiative. Rather, it suggests that within a 20-month period following the start of surface-based testing, the program will be ready to return to business-as-usual, with the interim period having been applied to some potentially useful data collection that was planned to be accomplished by DOE in any event. In reality, the planned effort involving surface-based work is not likely to provide the DOE with a basis for early determination of potential site suitability that is any better substantiated, or any more meaningful, than the Preliminary Determination of Suitability by the Energy Secretary in May 1986 that accompanied his recommendation of three Candidate Repository Sites in Nevada, Washington and Texas.

10 The proposed schedule for transportation planning and implementation, including the resolution of institutional issues with affected states and local governments, lacks definition in respect to shipments to a repository. Given the known complexity of the transportation issue, the delayed date for repository operation should not be considered by DOE to be a justification to slow or defer ongoing work and involvement of local governments, including continued consideration of requests by eligible local governments for "affected" status. The period of time for planning transportation to an MRS has been shortened by about four years,

and the plan provides no recognition of this fact and its potential impact on affected states and local communities.

11 The reassessment report describes the Department's new position on development of a Monitored Retrievable Storage facility, which includes seeking congressional removal of the statutory linkages between repository progress and MRS siting and development, and modification of the MRS capacity limits. Also, it further reinforces the Department's preference for an MRS sited in a volunteer state through the efforts of the Nuclear Waste Negotiator. In any case, the report emphasizes that the Department believes operation of an MRS facility is achievable on a schedule that conforms to the expectations and needs of the utilities. What the report does not reveal, but was stated by Mr. Duffy in his presentation to the NRC is, "Key to [spent fuel] acceptance [at an MRS] in 1998 will be expedited licensing of the simplest possible MRS facility." He suggested that the NRC review its two applicable regulations "to see if the licensing process could be streamlined." Once again, this is a topic that is appropriate for identification, evaluation, and justification in a comprehensive Mission Plan, and certainly should be brought officially to the attention of the Congress prior to any deliberations regarding amending the Nuclear Waste Policy Act provisions regarding MRS linkages to repository program progress. In simplest terms, such a process is critical to informed decision-making, and such perceived needs must be presented and justified by the Department in a form that is accessible to the Congress when it is involved in policy considerations.

12 Nowhere in the reassessment report is the State of Nevada's and affected local governments' statutory program oversight role acknowledged. Instead, it appears to have been deliberately ignored. The State and local governments are mentioned only as being included among institutional matters with which the Department must deal. The State's legitimate oversight role has been affirmed by federal court action. The DOE must acknowledge this role and permit it to be carried out in a meaningful manner by all affected governmental units.

CONCLUSION

13 Without question, the reassessment report is intended to outline a fresh start at a failed high-level nuclear waste management and disposal program, yet it does not recognize the full spectrum of the institutional, technical, financial and political complexities of such an undertaking. Interestingly, except the fact that Yucca Mountain has not been removed from repository site consideration, this report could be an initial basis for developing a Secretarial recommendation to Congress regarding how to initiate a nuclear waste management and disposal program.

14 The proposed schedules, which Nevada was requested to review, are as lacking in comprehensive programmatic bases as the report itself. For this reason, and the numerous reasons incorporated in this review, if it is the DOE's desire to pursue implementing a revised program of waste management and disposal involving the Yucca Mountain Site (which Nevada believes to be an imprudent objective), the Department should make a clean start at such a program. This requires nothing short of first preparing a thorough and comprehensive Mission Plan for the program, and then submitting it for public review and comment and congressional acceptance, as required by the Nuclear Waste Policy Act.

15 The intent of these comments is to point out that the Secretary's approach to developing a national nuclear waste management and disposal program that, in fact, can be executed is incomplete, misdirected, and demonstrates an arrogant and willful misunderstanding of the regulators' proper role in protecting public health and safety and the environment. In its conception it represents nothing more than yet another patchwork attempt by DOE to "fix" the most obvious, while ignoring the most fundamental problems of the program.

STATE OF FLORIDA
Public Service Commission

Michael M. Wilson
CHAIRMAN

101 EAST GADSDEN STREET
TALLAHASSEE, FL 32399-8183
(904) 488-7001

January 12, 1990

The Honorable James D. Watkins
Secretary of Energy
1000 Independence Avenue
Washington, DC 20585

Dear Secretary Watkins:

The National Association of Regulatory Utility Commissioners (NARUC) through its Subcommittee on Nuclear Waste Disposal - Nuclear Issues has read with interest the "Report to Congress on Reassessment of the Civilian Radioactive Waste Management Program." As "watchdog" for the nation's electric ratepayers, we applaud the candor with which you have completed the review, and strongly support your efforts to rapidly restructure the program. At least twenty-four billion dollars of ratepayer funds are at risk. NARUC looks to you as Secretary to ensure that these monies will be wisely managed and result in a safe and timely resolution to the nuclear waste problem.

Waste Program Goals

1 NARUC is generally in agreement with the corrective measures you outline in the report. However, we are convinced that the department's general goal of establishing public confidence in the nuclear option must necessarily be preceded by a program to re-establish confidence in the Department itself. While NARUC applauds your current attention, we believe that it is this responsibility, not mentioned anywhere in the report, that is essential if any vital public confidence in the reliability of federal disposal plans is to be generated.

NARUC pledges its support to this effort. However, we must advise that we cannot dismiss the failed plans and inefficient spending, and will look to you as Secretary of the Department to insure that ratepayer funds are used wisely in safely disposing of nuclear waste.

Management Structure

2 NARUC believes your measures to restructure the program's management are on target. We are all too aware that failed schedules and cost overruns are, based on our experience with nuclear powerplant construction programs, the first indications of troubled management. Implementing independent management review, increasing direct-line reporting, gaining control over contractors,

Honorable James D. Watkins
January 12, 1990
Page Two

and revising management controls are measures we strongly support as fundamental necessities. Needless to say, a new OCRWM Director, with direct accountability to and support of the Secretary, must be appointed as soon as possible.

- 3 We await the opportunity to review the final recommendations of the independent assessment of OCRWM, expected in January, 1990.

Financial Management

- 4 No budget or revised cost estimates appear in the Report. As we have continually advised the Department, major program revision without concurrent consideration of program cost destroys OCRWM's credibility. We note that a cost baseline will be issued in the spring of 1990. However, the expenditure of ratepayer funds must not continue to be treated as an afterthought if the program is to succeed.

- 5 In a similar vein, the issue of defense contributions to the nuclear waste fund must be addressed. This funding inequity has brought NARUC to court in the past. We look to your leadership to help fashion an affirmative solution to this troubling problem.

Monitored Retrievable Storage

- 6 The NARUC has never taken a position on the need for or value of an MRS facility. It is, we believe, an important technical and national policy issue. We would again note that, for an MRS to make a contribution to the overall disposal program, the DOE must meet an MRS delivery schedule that is closely correlated to the availability of utility storage capacity. Otherwise, ratepayers who pay once for national disposal and pay a second time for at-reactor storage, will be asked to pay a third time for an MRS program that is delayed beyond utility deadlines for its use.

We have enclosed the comments of Commissioner Patricia Qualls of Arkansas for your consideration. NARUC offers its assistance and encouragement in your restructuring effort. We will be happy to discuss these comments with you at your convenience.

Sincerely,

Michael McK. Wilson, Chairman
Florida Public Service Commission
Subcommittee on Nuclear Waste Disposal -
Nuclear Issues
National Association of Regulatory Utility
Commissioners

Enclosure

Western Interstate Energy Board/WINB

January 12, 1990

Alaska
Arizona
California
Colorado
Hawaii
Idaho
Montana
Nebraska
Nevada
New Mexico
North Dakota
Oregon
South Dakota
Utah
Washington
Wyoming

The Honorable James D. Watkins
Secretary of Energy
U.S. Department of Energy
1000 Independence Avenue SW
Washington, D.C. 20585

Dear Mr. Secretary:

Per your request, the Western Interstate Energy Board has reviewed DOE's proposed revised repository schedule, as described in the *Report to Congress on Reassessment of the Civilian Radioactive Waste Management Program*. The Board has limited its review to the transportation implications of the schedule. This letter highlights the key points in the detailed comments (attached) of the Board's High-Level Radioactive Waste Committee.

Although the repository schedule has slipped seven years, the transportation program has been accelerated five years by DOE's proposal to begin accepting waste at a monitored retrievable storage facility (MRS) as early as 1998. Unless DOE is able to guarantee that the MRS will not be located in the West and that no western reactors will be shipping to the MRS when it opens, the entire transportation program must be in place in the western states by 1998. This major acceleration of the transportation program will require the commitment of significant additional resources to DOE's transportation program and to the states.

The Board's High-level Radioactive Waste Committee has recently completed its strategic plan and schedule for the transportation program, using 2003 as the target date for the beginning of shipments. The strategic plan shows that there is no slack time on the critical path for transportation, even with a 2003 start date. If shipments are to begin in 1998, certain transportation activities which would be conducted more efficiently in sequence must now be done in parallel. Other activities must receive additional DOE resources so that they can be accomplished in less time.

The attached Committee comments discuss these activities in detail. However, I would like to highlight one area -- route selection. In March 1988, after several years of thoughtful analysis, the Board adopted a resolution asking DOE to immediately assume responsibility for identifying routes for repository shipments well before the repository begins operations. In 1988, the Western Governors' Association also endorsed the concept of early route selection by DOE. As described in the attached Committee comments, route selection is a potential bottleneck in the

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Secretary Watkins
January 12, 1990
Page Two

entire transportation program. This is even more true if shipments are to begin in 1998, rather than 2003. Current federal law requires shippers to notify states only seven days before a shipment. Therefore, short of a change in existing law, the only way the needs of western states for early route identification can be met is if DOE, as the shipper, agrees to select routes well before shipments begin. The Committee believes it may be more productive and mutually beneficial if DOE voluntarily assumes the responsibility for early route selection responsibility, rather than changing the law.

The Board strongly recommends that you make the development of a safe, publicly acceptable transportation system a top priority in the repository program. The key areas requiring state and DOE action over the next 12 - 18 months are: developing route selection criteria; planning for emergency response training; scoping of training under Section 180(c) of the Nuclear Waste Policy Amendments Act; and incorporating WIPP lessons learned to date. The necessary activities in each area are described in detail in the attached Committee comments. DOE should continue and strengthen its commitment to work with regional groups and expand its program to allow for direct participation by individual states.

The western states will continue their cooperative efforts with DOE to ensure that the full transportation program is in place before shipments begin.

Sincerely,

A handwritten signature in dark ink, appearing to read "Richard H. Watson". The signature is fluid and cursive, with the first name "Richard" being more prominent.

Richard H. Watson
Chairman

Enc. High-Level Radioactive Waste Committee's comments

**WESTERN INTERSTATE ENERGY BOARD'S
HIGH-LEVEL RADIOACTIVE WASTE COMMITTEE**

**COMMENTS ON DOE'S
REPORT TO CONGRESS ON REASSESSMENT OF THE
CIVILIAN RADIOACTIVE WASTE MANAGEMENT PROGRAM**

JANUARY 1990

The Western Interstate Energy Board, an association of sixteen western states, has been working cooperatively with the Department of Energy on radioactive materials transportation issues for five years. Most of the Board's work on this issue has been conducted by the High-Level Radioactive Waste Committee. The Board supports the Committee's following detailed comments on the transportation implications of DOE's *Report to Congress on Reassessment of the Civilian Radioactive Waste Management Program*.

1 Although the repository schedule has slipped seven years, the transportation program has been accelerated five years by DOE's proposal to begin accepting waste at a monitored retrievable storage facility (MRS) as early as 1998. Western states could experience spent fuel shipments as early as 1998 unless the MRS is located in the East and western reactors are prevented from making early shipments to the MRS. DOE cannot guarantee either of these conditions -- 1) DOE has no control over the Nuclear Waste Negotiator's siting activities and 2) waste pickup schedules established by DOE could be altered by utilities trading their pickup rights. Therefore, under DOE's proposed schedule, the entire transportation program needs to be in place in the western states by 1998. This major acceleration of the transportation program will require the commitment of significant additional resources to DOE's transportation program and to the states. These comments focus on the changes that must be made in the development of the transportation system if shipments are to begin in 1998.

