

UNITED STATES OF AMERICA NUCLEAR REGULATORY COMMISSION

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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BRIEFING BY NARUC NUCLEAR
WASTE PROGRAM OFFICE

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PUBLIC MEETING

Nuclear Regulatory Commission
One White Flint North
Rockville, Maryland

Wednesday, January 26, 1994

The Commission met in open session,
pursuant to notice, at 2:00 p.m., Ivan Selin,
Chairman, presiding.

COMMISSIONERS PRESENT:

IVAN SELIN, Chairman of the Commission
KENNETH C. ROGERS, Commissioner
FORREST J. REMICK, Commissioner
E. GAIL de PLANQUE, Commissioner

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STAFF SEATED AT THE COMMISSION TABLE:

SAMUEL J. CHILK, Secretary

MARTIN MALSCH, Office of the General Counsel

CAS M. ROBINSON, Director, NARUC Nuclear Waste Program
Office

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P-R-O-C-E-E-D-I-N-G-S

2:00 p.m.

CHAIRMAN SELIN: Good afternoon, ladies and gentlemen.

The Commission is pleased to welcome Mr. Cas Robinson, the Director of the Nuclear Waste Program Office at the National Association of Regulatory Utility Commissioners. Mr. Robinson will brief the Commission today on the missions and activities of this relatively new office. I needn't go into the importance of nuclear waste both to the Commission, but also to the state regulators that Mr. Robinson represents. We're pleased to see the increased interest of the industry and of the regulators in the solution to this issue. We look forward to hearing more to learn more about your organization and your current programs.

Commissioners?

Mr. Robinson, I'm pleased to see you again.

MR. ROBINSON: Mr. Chairman, thank you. It's a pleasure to be here. In fact, I'm very honored to be before you today and to talk with you about the National Association of Regulatory Utility Commissioners Nuclear Waste Program Office.

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1 If I may have personal word also, let me
2 express my appreciation and gratitude to Commissioner
3 Ken Rogers for his work with NARUC on your behalf, I'm
4 sure. But his reputation is well known and well
5 established among state regulators for his faithful
6 attendance, for his active participation and for his
7 general support. It would be inappropriate not to
8 recognize that and express our gratitude to him
9 publicly and we do.

10 COMMISSIONER ROGERS: Oh, thank you.

11 CHAIRMAN SELIN: We're pleased that you
12 recognize that, Mr. Robinson.

13 MR. ROBINSON: I'm pleased to have the
14 opportunity to review with you the historical
15 perspective of the creation of our office, its mission
16 and its specific activities we've undertaken during
17 the past year and anticipate undertaking in the year
18 to come.

19 NARUC and particularly the Electricity
20 Committee and the Subcommittee on Nuclear Issues and
21 Waste Disposal has always had a very strong interest
22 in the Department of Energy's Nuclear Waste Program.
23 This interest has its genesis in the responsibility
24 that state regulators have to protect the economic
25 interest of the ratepayers of the utilities that they

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1 regulate. As you well know, all nuclear utilities pay
2 into the Nuclear Waste Fund at the rate of 1 mil per
3 kilowatt hour for electricity they generate with
4 nuclear power.

5 State regulators have thus far, underscore
6 that, thus far permitted these costs to be recovered
7 by the utilities. But there is concern on the part of
8 state regulators, which is, I must say, intensifying,
9 that because of the uncertain progress in DOE's
10 development of the waste program, that ratepayers may
11 indeed be asked to pay twice for the same service.
12 There's some doubt on the part of some regulators that
13 they might be willing to approve of paying twice for
14 the same service, and that is under active informal
15 discussion among regulators even as we speak.

16 As you well know, storage pools are at a
17 point where they could reach capacity in the near
18 future and utilities may very well have to find
19 alternative storage opportunities for their spent
20 fuel. The information I have is that by 1998
21 approximately 30 percent of the nation's spent fuel
22 pools will have reached capacity and by the year 2010
23 that number could increase to about 80 percent. If
24 those numbers are not precise, they're at least
25 approximately correct. Even if DOE does provide some

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1 compensation arrangement as a possible way to meet
2 their obligation to address these problems, there are
3 cost implications that are of concern to state
4 regulators that could impact utilities and their
5 ratepayers.

6 Compensation settlement is not going to be
7 a simple matter as far as state regulators are
8 concerned. There are a bundle of issues that surround
9 any compensation plan that might be put forth as an
10 alternative to actually accepting spent fuel and
11 honoring the responsibility that DOE has. There's
12 much debate and discussion that must take place around
13 that issue.

14 Because of the immediacy and the urgency
15 of the problem, several members of NARUC's Electricity
16 Subcommittee on Nuclear Issues and Waste Disposal
17 several years ago decided that NARUC should establish
18 an office in Washington to provide a technical review
19 of the Nuclear Waste Program on behalf of state
20 regulators. This, in fact, was our predecessor
21 office. Twenty state regulatory commissions agreed to
22 a voluntary contribution of funds for two years to
23 support such an office. The Michigan State Public
24 Utility Commission provided a staff person on an on-
25 loan basis to staff this fledgling office for a two

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1 year period.

2 During those 24 months, several things
3 occurred that affected the future of this effort. The
4 weakening of the national economy forced a number of
5 state commissions to reduce the size of their own
6 professional staff during that period of time and all
7 commissions experienced either a freeze or a reduction
8 in their operating budgets. Salaries were not
9 increased and in some cases were reduced by
10 involuntary furloughs or by other mechanisms.
11 Economic times were not good for state commissions and
12 for that matter economic times are still not good for
13 state commissions.

14 Another thing that happened during that
15 period of time was that I became the Chair of the
16 Electricity Subcommittee on Nuclear Issues and Waste
17 Disposal with about eight months remaining on the two
18 year funding commitment. Upon assuming that
19 responsibility, I came to two firm conclusions fairly
20 quickly. One, it would be unrealistic given the
21 serious economic times to go back to the state
22 commissions to try to get an extension on their
23 funding commitments to support the office. Two, the
24 concept of a NARUC technical review office was
25 unrealistic. Neither the NARUC nor its commissioner

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1 members as a general rule are expected to have
2 scientific or technical expertise.

