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1. John Davis, NRC			
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REMARKS

Attached is a copy of the Ted Harris letter with enclosure.

WM Record File

109

WM Project

Docket No.

PDR

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23

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FROM: (Name, org. symbol, Agency/Post)	Room No.—Bldg.
Keith A. Klein	
Deputy Associate Director	Phone No.
Storage and Transportation Systems	252-9433

5041-102

• U.S.G.P.O.: 1963-421-529/320

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Department of Energy
Washington, D.C. 20585

*Encl. to note
to J. Davis for.
K. K. Levin. 1/10/85*

JAN 7 1985

Mr. Theodore K. Harris
President
Energy Research Foundation
2530 Devine Street
Columbia, South Carolina 29205

Dear Mr. Harris:

The enclosed answers complete our response to your questions of July 27, 1984. These answers elaborate on summary statements I made sometime ago regarding my views of the role of Monitored Retrievable Storage in an integrated waste management system and are consistent with my recent public remarks on this subject.

We appreciate your interest in this area and will be pleased to provide any further clarification you may desire.

Sincerely,

Ben C. Rusche, Director
Office of Civilian Radioactive
Waste Management

Enclosure

QUESTION:

1. A Please define the role of MRS in an "integrated" waste system and include a discussion of the specific services and functions an MRS facility would provide.

ANSWER:

1. A In the Draft Mission Plan, the MRS was proposed as a backup to the repository in the event of major delays. We continue to believe this is an appropriate role for an MRS facility, but have also become increasingly appreciative that this may not be the only appropriate role for an MRS. There are other total system needs that need to be further evaluated, particularly functions of the total Federal waste management system that can or should take place away from the repository. Once these needs are better understood, it can be determined how an MRS could or should relate to these functions.

In evaluating possible MRS roles, several factors are being considered. First and foremost is the guidance provided in the Nuclear Waste Policy Act of 1982. In Section 141, Congress directed a "detailed study of the need for and feasibility of" the construction of one or more MRS facilities and directed that the Secretary propose a "plan for integrating (these facilities with) other storage and disposal facilities."

We interpret this as direction to consider the need for MRS in the context of the overall Federal waste management system from the various utility storage pools, where our responsibilities to accept fuel begin, to final disposal. We feel it is important to optimize this waste system to the extent practical in terms of safety, cost-effectiveness and schedule, taking into account transportation, packaging, system reliability, overall ratepayer costs and the logistic and interface problems associated with serving over a hundred different "customers." We are considering whether certain required actions such as packaging can be taken at locations other than the repository that would increase our ability to achieve the mandated target repository schedule and otherwise contribute to the above system optimization goals without compromising the repository development process.

We are mindful of the Congressional finding that "the long-term storage of high-level radioactive waste or spent fuel in Monitored Retrievable Storage facilities is an option for providing safe and reliable management of such waste on spent fuel," and that such facilities should be designed "to permit continuous (management) in the foreseeable future" and "to safely store such spent fuel and waste as long as may be necessary." (Emphasis added). In this

regard, it should be recognized that some storage capacity is needed to operate any large, dynamic system with some degree of reliability.

An additional major consideration will be the contractual obligations to our "customers" balanced against the uncertainties regarding the repository schedule. In exchange for payments of substantial annual fees, we have a contractual obligation to utilities and ratepayers throughout the country to deliver a service on a predictable schedule. Yet successful repository deployment on a fixed schedule cannot be guaranteed if a credible process is to be maintained.

It should also be clear that any Federal waste management system will include many waste preparation activities that must precede final repository emplacement. Considering overall safety, overall ratepayer costs, our contractual obligations and just common sense, we believe it may be appropriate to proceed with many of these activities in the event of repository delays. Regardless, such activities for disposal must be carried out, and proceeding with them in the event of repository delays could help provide a firmer planning base for utilities with no additional risk and little or no added cost to ratepayers. These activities should not and need not detract from continued priority attention to successful repository development.

We expect to arrive at tentative conclusions regarding our proposed role for the MRS by the end of this calendar year when the MRS need, feasibility and integration studies will be nearing completion. At this time, we will be prepared to discuss preliminary findings regarding services and functions that an MRS facility would provide.

QUESTION:

1. B Which of these functions and services could not be technically or economically provided at the power plant or repository site?

