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WM Record File

106-1

WM Project 16

Docket No.

PDR ☒

LPDR ☒

October 9, 1984

Distribution:

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AWKEER

(Return to WM, 623-SS)

To D. Malters

Linahan/R. Johnson/sf

Dear Secretary Hodel:

I am writing to inform you of a determination I have made as a result of our current assessment of the U.S. Department of Energy implementation of the Nuclear Waste Policy Act of 1982 and the high-level nuclear waste repository program. In addition, I am writing in regard to a number of questions raised by the Texas Nuclear Waste Programs Office in letters to members of your staff during the period May 30, 1984 through July 2, 1984, for which we have received insufficient response from the DOE Office of Civilian Radioactive Waste Management.

In regard to the first matter, it is my judgement that the screening and candidate site selection process leading to the selection of three sites for site characterization, and ultimately the recommendation of a repository site for a Nuclear Regulatory Commission Construction Authorization, is sufficiently flawed to have the strong likelihood of leading to a repository site recommendation that cannot demonstrate a requisite level of protection of human health and safety, and environment. I strongly recommend for your consideration that, in the interest of the nation's ultimate success in resolving the need to finally dispose of existing and accumulating high-level wastes, the current site selection decision activities for a first repository be abandoned, and that a new full and competent national screening process be instituted under the Nuclear Waste Policy Act. I make this recommendation of serious consequence in view of my having lost faith in the integrity of the ongoing DOE site selection activities through which your staff is asserting its ability to identify sites of high quality and acceptable human and environmental risk for nomination and recommendation as candidate sites.

Among the factors that have led me to the recommendation stated above are the following items. The currently unfinalized DOE guidelines now leading to nomination and recommendation of sites, contrary to DOE's past assurances, have the appearance of having been based upon existing knowledge of generalized characteristics of designated Potentially Acceptable Sites in Washington, Nevada, Utah, Louisiana, and Mississippi, and the as yet unfinalized sites in Texas. Application of the guidelines is highly questionable in that the sites must be compared against each other, although they do not share common types and levels of available information. This design and application of the guidelines leads me to question the ultimate acceptability of any of the current sites since the sites themselves appear to be the standards of review rather than the subject of evaluation against rational standards.

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Your staff has both failed and refused to disclose, and submit to full state consultation, the specific methodology by which sites will be recommended for site characterization. This critical decision methodology without full and direct consultation in its formulation could, when coupled with the above stated inadequacies of the guidelines, result in all sites characterized failing to meet the necessary and rigorous tests of suitability for a repository under all applicable law and regulation.

An issue has arisen, and is yet unresolved regarding the interpretation of Section 114(f) of the Nuclear Waste Policy Act. There is still considerable disagreement over whether three sites must receive the Secretarial preliminary determination of suitability for development as repositories following site characterization. Without resolution of this issue, and in light of the above two matters regarding guidelines and recommendation methodology, a full commitment to the technical merits of any three sites recommended for characterization cannot be assured, nor can the final recommendation of a repository site.

A fourth item leading to my above recommendation to abandon the current site selection activities is your unfortunate and misleading statement of September 7, 1984, in Houston, Texas, in which you expressed your view of the role of a partisan political candidate (Congressman Phil Gramm) in past and future siting considerations and decisions. The Congress, in simplest terms, intended in the Nuclear Waste Policy Act of 1982 that a high-level nuclear waste repository site decision at the Secretarial and Presidential level be based upon the sound scientific and technical facts and other required data, not the inaccurately portrayed early objections of a candidate for public office.

On the matter of inquiries regarding the status of Texas sites in the DOE repository program, I request responses to the following dated letters and inquiries as summarized below. This request is being made pursuant to Sections 117(a)(1) and 117(a)(2) of the Nuclear Waste Policy Act of 1982, which requires your written response within 30 days of receipt of this letter.

On May 30, 1984 a letter from Steve Frishman, Director, Nuclear Waste Programs Office, to J. O. Neff, Program Manager, Salt Repository Project Office was sent inquiring what established and documented DOE screening process and methodology was employed in the development and proposed conclusions of the DOE Draft Identification of Sites Within the Palo Duro Basin, Volumes I and II, transmitted for State Review to the Nuclear Waste Programs Office on March 19, 1984.

On June 8, 1984 a letter from Mr. Frishman was sent to Ben C. Rusche, Director, Office of Civilian Radioactive Waste Management inquiring a) what period of time will be permitted for State and public review of the Draft Environmental Assessments for Nomination of Sites; and b) what will be the process of State involvement and consultation in the development of methodology and documentation of your Recommendation of Sites for site characterization from among the at least five Nominated Sites.

Secretary Donald P. Model
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On July 2, 1984 a letter from Mr. Frishman was sent to J. O. Neff, Program Manager, Salt Repository Project Office inquiring of the anticipated schedule for response to State review comments on the Draft Identification of Sites Within the Palo Duro Basin, Volumes I and II, and the schedule for finalization of those documents. In addition, he inquired what sites will be designated by you, with this office being officially notified of their designation as Potentially Acceptable Sites for further investigation as potential repository sites, and when that designation will occur if it is to occur.

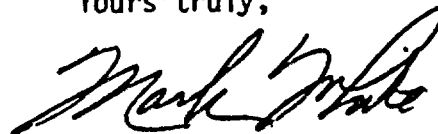
To date, two letters regarding the questions raised have been received from your staff. The first, from Mr. Neff to Mr. Frishman, on June 22, 1984, simply acknowledged receipt of the Texas comments on the Draft Identification of Sites Within the Palo Duro Basin, Volumes I and II, as transmitted with Mr. Frishman's letter of May 30, 1984, cited above. The second letter, also from Mr. Neff to Mr. Frishman, dated July 31, 1984, stated that a letter was being prepared to clarify the Potentially Acceptable Site(s), yet such a letter has not been forthcoming from your office to date, nor do we have any written statement of when we may expect to receive such a letter from you. In addition, Mr. Neff stated in his July 31, 1984 letter that it is expected that the Final Identification of Sites Within the Palo Duro Basin, Volumes I and II will be issued no later than issuance of Draft Environmental Assessments for Nomination of Sites.

If such Draft EA's are to be issued for potential sites in Texas, they must be based upon final site identification documentation. In addition, the Potentially Acceptable Site(s) must be identified by you before any Draft EA's are issued for sites in Texas. Further, with our having received no written notification of the current schedule for issuance of Draft EA's, Mr. Neff's July 31, 1984 letter does not constitute a response to our inquiries, summarized above, regarding DOE schedules relative to activities affecting Texas.

You are aware of my concerns and those of other Texas officials, as well as the affected public, regarding the DOE high-level nuclear waste program in the State. I urge you to provide timely response to the issues and questions summarized here and in the cited letters, and further would appreciate your response to the recommendation put forward in this letter.

I look forward to your early reply regarding these matters.

Yours truly,



Mark White
Governor of Texas

The Honorable Donald Paul Model
Secretary, U. S. Department of Energy
1000 Independence Avenue, SW
Washington, D.C. 20585

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