3 It is in the public policy arena where the
4 NARUC and its members are particularly qualified to
5 speak and to act. Therefore, I proposed to NARUC that
6 the office then in existence be closed at the end of
7 its two year life cycle. And concurrently, I also
8 proposed that, with the approval of NARUC to DOE
9 Office of Civilian Radioactive Waste Management, that
10 the funding be made available to open a new office
11 focused on the public policy issues related to the
12 storage and disposal of spent nuclear fuel. The
13 proposal was accepted by DOE and NARUC entered into an
14 agency agreement with DOE as opposed to a grant.
15 Agency agreement for a five year period for the
16 creation of the office as it now exists and we're just
17 now beginning in January of this year our second year
18 of operation.

19 Now, as it was finally approved, the
20 office has a bifurcated line of accountability. The
21 office is administratively accountable to the NARUC
22 Administrative Director and programmatically
23 accountable to the Electricity Subcommittee on Nuclear
24 Issues and Waste Disposal and to the Electricity
25 Committee as a whole.

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1 That is sort of the historical perspective
2 under which our office came into being and what I want
3 to do with you very briefly, without reading the whole
4 litany of things, much to your relief I'm sure, is to
5 tell you something of the mission and the task that we
6 try to undertake to carry that out.

7 Our mission really is quite
8 straightforward. It has three components. One is to
9 conduct a continuing review of the waste disposal
10 program. Two, to represent NARUC's interest with the
11 Department of Energy and other governmental agencies,
12 such as the NRC, and other relevant stakeholders as
13 well. And three, to make information available to
14 public utility commissions and their staff, to aid in
15 the development of NARUC policies on nuclear waste
16 issues.

17 Now, this mission as stated is carried out
18 in the general framework of seven particular tasks
19 that we have undertaken. I confess to you that some
20 of those tasks have an appearance of overlap and some
21 fuzziness and some confusion and I think that's
22 because that is true. If we were rewriting this
23 proposal today, I think we would tighten that up
24 considerably and some of the obvious areas of overlap
25 would be eliminated.

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1 Task one is simply to publications. Any
2 office must has some publications, as I'm sure you
3 realize. But one of the things that I concluded quite
4 early is the one thing this world does not need is
5 another newsletter. So, we decided not to have a
6 newsletter. But there is a need to have formal
7 communication and written communication. So, we
8 publish on a quarterly basis what we call an issues
9 report. It's a very specific document that is -- the
10 target audience is state utility commissioners.
11 That's who we mail to, that's who we write for. It's
12 not a technical piece, it is a fairly general
13 informational piece that takes on many forms. We've
14 not always done the same thing.

15 I've listed here the three that we've
16 published in 1993. We didn't have four because the
17 office was just in its opening stage. We did one on
18 reprocessing. A lot of controversy around that issue.
19 We did one on the multiple purpose container, and then
20 our third one was a different sort. It was not an
21 article type piece, it was simply a resource directory
22 of some of the organizations and agencies that are
23 concerned with civilian high-level waste that would be
24 of interest in particular to state regulators.

25 Now, in the one that we're working on now

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1 that will be coming out soon is still a different
2 style. It will be an interview with maybe 10 or 12
3 state regulators on some interim storage issues and it
4 will begin to have state regulators talking to state
5 regulators around that issue. We've identified some
6 of the thought leaders in NARUC to participate in that
7 and we've been very encouraged by their response and
8 we take some credit in the depth of their knowledge to
9 say that we perhaps have succeeded in part of our
10 mission because we've been pleasantly surprised at the
11 level of knowledge that they've displayed in their
12 response, to which we claim all the credit.

13 These are mailed entirely -- the only
14 mailing list we have maintained for any purpose really
15 are state regulators. We print 500 copies each time
16 we publish and we give them out to other people who
17 ask for them upon request without any charge. We do
18 not routinely mail them out to anybody except state
19 regulators.

20 Our second task is to monitor and review
21 program components and we do that in a number of ways
22 that cause us to attend a lot of meetings actually.
23 We tried to also keep up with any legislation that is
24 pending or being proposed and any new regulations that
25 might be proposed by you or EPA or whoever, do some

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1 assessment of that to the extent we're capable of
2 doing it and call attention to these changes certainly
3 to the chairs of the respective committees to whom we
4 report so that they can exercise the leadership
5 response as may be appropriate. We also would call
6 attention to other people as well as it might be
7 appropriate.

8 From time to time we would even send out
9 notices to the general membership of NARUC of
10 activities or events or changes that might be under
11 consideration just for their information. We may or
12 may not suggest an action that would be appropriate
13 for them to take, but we certainly do want to inform
14 them.

15 Task three is stakeholder and interested
16 party consultation. Participation in the meetings of
17 our own organization are an important part of what we
18 do. So, we have built into -- with that fancy title,
19 we've built in an opportunity for us to have the
20 resources to attend our own meetings, as well as the
21 regional meetings of state regulatory bodies around
22 the country such as SERUC or the Great Lakes
23 Conference. It also allows us to attend technical
24 conferences as its appropriate to do so and we try to
25 do that. We've listed here for you for illustrative

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1 purposes some of the kinds of seminars and activities
2 that we want to take advantage of.

3 We also would take advantage of informal
4 opportunities to consult with leaders in this issue,
5 whether they be local leaders in Nevada or Indian
6 tribes that may have some interest in the issue, or
7 utility executives themselves from time to time.

8 Task four is education and technical
9 transfer of information. We provide either directly
10 or indirectly information and materials to members of
11 the subcommittee and to the Electricity Committee and,
12 upon request, of course, to anybody who is a member of
13 NARUC who might want to get information. We make
14 ourselves available as a kind of a research arm on a
15 limited basis to state commissioners or state
16 commission staff. If they want information on a
17 particular subject, then we'll try to obtain it for
18 them or direct them to where they can get it.