ANSWER:

1. B See answer 1. A above. We will be prepared to discuss these functions and services at the same time.

QUESTION:

2. Who will pay for the MRS program and through what mechanism?

ANSWER:

2. As specified in the Act, "the generators and owners of the high-level radioactive waste and spent nuclear fuel to be stored in such (MRS) facilities have the responsibility to pay the costs of the long-term storage of such waste and spent fuel." The Act further specifies, in discussions on the 1.0 mil per kilowatt hour equivalent fee for fuel discharged prior to 90 days following enactment, that "In paying such a fee...(the utility)...shall have no further financial obligations to the Federal Government for the long-term storage and permanent disposal of such spent fuel...". Lastly, the Act authorizes expenditures from the Waste Fund for costs associated with "the transportation, treating, or packaging of spent fuel...to be stored in an MRS..." and the "costs associated with acquisition, design, modification, replacement, operation and construction of facilities at an MRS site...".

QUESTION:

3. A Why has DOE made the policy determination that it must begin to accept utility spent fuel after January 1998 even if a repository is not in operation?

ANSWER:

3. A The rationale for this determination is discussed in the letter to Senator Johnston which is referenced in Question and Response 3. C.

QUESTION:

3. B What is the Department's legal justification for this determination?

ANSWER:

3. B The legal authority for this determination is discussed in the letter to Senator Johnston which is referenced in Question and Response 3. C.

QUESTION:

3. C Has the Department responded to Senator Johnston's letter of June 21, seeking clarification of this matter? If not, why not? If so, what was the response?

ANSWER:

3. C Senator Johnston's letter of June 21 was answered by Secretary Hodel on September 7, 1984. A copy of this letter is attached.



THE SECRETARY OF ENERGY
WASHINGTON, D.C. 20585

September 7, 1984

Honorable J. Bennett Johnston
Ranking Minority Member
Committee on Energy and
Natural Resources
United States Senate
Washington, D. C. 20510

Dear Senator Johnston:

I am writing in response to your letter of June 21, 1984, which dealt with disposal of spent nuclear fuel under the Nuclear Waste Policy Act. In your letter, you expressed dissatisfaction with the completeness of the General Counsel's response of May 30, 1984, and stated you had requested "an opinion on the legal obligation of the Department and the Department's authority to take title to spent nuclear fuel in the event that a repository has not yet commenced operation" by January 31, 1998.

In our original letter, the Department stated a firm commitment to accept for disposal, on an orderly schedule, high level radioactive waste and spent nuclear fuel not later than January 31, 1998. The Nuclear Waste Policy Act provides clear intent and direction for acceptance and disposal of spent fuel and high level radioactive waste by the Department. The Department is authorized to implement the Act through contractual commitments. To this end, the Department plans to incorporate into its contracts provisions which specify the minimum amount of spent fuel and waste which the Department will be obligated to accept, not later than January 31, 1998. Since these contracts have not yet been modified, it would be premature for the Department to speculate on particulars that might ultimately be incorporated in any or all of the contracts. However, unless waived, the usual remedies and defenses provided to parties contracting with the government would be available. Pursuant to my authority, it is my intention that this commitment in the contracts, together with the overall thrust of the Act, will create an obligation for the Department to accept spent fuel in 1998 whether or not a repository is in operation. This should enable utilities to plan for their projected waste disposal needs with confidence and certainty.

With regard to your question concerning whether the Department has the authority to accept spent fuel and high level radioactive waste in the event a repository is not yet fully operational, I have been advised by the General Counsel that section 302(a)(1) of the Act vests the Department with the necessary authority to accept spent fuel and high level radioactive waste beginning January 31, 1998, in such a circumstance.

As you know, there is much to be done between now and the 1998 date to ensure that we meet this deadline. I would like to personally assure you that the Department is totally committed to achieving this objective.

I hope this information has been helpful and responsive to your request. If I may be of any additional assistance, please do not hesitate to call upon me.

Sincerely,

A handwritten signature in dark ink, appearing to read "Donald Paul Hodel". The signature is fluid and cursive, with the first name "Donald" being the most prominent.