The Committee has recently developed a strategic plan and schedule for the transportation program, using 2003 as the target date for the beginning of shipments. The Committee's strategic plan, which is more detailed than the transportation component of DOE's revised schedule, shows that there is no slack time on the critical path for transportation, even with a 2003 start date. If shipments are to begin in 1998, certain transportation activities which would be conducted more efficiently in sequence must now be done in parallel. Other activities must receive additional DOE resources so that they can be accomplished in less time. The key near term activities are: developing route selection criteria, preparing for emergency response training, defining the scope of Section 180 training, and examining WIPP lessons learned. These activities are discussed at the end of these comments.

A detailed revision of the Committee's strategic plan is needed to account for the new repository opening date and the possibility of an MRS. However, the current version of the strategic plan is attached to these comments to illustrate the areas in which transportation activities must be compacted.

Critical Path

2 The Committee's strategic plan identifies a critical path, based on the assumption that shipments will start in 2003. This section of the comments addresses the changes that would be needed in the critical path to accommodate DOE's revised schedule.

The critical path in the Committee's strategic plan starts with the studies needed to determine modal mix. The modal mix decision flows into route selection. Numerous route-specific activities must then take place. The next critical activity, in terms of timing, is training of emergency responders. The Committee estimated that this sequence of activities would require a minimum of thirteen years. DOE's proposed revision in the repository schedule makes it necessary to condense many of these activities. By splitting the transportation program into essentially two overlapping programs (to MRS by 1998, to repository by 2010), DOE's revised schedule makes it possible to conduct certain activities in parallel.

From the Committee's perspective, route selection is a major potential bottleneck in the transportation program. States and local governments cannot begin many of their preparations for shipments until the routes are determined. For example, if emergency response training is conducted before routes are selected, DOE, states, tribes, and local governments would be required to expend significant resources training responders along routes that will not be used for repository shipments. Under current federal law, the needs of western states for early route identification can be met only if DOE, as the shipper, agrees to select routes well before shipments begin.

DOE's proposed schedule calls for the development of only a legal weight truck cask for shipments to the MRS. Therefore, selection of highway routes to the MRS can be conducted while DOE continues studying modal mix issues for shipment to the repository. Development of highway route selection criteria should be started immediately (early 1990). The entire highway route selection process (including state alterations to the national route) must be conducted in much less time than provided in the Committee's strategic plan. DOE will not have the luxury of waiting until any challenges to its route selection criteria are resolved before applying these criteria to potential routes.

Although the most efficient use of resources might dictate that potential routes not be examined until an MRS site is selected, DOE's compressed schedule simply does not provide enough time for this because shipments would begin only 2 1/2 years after the MRS license application is submitted. Therefore, it will be necessary to begin examining potential routes from all candidate MRS sites as soon as these sites are identified (March 1993, by DOE's schedule). Routes must be selected from each reactor to each potential MRS site, for all shipments that could impact western states. [The Committee does not represent non-western states and does not make any comments on the need for, or desirability of, selecting routes from eastern reactors to eastern MRS candidate sites:] The route for each origin/destination pair must be finalized by the time an MRS site is selected (sometime between March 1993 when candidate sites are identified, and June 1994 when a draft environmental impact statement is issued).

After the routes are identified, route-specific emergency response training activities must be started immediately. The Committee has determined that a minimum of four years will be necessary to conduct route-specific baseline surveys and needs assessments, develop route-specific training plans and schedules, and conduct actual training. If the routes are finalized by the time the MRS site is selected, there will be just enough time to complete training before shipments begin in January 1998. These emergency response training activities cannot be satisfactorily compressed. As a result of western state experience with training for shipments to the Waste Isolation Pilot Plant, the Committee has already recommended to DOE that training for repository shipments be incorporated into the normal training cycle -- not accomplished in a two-week blitzkrieg in each state.

The entire route selection process has been extremely compressed -- from eight years to four years. DOE must make route selection a top priority and devote significant additional resources to this activity in order to complete it on time. Although analyzing routes for multiple candidate MRS sites may seem inefficient and expensive, the alternative -- delaying route selection until an MRS site is selected -- would be even more expensive. If route selection is delayed, the only way shipments could begin in 1998 would be to conduct route selection and emergency response training in parallel. Emergency responders would have to be trained on all possible routes. The added expense of training along multiple routes is likely to far outweigh the increased costs of analyzing additional routes.

Activities Not Currently on the Critical Path

3 Compressing the entire program will place many currently non-critical-path activities on a new critical path. A cursory glance at the strategic plan shows that the eight years preceding the repository opening date are a time of intense activity in virtually all aspects of the transportation program. DOE's proposed schedule essentially places the program today at the point marked 1995 on the Committee's strategic plan. Therefore, activities on all parts of the transportation program will have to be started over the next one to two years. Work must then proceed steadily on all of these activities if the transportation program is to be in place by 1998.

Two activities which could affect most, or all, of the remaining transportation activities must be completed as soon as possible -- 1) lessons learned from the WIPP transportation program and 2) definition of the breadth of training required under Section 180(c) of the Nuclear Waste Policy Amendments Act.

Some lessons have already been learned from WIPP. For example, WIEB prepared a report for DOE on which aspects of the WIPP emergency response training worked well and which could be improved for future emergency response training under Section 180(c). After WIPP shipments begin, additional information will be available on vehicle inspections, the use of safe parking areas, and other issues. States and DOE should each prepare reports on the lessons they have learned from WIPP and incorporate these lessons in the MRS shipping campaign. These reports should be completed as soon as possible after WIPP

shipments begin, and updated as more experience is gained, so that the high-level waste shipments can benefit from the knowledge obtained through the WIPP campaign.

The other activity that could influence many other aspects of the transportation program is the scope of training under Section 180(c). To date, DOE's attention has been focused on emergency response training -- an item on the Committee's critical path. However, Section 180(c) also requires DOE to provide technical assistance and funds to states for training in the "procedures required for safe routine transportation." The Committee has submitted a report to DOE on the range of activities that could be eligible for training assistance under Section 180(c). As soon as possible, DOE should determine -- with input from the states, tribes and local governments -- the scope of training to be provided. Until the training areas are defined, it is not possible to determine which other aspects of the transportation program will be dependent upon training under Section 180(c), and therefore, might become part of the critical path.

Near Term Activities

4 The above discussion demonstrates that DOE's proposed revised schedule will create a need to accelerate the transportation program. This section lists the major activities that would be required of DOE and the states over the next 12 -18 months.

Route selection -- DOE must begin developing highway route selection criteria immediately, so that they will be finalized by March 1993, when it will be necessary to begin applying the criteria to potential routes to the candidate MRS sites. As previously recommended by the Committee, the development of the criteria will require consultation with states and other interested parties.

Emergency response training -- DOE and the states must start the generic assessment of the types of emergency response training courses existing and needed. The Committee's strategic plan shows that several emergency response training activities must precede the route-specific training activities, which should start in 1994 (when the MRS site is selected). Because the Committee believes that these non-route-specific activities will require four years of work, the first activity in the sequence (generic assessment of training courses) should be started immediately.

Section 180(c) scope -- DOE should draft a position on the types of training that will be covered under Section 180(c). States, tribes and local governments should be given the opportunity to work with DOE in defining this position.

WIPP lessons learned -- DOE should prepare a report on the lessons it has learned to date from developing the shipping campaign for WIPP, so that these lessons can be incorporated in the MRS shipping campaign. Areas to be addressed include emergency response training, state/federal coordination

on emergency preparedness, route selection, certification of shipping containers, and public information/education. After the shipments begin, a supplemental report should document the experience with the operational phase of the program. Western states have already written a report describing some of the emergency response lessons learned. States need to expand their focus to systematically evaluate all aspects of the WIPP transportation program to date. Like DOE, the states will need to supplement this report after shipments begin.

Conclusion

The Western Interstate Energy Board and its High-Level Radioactive Waste Committee look forward to continuing their cooperative relationship with DOE. Although a great deal of work must be completed over the next few years, we believe that with good planning, it will be possible to develop a safe, publicly acceptable transportation system in time for shipments to a monitored retrievable storage facility.

Committee
Co-Chairs
Hugh J. Anderson
Robert C. Dickinson

**NNWSC Steering
Committee Members**

Hugh J. Anderson
Financial Consultant

Gail Armstrong
Accountant

Robert H. Armstrong
Meteorologist

John Bass
Casino Supervisor

Frank Caine
Labor Leader

Randall Capurro
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Max Christiansen
Business Executive

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Public Affairs Executive

Mary A. Smith, R.N.
Health Services Executive

Richard Telfer
Educational Consultant

Richard Wenger
Transportation
Industry Executive

Cliff Zimblemann
Business Owner

NEVADA NUCLEAR WASTE STUDY COMMITTEE

A Nevada citizens committee for a responsible repository policy

January 12, 1990

The Honorable James Watkins
Secretary of Energy
1000 Independence Avenue SW
Washington D.C. 20585

Dear Mr. Secretary,

1 Thank you for the opportunity to comment on DOE/RW-0247, the Reassessment of the C.R.W.M.P. We believe it is a well thought-out, clearly articulated document. The plan, its time line and objectives, seem clear, sound and realistic. We support it.

I would also like to add that we support the efforts of your department to encourage two-way communication. It is beneficial for all of the parties concerned with the proposed Yucca Mountain repository. We hope all interested parties have the same opportunity to communicate their views.

As a citizen of Nevada, and as Co-Chairman of the 9,000 member Nevada Nuclear Waste Study Committee, I am most pleased with the renewed dedication of the Department of Energy to investigate the scientific facts necessary to determine whether Yucca Mountain is a safe site for the repository. The NNWSC wants the facts to determine actions at Yucca Mountain, not the emotional rhetoric from those opposed, or in favor, of the project.

2 The NNWSC believes that a comprehensive and thorough scientific investigation of Yucca Mountain is the only basis for making any decision on the site's suitability. For this reason, and only this reason, we would like to see the state of Nevada grant the necessary permits.

In order to determine the facts, the NNWSC can understand the need for litigation by the U.S. Attorney General. However, we feel it is unfortunate that our taxpayer dollars, dollars we pay as residents of Nevada and as citizens of the United States, are being spent on unnecessary legal actions. Again, we believe that the state should grant the permits in order to facilitate scientific investigations.

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Our state's leaders make an issue out of the fact that since our state has no nuclear plants, we should not be responsible for storing nuclear waste. The repository is not just a state problem, it is a national dilemma.

The members of the NNWSC understand that nuclear power is the nation's second largest producer of electricity, and that it is a critical element in our nation's energy mix. We feel that nuclear energy, and a long-term waste storage facility, are essential not only to our nation's long-term energy needs, but also as a mitigator for air pollution, acid rain and global warming if it exists.

3 One other point needs to be made; we support the objective of hiring a Nuclear Waste Negotiator. If scientific investigations conducted by your department, in conjunction with other credible independent scientific bodies, determine that Yucca Mountain is a safe and suitable site, the citizens of Nevada should receive extensive benefits. We are being asked to shoulder a tremendous burden; we should be properly compensated for it. We trust the Nuclear Waste Negotiator will understand our position.

The other parts of your proposal appear to be directed at the internal operations of DOE. As an independent businessman, as a newly elected board member of the Las Vegas Chamber of Commerce and as the head of an independent political action group, I understand the leadership requirement and support you in your quest to establish an operational program that will fulfill the mission you have been assigned.

Thank you for the opportunity to comment on your plan.

Sincerely,

Robert C. Dickinson
Co-Chairman
Nevada Nuclear Waste Study Committee

American Committee On Radwaste Disposal ACORD

c/o Edison Electric Institute
1111 19th Street, N.W.
Washington, D.C. 20036

January 12, 1990

The Honorable James D. Watkins
Admiral, U.S. Navy (Retired)
Secretary of Energy
Washington, D.C. 20585

Dear Admiral Watkins:

Electric utilities with nuclear energy programs appreciate the efforts you have made to review and reshape the civilian high-level radioactive waste management program. Without the involvement of senior governmental officials, such as yourself, the Nation will not succeed with the important task of high-level radioactive waste disposal.

