

SPEECH  
OF  
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U.S. NUCLEAR REGULATORY COMMISSION

BEFORE THE  
NUCLEAR WASTE CONFERENCE  
OF  
THE COLUMBIA RIVER INTER-TRIBAL  
FISH COMMISSION

PORTLAND, OREGON  
FEBRUARY, 12, 1985

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Good morning, ladies and gentlemen. I'm pleased to be here today to talk to you about the overall approach of the NRC staff to the national program for the disposal of high-level wastes. As the people responsible for reviewing and making licensing recommendations to the five members of the Nuclear Regulatory Commission, we on the NRC staff recognize our responsibility to assure that the Department of Energy's high-level waste repositories are constructed and operated without unreasonable risk to public health and safety. The Nuclear Waste Conference of the Columbia River Inter-Tribal Fish Commission, with membership including representatives of the three affected Tribes, is an important gathering of responsible individuals affected by the national program. I want to thank you for providing us with this opportunity to comment on the NRC role and to learn about your unique perspectives on the issue.

*Lawrence Field*

I realize that most of you have serious reservations about the disposal of high-level waste in a deep geologic repository. However, this approach to the disposal of high-level waste was not the decision of the DOE or the NRC, but was decided by Congress when they passed the Nuclear Waste Policy Act in December 1982. If a decision were to be made to change the NWPA, it would have to occur through the political process. So, we on the staff level, of the various Federal agencies involved in the program must work with the NWPA and the applicable regulations as they currently exist. I want to emphasize to you that the NRC is responsible for the protection of public health and safety, in both the licensing of the construction and the operation of a repository. If

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you have issues or information you are concerned about, we want to know about them. As you are probably aware, if a repository is sited on an Indian Reservation, you have veto authority under the NWPA. However, the NRC has a set of regulations, 10 CFR Part 60, Subpart C, which have been in place before the NWPA was passed, specifically designating ways in which Tribes can and are encouraged to participate in the NRC's process. But, an objection on your part to the repository will carry more weight if it is a legitimate technical concern you can validate with scientific data. For, example, if you have a concern about groundwater, get a solid technical basis for the concern and bring it forward to the NRC. It must be addressed to our satisfaction or a license won't be issued.

Rather than attempting to provide a snapshot of our current activities and near-term plans, I thought it might be more useful to portray our goal for the conclusion of DOE's site characterization efforts and the beginning of the process by which the Commission will decide whether to authorize construction of a repository at a particular site. Our short-term plans may change, but our goal for the outcome of our efforts will guide all our planning and programming decisions along the way.

Section 202 of the Energy Reorganization Act of 1974 mandated that DOE

(ERDA) could not dispose of high-level waste without obtaining a license from the NRC. This was further reiterated with the passage of the Nuclear Waste Policy Act of 1982 which provided detailed procedures and schedules for both the DOE and NRC roles. Consistent with the Nuclear Waste Policy Act, we intend to work to assure that, beginning as early in the site characterization process as possible, potential licensing issues are identified, DOE thoroughly addresses every potential licensing issue and DOE has complete, well-validated documentation for each part of the application it will eventually submit for the site of its choosing. This early identification and addressing of issues will be done very visibly to the public, the states, affected Indian tribes, and DOE.

For those of you who are unfamiliar with this Commission licensing process, I want to underline here that we on the NRC staff do not have ultimate authority to approve or disapprove DOE's license application for the waste repository. This authority rests with the five Commissioners. The staff makes recommendations on whether and under what conditions a license should be issued. Our recommendations will have to survive the scrutiny of an Atomic Safety and Licensing Board impanelled by the Commission, and Atomic Safety and Licensing Appeal Board if the original licensing decision is appealed, and finally, the Commission itself before any decision can take effect.

NRC staff will also have to meet a stringent schedule to permit timely action. Under the Waste Policy Act, the Commission is given three years -- with a possible 12-month extension for good cause -- to reach a decision on authorizing construction of the first repository. In order to enable the Commission to meet this deadline, NRC staff will have to complete a number of preparatory activities during the first fifteen months.

We will have to conduct a thorough safety review and submit our findings to the NRC Advisory Commission on Reactor Safeguards (ACRS) for its review. We will have to review DOE's Environmental Impact Statement on its chosen site, determine the extent to which NRC can adopt it under the Act, and prepare any supplemental analyses we may need. During all of this, in accordance with Subpart C of Part 60 which are the NRC regulations governing licensing and disposal of high-level waste, we will also conduct extensive pre-hearing consultations with participating states, affected tribes, federal agencies, and intervenor groups.