DONALD PAUL HODEL

cc: Honorable James A. McClure
Chairman, Committee on Energy
and Natural Resources

QUESTION:

4. A What does the Department regard as the chief private and Federal alternatives to the deployment of MRS?

ANSWER:

4. A The private and Federal alternatives to the deployment of MRS naturally depend upon the role of the MRS. In general, we consider that our responsibilities begin at the time we accept title to fuel at the reactors for disposal. In discharging these responsibilities, we believe it desirable and appropriate to rely on the private sector to the maximum extent practical. We would not plan to interfere with, and would in fact encourage, private sector initiatives that would complement or take the place of activities that will be required to implement an overall waste system. As our thinking evolves on what will be needed between the reactor sites and final emplacement, we will consider each function and whether and how the private sector can be relied upon to perform that function.

QUESTION:

4. B Is it the Department's view that the Federal Interim Storage program and provisions of the NWPA which provide technical assistance and cooperation to develop at-reactor storage are inadequate? If so, why?

ANSWER:

4. B No. The Department believes these provisions of the NWPA are in fact adequate. Considerable progress is being made in assuring that an adequate data base and operating experience will be available to assist utilities in adding storage capabilities prior to Federal acceptance of fuel for disposal. For example, the Department is actively cooperating with several utilities and the NRC to develop and demonstrate the safe and cost effective use of rod consolidation and metal and concrete storage modules. The licensed demonstration of these technologies should be completed over the next two to four years, in ample time to provide some basic options to meet the needs of most, if not all, utilities.

QUESTION:

4. C How does the Department respond to criticism that the intent of the Act is not to permit the use of MRS as an interim storage method?

ANSWER:

4. C The Act clearly states that MRS is an option for long-term storage for as long as may be necessary and that disposal should proceed whether or not Congress authorizes construction of an MRS. Hence, we do not consider it a substitute for final disposal. Neither is it being considered as an alternative for solving utilities' interim storage problems. Section 131(a)(1) indicates "the persons owning and operating civilian nuclear power reactors have the primary responsibility for providing interim storage of spent nuclear fuel." We interpret the term "interim" as meaning prior to Federal acceptance of fuel for disposal beginning when the Federal waste management system becomes operational.

QUESTION:

5. A Please discuss the Department's interpretation of Section 131(a)(1) of the Act and the relationship between that interpretation and the policy decision to accept spent fuel in 1998 whether a repository is operating or not.

ANSWER:

5. A Section 131(a)(1) makes it clear that the owners and operators have the primary responsibility for providing storage for spent fuel until the Federal system is in place and capable of receiving it. However, by obligating the Federal Government to begin accepting fuel on January 31, 1998, DOE has given the industry valuable guidance as to how best to carry out its responsibilities under Section 131(a) to provide for interim storage. Utility planning for interim storage facilities can now proceed with substantially less uncertainty regarding their goals and objectives.

QUESTION:

5. B Please discuss how DOE weighs institutional factors such as industry's desire to pass spent fuel storage responsibility to the Federal government against the same industry's apparent technical ability to manage spent fuel until repository operations are underway?

ANSWER:

5. B We interpret industry comments you refer to as desires for a more specific commitment and schedule for the transfer of spent fuel to the Federal Government for disposal. Given the provisions of the NWPA, utility funding of the program and uncertainties and limit in our control over the repository schedule, we believe this desire to be understandable and with some merit. In response, we feel obliged to provide the utilities and their ratepayers with as firm a planning base as is realistically possible.

QUESTION:

5. C In a recent briefing with the Nuclear Regulatory Commission, you stated that "Our objective is to get spent fuel and/or high-level waste from utilities and places where it is into more secure storage." Taking into account transportation issues, please describe what technical or institutional factors cause at-reactor storage to be less secure than away-from-reactor storage options.

ANSWER:

5. C My remarks should not be construed as implying that storage at any particular reactor site is now, or might in the future be, less secure than away-from-reactor storage options. I was simply contrasting a facility designed and operated specifically for storage as a primary mission to many smaller installations performing the same function but more as a support function to reactor operations. In the case of at-reactor storage, it should be noted that many utilities will be storing significantly more fuel than was anticipated in their original planning and design.

QUESTION:

6. A With the MRS proposal deadline set for June 1985 how will the Department meaningfully assess the potential of the integrated dry cask storage system to affect the "need" for MRS?

ANSWER:

6. A The multi-purpose cask (integrated dry cask) for the storage, transportation and possibly disposal of spent fuel offers many potential benefits to the waste system. Such casks could be used to store spent fuel at the various reactor sites or at a centralized location, such as an MRS. They could store varying amounts of waste ranging from a few metric tons to thousands of tons. Another advantage could be reduced packaging and handling throughout the waste system, thereby lowering the radiation exposure risk to the operators and lessening the possibility of a handling accident that could damage fuel rods.