We have read with great interest your Report to Congress on Reassessment of the Civilian Radioactive Waste Management Program and are pleased to submit the enclosed Response. Generally, we approve of your plan, but it is only a good first step. I'm sure you will agree that there is still much to be done to implement successfully the Nuclear Waste Policy Act.

Over the last two years, I have had the honor to serve as Chairman of the American Committee on Radwaste Disposal, the electric utility chief executive body formed to promote progress in the civilian high-level radioactive waste management program. As

90000 79

Admiral Watkins
January 12, 1990
Page Two

my service comes to an end this month, I want to personally thank you for your efforts in pursuing progress in this vital program. I know that the incoming ACORD Chairman, Alan J. Keesler, Chairman of Florida Power Corporation, is looking forward to continuing the process ACORD has initiated.

We encourage you to move forward with your plan.

Sincerely,

William W. Berry
Chairman, ACORD
Chairman, Virginia Power

WWB/skm

cc: Office of Civilian Radioactive
Waste Management
U.S. Department of Energy RW-1

**AMERICAN COMMITTEE ON RADWASTE DISPOSAL
RESPONSE TO THE
SECRETARY OF ENERGY'S REPORT TO CONGRESS ON REASSESSMENT
OF THE CIVILIAN RADIOACTIVE WASTE MANAGEMENT PROGRAM**

SUMMARY

The Department of Energy (DOE) has, over the years, made some progress along the difficult path defined in the Nuclear Waste Policy Act of 1982, as amended. Specific examples are the completion of the original Mission Plan, Environmental Assessments and Presidential decision on naming sites for characterization, the Site Characterization Plan for Yucca Mountain and detailed characterization Study Plans. However, electric utilities with nuclear energy programs, their customers and rate regulators are deeply concerned about the delays in the civilian high-level radioactive waste management program.

Recent experience and lack of progress at the Yucca Mountain site, does not leave us encouraged. Concern has grown that the over \$ 4 billion paid into the Nuclear Waste Fund thus far will become a lost investment, because DOE may be unable to live up to the Congressional mandate to develop and operate a civilian high-level radioactive waste management system. DOE has been unable to obtain the needed environmental permits from the State of Nevada, unable to put a proper quality assurance program in place, and unable to create the type of organization with the requisite management skills needed to carry this vital program forward.

The Secretary of Energy's November 29, 1989 Report to Congress on Reassessment of the Civilian Radioactive Waste Management Program (Report) is a good first step of many needed to build credibility in the program. The Secretary and the Department must take actions aimed at revising the program's structure, organization, approach and culture. The Report lays out a plan DOE can use to overcome the many obstacles that are preventing the program from moving forward. It is unfortunate that the plan also further delays the repository opening by another seven years, but it does propose many changes to the program that have been sorely needed for a long time. Many are consistent with those pointed out to DOE by the electric utilities in the past. The industry will follow the program closely and will hold DOE accountable for progress and ultimate success. In this context, it should be noted that the Secretary of Energy has the ultimate responsibility for the program's success. The industry would like to be as helpful as possible, but will not hesitate to use any means available to promote

program progress and protect the electricity consumer. If DOE does not begin to accept spent nuclear fuel on January 31, 1998, a funding mechanism must be developed to accommodate the additional costs of at-reactor spent fuel storage that will be incurred by electric utilities after that date.

DOE must approach the civilian high-level radioactive waste management program with a much different attitude than has been exhibited in the past. The civilian high-level radioactive waste management program must rise above DOE's business-as-usual treatment and be accorded a status within DOE and the federal government consistent with the importance of the program to the Nation. First and foremost, the Secretary must remain closely and personally involved. DOE's past plans have not worked out, in large part, due to lack of active support by former Secretaries of Energy. Second, DOE must aggressively manage the program. There are many opportunities for other parties to thwart this program. DOE must anticipate these actions and plan accordingly. Third, DOE should hasten the appointment of the new Director and put in place a more effective management structure as soon as practicable. Fourth, the program must use only those organizations and individuals that have proven to be effective and have the ability to serve the interests of the program and must acquire staff or a management contractor that can provide the requisite skills needed by the program, most notably in project management, nuclear regulation and licensing, and nuclear quality assurance. Fifth, as this program is expected to last many decades, once the appropriate changes are made, DOE must ensure continuity of the management structure over the long term, so program goals can be achieved in a timely manner.

The Report indicates that DOE can begin accepting spent nuclear fuel in 1998 only by way of an MRS that is not linked in its schedule to the repository. The Nuclear Waste Negotiator is essential if this is to occur.

The civilian high-level radioactive waste management program is the single most important task for which DOE is responsible that will lead to reestablishing the nuclear energy option for the future. It is too important to leave to the "business-as-usual" treatment it has received in the past. It is time for DOE to recognize the needed changes, make those changes and aggressively implement the program.

INTRODUCTION

The American Committee on Radwaste Disposal (ACORD) is pleased to have the opportunity to submit these comments on behalf of electric utilities with nuclear energy programs in response to the Secretary of Energy's Report to Congress on Reassessment of the Civilian Radioactive Waste Management Program. ACORD is the senior electric

utility body formed to promote progress in the civilian high-level radioactive waste management program. ACORD provides policy guidance to the industry associations that have nuclear waste and transportation responsibilities¹ and interacts with the highest levels of government on these matters.

PERSPECTIVES ON RADIOACTIVE WASTE

There are three fundamental perspectives on safe management of radioactive waste to which electric utilities with nuclear energy programs ascribe. First, the Nation must pursue a timely program with the objective of permanent disposal of radioactive waste. Second, an interim facility, such as a Monitored Retrievable Storage (MRS) facility, is technically sound in concept and would be a safe and environmentally sound means of providing storage until such time as a repository becomes operational. Third, at-reactor storage of spent nuclear fuel, until a repository or MRS facility becomes available, is technically sound and environmentally safe.

The restructured civilian high-level radioactive waste program will effect not only electric utilities, their customers and rate regulators, but will also have a strong influence on whether the nuclear energy option will be available for the nation in the future. When he announced the Secretary's plan for the civilian high-level radioactive waste management program, Deputy Secretary of Energy W. Henson Moore said "we...realize that we must solve the nuclear waste problem if the public is to accept commercial nuclear power" (emphasis added).

GENERAL RESPONSE

1 We compliment Secretary Watkins on his efforts, as reflected by this reassessment and on the candor with which the findings are reported. While the electric utilities are not pleased with the announcement of a substantial delay in the scheduled start date for repository operation, we are encouraged by the actions outlined in the Report to restructure the program. Furthermore, the actions identified in the Report with respect to Yucca Mountain and the Monitored Retrievable Storage facility are generally appropriate and, if properly executed, can lead to overall success of the program.

¹American Nuclear Energy Council, Edison Electric Institute, EEI/Utility Nuclear Waste and Transportation Program (EEI/UWASTE), Electric Power Research Institute, Nuclear Management and Resources Council, and U.S. Council for Energy Awareness. Edison Electric Institute provides staff and secretariat services for ACORD.

2

It is our view that the DOE civilian high-level radioactive waste program is technically sound. Some of the Nation's finest scientists and engineers are at work in this program. Our criticisms of the program have always been in the management of these technical resources. We are pleased that the Secretary's proposed changes focus on the management of the program and institutional relationships. With regard to these changes, our concerns are primarily with implementation, which in itself will determine the success or failure of the program. The DOE's past performance does not encourage us.

Electric utilities with nuclear energy programs, their customers and rate regulators have seen elaborate plans prepared by DOE for its civilian high-level waste management program before. Unfortunately, the plans alone have not been sufficient to move the program forward. Sufficient commitment from senior management at DOE, other agencies and the Administration has been the missing ingredient. Secretary Watkins has referred to his plan as representing the steps he has "...taken to ensure that the Department achieves its goal..." For DOE to implement successfully his plan, Secretary Watkins must remain closely and actively involved. The civilian high-level radioactive waste management program will be successful only if sufficient attention is devoted to it at the highest levels of the federal government. Electric utilities with nuclear energy programs have a responsibility to their customers to follow this program closely and will hold DOE accountable for its progress and ultimate success.

Electric utilities have been closely following DOE's implementation of the civilian high-level radioactive waste management program since long before the passage of the Nuclear Waste Policy Act in 1982. Over the years, the industry has made numerous recommendations aimed at improving the program. The Secretary's Report incorporates many improvements. Initiatives outlined in the Report are a welcome recognition that change is needed.

3

If the Nation is to develop successfully a safe, environmentally sound, publicly acceptable civilian high-level radioactive waste management system, the program must be given the highest priority within the federal government. It must rise above business-as-usual at DOE and not be subjected to the bureaucratic treatment that it has received in the past. Because of its relationship to current and future electricity supplies, the civilian high-level radioactive waste management program must be managed in a manner exemplified by a strong National commitment.

4

The Secretary's Report indicates that DOE will be revising the schedule, cost and technical baselines for the entire program. The near-term schedule shows that these will be completed by the end of June 1990. This is extremely important and the industry will follow progress on these activities closely. At each step in the process, DOE must be sure that it is ready, in all respects, to move on to the next step. This requires a properly managed program that is characterized by logically sequenced

activities; this has not always been the case. DOE must issue the various reports that have long been outstanding: Mission Plan Amendment, Fee Adequacy Report, Project Decision Schedule, etc.

- 5 The Secretary's Report is silent on cost. This is an important matter that should be addressed early in the process. As a start, DOE should reduce its overhead for this program significantly and begin federal payments into the Nuclear Waste Fund for disposal of defense wastes in the civilian repository.
- 6 Under the Nuclear Waste Policy Act and the Standard Contract (10 CFR Part 961), DOE is obligated to begin taking spent nuclear fuel from electric utilities by January 31, 1998. By that time, electric utility customers will have paid \$ 8 - 10 billion to DOE. If DOE does not meet its obligation, additional costs for at-reactor storage will be incurred. If DOE does not begin taking spent fuel by January 31, 1998, a funding mechanism must be developed to accommodate the cost of this additional storage.

The announcement of an additional seven-year delay in the program (with the prospect of additional future delays) is significant. Both the near and long term implications could be serious. In the months and years ahead, as the industry monitors DOE's progress against the plan, the industry will be considering further its policies and positions, and will communicate additional recommendations and take actions, as appropriate.

SPECIFIC RESPONSES

- The actions and milestones identified in the Report must be achieved to build credibility in the civilian high-level radioactive waste management program. The following discussion provides specific recommendations to assist the Secretary and the Department to that end. These recommendations focus on the elements of the Secretary's plans and expands on them, where appropriate. It must be strongly emphasized that
- 7 the actions in the Secretary's Near-Term Decision Plan must be successfully completed by the end of 1990 (less than twelve months from now) to permit the start of new site characterization work at Yucca Mountain by January 1, 1991. DOE must move expeditiously to complement the plan.

Management

8 New Director

The appointment of a new Director is long overdue and must be made immediately. It is essential that the Director have unimpeded access to, and the complete support of, the Secretary of Energy in carrying out the objectives of this important program. In this context, the new Director should not only "...have the freedom to propose program changes in addition to those discussed in [the] report," but should also have the strong support of the Secretary in his efforts to adopt and implement them. The Secretary must remain closely involved with the new Director.

OCRWM Management Restructuring

9 The recent implementation of "direct-line reporting" by the Manager of the Yucca Mountain Project Office (YMPO) to the Office of Civilian Radioactive Waste Management (OCRWM) at Headquarters is a major step forward for the program. However, significant restructuring of all program elements (i.e., Regulatory, Licensing, MRS, Transportation), including sorting out the responsibilities and relationships at and between OCRWM and YMPO, are still required if any true benefit is to be realized. It is absolutely essential that clear lines of management, authority, and accountability be instituted. The level of contractor support should be adjusted as discussed below. An assessment of the management structure of the civilian high-level radioactive waste management program is taking place and final recommendations will be available to DOE later this month. The outcome of this restructuring effort should recognize the need for project-oriented management that is consistent with the site characterization activities presently required, as well as managing other aspects of the program. It is also essential that these changes, or any other reorganization, not be finalized until the new Director is appointed and has had an opportunity to determine whether or not the proposed changes are acceptable to him. The electric utility industry has learned difficult lessons and has acquired valuable experience on this subject at some cost through its many years of nuclear power plant construction. The Department would benefit from a senior-level industry review of the proposed restructured management scheme prior to its implementation.