After the first fifteen months, we expect to undergo intensive examination by intervenors in the licensing process as they complete discovery of the facts to make their respective arguments. The hearing is expected to take at least 15 months, during which we will have to be prepared to undergo thorough cross-examination and respond to interrogatories from well-prepared parties on

both sides of the licensing question. Finally, the Licensing Board's decision itself must be reviewed by the Commission.

If we are to meet the scrutiny embodied in the NRC licensing process, our technical judgements and the process by which we arrive at them will have to be fully supported and clearly documented. Since we will have to make these judgements in a formal proceeding under the pressure of a statutory deadline, good planning and preparation during the pre-application review phase -- the current phase -- is critical to our success.

The licensing process imposes a special rigor to the national repository program. Not only must we be technically and scientifically correct, but we must be able to demonstrate this correctness in the open forum of a licensing proceeding. It is this necessity for correctness and demonstrability -- that forms the strategy for extensive pre-application review of DOE's site characterization activities by NRC staff. Essentially, this strategy is to promote the identification of potential licensing issues at a site as early as possible. There are several reasons for this: First is the disruptive potential of having to consider new issues late in a licensing process. The later such issues have to be addressed, the more costly it is likely to be to address them. More important, the later the issue are raised, the more DOE has already invested in its chosen site. The earlier issues are identified at a site or in DOE's program for investigating a site, the less disruptive it is to

address the problem or, if necessary, abandon the site. For example, improper excavation of an exploratory shaft could make a site unlicenseable at the outset by making the shaft difficult or impossible to seal. Early identification of potential issues thus enables DOE to make adjustments in its program when adjustments are easiest to make.

Finally, by giving DOE more opportunity to develop a sound and well-documented application, early identification of issues enables NRC staff to make well-founded judgements about the extent to which the issues have been addressed. Given the three-year statutory time period for a Commission decision on construction authorization, we can ill afford during the formal licensing proceeding to revisit issues that have not been adequately investigated.

It is precisely because early identification of issues is so important that NRC staff must be aggressive about raising issues and must engage in frank exchanges of viewpoints and information with DOE, States and affected Indian Tribes from the outset of the pre-application phase. Neither NRC nor DOE will profit by NRC merely awaiting submittal by DOE of a major product, such as the Site Characterization Plan, for our review. At each site, there will be a great variety in both the kinds of licensing issues to be resolved and the level of detail needed to resolve them. This variety requires a flexible mix of mechanisms for interaction with DOE, and the mandatory NRC review of DOE's

Site Characterization Plan under the Act is only one of these mechanisms. By mutual arrangement with DOE and by our initiative, we have initiated others, including the placement of on-site NRC representatives, documented NRC-DOE staff technical meetings, written technical correspondence, arrangements for early access to DOE data, and the development of NRC staff guidance documents and technical positions on generic and site-specific issues.

We have already conducted a number of technical reviews and workshops with DOE, and these meetings have also been open to states and affected tribes. We are also currently reviewing and preparing to comment to DOE on all nine Draft Environmental Assessments which were issued last December. My point here is that our independent responsibilities require an independent agenda in order to provide technically sound and timely licensing information to DOE, not just at the points mandated under the Act, but throughout the site characterization process.

One lesson NRC has learned from its reactor licensing experience is the necessity for a vigorously applied quality assurance program. We must be convinced that work is of high quality -- that tests are properly conducted and results properly verified. The ability to clearly demonstrate this high quality also is essential. NRC has high interest in DOE's controls to assure quality. We have equally high interest in DOE's quality documentation system. We want to assure a system that provides accessibility to information and which



permits ready traceability to confirm the pedigree of the information upon which DOE and NRC must rely in making decisions concerning the site.

An essential ingredient to the success of both NRC's and DOE's respective missions is the need for free and open exchange of information. Only through exchanges with technically qualified representatives of state governments, affected Indian Tribes, and other interested groups can we have reasonable assurance that we are aware of issues of concern to them so that we can assure these issues are addressed. Active participation by states, affected tribes, and other interested parties should also contribute to the critical oversight necessary for this "first-of-a-kind undertaking.