19 At the same time, we are also trying to be
20 responsive to agencies such as DOE or NRC that might
21 have some interest in knowing where state regulators
22 are on an issue, how they feel about it and we will
23 try to broker that information back to the appropriate
24 agencies as well.

25 Task five is a major part of what we do in

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1 that we have a general conference that we arrange for
2 every year. It has a broad range of issues. It's
3 intended to bring together a diversity of opinion so
4 that there can be an interactive discussion of the
5 issues. Again, its primary target group are state
6 regulators and state regulatory staff, but we actively
7 encourage participation from government groups, from
8 industry groups and others to be a part of the
9 dialogue and the discussion because we think this will
10 enrich the debate and help regulators as they
11 formulate their own policy positions on these issues.

12 We also have three workshops which we
13 define as being very different than a conference.
14 Workshop by our definition is a very short event,
15 generally about three hours long. We schedule that
16 prior to the three regularly scheduled meetings of
17 NARUC. Our next event will be February the 26th here
18 in Washington. The NARUC winter committee meetings
19 commence the next day. So, we will begin the evening
20 before and have a brief program. This year's program
21 as is currently being planned would be to provide a
22 report to NARUC on the interim storage dialogue that
23 our office helped to facilitate this year. We will
24 ask the regulatory members of that dialogue to make a
25 presentation about the process and the content and the

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1 outcome of that dialogue and we'll have a panel to
2 react to that because the report as anticipated will
3 be presented to NARUC the very next day. So, this
4 will be a way of informing them of what they're going
5 to be getting and initiating the debate and the
6 discussion in an informed way about that. It's open
7 to anyone who would care to come. But there's also a
8 schedule for your information of some of the other
9 things that we are planning.

10 Our conference this year we anticipate
11 will be in Las Vegas and will include a site visit for
12 the participants in the conference. I'm sure that
13 those people get tired of doing site visits, but
14 nevertheless we're going to call on them to do it one
15 more time.

16 Task six has to do with DOE meetings,
17 program project reviews and site inspections. That's
18 an ongoing site inspection kind of activity than
19 related to the conference. We do participate in the
20 meetings, the monthly program reviews we go to, we go
21 to TRB meetings. We are very active in your own
22 Advisory Committee on Nuclear Waste. We have a
23 presence there every time it meets. Last time I
24 believe Janice Owens of our staff made a presentation
25 at that meeting and we find that to be a very useful

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1 opportunity for us to listen, to learn and on that
2 occasion to make some input as well, and we will
3 continue to do those kinds of things.

4 Finally, just communication. Again you'll
5 see some possible area of overlap with DOE and
6 relevant operational agencies and to that extent I
7 guess what I'm doing at this very moment might fall
8 into task seven as one illustration of that. But we
9 do want to keep the lines of communication open both
10 formally and informally with both government agencies
11 and private groups.

12 As a consequence, let me sort of come to
13 some closure by giving you a little scenario of how
14 something is played out. Last February we had our
15 first workshop or forum, whatever you might wish to
16 call it, prior to our meeting with NARUC. That led to
17 a resolution calling for a dialogue with appropriate
18 parties on the interim storage of nuclear waste. A
19 delegation from NARUC met with the Secretary. She
20 gave us strong encouragement to proceed with whatever
21 efforts we could put forward to create a dialogue.
22 Our first hope was to find an independent third party
23 who might facilitate that dialogue. We went to
24 Keystone, a group that you well know, and who has
25 considerable skills in doing these kinds of things and

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1 great credibility. They considered the possibility of
2 acting as our facilitator. But for reasons that were
3 internal to them, not because of the lack of interest
4 in the issue, they found that it would not be prudent
5 for them to pursue that. What that really means is
6 they could not even get the planning group to agree on
7 the subject matter or the questions to be dealt with
8 because it's a very difficult thing. They took a
9 considerable amount of time coming to that conclusion
10 and did not do so easily. It was a difficult decision
11 for them. They considered it very seriously.

12 But when they finally concluded they could
13 not do it, we decided that the dialogue was still
14 important and needed to be done and so our office
15 undertook to convene a dialogue which began -- our
16 first meeting was in September of this past year. The
17 intent was to have three meetings. The dialogue was
18 to be made up of state regulators, industry CEOs and
19 the groundrules were very strict, very serious.

20 We wanted environmental participation and
21 participation from Nevada. We got into a little bit
22 of trouble over that which you read and I won't try to
23 go into that unless you have a question of it. But we
24 got past that hurdle and proceeded with the dialogue.
25 We've just had our final concluding meeting this week

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1 in Chicago and have reached some conclusions on what
2 that group at least wishes to recommend to government
3 decision makers, principally DOE and perhaps Congress
4 and the NRC actually for the interim storage issue.

5 We're in the process now of writing that
6 report, putting language, specific language around the
7 recommendations that the majority of the group, not
8 all of them, not total consensus, have agreed to. It
9 was an overwhelming majority but not an absolute total
10 consensus. I expect there'd be a minority report,
11 maybe two, maybe more, but at least that many.

12 I want to say that the mission of our
13 dialogue was very simple. I'm of a mind that mission
14 statements ought to be very simple, very concise, very
15 rememberable. This one is one sentence long and it
16 was to prepare a report to government decision makers
17 containing specific recommendations for the interim
18 storage of spent nuclear fuel. We will do that.

19 I'll be glad to respond to questions if
20 you have them around that, but that's all I wanted to
21 say at this time about that, except that I want to
22 express particular appreciation to Mr. Charlie
23 Haughney of your staff who was not a participant in
24 the dialogue. We had two government people sitting
25 there with us. We had Lake Barrett from DOE and Mr.