10 Contractor/Participant Support

The industry has long held that contractor/participant support to the program has been excessive, duplicative, and financially wasteful of electricity consumer resources. While a reduction in the number of contractors/participants associated with this program is no doubt warranted as work is deferred (as described in the Report), it is also warranted

as a matter of sound project management. DOE must assert greater management control over the National Laboratories, reduce the number of Laboratories involved, and consolidate overall management of the scientific effort. Also, a consideration in the selection of new, or retention of current, contractors/participants should be their experience on projects that were brought to a successful result rather than their comfort with ongoing research programs. Other opportunities to reschedule activities consistent with needs as mandated by the new program schedule should also be pursued.

11 Management Controls

The management controls that are now being implemented appear to be a step in the right direction. The manner in which they are ultimately used in managing the program will, in the end, determine their usefulness. The schedules for other government agencies that are or will be involved in this program, such as the Nuclear Regulatory Commission, the Environmental Protection Agency, the Department of Transportation and Department of Justice, to name just a few, should be reassessed immediately and more closely integrated into the current planning and scheduling system. The Secretary of Energy should take initiatives to assure support from the Administration and from other agencies that are associated with this program.

Revised Schedule

The Nuclear Waste Policy Act of 1982, as amended, requires the Department of Energy to begin taking spent fuel no later than January 31, 1998. In 1987, DOE slipped operation of the geologic repository to 2003. The Secretary's revised schedule calls for operation of the repository to begin in 2010. This represents a twelve year delay in initial repository operation in a program that has been in existence for only seven years.

12 Given what has been observed over the years, we reluctantly agree that the new schedule appears to be more realistic than previous schedules. However, there is serious concern, given the DOE's history, that the program will not be able to adhere to the new schedule. The industry will be closely monitoring DOE's progress on this
13 new schedule and will be taking actions to encourage compliance with the new schedule. DOE, to build credibility should revise the Standard Contract (10 CFR Part 961) to include performance standards, near and long term milestones and a right for
industry review.

14 There is no indication that DOE has looked seriously at contingency planning to provide early response capability in the event activities do not proceed as scheduled. Given the numerous uncertainties that lay ahead, this should be an essential part of the process.

15 We support DOE in its recognition that initiatives must be taken in order for it to achieve any schedule improvements. The industry is particularly pleased that DOE will be taking a more assertive posture with the NRC and EPA. (It must be pointed out, however, that the rulemakings referred to in the Report must be initiated just to avoid further delays.) DOE must go further. It must create an integrated regulatory effort that critically reviews regulatory requirements, data needs, etc. Such an effort would identify what is needed to meet each regulatory requirement or, alternatively, what appropriate changes should be made to the regulations prior to data acquisition. To accomplish this, DOE must acquire either staff or a management contractor with the requisite skills to interact successfully with the regulatory agencies. This talent is lacking in the program as it now stands. This is also an area in which the electric utilities have accumulated considerable experience and an area in which they are willing to assist DOE.

16 Nuclear Waste Negotiator

The Nuclear Waste Policy Amendments Act of 1987 provided for the appointment of a Nuclear Waste Negotiator to negotiate the siting of an MRS and/or repository. This was to be a one time Presidential appointment for a five year period beginning 30 days following the passage of the Amendments Act. Two years have elapsed and the position remains vacant. While the appointment of the Nuclear Waste Negotiator is long overdue, we are pleased that DOE is now proceeding with efforts directed toward this appointment. Negotiation with a volunteer state or Indian Tribe is the path most likely to lead to siting the MRS. DOE and the Administration must pursue this appointment aggressively. Furthermore, the Administration should assure that the Nuclear Waste Negotiator has broad bipartisan support so that he or she can act effectively in identifying a candidate site for the MRS.

Scientific Investigation of Yucca Mountain

17 The primary objective of the Yucca Mountain Project is to characterize the site. While this effort is not a construction project, as pointed out by the Secretary, neither is it a basic research project. It requires good scientific techniques together with dedicated project management. Technical issues must be identified, defined, analyzed and then resolved. Effective management and program leadership must embrace scientific investigation, while making reasonable progress in resolving technical issues. DOE must achieve a balance between the competing desires of scientists who would like to pursue research that is of personal and professional interest, and the need to investigate and resolve specific questions that are important in achieving progress toward the scientific task of evaluating the characteristics of Yucca Mountain to determine its suitability as a waste repository.

Site Access

18

It is imperative that DOE gain access to the Yucca Mountain site for the purpose of site characterization as soon as possible. We believe that the decision to request the Department of Justice to initiate litigation against the State of Nevada to obtain the necessary environmental permits is an appropriate, although unfortunate, action. The schedules accompanying the Report indicate that a decision on the Nevada Permit Litigation was reached by the Secretary in October. A major milestone in October shows initiation of interactions between DOE General Counsel and the Department of Justice. We understand, from the schedule, that DOE will file suit this month (January 1990) to obtain the environmental permits from the State of Nevada. We regard this action as an important indicator of the Secretary's resolve and commitment to the DOE's new schedule.

Also, it must be emphasized that such an effort should be directed toward all State permits whose applications are pending. Applications for any other permits needed for site characterization work should be promptly submitted so that DOE, as soon as possible, can judicially challenge Nevada's expected failure to act on such permits.

Early Evaluation of Site Suitability

19

DOE has decided to focus on surface-based testing aimed specifically at evaluating whether the site has any features that would indicate that it is not suitable as a potential repository site. Early determinations on the principal, potentially disqualifying conditions are appropriate and should be pursued. However, the pacing activity for final determination of site acceptability is the below ground activity. Both surface-based examinations and below surface activity should proceed in parallel. The reevaluation of the exploratory shaft facility design should be completed as early as practical to permit the below ground effort to be initiated at the earliest possible date.

The development of a methodology for early evaluation of disqualifying conditions is a major element to achieve the desired determinations. The utility funded effort of the Electric Power Research Institute (EPRI) on the development of such a methodology is a vital link for industry and government to work together toward this common goal.

20

The start of new site characterization work will be a significant milestone regardless of whether it is surface-based or underground. The target date of January 1, 1991 for this effort makes it one of the early target dates on the new schedule. Achieving this milestone is very important for the program. Serious contingency planning is needed in the event that Yucca Mountain is found to be unsuitable.

Deferral of Site-Specific Design Activities

- 21 Given the announced schedule delays, we believe that it is appropriate for DOE to evaluate all activities and reschedule them consistent with overall project requirements. We further believe that the development of a detailed schedule baseline with rationale for all proposed activities, including future site specific design work, and adherence to such a schedule will be important to success of the program.

Monitored Retrievable Storage

- 22 The industry fully agrees with DOE that the "primary objective of the program is to develop a licensed geologic repository for the permanent disposal of spent fuel by January 31, 1998." The MRS is not a substitute for the repository. However, in light of the announced schedule delay of seven additional years for initial operation of the repository, the timely operation of an MRS facility takes on greater importance for the success of the program and DOE's ability to meet its statutory and contractual obligation. The current schedule linkages between the repository and the MRS facility would make it impossible for the DOE to accept waste at an MRS facility by 1998. This linkage problem was recognized by the MRS Review Commission and it concluded that there is no technical basis for the linkages and that a linked MRS cannot be justified.

An MRS site located through negotiation with a volunteer state or Indian Tribe appears to be the most likely way to achieve success. This requires the appointment of a Nuclear Waste Negotiator. As stated above, DOE must pursue this appointment with vigor. DOE's MRS siting efforts should only be directed at supporting the Nuclear Waste Negotiator. Once a volunteer has been identified, Congress should then be asked to modify the linkages, as appropriate.

The industry stands ready to support and aid the Department in developing a program for an integrated MRS for interim storage. Early demonstrated success of a major program element is crucial in building credibility in the civilian high-level radioactive waste management program. Schedule slippage that delays MRS operations beyond 1998 will result in increased expenditures for on-site storage capacity and reduce the effectiveness of the MRS as an integral part of the waste management system.

CONCLUSION

DOE is faced with many significant challenges. One is to build credibility for the civilian high-level radioactive waste management program. The Secretary of Energy's November 29, 1989 Report to Congress on Reassessment of the Civilian Radioactive Waste Management Program is a good first step toward that end. It lays out a plan that DOE can use to overcome the obstacles that currently block success in implementing the Nuclear Waste Policy Act of 1982, as amended. DOE must now act. This Response of the electric utilities with nuclear energy programs provides additional recommendations to DOE that will assist it in meeting this challenge. Electric utilities with nuclear energy programs, their customers and rate regulators are deeply concerned about the civilian high-level radioactive waste management program. We would like to be as helpful as possible and will not hesitate to use any means available to promote progress and protect the electricity consumer. We encourage DOE to implement the Secretary's plan and move forward with the civilian high-level radioactive waste management program.

We appreciate the opportunity to submit these comments.

bcc: Mr. Samuel Rousso
Mr. Allan Benson ✓

U.S. Council for Energy Awareness

Suite 400
1776 I Street, N.W.
Washington, DC 20006-2495
(202) 293-0770

Harold B. Finger
President and Chief Executive Officer

January 16, 1990

Admiral James Watkins
Secretary of Energy
U.S. Department of Energy
1000 Independence Avenue, S.W.
Washington, DC 20585

Re: Report to Congress on Reassessment of the Civilian Radioactive Waste Management Program.

Dear Mr. Secretary:

The U.S. Council for Energy Awareness (USCEA) provides information on energy issues, with emphasis on the importance of electricity and the roles of nuclear energy and coal in providing it, and examines technical issues related to the peaceful uses of nuclear technology. This letter is submitted in response to the above referenced report, and is an endorsement of the letter and comments submitted by the American Committee on Radwaste Disposal.

We commend you for your efforts in the reassessment of the Civilian Radioactive Waste Management Program. We believe high priority must be placed on moving ahead with examination of the Yucca Mountain site and its evaluation as possibly the nation's first permanent repository for spent fuel. The comprehensive scientific examination you have proposed is certainly essential and should proceed expeditiously. We are disturbed by the substantial delay in the start of operation of the repository, but, we recognize that the new 2010 date is a carefully considered one and, therefore, should be an achievable date.

We also endorse the decoupling of the Monitored Retrievable Storage (MRS) facility from the repository schedule. We are pleased with the commitment that the MRS should be available for accepting spent fuel in January 1998 as a means to meet the contracted provisions for waste acceptance by the Department of Energy. However, the Report fails to include any provisions or contingencies if this is not accomplished.

We endorse the Report in the areas of reorganization, better management, and early assessment of site suitability. These are only achievable provided schedules are set and adhered to, cost projections are established and maintained, and top Department of Energy management is involved. Obviously, it will take strong, centrally managed, technically competent DOE and contractor organizations to implement this difficult program.

USCEA believes that a technically sound, quality assured, timely, high level waste management program is critical to achieving the continued and long term benefits of nuclear energy. We are, therefore, ready and willing to assist DOE on the waste program as well as on various other aspects of nuclear energy in the months ahead. If you have any questions or desire additional information or other help, please let us know.

Sincerely,

Harold B. Finger

United States Department of the Interior

GEOLOGICAL SURVEY
RESTON, VA 22092

TAKE
PRIDE IN
AMERICA

OFFICE OF THE DIRECTOR

In Reply Refer To:
WGS-900068
Mail Stop 106

16 JAN 1990

Mr. Samuel Rousso
Acting Director, Office of Civilian
Radioactive Waste Management, RW-1
Department of Energy
1000 Independence Avenue, S.W.
Washington, D.C. 20585

Dear Mr. Rousso:

This is in reply to a letter of November 29, 1989, from Secretary Watkins requesting any comments that we may have on the schedules in the Department of Energy's (DOE) Report to Congress on Reassessment of the Civilian Radioactive Waste Management Program.