To facilitate this process, we have established a regular weekly mailing to representatives of the States/Tribes and other parties, which gives information about upcoming NRC/DOE meetings and also includes copies of documents which we think would be of interest. We also have established a toll-free telephone number you can call to get a current announcement on all NRC/DOE meetings. In addition, under the provisions of Subpart C, and at the request of the affected Indian Tribes and potential host states, we will provide briefings on the status of our program or negotiate a written agreement with you for your participation in the NRC high-level waste program. The Nuclear Waste Policy Act gives DOE primary responsibility for funding and working with interested states and tribes, and NRC must recognize this statutory priority on direct

interaction of these parties with DOE. Within these limits, however, we on the NRC staff intend to continue pursuing close state and tribal consultations.

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A major thrust of my remarks is that the regulatory process for the national waste repository envisions early and continuous openness of information concerning the program. Over the past year, we have been gratified at the degree of openness on the part of DOE on issues of mutual concern. Among other things, we concluded a procedural agreement with DOE under which we are now meeting regularly with DOE technical staff, and any interested state and tribal officials, on each DOE field project for investigating the various candidate sites. This agreement is a cornerstone for a successful interagency effort in the national program. It provides for early DOE release of site characterization information, which is critical for our independent analyses of DOE activities at each site. It also enabled us to place on-site NRC staff representatives at each site to promote better NRC oversight. We are working actively with DOE staff to establish effective arrangements addressing a number of other needs. I look forward to continuing this kind of relationship within the limits of our respective agency missions.

In closing I would like to emphasize four areas which I have covered today:

- o The national waste program is regulated by the NRC. This provides an added dimension to the environment to which DOE is accustomed. Not only

must the work be technically and scientifically correct, but that correctness must be demonstrated in the open forum of a licensing proceeding.

- o The program must be characterized by openness -- DOE and NRC, States, affected tribes and all interested parties must have timely access to information, identification of issues, and actions to address issues.
- o A quality assurance program must exist that assures that work is of demonstrably high quality.
- o A documentation system is necessary that will provide accessibility to information to confirm the basis on which decisions are made.

NRC's policy and strategy on high-level waste can be stated in straight forward fashion. It is the policy of the NRC to assure that the Department of Energy's high-level waste repositories are constructed and operated without unreasonable risk to the public health and safety. We see ourselves as the public's advocate for safety. We plan that in the absence of unresolved safety concerns that the NRC regulatory program will not delay implementation of the Executive Branch's program assuming DOE schedules provide NRC sufficient time for its vital work and assuming adequate resources. I wish to emphasize that NRC will not sacrifice the quality and adequacy of its work.

Our strategy to accomplish this is:

1. to have a highly competent staff that participates, as provided in our procedural rules, in a continuing and early exchange of data and information between the DOE and NRC, states and affected tribes
2. to identify issues early and press for staff-level technical resolution of issues with clear and available documentation to support these resolutions
3. to perform our work with openness that fully informs DOE, states and affected tribes and the public
4. to be fully prepared to receive, review, and recommend a decision on DOE applications

To accomplish this will require dedication, aggressiveness, and candor on the part of NRC. We intend to do our best to uphold our end of the process.

Again, I appreciate the opportunity to talk with you today and I thank you for your attention. I would be pleased to answer any questions.

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February 14 Briefing with the  
Nez Perce Indian Nation

AGENDA

- I. Introduction and Overview of Meeting
- II. History of Licensing Responsibility over DOE
  - A. Section 202 ERA
  - B. Past Legislative History
  - C. NWPA
- III. NRC Regulatory Framework
  - A. Role of NRC vs. DOE
  - B. NRC Structure/Organizational Charts
  - C. Role of Waste Management State/Tribal Liaison Officers
- IV. Nuclear Waste Policy Act
  - A. Brief Overview
  - B. NRC Responsibilities
  - C. Current Activities
- V. NRC 10 CFR Part 60 Regulation
  - A. Technical Rule
  - B. Procedural Rule - Proposed Changes
- VI. Technical Overview of NRC Activities at Hanford
- VII. Transportation
  - A. Role of NRC vs. DOT
  - B. NRC Activities
- VIII. Role of On-Site Licensing Representatives
- IX. Information Management/Document Control and Public Document Rooms
  - A. Development of Information Management and Issues Tracking System
  - B. Current Document Control and PDR System
  - C. Mailings and Telephone Information Activities
- X. Questions and Closing Comments