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1 Haughney from your Agency. I want to be very clear.
2 They were not asked to be there as participants but as
3 resource people. They did serve admirably as resource
4 people and, frankly, we would not have been able to
5 make the progress that we did without the able and
6 competent assistance as a resource person for Mr.
7 Haughney. He in no way tried to influence the outcome
8 of the dialogue, I want you to be aware of that, but
9 he was very active in providing information that was
10 needed at the time we discussed that and we're
11 grateful to him, as we are to Mr. Barrett.

12 Well, in conclusion, let me thank all of
13 the NRC Commissioners for your interest and for your
14 support in the NARUC Nuclear Waste Program Office.
15 I'm grateful, even honored, for the opportunity to be
16 here today and describe our purpose and work, the
17 activities of our office. I want to stress my
18 interest in having a cooperative relationship with the
19 NRC and my desire to receive your suggestions on how
20 we can be more effective. I want to simply close by
21 saying thank you very much.

22 CHAIRMAN SELIN: Thank you very much, Mr.
23 Robinson.

24 Given that introduction, Commissioner
25 Rogers, I think we'll start --

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1 MR. ROBINSON: Was that a setup?

2 COMMISSIONER ROGERS: Well, you did a
3 pretty good job in the beginning, but it started to
4 fall apart after the first paragraph.

5 You mentioned the meeting in Chicago just
6 briefly. Is there anything that you could share with
7 us of the flavor of that?

8 MR. ROBINSON: Yes.

9 COMMISSIONER ROGERS: Maybe a little bit
10 more -- some details. I know you said you might
11 expect minority reports and not a total consensus, but
12 just something that -- some aspects of it that you
13 think might be useful for us to know about.

14 MR. ROBINSON: The overwhelming position
15 of the participants in the dialogue is strongly in
16 favor of having some off-site interim storage
17 facility. No question about that. It's an
18 overwhelming position. To simply do nothing, to
19 continue to store on-site in perpetuity is an
20 unacceptable option for this group. There's some
21 recognition that there has to be some flexibility on
22 all these things, but I think it's vitally important
23 for the industry, for the disposal of nuclear waste,
24 the future of the industry, for any number of reasons,
25 to have some off-site capability. That might mean

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1 using a federal site. It might mean continuing to
2 work with the voluntary siting process, although I
3 must tell you, I'm not reflecting my own view
4 necessarily, that there's not a great level of
5 optimism about the volunteer siting opportunities that
6 exist at the moment. I think people would like for it
7 to work, but are not sure that it will work.

8 But off-site is at the core of the
9 recommendation. To that extent, I think that they may
10 be wanting to ask you folks to go back and review
11 again your regulatory requirements for off-site to, of
12 course, look at the safety factors but to see if there
13 are ways to make that as cost effective as possible.

14 CHAIRMAN SELIN: Commissioner Remick?

15 COMMISSIONER REMICK: I'd be very
16 interested, and I know you've been heavily involved in
17 this area, as we have been, but from your perspective
18 of NARUC, any general comments about what you feel the
19 status of the overall waste management process that we
20 have ongoing is. Is there anything in general,
21 observations that you would care to make?

22 MR. ROBINSON: Well, I think I could and
23 certainly I'm speaking for myself and perhaps one or
24 two others, but certainly for myself. One, there is
25 a great appreciation for the Secretary, Secretary

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1 O'Leary. I think certainly in my opinion, and I think
2 others would share it, that she is doing an
3 outstanding job on the nuclear waste issues as the
4 Secretary. She has a strong interest in it. I think
5 she has given a clear mandate that she would like to
6 see some resolution of this issue to come forward and
7 we're encouraged by her leadership and she's very
8 informed about that. We realize that the nuclear
9 waste issue may be only a very small fraction of her
10 total responsibility and she is giving it attention
11 disproportionate to its size and her budget and in her
12 total operation. We're grateful to that and she
13 understands the urgency of it.

14 We think the leadership team that she's
15 acquired around that is quite good. We take great
16 comfort in the fact that Dan Dreyfus is doing what
17 he's doing and has gotten Lake Barrett to work with
18 him.

19 We think there's some progress being made
20 at Yucca Mountain. Not enough, but there is some
21 progress. Generally regulators want to see the
22 characterization process continue. There obviously
23 are exceptions to that. But as a rule, regulators
24 would take that position. The regulators from Nevada
25 probably would certainly be exceptions to that, but

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1 others think it needs to go forward. If there are
2 reasons why it cannot serve as a repository, we need
3 to find that out as early as possible.

4 There seems to be a growing sentiment
5 among regulators that the 10,000 year model doesn't
6 make a lot of sense. The kinds of objections that are
7 being raised by the National Academy and others to the
8 absolutist approach as opposed to -- I guess it's a
9 relativistic approach, should be brought into
10 question. There is some thought that maybe there'd be
11 more credibility if you were to be able to go in and
12 monitor and remove that material or do remediation as
13 might be required, something like an extended
14 underground geologic retrievable storage disposal
15 facility. We're not scientists, they're not
16 scientists. They don't know all the ins and out of
17 that, but the phased approach seems to make some sense
18 to a lot of state regulators.

19 We're a little concerned that there's not
20 as much active energy behind the interim storage need
21 that state regulators feel that there should be.

22 Have I adequately answered that?

23 COMMISSIONER REMICK: Yes, that was very
24 helpful and revealing my own personal opinions. Of
25 course, if you want to enhance retrievability, you

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1 keep it above ground. You don't even put it
2 underground.

3 MR. ROBINSON: Well --

4 COMMISSIONER REMICK: Were any views
5 expressed along that line by any members?

6 MR. ROBINSON: Well, certainly there are
7 views expressed by some members along all lines. But
8 I think there's a general awareness on the part of
9 state regulators that there's a great mystique that
10 has been developed around the nuclear waste issue and
11 that you could very safely store it above ground for
12 X number of years, for very long periods of time,
13 beyond their lifetime certainly. But I think they
14 also recognize that they probably do need to have some
15 geologic storage.

16 COMMISSIONER REMICK: For some waste, yes.

17 MR. ROBINSON: And that those two things
18 could be combined. Given the fact that there is a
19 rather long safety window for above-ground storage
20 that does give an opportunity to rethink the basic
21 concept of what the geologic storage facility might be
22 based upon.