1 First, let me say that we find the entire report very positive, constructive, and refreshingly realistic in its outlook and approach. We heartily endorse it, and will do whatever we can to assist you in its implementation.

When the Nuclear Waste Policy Act was passed in 1982, we felt that in view of the geologic and hydrologic investigations that would be needed for licensing a repository, the original schedule was unrealistic and virtually impossible to meet. Our concerns then as well as more recently have focused on the time allowed for some of the scientific investigations, particularly hydrologic testing in the unsaturated zone where hydrologic techniques and models are on the frontiers of research.

Thus we were very pleased to see the statement in the report that "The Secretary also recognizes that the program is not simply a construction project, but a scientific endeavor of critical significance to the Nation's ability to safely manage and dispose of nuclear waste, and to the reestablishment of confidence in the nuclear energy option in the United States * * *. Consequently, the Secretary is committed to ensuring that scientific investigations be the focal point of the program to ensure that the results are technically sound and uncoupled from a scheduling process that constrains the time required for gathering sufficient information."

2 We also endorse the early search for potential site disqualifiers such as volcanism, faulting, and seismicity as identified by the Nuclear Regulatory Commission in their Site Character Analysis (NUREG-1347). However, some questions regarding the suitability of the site are not likely to be fully resolved until significant amounts of new data have been collected and analyzed. Some of this may depend on studies in underground workings.

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The new emphasis on increased surface-based testing in advance of the exploratory shaft and underground testing is in accord with normal practice in the mining industry. Mining companies try to obtain sufficient information from the relatively inexpensive surface-based investigations to determine if the much more costly underground exploration by shafts and tunnels is warranted. At Yucca Mountain, what will be learned from the surfaced-based studies can only improve the planning for the underground test facilities and the design of the repository and its engineered barriers, and may alert us to problems of which we are not yet aware.

In summary, we strongly support the new stretched-out schedule and increased emphasis on the scientific aspects of the program.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'Dallas L. Peck', with a stylized flourish at the end.

Dallas L. Peck
Director

EDISON ELECTRIC INSTITUTE

The association of electric companies

1111 19th Street, N.W.
Washington, D.C. 20036-3691
Tel: (202) 778-6444

January 17, 1990

The Honorable James D. Watkins
Secretary of Energy
Washington, D. C. 20585

Dear Jim:

Thank you for your November 29, 1989 letter requesting Edison Electric Institute (EEI) comments on your Report to Congress on Reassessment of the Civilian Radioactive Waste Management Program.

EEI fully endorses the Response to your Report, made on January 12, 1990, by the American Committee on Radwaste Disposal on behalf of electric utilities with nuclear energy programs.

Edison Electric Institute is the association of electric companies. Its members generate approximately 78 percent of all the electricity in the country, and service 74 percent of all ultimate customers in the nation. Its members include the majority of electric utilities that hold contracts with DOE for disposal of spent nuclear fuel.

In summary, EEI supports the program changes contained in your Report as a good first step. However, we urge you to maintain your close involvement in this program. Your continued attention is critical for the program to succeed. A capable Director should be appointed for the Office of Civilian Radioactive Waste Management, and the overall management of the program's scientific efforts should be consolidated. [Surface-based testing and below-ground activity at Yucca Mountain must proceed together and DOE should develop a coordinated, integrated regulatory effort to determine what data is needed to meet regulations. [Also, the contracts with the electric utilities should be modified to include performance standards, near and long term milestones, and an industry right to review the program.

The Hon. James D. Watkins
January 17, 1990
Page Two

5 [Finally, if DOE does not begin to accept spent nuclear fuel by January 31, 1998, a funding mechanism must be developed to accommodate the additional costs of at-reactor spent fuel storage that will be incurred by electric utilities after that date.

We appreciate the opportunity to provide you with these comments and encourage you to proceed with your plan.

Sincerely yours,

William McCollam, Jr.

WM:skl

cc: Office of Civilian Radioactive
Waste Management
U.S. Department of Energy, RW-1

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20545

January 25, 1990

The Honorable James D. Watkins
Secretary of Energy
Washington, D.C. 20585

Dear Mr. Secretary:

We are responding to your November 29, 1989 request for the Nuclear Regulatory Commission's (NRC's) comments on schedules incorporated in the Department of Energy's (DOE's) "Report to Congress on Reassessment of the Civilian Radioactive Waste Management Program." The schedules incorporated in the DOE report show DOE starting the construction of the exploratory shaft facility in November 1992 and submitting its license application to NRC in October 2001. This would allow approximately eleven years for the ongoing pre-license application phase.

1 As Chairman Carr noted during Mr. Leo Duffy's December 20, 1989 briefing on this subject, the Commission is pleased with your commitment to ensure that the scientific investigations will be the focal point for the restructured program. As DOE noted, this should help ensure that results are technically sound and uncoupled from a scheduling process which might constrain the collection of sufficient information for a determination of site suitability and a thorough and complete license application.

2 We recognize the importance of the activities DOE is planning in 1990 and 1991 to begin implementing its restructured program. The NRC is committed to supporting these activities by conducting reviews and interacting with DOE as early and as often as needed. To help ensure that our planning and resource allocations are adequate to support DOE's restructured program, it is important that DOE and NRC begin developing consistent, detailed 1990 and 1991 milestones and schedules for those activities where the NRC staff's involvement will be necessary. We believe that early interaction on the following items is particularly important: (1) events necessary for meeting the September 1990 date for NRC's acceptance of the Office of Civilian Radioactive Waste Management's quality assurance program; (2) events necessary to ensure adequate technical consultation through open meetings during NRC's ongoing refinement of its regulatory requirements and guidance; (3) events necessary to support beginning surface-based testing in January 1991; and (4) events necessary to support beginning construction of the exploratory shaft facility in November 1992. Mr. Robert M. Bernero, Director of the Office of Nuclear Material Safety and Safeguards, is the appropriate contact for staff initiating interactions.

AMERICAN NUCLEAR ENERGY COUNCIL

Edward M. Davis
President

January 18, 1990

The Honorable James D. Watkins
Admiral, U.S. Navy (Retired)
Secretary of Energy
Washington, D.C. 20585

Dear Admiral Watkins:

On behalf of the American Nuclear Energy Council and in support of the American Committee on Radwaste Disposal's (ACORD) formal comments on the Department of Energy's (DOE) "60 Day Report", I would like to offer our undivided support of your efforts to redirect the civilian high-level waste management program.

1 The Council appreciates this opportunity to review and comment on DOE's formal reassessment of the civilian waste program. The Council, moreover, participated in and fully endorses the recommendations and conclusions submitted to DOE by ACORD on January 12.

The Council identified and noted three important areas in the "60 Day Report" which it would like to underscore as most essential to improving program progress and credibility.

2 First, the Secretary should ensure that the civilian waste program is among the Department's top initiatives and that the Department's attention is focused on gaining access to and investigating the Yucca Mountain site;

3 Second, the Secretary should ensure that, within the Department and OCRWM, a management structure be established with clear lines of authority and accountability; and

4 Third, the Department should continue to recognize and fulfill the statutory and self-imposed commitments related to the objectives and schedules of this program.

Again, ANEC greatly appreciates the opportunity to provide comments on the Department's reassessment plan and is encouraged that the changes will bring about positive results for this vital program.

Sincerely,

Edward M. Davis
President

cc: Office of Civilian Radioactive
Waste Management
U.S. Department of Energy R&D

3 The schedules also include significant activities in the years beyond 1991 in the areas of licensing a monitored retrievable storage (MRS) facility and certifying transport casks. In addition to amendments to the Nuclear Waste Policy Act, these activities will require productive interactions with the NRC staff. For example, the reference schedule indicates a period of 18 months for NRC to license the MRS's simple receiving facility. The viability of such a schedule depends on the success of substantive review and certification activities before receipt of the MRS license application in July 1995. We believe that staff interactions should begin as soon as practicable to clarify what NRC activities would be necessary to support DOE's schedule.

The Commission continues to believe that our ability to complete the repository review in the three-year time frame prescribed by Congress depends on the effectiveness of the pre-license application program. The Commission's previous comments on DOE's programmatic documents have identified key action items considered vital to achieve an effective pre-license application program. The Commission is encouraged that the restructured program reinforces DOE's previous commitments to early identification and resolution of issues through systematic consultations with NRC and early implementation of a quality assurance program. However, it is not clear how the restructured program will address another key item, development of a licensing support system. Future reference schedules should include the design and development schedule for a licensing support system, consistent with DOE's revised schedule.

NRC will be prepared to reassess the reference schedules as DOE completes other actions described in the report to Congress that may result in further changes.

Sincerely,

Kenneth C. Rogers
Acting Chairman

cc: Office of Civilian Radioactive
Waste Management

Southern California Edison Company

P. O. BOX 800

2244 WALNUT GROVE AVENUE

ROSEMEAD, CALIFORNIA 91770

February 20, 1990

HOWARD P. ALLEN
CHAIRMAN OF THE BOARD AND
CHIEF EXECUTIVE OFFICER

TELEPHONE
818-302-2777

The Honorable James D. Watkins
Admiral, U.S. Navy (Ret.)
Secretary of Energy
Washington, D.C. 20585

Dear Jim:

I very much appreciate the candor and professionalism reflected in your "Report to Congress on Reassessment of the Civilian Radioactive Waste Management Program" dated November 1989. Under your leadership, it now appears that the Department of Energy has established realistic priorities and a much needed focus to enable the Federal Government to meet its obligations to the Nation to safely dispose of spent fuel and high-level radioactive waste.

We at Southern California Edison support the comments submitted on behalf of the nuclear utility industry by the American Committee On Radwaste Disposal (ACORD), of which I am a member. These comments were provided in a letter to you from the committee chairman, Mr. William Berry, dated January 12, 1990.

1 In addition to the ACORD comments, I strongly support the analysis in your report concerning the need for modification of statutory linkages affecting early implementation of the Monitored Retrievable Storage (MRS) facility. It is essential that the Department of Energy begin accepting spent fuel by 1998, or as soon thereafter as possible, and MRS is the only vehicle which can permit that to occur.

Our ratepayers are currently investing approximately \$50 million in modifications to the spent fuel storage facilities at our San Onofre Nuclear Generating Station to increase storage capacity. However, this investment will support additional unconsolidated spent fuel only until 2001. This is far short of the 2010 projected in your report as the earliest date for receipt of spent fuel at Yucca Mountain.

9MM1385

The Honorable James D. Watkins -2-

February 20, 1990

In your report you indicate that the Department of Energy will work with the Congress to modify current linkages and constraints on MRS facility development. We support this course, and if we can be of any assistance in achieving your objective, please let me know.

Sincerely,

A handwritten signature in black ink, appearing to read "Steven P. Kraft", with a long horizontal flourish extending to the right.

cc: William W. Berry, ACORD
Steven P. Kraft, EEI

Office of Civilian Radioactive Waste Management
U.S. Department of Energy RW-1

WOLF CREEK

NUCLEAR OPERATING CORPORATION

Forrest T. Rhodes
Vice President
Engineering & Technical Services

February 21, 1990

ET 90-0041

The Honorable James D. Watkins
Secretary of Energy
Washington, D.C. 20585

Dear Mr. Watkins:

Wolf Creek Nuclear Operating Corporation (WCNOC) is the operating utility for the Wolf Creek Generating Station. On behalf of the owners and ratepayers who provide revenue to the Nuclear Waste Fund, WCNOC offers these comments on the Report to Congress on Reassessment of the Civilian Radioactive Waste Management Program (DOE/RW-0247).

WCNOC fully endorses the response to your report, made on January 12, 1990, by the American Committee on Radwaste Disposal on behalf of electric utilities with nuclear energy programs.

1 WCNOC further emphasizes the importance of developing management controls to improve reporting mechanisms and evaluate costs and schedules, making clear and evident progress toward the development of the Yucca Mountain site, and modifying the current linkages between the repository and the MRS to allow DOE to begin accepting spent nuclear fuel by January 31, 1998.