We believe the importance of the multi-purpose cask concept is linked more to the means for providing a possible MRS capability than the need for such capability in the waste management system. As discussed in answer to Question 1. A, the need for and role of an MRS will be determined based upon its potential benefits to the waste management system as a whole. Once its role is clear and its functional capabilities agreed upon, the technologies most suited for its implementation can be determined and further optimized as new advances are made.

The MRS facility designs being developed for the proposal to Congress are highly flexible in recognition of the various functions that an MRS could be called upon to perform. These designs have provision to handle and utilize several different types of storage modules, including metal storage casks which would evolve into multi-purpose casks.

The advantages of the multi-purpose cask in terms of its benefits to the whole waste system will not be fully assessed until the end of 1986. This will still allow sufficient time for the orderly integration of this concept into all aspects of the waste management system.

QUESTION:

6. B Is DOE doing enough to advance the work on this system?

ANSWER:

6. B DOE is moving as quickly as possible to fully assess the multi-purpose cask concept. DOE issued a Program Research and Development Announcement in May 1984 soliciting unique ideas from industry and utilities for improvements to the waste management system as a whole. As a result, six contracts were awarded in September 1984, and feasibility studies should be completed by September 1985. Assuming that the feasibility studies are successful, conceptual designs would be undertaken and completed by the end of 1986.

This schedule will allow for orderly integration of this concept into final repository and MRS designs and other parts of the waste program.

QUESTION:

6. C In your post confirmation response to a written question from Senator Evans, you stated that "both MRS and repositories will probably be needed." Have you prejudged the results of the June report?

ANSWER:

6. C I deliberately used the term "probably" in order not to prejudge the results of the MRS Proposal to Congress. As discussed in response to the first question, there are many important factors to consider in determining an appropriate role for the MRS.

QUESTION:

6. D Are there other options which could affect the review of need for MRS but which might not be appropriately assessed given the 1985 deadline?

ANSWER:

6. D We believe our current study of alternative MRS roles is covering all the major options. The preliminary results of these studies should be available for public comment around the end of the calendar year, providing an opportunity for others to identify any major options that may have been overlooked. This should allow sufficient time for their consideration prior to submission of the Proposal to Congress.

QUESTION:

6. E Can DOE comply with the 1985 deadline? Will the proposal be available for review by the public, State governments, and Indian tribes prior to its submission to Congress?

ANSWER:

6. E DOE does plan to provide opportunity for review of the Proposal by the public, State governments, and Indian tribes, as well as the Nuclear Regulatory Commission and the Environmental Protection Agency, before its submission to Congress. Because of this and because current studies are concluding that changes in previous DOE assumptions regarding the role of the MRS should be considered, DOE may require more time to complete its Proposal.

QUESTION:

7. A Does DOE anticipate opposition to MRS authorization in Congress or to siting of the facility?

ANSWER:

7. A There have, in the past, been various constituencies within the technical community, executive agencies and the Congress both for and against the traditionally studied MRS roles in resolving this Nation's civilian nuclear waste issues. Some of this division may have been a result of different perceptions as to the role of the MRS. We are hopeful that the conclusions reached in the MRS needs and feasibility study directed by the Nuclear Waste Policy Act will be sufficiently documented and presented so as to promote a consensus on MRS. Any potential benefits and problems associated with such facilities will be clearly articulated to allow for informed decisionmaking. We would note, however, that Congress rarely reacts unanimously toward any proposals by the Executive Branch.

A certain amount of opposition must be presumed in the siting of any large nuclear waste installation. Should Congress authorize the Department to proceed with an MRS facility, the Department will work closely with potentially affected States and/or Indian tribes in the facility siting activities, to help assure that the concerns are fully understood, considered and acted upon.

QUESTION:

7. B Is DOE likely to recommend the construction of more than one MRS?

ANSWER:

7. B As stated in the Draft Mission Plan and in our response to the first question, the DOE has not finished evaluating the potential roles of any MRS system and, hence, is not prepared to take a position on the need for more than one MRS.

