

October 17, 1996



Mr. John C. Hoyle
Secretary of the Commission
United States Nuclear Regulatory Commission
Attn: Chief of Docketing Service Branch
Washington, DC 20555-0001

Subject: Comments on Strategic Assessment Paper DSI 6: What the NRC should do as a participant in the US HLW program

Dear Mr. Hoyle:

In response to the NRC's request for comments on its Strategic Assessment Issue Papers, I am submitting two comment letters on Paper DSI 6, "High-Level Waste and Spent Fuel." This letter describes what I believe the NRC *should* do as a participant in the US HLW program. The other letter describes actions that the NRC should take if the Commission continues to favor Option 3, maintaining the current NRC program.

I was involved in the NRC's HLW program for 15 years and my comments are strongly influenced by my participation in that program and my observations of the national HLW program. The opinions expressed in these comments are mine and are not meant to represent the opinions of my current or past NRC organizations.

Preference for Options

I would like to encourage the Commission to adopt Paper DSI 6's Option 1 and approach the Congress and Administration to refocus the national HLW program. Option 5, taking a position on spent fuel storage, also should be factored into the Commission's approach. The NRC's long experience as a regulator and close observer of the national program could be of great benefit in giving focus and stability to national program.

Adopting Option 2, reducing uncertainty by modifying NRC's programs, would be of marginal value under any circumstances, but is essentially useless given the current state of the national HLW program. By adopting Option 4, taking a minimal approach to the its HLW program, the NRC would be remiss in its responsibilities to regulate and ensure the safety of HLW storage and disposal.

I believe that adopting Option 3 (the Commission's preferred option), maintaining the current program, amounts to muddling along with a national program that is unfocused, unstable, and wasteful.

Recommendations

Congress and the Administration should be asked to make firm, long-term commitments to one of the following policies: 1) long-term spent fuel storage with permanent HLW disposal deferred indefinitely, or 2) spent-fuel storage coordinated with a well-planned politically and managerially stable HLW disposal program. The management of either policy should be turned over to the utilities that use nuclear power and the NRC should have appropriate regulatory oversight of the selected policy.

The recommendation by the Advisory Panel on Alternative Means of Financing and Managing Radioactive Waste Facilities, that a public corporation be established to manage the

disposal and storage of HLW, was a good one and should be adopted. One has only to look at the long-term success and stability of NAGRA, the Swiss radioactive waste cooperative, to see how well such an organization might work. I doubt that the costs of establishing the corporation would exceed the costs incurred by any one of the periodic managerial upheavals in the current US program.

Causes of Instability in the US HLW Program

The most important problem facing the NRC HLW program today is the political and managerial instability of that part of the national HLW program managed by the Department of Energy, the HLW licensee. This instability has affected the NRC HLW program adversely by forcing the NRC to try constantly to regulate a moving target and to waste resources on regulating DOE projects that have expended much effort and then been abandoned. The NRC has correspondingly wasted resources in providing regulatory oversight of these activities.

The history of the DOE HLW program from the days of Lyons, Kansas, until now provides many examples of political and managerial instability that are too numerous to delineate here. One would certainly expect more progress from all the resources and effort poured into Lyons, ONI, ONWI, OCRD, NNWSI, BWIP, Deaf Smith, the Richton Salt Dome, Avery Island, LSS, etc. However, the national program now appears to be in limbo with the possibility that permanent HLW disposal may be deferred indefinitely in favor of above-ground storage and an as-yet unspecified site. This situation follows a period of intermittent, but generally forward, progress of the Yucca Mountain Project dating back to early 1988. Despite DOE's focussing on one candidate repository site and the NRC's correspondingly being able to focus its regulatory and technical HLW efforts, the current situation is as unstable and uncertain as I have ever seen it.

The root cause of the instability of the DOE HLW program is that it is DOE's program. DOE, like any other cabinet department, usually experiences a change in its leadership every four years, after a presidential election. DOE's Office of Civilian Radioactive Waste Management, which manages the DOE HLW program, experiences leadership changes at at least the same rate. These periodic changes alone induce managerial instability in the DOE program. About as soon as a new OCRWM director gets established and gives direction to the program, he leaves. If he leaves before the next presidential election, an acting director minds the store, and has no authority to provide long-term direction to the program, until the President appoints a new OCRWM director and he is confirmed by the Senate. The new director usually wants to change the way the program is managed and he reorganizes it. This pattern is now in its third cycle since the inception of OCRWM in 1983 and has gone through two complete cycles pretty much as described. As long as DOE/OCRWM remains in charge of HLW disposal, I expect more such cycles to occur.

Imposed on the managerial instability of the program is political instability induced by differing policies and agendas of succeeding presidents and by changing policies and agendas of Congress. With the 1992 presidential election and the 1994 congressional election, an instability period of two years, instead of the usual four years, has occurred. Just as OCRWM redirected its program from John Bartlett's scientific investigation to Daniel Dreyfuss's Program Approach, the new Congress curtailed both the Program Approach and the NRC's planned responses to it. In the process, the political and managerial instabilities have fed on each other.

Reduction of Instability in the US HLW Program

The time needed to characterize and develop a repository, with a sensible schedule, is about 20 or 30 years, yet the period of institutional stability of OCRWM ranges from about 2 years

to 4 years. A NAGRA-like corporation, managed and financed by the utilities that generate nuclear power, could very easily provide the long-term stability needed for managing the storage and disposal of HLW.

Benefit of Stability in the US HLW Program to the NRC

The stability of an HLW corporation also would give the NRC a clear regulatory target so that it could manage its own HLW program more effectively and efficiently and establish a firm basis for ensuring the safety of HLW storage and disposal. It is time for the NRC to take a stand on this issue of great importance to Nation's energy future.

Other Issues

There are other issues in paper DSI 6 and left out of DSI 6, such as NRC's management of its HLW program, the role of research in the program, and possible modifications to 10 CFR Part 60, which I discuss in my other comment letter on Paper DSI 6. All of these issues will be of primary importance if the Commission chooses to stay with Option 3.

Thank you for this opportunity to comment on the NRC Strategic Assessment effort.

Sincerely,

John D. Randall