2 If DOE does not begin taking spent fuel by January 31, 1998, a funding mechanism should be developed by DOE to accommodate the utilities additional costs of at-reactor spent fuel storage that will be incurred due to DOE not meeting the legislated schedule.

WCNOC appreciates the opportunity to provide you with these comments, and fully expects a return for the investment being made in this program.

Sincerely,

Forrest T. Rhodes
Vice-President
Engineering & Technical Services

FTR/aew

Public Service
Electric and Gas
Company

James Ferland
Chairman of the Board,
President and
Chief Executive Officer

80 Park Plaza, Newark, NJ 07101 201-430-5620 Mailing Address: P.O. Box 570, Newark, NJ 07101

February 22, 1990

The Honorable James D. Watkins
Admiral, U.S. Navy (Retired)
U. S. Secretary of Energy
1000 Independence Avenue, S.W.
Washington DC 20585

Dear Admiral Watkins:

REPORT TO CONGRESS ON REASSESSMENT OF THE CIVILIAN RADIOACTIVE
WASTE MANAGEMENT PROGRAM

Public Service Electric & Gas Company (PSE&G) has two contracts with the United States Department of Energy (DOE) for disposal of Spent Nuclear Fuel and/or High Level Waste (SNF/HLW) from the twin Salem units and Hope Creek Unit 1. These contracts obligate the DOE to accept title to the SNF/HLW and provide disposal services after commencement of facility operations, not later than January 31, 1998. To date, PSE&G has paid approximately 130 million dollars into the Nuclear Waste Fund and continues to fulfill its monetary obligation as specified in the contract. We have reviewed your "Report to Congress on the Reassessment of the Civilian Radioactive Waste Management Program" with respect to the DOE's contractual obligations and are pleased to submit these comments for consideration in the implementation of this program.

1 PSE&G is distressed by the announcement that the scheduled start date for repository operation will again be delayed from the year 2003 until 2010. This is the second announced delay for the repository operation, the first being from the year 1998 to 2003. This waste program has been in place for seven years but has already been delayed by 12 years with respect to repository operation after spending approximately 2.5 billion dollars from the Nuclear Waste Fund. However, we are pleased with your
2 acknowledgement of commitment to commence fuel acceptance by 1998 by establishing an integrated Monitored Retrievable Storage (MRS) system. We accept this expression of commitment seriously and will ultimately hold DOE accountable for its progress and
ultimate success.

3 With respect to the MRS, we believe that the obstacles you cited in your report can be overcome to meet the 1998 target date only if this program receives your personal involvement in the process of MRS site selection and eliminating linkages to the repository.

9000335

2/22/90

We feel that site selection is the critical phase of the MRS program. Your direct and early involvement in a major way will give the MRS program the much needed momentum to get started. We think that the two initial MRS tasks, i.e. site selection and elimination of MRS linkages to the repository imposed by the Congress must proceed rapidly and in parallel for the fuel acceptance date to become a reality. Additionally, we believe that your personal involvement will also set the proper tone and send a strong signal to the management and staff of the Office of Civilian Radioactive Waste Management (OCRWM) to work aggressively to meet your stated commitment and deliver a product to the utilities by 1998. In our opinion, the operation schedule of MRS appears realistic because this facility will be based on proven technologies; hence it will face fewer licensing uncertainties. PSE&G needs an operational MRS and is depending on its availability to meet our spent fuel storage needs beyond 1998.

PSE&G is encouraged by the actions outlined in your report for restructuring the management of this program. We believe that these actions are long overdue and therefore must be implemented as soon as practicable. We concur that the appointment of a new permanent director of the OCRWM is an important first step to steer the program towards success. In our opinion, the absence of such a director for the past two years has contributed in part to the program's disappointing record. We also feel that the other management restructuring actions such as direct line reporting, streamlining the use of contractors and more rigorous project management controls will have a positive impact on this program. These actions might make the program more cost effective and schedule conscious. We concur with your recommendation for their rapid implementation.

We appreciate the opportunity to submit these comments. Additionally, PSE&G also concurs with all the comments made by the American Committee on Radwaste Disposal (ACORD) to the DOE. PSE&G has actively monitored the waste program in the past and will continue to do so in the future. We will be pleased to support and assist the DOE in any way necessary to make this program a success.

Sincerely,

C Allen Keesler (ACORD)
Loring Mills (EEI)

GULF STATES UTILITIES COMPANY

RIVER BEND STATION PCST OFFICE BOX 220 ST FRANCISVILLE LOUISIANA 70775

AREA CODE 504 635-6094 346-8551

JAMES C. DEDDENS
Senior Vice President
River Bend Nuclear Group
(504) 381-4796

April 17, 1990
RBG-32,721
File No. G25.6.2

The Honorable James D. Watkins
Admiral, U. S. Navy (Retired)
Secretary of Energy
Washington, D. C. 20585

Dear Admiral Watkins:

As Senior Vice President - River Bend Nuclear Group, I appreciate the opportunity to comment on behalf of Gulf States Utilities Company on the Department of Energy's recent Report to Congress on Reassessment of the Civilian Radioactive Waste Management Program.

1 Generally, Gulf States supports comments already made on this subject to you in January by Mr. W. W. Berry, Chairman of ACORD, and separately Mr. William McCollam, Jr. of the Edison Electric Institute. However, with specific reference to Gulf States and its Contract for Disposal of Spent Nuclear Fuel and/or High Level Waste with DOE (Contract #DE-CR01-84RW00010), I must additionally state my company's concern with the effect of the delay in DOE's civilian high level radwaste management program on our own spent fuel management plans.

2 During construction of River Bend, Gulf States provided extended, densified on-site spent fuel pool storage capacity which it considered more than adequate, considering the 1998 date for DOE to contractually commence receipt of its customers' spent fuel. Unfortunately, we estimate that under current operational and fuel design planning, River Bend will lose full core reserve (FCR) capability in 2007. This is 3 years prior to the year DOE now estimates federal disposal facilities may begin operations. Under recently issued DOE Annual Capacity Reports, however, DOE on a planning basis has scheduled the first spent fuel receipt for River Bend in the 8th year of disposal facility operation. This will present a severe storage capacity problem for us.

9000694

Page 2 of 2
RBG-32,721
April 17, 1990

3

I, therefore, suggest that during 1990, DOE move aggressively to develop funding, separate from the Nuclear Waste Fund, to support utility efforts to accommodate the additional fuel storage at the reactor sites on a case-by-case basis. Such funding should not be an additional burden on nuclear utilities since it would be unfair to pay twice for the same service. This apparently will be necessary for Gulf States and other utilities prior to DOE's fulfillment of its contractual spent fuel/high level waste disposal services commitments.

I believe this kind of funding support activity should begin prior to the commencement of DOE issuance of acceptance priority rankings and customer delivery commitment scheduling which are to begin in 1991-92 under the contract. By reaching formal understanding with individual customers while also dealing with the general need to move expeditiously ahead with the CRWM program as directed by law, DOE can better meet its customers' needs.

I appreciate the opportunity to provide these comments for your consideration.

Sincerely,

J. C. Deddens

JCD/JEB/kaa

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
AIR AND RADIATION

Honorable James D. Watkins
Secretary of Energy
Department of Energy
Washington, D.C. 20585

Dear Mr. Watkins:

This is in response to your letter of November 29, 1989, to William Reilly, Administrator of the Environmental Protection Agency (EPA), requesting comments on the Department's Report to Congress on Reassessment of the Civilian Radioactive Waste Management Program. In general, we believe that the planned restructuring of the program represents a reasonable response to the delays that have occurred in the effort to develop a geologic repository for spent nuclear fuel and high-level radioactive waste.

1 An overriding concern that we have, however, is that the report may give the impression that the Department is changing its priorities away from developing a repository and towards establishing a temporary Monitored Retrievable Storage (MRS) facility. The Agency believes very strongly that the program should continue to be focused on developing a permanent repository for these dangerous materials as soon as practicable. We recognize that some amount of MRS capacity may be appropriate to manage spent fuel until a repository becomes available. However, we believe that great care must be taken to ensure that such an MRS facility does not become a replacement for the ultimate disposal facility that is needed.

2 As the report points out, protecting public health and the environment while managing and disposing of radioactive waste is essential. Likewise, public confidence in the management and disposal strategy that the country pursues is vital. As you know, we are working to reestablish the environmental standards for disposal of spent fuel and high-level waste that were vacated

and remanded by a Federal court in 1987. We believe that these standards have an important role to play in building public confidence, and we will keep your staff informed of our progress in this effort.

Sincerely yours,

William G. Rosenberg
Assistant Administrator
for Air and Radiation

cc: U.S. Department of Energy
Office of Civilian Radioactive Waste Management, RW-1

APPENDIX D

RESPONSE LETTERS TO COMMENTERS FROM DOE

Department of Energy

Washington, DC 20585

January 23, 1990

The Honorable James H. Bilbray
House of Representatives
Washington, D.C. 20515

Dear Congressman Bilbray:

Thank you for your letter of November 30, 1989, regarding Admiral Watkins' recent "Report to Congress on Reassessment of the Civilian Radioactive Waste Management Program."

The Nuclear Waste Policy Amendments Act of 1987 directed the Department of Energy (DOE) to phase out site specific activities at all candidate sites other than the Yucca Mountain site. Based on preliminary evaluations, the DOE has no evidence to date that the Yucca Mountain site is unsuitable for further characterization. Unless our investigation of the Yucca Mountain site determines it to be unsuitable for a repository, we would not propose, nor would current law allow us, to go back to the program of characterizing multiple sites simultaneously, i.e., the program prior to the Amendments Act.

Recognizing the possibility that Yucca Mountain could be found unsuitable to host the repository, we plan to support the Nuclear Waste Negotiator, when appointed, in identifying alternative volunteer repository sites.

Sincerely,

A handwritten signature in black ink, which appears to read "John C. Tuck", is written over a horizontal line.

John C. Tuck
Under Secretary

The Secretary of Energy
Washington, DC 20585

March 16, 1990

The Honorable Richard H. Bryan
United States Senate
Washington, D.C. 20510

Dear Senator Bryan:

Thank you for your letter of December 1, 1989, and other previous correspondence in which you raised concerns regarding the structure and management of the Civilian Radioactive Waste Management Program and other technical issues.

I believe the November 29, 1989, "Report to Congress on Reassessment of the Civilian Radioactive Waste Management Program" responds to the technical and management issues that you have raised. On the basis of that report, I have instructed that modifications be made to the Yucca Mountain, Nevada, scientific investigation program in order to address fully the technical concerns raised by you and others about the suitability of the site.

As I have assured you before, if the scientific investigation determines that the Yucca Mountain site is unsuitable as a repository, the Department immediately will cease its activities at the site and report to the Congress as required by the Nuclear Waste Policy Act of 1982, as amended.

Enclosed are the responses to the questions raised in your December 1, 1989, letter.

Sincerely,

James D. Watkins
Admiral, U.S. Navy (Retired)

Enclosure

QUESTIONS FROM SENATOR BRYAN

1) What steps will DOE now take to recover funds that have been wasted in this program if there was negligence or incompetence evident in the work of the contractors who have conducted the existing scientific studies?

In instances where a contractor's performance does not comply with the terms of its contract with the Department, remedies might include termination of the contract for default, recovery of certain costs, and assessment of appropriate damages. The nature of the contract, the kind of work performed, and the facts indicating negligence or incompetence would all have to be examined to determine what remedies were available in a particular situation. However, the Department has no evidence of negligence or incompetence in the work of contractors who have conducted existing scientific studies.

2) What is the total amount so far collected in the Nuclear Waste Fund, what uncollected amounts are owed to the fund, and what amount has been expended from the fund on the existing program?

Total amount collected: \$4,798,080,000

Uncollected amounts: \$1,531,836,000

Total amount expended: \$2,374,597,000

Figures provided are as of October 31, 1989.

3) Of the expenditures from the fund, what amount has been spent by DOE directly and what amount has been expended through private contractors?