QUESTION:

7. C When will the Department name specific sites it has under consideration?

ANSWER:

7. C We are not prepared at this time to identify a schedule for naming specific sites.

QUESTION:

7. D For what period of time would an MRS facility operate?

ANSWER:

7. D The MRS operating lifetime would depend primarily on the MRS role in the waste system. If the MRS were to be an integral and active part of the fuel handling and packaging portion of the waste system, it would operate for as long as spent fuel and waste were being received. If the MRS was to be simply a means to accommodate a repository delay, it would need to operate sufficiently long to allow the repository to recover schedule. If the MRS were to be a longer term option but not a substitute for final disposal, it would have to operate for as long as necessary to meet the storage role intended (e.g., aging fuel prior to emplacement in the repository, preserving fuel for reprocessing, or allowing time to monitor repository performance over a required retrieval period).

QUESTION:

7. E To what extent has the Department considered and planned for delays in the MRS program caused by opposition to the program or to specific site selections?

ANSWER:

7. E The Department recognizes that the applicable State and tribe participation provisions in NWPA, the NEPA process, the NRC licensing process and litigation all provide opportunities for those opposed to an MRS to create delays. Attempts will be made during the final planning process to anticipate what activities might be delayed and when in order that the potential impacts of such delays and potential compensatory measures may be understood beforehand.

QUESTION:

7. F As you know Michael Lawrence told Governor Riley in March 1983 that South Carolina was no longer under consideration as a host State for the FIS program. Why are you unable to provide a similar assurance regarding the siting of MRS?

ANSWER:

7. F The only restrictions in the NWPA with regard to MRS siting is that it cannot be in a state approved for repository site characterization.

QUESTION:

7. G Does the presence of the Barnwell Nuclear Fuel Plant or the Savannah River Plant make South Carolina in any way a more attractive host State for MRS?

ANSWER:

7. G As well as satisfying the safety and licensing requirements, there are numerous factors that need to be considered in judging the desirability of a particular site for an MRS. These factors include the environmental impacts, socioeconomic impacts, transportation impacts, demography, site physical characteristics and overall systems costs.

The presence of an available skilled labor force and a community receptive to and familiar with nuclear operations would certainly be considered positive factors in evaluating potential host sites. If the communities at or around the closed Barnwell Nuclear Fuel Plant or the Savannah River Plant wish to be viewed in this manner, it could make South Carolina potentially attractive for this endeavor.

QUESTION:

7. H Does DOE believe that an MRS facility will be easier to site than a repository?

ANSWER:

7. H For the MRS designs that DOE has been studying, the dry-well and sealed storage casks (concrete silo), safe storage is assured through engineered design features and performance monitoring. Thus, there is not a safety dependence on special subterranean geologic features or conditions as is the case for geologic disposal. Because of this, there is considerably more flexibility in siting an MRS facility. This certainly makes finding "technically acceptable" sites easier. However, finding "institutionally acceptable" sites could be just as difficult. Because many of the same State and Indian tribe participation provisions that apply to the repository activities apply to the MRS, the Department will need to work closely with the potentially affected communities, States and Indian tribes in the siting process.

QUESTION:

8. A Recognizing that you have indicated that the waste program should be "neutral" on the question of reprocessing, to what extent is your current interest in MRS a result of the linkage between MRS deployment and the future prospect of reprocessing and recycle?

ANSWER:

8. A Our current interest in MRS has little to do with the future prospect of reprocessing and recycle. We are proceeding on the basis of spent fuel as a waste form with flexibility to handle varying amounts of solidified high-level waste should the need ever arise. We would consider the need to store large quantities of spent fuel for future reprocessing to be very speculative at this time and as such would not expect it to be a dominant consideration in our MRS proposal.

QUESTION:

8. B What Federal responsibilities, actions, and expenditures could arise from the draft Mission Plan statement that "the Department will consider proposals from industry dealing with reprocessing spent fuel that will require Federal acceptance and solidification of the resulting liquid high-level waste prior to ultimate disposal by the Department."

ANSWER:

8. B DOE is obliged by the enabling legislation to dispose of only solidified high-level radioactive waste (HLW), although the agency will accept HLW in all forms. DOE could provide the required solidification facilities and service under appropriate financing arrangements. The costs of solidification activities are not included in the Department's estimate of total-life cycle program costs, however.