23 COMMISSIONER REMICK: Any --

24 MR. ROBINSON: But we don't have a long
25 window in interim storage. I want to be very clear

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1 about that. We're at a crisis position on interim
2 storage

3 COMMISSIONER REMICK: Yes, I understand.
4 Yes. Are there any specific consensus views about our
5 regulations or about us that you would care to share?

6 MR. ROBINSON: Well, none come right
7 quickly to mind. I think there is a general
8 recognition that the NRC has done a superlative job of
9 protecting the public safety and health. This is
10 speaking just for myself because I don't want to
11 impose somebody else's thought on that. There is
12 perhaps a hope that there might be a greater openness
13 to a higher degree of flexibility to entertain new
14 thought. Just because that's the way you've always
15 done it doesn't necessarily mean that's the way you
16 have to keep on doing it. I know that's difficult
17 because your responsibilities are serious and are not
18 minor at all and people do not even understand, and I
19 don't, others don't either, the full depth of your
20 level of responsibility for a long period of time and
21 don't want to minimize that. But some openness and
22 flexibility to things that might be more cost
23 effective -- maybe you need to have a little more
24 sensitivity to what things cost --

25 COMMISSIONER REMICK: Yes.

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1 MR. ROBINSON: -- in relationship to
2 safety. In all likelihood, 100 percent absolute
3 safety for all for infinity is an unlikely goal and an
4 economically unattainable goal. It's how much risk
5 are you willing to pay for. Those tradeoffs nobody
6 can easily make, but those are the kinds of things
7 that might be helpful for you to take another look at.

8 COMMISSIONER REMICK: I think those are
9 reasonable comments really and observations.

10 I want to thank you very much for coming.
11 It's a pleasure to see you again.

12 MR. ROBINSON: It's a pleasure to see you
13 too.

14 CHAIRMAN SELIN: Commissioner de Planque?

15 COMMISSIONER de PLANQUE: Since you're an
16 old quoter of Yogi Berra, that reminds me of the one
17 I think you used, when you come to the fork in the
18 road, take it.

19 MR. ROBINSON: I'll never get over that.

20 COMMISSIONER de PLANQUE: Going back to
21 the consensus or more or less consensus that you were
22 mentioning on the need for off-site storage, on many
23 issues various stakeholders can come to the same
24 conclusion, but for very different reasons. Was that
25 the case here and, if so, could you give us a little

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1 more flavor of the reasons behind that view?

2 MR. ROBINSON: Well, one does not always
3 know everybody's motivation.

4 COMMISSIONER de PLANQUE: Right.

5 MR. ROBINSON: And I don't presume to know
6 that. But the public motivations for the vast
7 majority of the participants seem to be the same. I
8 didn't see a lot of trading off of motives to
9 accomplish the same end. As a practical and factual
10 matter, on this issue, if no other issue, state
11 regulators and the nuclear industry can and should
12 stand in exactly the same position because they should
13 and do have the ultimate responsibility to look out
14 for the interest of the ratepayers and to provide not
15 only their safety but their economic well being, but
16 also the future supply of electricity to the country.
17 As you well know, 20 percent of our electricity in
18 this country comes from nuclear power. That's not an
19 insignificant number. To be able to continue to meet
20 that need and we in this area have been faced just
21 recently with rolling blackouts and we know how
22 important having an adequate supply is. So, anything
23 that can be done to make sure that our existing plants
24 and, if there should be new plants in the future, are
25 able to properly dispose of their fuel is of a common

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1 interest. I attribute only the very highest motives
2 to the participants who were there and I think that's
3 true.

4 COMMISSIONER de PLANQUE: Okay.

5 MR. ROBINSON: Does that answer your
6 question?

7 COMMISSIONER de PLANQUE: Well, sometimes
8 you wonder off-site is a good word if it's not on your
9 site. Off-site is somebody's on-site.

10 MR. ROBINSON: That's very difficult. But
11 you'll notice that we did not say MRS.

12 COMMISSIONER de PLANQUE: Right.

13 MR. ROBINSON: MRS has a very technical
14 meaning. We're not opposed to an MRS, but off-site
15 storage does not have to have the full technical
16 definition that an MRS carries with it. So, we're
17 very particular about saying simply off-site.

18 COMMISSIONER de PLANQUE: Making that
19 distinction.

20 MR. ROBINSON: It's an important
21 distinction because go down to Surry. They're doing
22 on-site storage but it's out of pool storage and it's
23 a concrete pad and a chain link fence. It works, and
24 using your licensed casks, I believe. Those kinds of
25 distinctions can be made at a lower cost and we can

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1 get on with it. I think people simply want to solve
2 the problem. They want to be able to move fuel off
3 the pool, out of their pools. They want to keep their
4 plants running and they don't want the ratepayers to
5 pay for it twice.

6 Now, the state regulators don't want to
7 have to pay for it twice and I guess the industry
8 people are worried that they might not -- if they do
9 have to pay twice, that they may not be able to
10 recover the second round of those costs.

11 So, I hope I answered your question.

12 COMMISSIONER de PLANQUE: That was clear,
13 yes. Yes.

14 Your one task of preparing informational
15 material, do you ever get any request from the public?
16 Has the public become aware of you yet or is it mainly
17 requests from within your own regulatory community?

18 MR. ROBINSON: We're a low profile office.
19 We don't try to gain a lot of publicity and certainly
20 don't -- we would not turn the public away. We would
21 try to serve anyone that to the extent that we could
22 with proper priorities of course. State regulators
23 would come first, their staffs would be right in there
24 and government agencies such as yours. But if someone
25 wandered in off the street and asked for information

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1 and we could get it for them without interfering with
2 our other responsibilities, we'd certainly do it, but
3 that's not our mission.

4 COMMISSIONER de PLANQUE: Okay.

5 MR. ROBINSON: That would be outside of
6 our mission, but we would do our best.

7 COMMISSIONER de PLANQUE: Within your
8 group, do you have much of a connection in the
9 international community to anyone resembling your
10 counterparts in other countries?