Of the total amount expended, direct DOE expenditures for Federal salaries and benefits total \$87,476,000 for the period FY 1983 - FY 1989. The balance of funds have been awarded to contractors, grantees, and other Federal agency participants.

4) Please provide a list of the contractors who have participated on the program and the aggregate amount that each contractor has received from the Nuclear Waste Fund and what work was performed.

Enclosed is a copy of the December 1989, GAO Quarterly Report on DOE's Nuclear Waste Program (GAO/RCED-90-59) which discusses changes in waste program contracting patterns that have occurred since the enactment of the Nuclear Waste Policy Amendments Act of 1987 (NWPAA). While this Report details cumulative costs of contracts which were active as of September 30, 1987, as well as cumulative costs of contracts initiated subsequent to enactment of the NWPAA, it does not reflect the aggregate amounts of contracts that had been completed prior to September 30, 1987. We are in the process of collecting that information now.

5) Please provide a detailed explanation of the status of the existing data DOE has collected on Yucca Mountain. Will the existing data be utilized in the new scientific analysis of the site, will it be entirely supplanted by new data, or will the existing data be used selectively in the new program?

The Department expects to use much of the existing data for detailed planning of the scientific investigation program.

6) What effect will the further delay of the program have on its ultimate cost, and will the existing fee for the nuclear waste fund have to be increased over time to support the program?

The Department is in the process of determining the impacts of the schedule changes announced in the "Report to Congress on Reassessment of the Civilian Radioactive Waste Management Program" on the total system life cycle cost and the 1 mill/kWh fee. The results of this study will be available within the next several months. The initial assessment, however, is that the announced schedule changes do not significantly affect the 1 mill/kWh fee.

December 1989

NUCLEAR WASTE

Quarterly Report on DOE's Nuclear Waste Program as of June 30, 1989

GAO/RCED-90-59

Department of Energy
Washington, DC 20585

JAN 29 1990

Mr. Jerry Millett
Chairman
Duckwater Shoshone Tribe
P.O. Box 68
Duckwater, Nevada 89314

Dear Chairman Millett:

Thank you for your letter of December 4, 1989, to Secretary of Energy James Watkins concerning the Tribe's request for affected status pursuant to the Nuclear Waste Policy Act of 1982, as amended.

The Department of the Interior has the responsibility for determining affected status and, I understand, is reviewing the Tribe's petition. The Duckwater Shoshone may participate in the program whether or not affected status is granted. Such participation may include requesting information and commenting on the Department's plans.

If I can be of further assistance, please contact me.

Sincerely,

A handwritten signature in dark ink, appearing to read "J. Bresee", is written over a horizontal line.

James C. Bresee
Acting Associate Director for
Program Administration and
Resources Management
Office of Civilian Radioactive
Waste Management

cc:
W. Lavell, Department of the Interior

The Secretary of Energy
Washington, DC 20585

March 19, 1990

Mr. Kenneth J. Nemeth
Executive Director
Southern States Energy Board
3091 Governors Lakes Drive
Norcross, Georgia 30071

Dear Mr. Nemeth:

On November 29, 1989, I sent to you the "Report to Congress on Reassessment of the Civilian Radioactive Waste Management Program," and asked for your comments on the schedules accompanying the report. I want to thank you for the time and effort expended in commenting on the report and to let you know the status of the program. Further, I want to assure you of my continuing personal involvement in and support of the program. Enclosed is a brief summary of comments received and near-term actions accomplished.

After due consideration of the schedule-related comments received, the Department issued Revision 0 of the Scientific Investigation Plan (Near Term Decision Plan) on March 1, 1990. That chart and the Scientific Investigation Plan Rev. 0 (Through Repository License Application) are enclosed. The charts will continue to be updated and released every other month as the program progresses.

The Department will address non-schedule-related comments received on the Report in the Mission Plan Revision currently scheduled to be issued for public comment in June 1990. Again, thank you for your assistance in this most important national program.

Sincerely,

James D. Watkins
Admiral, U.S. Navy (Retired)

Enclosures

The Secretary of Energy
Washington, DC 20585
March 12, 1990

Mr. Robert N. Revert
Chairman
Board of County Commissioners
County of Nye
Tonopah, Nevada 89049

Dear Mr. Chairman:

Thank you for your letter regarding the "Report to Congress on Reassessment of the Civilian Radioactive Waste Management Program." I understand that you have now received the report and that representatives of the Department of Energy (DOE) have discussed with you the issues raised in it. I regret any inconvenience caused by the delay in transmittal.

I very much appreciate your proposals for facilitating effective interactions between Nye County and DOE. Preliminary talks on this subject have taken place with staff from the Yucca Mountain Project Office, and I believe that it would be useful to continue the dialogue while we await the confirmation of the Director of the Office of Civilian Radioactive Waste Management. When the Director is confirmed by Congress, we will ensure that there is ample opportunity for Nye County representatives to establish a solid relationship with that individual, and also continue working with DOE Headquarters and the Project Office.

Let me assure you that my staff and I recognize the unique status of Nye County as the situs county for scientific investigations at Yucca Mountain. Your oversight is critical to the investigation process, and DOE will fully support this integral component of the program. We also commend your objectivity in a sometimes adverse atmosphere. Nye County's consistently constructive position exemplifies the ability to work cooperatively while maintaining absolute independence.

The purpose of the restructuring contained in the Report to Congress is to ensure closer coordination and communication between DOE and affected parties. I am committed to ensuring that the process is open and responsive to your needs. We look forward to working with you in the future as scientific investigations proceed.

Sincerely,

James D. Watkins
Admiral, U.S. Navy (Retired)

The Secretary of Energy
Washington, DC 20585

March 19, 1990

The Honorable George T. Rowe
Mayor of Caliente
P.O. Box 158
Caliente, Nevada 89008

Dear Mayor Rowe:

On November 29, 1989, I sent to you the "Report to Congress on Reassessment of the Civilian Radioactive Waste Management Program," and asked for your comments on the schedules accompanying the report. I want to thank you for the time and effort expended in commenting on the report and to let you know the status of the program. Further, I want to assure you of my continuing personal involvement in and support of the program. Enclosed is a brief summary of comments received and near-term actions accomplished.

After due consideration of the schedule-related comments received, the Department issued Revision 0 of the Scientific Investigation Plan (Near Term Decision Plan) on March 1, 1990. That chart and the Scientific Investigation Plan Rev. 0 (Through Repository License Application) are enclosed. The charts will continue to be updated and released every other month as the program progresses.

The Department will address non-schedule-related comments received on the Report in the Mission Plan Revision currently scheduled to be issued for public comment in June 1990. Again, thank you for your assistance in this most important national program.

Sincerely,

James D. Watkins
Admiral, U.S. Navy (Retired)

Enclosures

The Secretary of Energy
Washington, DC 20585

March 19, 1990

Mr. Keith T. Whipple
Chairman
Board of County Commissioners of
Lincoln County, Nevada
P.O. Box 90
Pioche, Nevada 89043

Dear Mr. Whipple:

On November 29, 1989, I sent to you the "Report to Congress on Reassessment of the Civilian Radioactive Waste Management Program," and asked for your comments on the schedules accompanying the report. I want to thank you for the time and effort expended in commenting on the report and to let you know the status of the program. Further, I want to assure you of my continuing personal involvement in and support of the program. Enclosed is a brief summary of comments received and near-term actions accomplished.

After due consideration of the schedule-related comments received, the Department issued Revision 0 of the Scientific Investigation Plan (Near Term Decision Plan) on March 1, 1990. That chart and the Scientific Investigation Plan Rev. 0 (Through Repository License Application) are enclosed. The charts will continue to be updated and released every other month as the program progresses.

The Department will address non-schedule-related comments received on the Report in the Mission Plan Revision currently scheduled to be issued for public comment in June 1990. Again, thank you for your assistance in this most important national program.

Sincerely,

James D. Watkins
Admiral, U.S. Navy (Retired)

Enclosures

The Secretary of Energy
Washington, DC 20585

March 19, 1990

Mr. Bruce L. Woodbury
Commissioner
Board of County Commissioners
Clark County Bridger Building
225 Bridger Avenue
Las Vegas, Nevada 89155

Dear Mr. Woodbury:

On November 29, 1989, I sent to you the "Report to Congress on Reassessment of the Civilian Radioactive Waste Management Program," and asked for your comments on the schedules accompanying the report. I want to thank you for the time and effort expended in commenting on the report and to let you know the status of the program. Further, I want to assure you of my continuing personal involvement in and support of the program. Enclosed is a brief summary of comments received and near-term actions accomplished.

After due consideration of the schedule-related comments received, the Department issued Revision 0 of the Scientific Investigation Plan (Near Term Decision Plan) on March 1, 1990. That chart and the Scientific Investigation Plan Rev. 0 (Through Repository License Application) are enclosed. The charts will continue to be updated and released every other month as the program progresses.

The Department will address non-schedule-related comments received on the Report in the Mission Plan Revision currently scheduled to be issued for public comment in June 1990. Again, thank you for your assistance in this most important national program.

Sincerely,

A handwritten signature in dark ink, appearing to read "James D. Watkins", is written over the typed name and title.

James D. Watkins
Admiral, U.S. Navy (Retired)

Enclosures

The Secretary of Energy
Washington, DC 20585

March 19, 1990

Mr. Brad Mettam
Board of County Commissioners
Esmeralda County, Nevada
Courthouse
P.O. Box 536
Goldfield, Nevada 89013

Dear Mr. Mettam:

On November 29, 1989, I sent to you the "Report to Congress on Reassessment of the Civilian Radioactive Waste Management Program," and asked for your comments on the schedules accompanying the report. I want to thank you for the time and effort expended in commenting on the report and to let you know the status of the program. Further, I want to assure you of my continuing personal involvement in and support of the program. Enclosed is a brief summary of comments received and near-term actions accomplished.

After due consideration of the schedule-related comments received, the Department issued Revision 0 of the Scientific Investigation Plan (Near Term Decision Plan) on March 1, 1990. That chart and the Scientific Investigation Plan Rev. 0 (Through Repository License Application) are enclosed. The charts will continue to be updated and released every other month as the program progresses.

The Department will address non-schedule-related comments received on the Report in the Mission Plan Revision currently scheduled to be issued for public comment in June 1990. Again, thank you for your assistance in this most important national program.

Sincerely,

A handwritten signature in dark ink, appearing to read "J. D. Watkins", is written over the typed name.

James D. Watkins
Admiral, U.S. Navy (Retired)

Enclosures

The Secretary of Energy
Washington, DC 20585

March 30, 1990

The Honorable Bob Miller
Governor of Nevada
Carson City, Nevada 89710

Dear Governor Miller:

The Department of Energy (DOE) has reviewed the comments on its "Report to Congress on Reassessment of the Civilian Radioactive Waste Management Program" received from the State of Nevada's Nuclear Waste Project Office. The report represents the culmination of a comprehensive reassessment of the Program and identifies several initiatives that I have taken to restructure the Program, to build on the progress and scientific work to date, and to get the Program moving forward in a focused and responsible manner. The report and the identified initiatives have received constructive comments and expressions of a willingness to cooperate from all responding except for Nevada's Nuclear Waste Project Office. The State's comments are addressed in the enclosure to this letter.

DOE is committed to the implementation of the Nuclear Waste Policy Act, as amended, as directed by Congress. We are committed to solving one of the major energy and environmental issues facing this country in a constructive and responsible manner.

I have provided you and the citizens of Nevada my personal assurance that if scientific investigations indicate that the Yucca Mountain site is unsuitable for further investigation, I will not hesitate to stop all work at the site and inform Congress in accordance with the provisions of the Nuclear Waste Policy Act, as amended. To date, however, the refusal of State officials to act on permits that are needed for site characterization activities has blocked the investigation that the Nuclear Waste Policy Act, as amended, mandates. When DOE is permitted to conduct the scientific investigation that the law directs, data will be reviewed as it is collected to determine the validity of the State's expressed concerns.

Sincerely,

James D. Watkins
Admiral, U.S. Navy (Retired)

Enclosure

Response to Comments from the State of Nevada's Nuclear Waste
Project Office on the Report to Congress on Reassessment of the
Civilian Radioactive Waste Management Program

- o The State of Nevada's Nuclear Waste Project Office maintains that DOE is required to "... submit a new, comprehensive program Mission Plan, as provided by the Act before proceeding with implementation of the Secretary's new plan."