QUESTION:

8. C Earlier this year in written responses to questions from Senator Johnston you stated that "The draft Mission Plan also indicates DOE would provide solidification capability for liquid reprocessing wastes....I believe that this meets both the requirements in the Act and the Administration's position on reprocessing," and "The need for reprocessing for waste consolidation and resource recovery needs to be based on the marketplace rather than waste disposal issues."

Is it your view that Allied General Nuclear Services did not intend to provide a privately financed solidification facility at its Barnwell Nuclear Fuel Plant? Why does the Federal Government now believe it is proper to provide such a facility? Why is the "marketplace" unable to provide such a facility?

ANSWER:

8. C First, I would note that your quotation of my statement was incomplete. The full text of my comment was "the Draft Mission Plan also indicated DOE would provide solidification capability for liquid reprocessing wastes in accordance with the provisions in the Act." According to the Nuclear Waste Policy Act, the Secretary is directed to take title to high-level radioactive waste or spent fuel. High-level radioactive waste is defined as "the highly radioactive material resulting from the reprocessing of spent nuclear fuel, including liquid waste produced directly in reprocessing...." Further, use of the Waste Fund is authorized for any costs incurred in the connection with the transportation, treating or packaging of spent fuel or high-level radioactive waste. Liquid high-level wastes would have to be solidified prior to transport.

- 2 -

Second, I believe Allied General Nuclear Services did, in fact, originally intend to privately finance a solidification facility at Barnwell.

QUESTION:

9. To what extent is your current advocacy of MRS driven by your belief that sufficient progress on terminal disposal has not been made and that significant benefits could result from a program that "buys time" with MRS?

ANSWER:

9. My views on MRS as part of an integrated system are not driven by what might be perceived by others as a lack of progress to date on terminal disposal. In fact, I believe remarkable progress has been made to date leading to repository development, especially since passage of the Nuclear Waste Policy Act. I have yet to discern any insurmountable technical obstacles to establishment of a repository and believe the institutional obstacles can each be overcome with time, persistence and education. Nonetheless, the time schedules in the Act are recognized as tight and many elements of the process are without precedent. Many entities other than DOE have considerable influence on these schedules, which limits DOE control over them. My opinions regarding a possible MRS system are driven in part by a belief that we should try to provide as firm a planning base as practical, hence we should attempt to minimize the impacts of a delay in any one element of the overall waste system on the remainder of the system. But the major basis is the purely programmatic recognition that the capabilities of a facility like an MRS will probably prove to be essential for an effective, safe waste disposal system. The studies currently under way will provide a basis for a conclusion on this point.

"The 20 billion dollars and 40 years we will invest in a permanent solution deserves a chance to succeed. The 70,000 metric tons interim measure stands in the way of success. South Carolinians, with 30 years of experience with 'temporary storage' of nuclear wastes, are concerned that the repository effort may lose the attention of those required to make a success of the Act: elected officials, Federal and State agencies, the nuclear power industry, citizens, and researchers."

In response, we disagree that the Draft Mission Plan placed the Federal nuclear waste temporary storage on an equal footing with the permanent repository. The MRS activities envisioned in the Draft Mission Plan included siting, final design preparation of an EIS and licensing of the design and site. Construction of such a facility would be pursued only in the event of significant delay in the repository program. The MRS concepts that the Department has been designing are modular so that facility storage capacity can be easily expanded to satisfy the demand. The 70,000 MTU maximum capacity was assumed in the designs to develop adequate cost estimates to cover contingencies if such a facility had to substitute for a repository.

QUESTION:

10. What is your response to South Carolina's contention that the "Mission Plan appears to have placed the Federal nuclear waste temporary storage program on an equal footing with the permanent repository program, thereby significantly increasing the effort, funds required, and the handling of the country's nuclear wastes?"

ANSWER:

10. The following is the specific statement from the State of South Carolina:

"The Mission Plan appears to have placed the Federal nuclear waste temporary storage program on an equal footing with the permanent repository program, thereby significantly increasing the effort, funds required, and the handling of the country's nuclear wastes. The Department proposed an approach to the monitored retrievable storage (MRS) concept which would provide for a program to store up to 70,000 metric tons of spent fuel - the equivalent of the first repository under the Act. If the Department attempts to establish such an MRS program for spent fuel and nuclear waste, it will find interested parties in conflict regarding the siting and design of this interim measure. The Department risks losing the consensus achieved with the Act when it departs from this program's most important goal - a permanent repository for this country's nuclear waste.