11 MR. ROBINSON: Well, limited. We have
12 some. I've met since I've been there with Japanese
13 delegation that's been into town to talk about their
14 own waste problems. I don't know if it's the same
15 group or not, but they're scheduled to meet with me
16 and Janice Owens later this week, I believe. They're
17 coming into town, some group. So, we have limited
18 contact.

19 COMMISSIONER de PLANQUE: Yes.

20 MR. ROBINSON: I should tell you, but I
21 left that out, our office is quite small. There are
22 only three people, myself and my colleague Janice
23 Owens and we have an administrative person who does a
24 lot of the things for us is Olga Kruger. It was never
25 intended that this be a large office. We're not

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1 trying to -- don't plan to grow. Don't want to
2 increase staff. We just want to sort of do it at that
3 level. If we need outside help, then we'll contract
4 for that beyond our own ability to do that. But we're
5 not trying to get any bigger.

6 COMMISSIONER de PLANQUE: Okay. Well, I
7 thank you very much.

8 MR. ROBINSON: Yes, ma'am.

9 COMMISSIONER de PLANQUE: It was very
10 interesting.

11 CHAIRMAN SELIN: Thank you very much, Mr.
12 Robinson.

13 MR. ROBINSON: Mr. Chairman, thank you.

14 CHAIRMAN SELIN: I don't have any
15 questions for you beyond those. We'd like to keep in
16 touch and see how opinion evolves over the time.

17 MR. ROBINSON: Thank you.

18 CHAIRMAN SELIN: Thank you.

19 COMMISSIONER ROGERS: Thank you.

20 (Whereupon, at 2:40 p.m., the above-
21 entitled matter was concluded.)

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23
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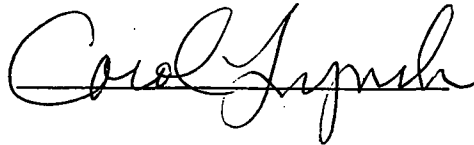
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TITLE OF MEETING: BRIEFING BY NARUC NUCLEAR WASTE PROGRAM OFFICE

PLACE OF MEETING: ROCKVILLE, MARYLAND

DATE OF MEETING: JANUARY 26, 1994

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STATEMENT FOR THE RECORD
PRESENTATION TO THE U.S. NUCLEAR REGULATORY COMMISSION
REPORT ON THE NATIONAL ASSOCIATION OF REGULATORY
UTILITY COMMISSIONERS NUCLEAR WASTE
PROGRAM OFFICE

BY

CAS M. ROBINSON, DIRECTOR

JANUARY 26, 1994

INTRODUCTION

Thank you for the opportunity to brief the Commission on the National Association of Regulatory Utility Commissioners [NARUC] Nuclear Waste Program Office. Let me also take this opportunity to publicly express appreciation and thanks to Commissioner Ken Rogers for his dedicated support of the NARUC and his constant active participation in the meetings of the Electricity Committee and its Subcommittee on Nuclear Issues and Waste Disposal. His commitment and support of these committees is widely known among state regulators and I am confident they join me in expressing our gratitude to Commissioner Rogers for his commitment and positive contribution.

I am very pleased to have the opportunity to review with you the historical perspective for the creation of our office, its mission and the specific activities we have undertaken and plan to initiate this year.

BACKGROUND

First let me remind everyone that the NARUC is a quasi-governmental, non-profit organization of the governmental agencies engaged in the regulation of public utilities and carriers located in all fifty states, the

District of Columbia, Puerto Rico and the Virgin Islands. The chief objective of the organizations is to serve the consumer's interest by seeking to improve the quality and effectiveness of public regulation in the United States and its territories. In general, state utility regulators are charged by state statute to promote economical energy subject to various considerations for environmental safety, economic development, and public safety.

The NARUC, and particularly its Electricity Subcommittee on Nuclear Issues and Waste Disposal, has always had a strong interest in the Department of Energy [DOE] nuclear waste program. This interest has its genesis in the responsibility that state regulators have to protect the economic interest of the rate payers of the utilities they regulate. All utilities must pay into the Nuclear Waste Fund at the rate of one mil per kilowatt hour of electricity generated by nuclear power. State regulators have thus far permitted these utilities to recover this expense from the rate payers, but there is a concern on the part of state regulators, which is continuing to intensify, that, because of the uncertain progress in DOE's development of the waste program, the rate payers may be asked to pay twice for the same service. As storage pools reach capacity, utilities will find it necessary to find alternatives for the storage of their spent fuel. I would note that approximately 30 percent of the Nation's spent fuel pools will reach capacity in 1998 and approximately 80 percent of the Nation's pools will reach capacity by the year 2010. Even if DOE provides some compensation arrangement as a possible way to meet their obligation to address this problem, there are cost implications that could impact utilities and their rate payers.

Because of the immediacy and the urgency of the problem, several members of the NARUC Electricity Subcommittee on Nuclear Issues and Waste Disposal decided that the NARUC should establish an office in Washington that would provide a technical review of the Nuclear Waste Program on behalf of state regulators. Twenty state regulatory commissions agreed to a voluntary commitment of funds for two years to support such an office. The Michigan Public Service Commission provided a staff person on loan to this fledgling office for the two year period.

During those 24 months, several things occurred that affected the future of this effort. The weakening of the national economy forced a number of state commissions to reduce the size of their own professional staffs. All commissions experienced either a freeze or reduction of their operating budgets. Salaries were not increased and in some cases were reduced by involuntary furloughs or other mechanisms. Economic times were not good for state commissions, and for that matter, economic times still are not good for state commissions.