Response:

There is no requirement for the Department to issue a new Mission Plan before proceeding with implementation of the Secretary's initiatives. The Nuclear Waste Policy Act of 1982 specified that one Mission Plan be prepared, be submitted in draft form for public comment, and be submitted to Congress. The Department issued this Mission Plan in June 1985. The Department determined that amendments to the Mission Plan were an appropriate mechanism for apprising Congress and the public of changes to the Program. The November 29, 1989, report to Congress clearly served that function, and it is the Department's intention to issue an updated version of the Mission Plan incorporating those changes by June 1990. Issuance of a Mission Plan was never intended to be a precondition to any Program change or to the implementation of any change. Additionally, Section 301(a) of the Nuclear Waste Policy Act does not require congressional action to approve the Plan.

- o The State's Nuclear Waste Project Office asserts that "... since the Secretary's plan restructures DOE's planned site characterization program at Yucca Mountain, the existing Site Characterization Plan should be considered invalid"

Response:

The Site Characterization Plan (SCP) remains a viable document which adequately and completely describes the full range of testing which may be needed to characterize the site. The Secretary's review of the program for site characterization focused on management readiness to proceed with the scientific investigations planned for the Yucca Mountain candidate site, the schedule for these investigations, and the views expressed by the Nuclear Regulatory Commission (NRC), the Nuclear Waste Technical Review Board (NWTRB), the Edison Electric Institute (EEI), and the State of Nevada regarding the site characterization program. The technical adequacy of the studies described in the SCP has been generally supported by the NRC and the EEI, which have recommended that DOE proceed with the program.

As discussed in the report to Congress, the Secretary's review led to the development of a revised sequence for the scientific investigations and schedule for the overall repository Program, based in large measure on the detailed information developed for the SCP -- information that led to a better understanding of the activities to be conducted during site characterization and how long these activities are likely to take. A cornerstone of this change is the initial emphasis on surface-based testing focused on the early investigation of site suitability concerns. This emphasis on surface-based testing in advance of exploratory shaft

construction is responsive to suggestions made by EEI and the State of Nevada. It does not invalidate the bases for identifying the site information to be obtained during site characterization or DOE's plans for obtaining this information as described in the SCP.

Nearly half of the studies described in the SCP involve surface-based testing or monitoring activities essential to providing the information needed to evaluate compliance with the regulatory requirements for site suitability and licensing. The surface-based tests that are expected to be the initial focus for site characterization under the Secretary's new initiatives are a subset of those tests described in the SCP. The Department has recently initiated a review of the planned surface-based testing program to make sure that individual tests are appropriately sequenced to provide the earliest possible information on site conditions that may adversely affect performance and, therefore, be significant in terms of site suitability. The new focus on surface-based testing does not mean that underground testing is now less important. The Secretary's review of the Program has, in fact, led to an extension of the schedule for the in-situ testing program described in the SCP in order to permit sufficient time to acquire the needed information.

- o The State's Nuclear Waste Project Office asserts that "... the DOE's approach to resolving the known and expected technical inadequacies of the Yucca Mountain site and their fatal impact on repository licensing is nothing less than an arrogant invasion of regulatory objectivity and integrity"

Response:

The Department's approach to resolving technical issues is explicitly spelled out in the Site Characterization Plan which was issued for comment in December 1988. The Department is in the process of responding to comments received from interested parties. As noted in a previous response, the technical adequacy of the proposed studies described in the SCP has been generally supported by the NRC and EEI, which have recommended that the Department proceed with the program.

The Department's approach to the implementation of the radioactive waste management program has been dictated by Congress through the Nuclear Waste Policy Act, as amended.

Congress has directed DOE to conduct a scientific investigation of the suitability of the Yucca Mountain site. It is only by conducting the scientific investigation mandated by Congress that a determination of the suitability of the Yucca Mountain site can be made.

The Secretary of Energy
Washington, DC 20585

March 19, 1990

Mr. Michael McK. Wilson
Chairman
Public Service Commission
State of Florida
101 East Gaines Street
Tallahassee, Florida 32399-8153

Dear Mr. Wilson:

On November 29, 1989, I sent to you the "Report to Congress on Reassessment of the Civilian Radioactive Waste Management Program," and asked for your comments on the schedules accompanying the report. I want to thank you for the time and effort expended in commenting on the report and to let you know the status of the program. Further, I want to assure you of my continuing personal involvement in and support of the program. Enclosed is a brief summary of comments received and near-term actions accomplished.

After due consideration of the schedule-related comments received, the Department issued Revision 0 of the Scientific Investigation Plan (Near Term Decision Plan) on March 1, 1990. That chart and the Scientific Investigation Plan Rev. 0 (Through Repository License Application) are enclosed. The charts will continue to be updated and released every other month as the program progresses.

The Department will address non-schedule-related comments received on the Report in the Mission Plan Revision currently scheduled to be issued for public comment in June 1990. Again, thank you for your assistance in this most important national program.

Sincerely,

A handwritten signature in dark ink, appearing to read "James D. Watkins", is written over the typed name.

James D. Watkins
Admiral, U.S. Navy (Retired)

Enclosures

The Secretary of Energy
Washington, DC 20585

March 19, 1990

Mr. Richard H. Watson
Chairman
Western Interstate Energy Board
3333 Quebec Street
Denver, Colorado 80207

Dear Mr. Watson:

On November 29, 1989, I sent to you the "Report to Congress on Reassessment of the Civilian Radioactive Waste Management Program," and asked for your comments on the schedules accompanying the report. I want to thank you for the time and effort expended in commenting on the report and to let you know the status of the program. Further, I want to assure you of my continuing personal involvement in and support of the program. Enclosed is a brief summary of comments received and near-term actions accomplished.

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James D. Watkins
Admiral, U.S. Navy (Retired)

Enclosures

The Secretary of Energy
Washington, DC 20585

March 19, 1990

Mr. E. James Ferland
Chairman of the Board, President
and Chief Executive Officer
Public Service Electric and Gas Company
80 Park Plaza
Newark, New Jersey 07101

Dear Mr. Ferland:

On November 29, 1989, I sent to you the "Report to Congress on Reassessment of the Civilian Radioactive Waste Management Program," and asked for your comments on the schedules accompanying the report. I want to thank you for the time and effort expended in commenting on the report and to let you know the status of the program. Further, I want to assure you of my continuing personal involvement in and support of the program. Enclosed is a brief summary of comments received and near-term actions accomplished.

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Admiral, U.S. Navy (Retired)

Enclosures

The Secretary of Energy
Washington, DC 20585

March 19, 1990

Mr. Harold B. Finger
President and Chief Executive Officer
U. S. Council for Energy Awareness
Suite 400
1776 I Street, N.W.
Washington, DC 20006-2495

Dear Mr. Finger:

On November 29, 1989, I sent to you the "Report to Congress on Reassessment of the Civilian Radioactive Waste Management Program," and asked for your comments on the schedules accompanying the report. I want to thank you for the time and effort expended in commenting on the report and to let you know the status of the program. Further, I want to assure you of my continuing personal involvement in and support of the program. Enclosed is a brief summary of comments received and near-term actions accomplished.

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Sincerely,

James D. Watkins
Admiral, U.S. Navy (Retired)

Enclosures

The Secretary of Energy
Washington, DC 20585

March 19, 1990

Mr. Dallas L. Peck
Director
Geological Survey
U.S. Department of the Interior
Mail Stop 106
Reston, Virginia 22092

Dear Mr. Peck:

On November 29, 1989, I sent to you the "Report to Congress on Reassessment of the Civilian Radioactive Waste Management Program," and asked for your comments on the schedules accompanying the report. I want to thank you for the time and effort expended in commenting on the report and to let you know the status of the program. Further, I want to assure you of my continuing personal involvement in and support of the program. Enclosed is a brief summary of comments received and near-term actions accomplished.

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Admiral, U.S. Navy (Retired)

Enclosures

The Secretary of Energy
Washington, DC 20585

March 19, 1990

Mr. William McCollam, Jr.
President
Edison Electric Institute
1111 19th Street, N.W.
Washington, DC 20036-3691

Dear Mr. McCollam:

On November 29, 1989, I sent to you the "Report to Congress on Reassessment of the Civilian Radioactive Waste Management Program," and asked for your comments on the schedules accompanying the report. I want to thank you for the time and effort expended in commenting on the report and to let you know the status of the program. Further, I want to assure you of my continuing personal involvement in and support of the program. Enclosed is a brief summary of comments received and near-term actions accomplished.

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Admiral, U.S. Navy (Retired)

Enclosures

The Secretary of Energy
Washington, DC 20585

March 19, 1990

Mr. Edward M. Davis
President
American Nuclear Energy Council
410 First Street, S.E.
Washington, DC 20003

Dear Mr. Davis:

On November 29, 1989, I sent to you the "Report to Congress on Reassessment of the Civilian Radioactive Waste Management Program," and asked for your comments on the schedules accompanying the report. I want to thank you for the time and effort expended in commenting on the report and to let you know the status of the program. Further, I want to assure you of my continuing personal involvement in and support of the program. Enclosed is a brief summary of comments received and near-term actions accomplished.

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James D. Watkins
Admiral, U.S. Navy (Retired)

Enclosures

The Secretary of Energy
Washington, DC 20585

March 19, 1990

Mr. Kenneth C. Rogers
Commissioner
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Dear Mr. Rogers:

On November 29, 1989, I sent to you the "Report to Congress on Reassessment of the Civilian Radioactive Waste Management Program," and asked for your comments on the schedules accompanying the report. I want to thank you for the time and effort expended in commenting on the report and to let you know the status of the program. Further, I want to assure you of my continuing personal involvement in and support of the program. Enclosed is a brief summary of comments received and near-term actions accomplished.

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James D. Watkins
Admiral, U.S. Navy (Retired)

Enclosures

The Secretary of Energy
Washington, DC 20585

March 19, 1990

Mr. Howard P. Allen
Chairman of the Board and
Chief Executive Officer
Southern California Edison Company
P.O. Box 800
2244 Walnut Grove Avenue
Rosemead, California 91770

Dear Mr. Allen:

On November 29, 1989, I sent to you the "Report to Congress on Reassessment of the Civilian Radioactive Waste Management Program," and asked for your comments on the schedules accompanying the report. I want to thank you for the time and effort expended in commenting on the report and to let you know the status of the program. Further, I want to assure you of my continuing personal involvement in and support of the program. Enclosed is a brief summary of comments received and near-term actions accomplished.

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Admiral, U.S. Navy (Retired)

Enclosures

The Secretary of Energy
Washington, DC 20585

March 19, 1990

Mr. Forrest T. Rhodes
Vice President
Engineering and Technical Services
Wolf Creek Nuclear Operating Corporation
P.O. Box 411
Burlington, Kansas 66839

Dear Mr. Rhodes:

On November 29, 1989, I sent to you the "Report to Congress on Reassessment of the Civilian Radioactive Waste Management Program," and asked for your comments on the schedules accompanying the report. I want to thank you for the time and effort expended in commenting on the report and to let you know the status of the program. Further, I want to assure you of my continuing personal involvement in and support of the program. Enclosed is a brief summary of comments received and near-term actions accomplished.

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Sincerely,

James D. Watkins
Admiral, U.S. Navy (Retired)

Enclosures

The Secretary of Energy
Washington, DC 20585

March 19, 1990

Mr. William G. Rosenberg
Assistant Administrator for
Air and Radiation
U.S. Environmental Protection Agency
Washington, DC 20460

Dear Mr. Rosenberg:

On November 29, 1989, I sent to you the "Report to Congress on Reassessment of the Civilian Radioactive Waste Management Program," and asked for your comments on the schedules accompanying the report. I want to thank you for the time and effort expended in commenting on the report and to let you know the status of the program. Further, I want to assure you of my continuing personal involvement in and support of the program. Enclosed is a brief summary of comments received and near-term actions accomplished.

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