Another thing that happened was that I became the Chair of the Electricity Subcommittee on Nuclear Issues and Waste Disposal with about eight months remaining on the two year funding commitment. Upon assuming this responsibility, I came to two firm conclusions: 1. it would be unrealistic, given the economic realities, to go back to the state commissions and get extensions on their funding commitment to support the office, and 2. the concept of a NARUC technical review office was also unrealistic. Neither the NARUC nor its commissioner members, as a general rule, are expected to have scientific technical expertise. It is in the public policy arena where the NARUC and its members are particularly qualified to speak and act.

Therefore, I proposed that the NARUC close the office then in existence at the end of its two year life. Concurrently, I also prepared a proposal, with the approval of the NARUC, to the DOE Office of Civilian Radioactive Waste Management for a new office to be focused on the public policy issues related to the storage and disposal of spent nuclear fuel. The proposal was accepted by the DOE and the NARUC entered into an agency agreement with DOE, for a five year period, for the creation of the office as it now exists. We are now beginning our second year of this agreement.

As it was finally approved, the office has bifurcated lines of accountability. The office is administratively accountable to the NARUC Administrative Director and is programmatically accountable to the Electricity Subcommittee on Nuclear Issues and Waste Disposal and to the Electricity Committee as a whole.

MISSION AND ACTIVITIES OF THE OFFICE

The Mission of the Nuclear Waste Program Office is very straightforward. It is:

1. To conduct a continuing review of the waste disposal program;
2. To represent the NARUC's interest with the Department of Energy, other government agencies and other relevant stake holders;
3. To make information available to public utility commissioners and their staffs to aid in the development of the NARUC policies on nuclear waste issues.

This mission is accomplished by seven tasks and specific activities related to each task. At the same time, every effort is made to maintain an openness to unanticipated opportunities and emerging requirements.

Task 1 -- Publications

The NWPO publishes a quarterly Issues Report with topics to be determined in consultation with the Chair of the Subcommittee on Nuclear Issues and Waste Disposal and the DOE. The purpose of these publications is to provide public utility commissioners and state regulatory staff with a concise report on relevant current nuclear waste issues. The reports are intended to be informational in nature and do not take an advocacy position on the issues discussed.

In 1993 only three reports were published since this was the inaugural year for the office. The subjects of the 1993 reports were:

"Reprocessing: Is It An Option for U.S. Utilities"

"Universal or Multi-Purpose Containers for Storage, Transport, and Disposal of Spent Fuel"

"Directory of Organizations Concerned with Civilian High-Level Radioactive Waste".

These publications are routinely mailed to all the NARUC public utility commissioners and to the members of the NARUC staff subcommittees of the Subcommittee on Nuclear Issues and Waste Disposal and the Electricity Committee. It is available to other interested parties, upon request and without cost, as long as the supply lasts. At each publication 500 copies are printed.

Task 2 -- Monitor and Review of Program Components

The Nuclear Waste Program Office monitors and reviews proposed and pending legislation and regulations affecting the storage or disposal of high level nuclear waste. As appropriate, the Nuclear Waste Program Office assesses these proposed changes to determine their impact on state regulation, rate payers, and the nuclear utilities regulated by state utility commissions. The Chair and Vice Chair of the Subcommittee on Nuclear Issues and Waste Disposal are advised of the relevant issues pertaining to pending legislation and regulations so they can exercise a leadership response as may be appropriate.

On an occasional basis, advisory notices are sent to the members of the Subcommittee on Nuclear Issues and Waste Disposal and the Electricity Committee to apprise them of significant developments on emerging issues or events worthy of special notice. Such advisory notices may or may not suggest responsive action that could be taken by public utility commissioners.

To accomplish this task the Nuclear Waste Program Office:

1. Participates in the regular program reviews of the Office of Civilian Radioactive Waste Management [OCRWM] and its contractors;

2. Monitors relevant Nuclear Regulatory Commission [NRC] meetings and the meetings of the NRC Advisory Committee on Nuclear Waste [ACNW];
3. Monitors the meetings and activities of the Nuclear Waste Technical Review Board [NWTRB] and reviews their recommendations;
4. Monitors the relevant activities of the nuclear utility industry and its industry association[s] to stay current on their views and priorities on nuclear waste issues;
5. Monitors relevant Congressional hearings on matters affecting the high level nuclear waste program; and
6. Maintains contact with key Congressional staff members to stay current on their legislative priorities and initiatives regarding the nuclear waste program.

Task 3 -- Stake Holder and Interested Party Consultation

Participation in the meetings of the NARUC is an important part of the work of the Nuclear Waste Program Office as is attendance at the regulatory regional conferences. The Nuclear Waste Program Office also participates in selected technical conferences on nuclear waste issues to stay informed on current ideas on nuclear waste.

The Nuclear Waste Program Office meets with and consults with other relevant stake holders and interested parties to exchange information and views regarding high level nuclear waste issues. In addition, the Nuclear Waste Program Office does, from time to time, meet informally with senior managers of nuclear utilities and decision makers of other stake holder organizations to facilitate good communication and a better understanding of their concerns and positions on nuclear waste issues.

To accomplish this task the Nuclear Waste Program Office will participate in the following events:

1. Regulatory Events

a. NARUC

Winter Committee Meeting, Washington, D.C.
Summer Committee Meeting, San Diego, CA.
Annual Convention, Reno, NV.

b. Regulatory Regional Conferences,

Southeastern, Charleston, SC.
Great Lakes, White Sulphur Springs, WV.
Mid-America, Milwaukee, WI.
New England, Portland, ME.
Western, Seattle, WA.

2. Other Conferences

a. Symposium on the Scientific Basis for Nuclear Waste Management, Boston, MA.

b. Spent Fuel Management Seminar XI, Washington, D.C.

c. International High Level Waste Conference, Las Vegas.

d. American Nuclear Power Assembly, Washington, D.C.

3. Informal Consultations

a. Nevada stake holders, Las Vegas and Reno, NV.

b. Nuclear Utilities, Southeast and Mid-West or New England

Task 4 – Education and Technical Transfer of Information

The Nuclear Waste Program Office directly or indirectly provides informational materials to members of the Subcommittee on Nuclear Issues and Waste Disposal and the Electricity Committee and to the staff

subcommittee of the Subcommittee on Nuclear Issues and Waste Disposal. A library of current periodicals related to nuclear waste is maintained in the Nuclear Waste Program Office as a reference resource to public utility commissioners and state regulatory staff.

The Nuclear Waste Program Office responds to requests of public utility commissioners or state regulatory staff to assist in obtaining information pertaining to nuclear waste issues. Upon request, the Nuclear Waste Program Office will meet with public utility commissioners to provide a briefing on the nuclear waste program and nuclear waste issues.

The Nuclear Waste Program Office responds to requests from the DOE, other government agencies or interested parties for information on state regulatory positions or views on nuclear waste issues. Accordingly, we are available to meet with them to present and discuss this information upon request.

Task 5 -- Conferences and Workshops

The Nuclear Waste Program Office convenes an annual conference on nuclear waste to provide an interactive forum for regulators to discuss nuclear waste issues with one another and other stake holders. The conference is intended to address a range of nuclear waste issues and attempts to bring a diversity of opinion to the discussion. The goal is to provide information to public utility commissioners that will assist them as they formulate policy positions on nuclear waste issues.

Although the primary audience is public utility commissioners and state regulatory staff, participation by the nuclear industry, government and others concerned with these issues is encouraged. Such participation will enrich the discussion and better inform utility commissioners on the issues.

Three workshops are to be convened in conjunction with the three scheduled meetings of the NARUC. These workshops are more narrowly focused than the conference and are much shorter. The usual format is a dinner and meeting on the evening prior to the beginning of the NARUC

meetings. In most cases, the focus will be on a single topic related to nuclear waste.

In order to accomplish this task the Nuclear Waste Program Office will:

1. Convene an annual conference on Nuclear Waste, Las Vegas, N.V., September 28-30, 1994. [dates tentative]
2. Convene three workshops in conjunction with the three scheduled meetings of the NARUC
Washington, D.C., February 26, 1994
San Diego, CA., July 23, 1994
Reno, NV., November 12, 1994

Task 6 -- DOE Meetings, Program/Project Reviews and Site Inspections

To fulfill the goal of mutual assistance between DOE and the NARUC, formal and informal interaction is necessary. The NARUC must take full advantage of opportunities to review and understand the OCRWM program and plans and see first hand the work being undertaken by DOE.

Participation in program reviews and on-site inspection of facilities enables the NARUC members, state regulatory staff and the Nuclear Waste Program Office to become better informed about the waste program, progress on the characterization of Yucca Mountain and related issues. Participants will be better able to evaluate policy options on matters related to nuclear waste within their jurisdictions or on proposed actions by the NARUC.

To accomplish this task the Nuclear Waste Program Office will:

1. Participate in the DOE OCRWM/M&O Project Reviews.
2. Conduct an annual Yucca Mountain Site Inspection for public utility commissioners, Las Vegas, NV.

3. Conduct an annual Yucca Mountain Site inspection for state regulatory staff, Las Vegas, NV.

Task 7 -- Communication with DOE and Relevant Operational Agencies

Having a direct stake holder interest in the performance of the OCRWM program requires substantial ability to communicate with appropriate agencies regarding current or proposed activities, program plans and rules. The Nuclear Waste Program Office represents the NARUC and rate payer interest to the DOE and others regarding high level waste management issues.

In addition to its communication role and contact with DOE, the Nuclear Waste Program Office, in coordination with the Chair of the Subcommittee on Nuclear Issues and Waste Disposal, confers with various governmental agencies associated with the high-level waste program to provide briefings, comments or position statements of the NARUC. These agencies include the NRC, the Nuclear Waste Negotiator, NWTRB and various state agencies or organizations.

To accomplish this task the Nuclear Waste Program Office will participate in meetings of the following agencies:

1. The National Academy of Sciences Board of Radioactive Waste Management.
2. The NRC Advisory Committee on Nuclear Waste.
3. The Nuclear Waste Technical Review Board.
4. The National Council of State Legislatures.

As a consequence of the Workshop held in conjunction with the NARUC Winter Committee meeting in February of last year. The NARUC passed a resolution calling for a collaborative dialogue on the issues related to the interim storage of spent nuclear fuel. A delegation of state regulators

and the Nuclear Waste Program Office subsequently met with Secretary O'Leary to discuss this concern and were strongly encouraged by her to pursue the dialogue.

It was initially hoped that the Keystone Center would undertake to facilitate such a dialogue, and they did give the possibility very serious consideration. The Keystone Center finally concluded they could not undertake facilitating this dialogue.

The Nuclear Waste Program Office was then called upon by the Electricity Subcommittee on Nuclear Issues and Waste Disposal to convoke a Dialogue on Interim Storage Issues. The plan was to convene three meetings with state utility commissioners, and utility CEO's, along with representatives from the State of Nevada and the environmental movement to explore the interim storage options. In addition, the Department of Energy and the Nuclear Regulatory Commission would be requested to provide a resource person to assist in the discourse. These persons, while active as discussants, are not to be considered participants in the same sense as the other invitees. The mission of the dialogue is to ***prepare a report to government decision makers containing specific recommendations for the interim storage of spent nuclear fuel.***

The third and probable final meeting was held this week in Chicago. Full consensus was never anticipated and is still not expected. However, substantial agreement among the participants is likely. Since the issues under consideration are difficult and complex, it should also be expected that one or more minority reports will be attached to the final report.

A special word of thanks to Mr. Charles Haughney for his excellent assistance in this process. The expertise he brought to the dialogue was both helpful and appreciated. Thanks also to the NRC for making it possible for Mr. Haughney to assist as a resource to the dialogue.

CONCLUSION

In closing let me thank all the NRC Commissioners for your interest in and your support of the NARUC Nuclear waste Program Office. I am grateful for the opportunity to be here today to describe the purpose and

work activities of our office. I want to stress my interest in having a very cooperative relationship with the NRC and my desire to receive your suggestions on how we can be more effective. Thank you very much.