



UNITED STATES
NUCLEAR WASTE TECHNICAL REVIEW BOARD

1100 Wilson Boulevard, Suite 910
Arlington, VA 22209

September 28, 1990

Dr. Kenneth M. Carr
Chairman
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Dear Dr. Carr:

The Nuclear Waste Technical Review Board has been reviewing and evaluating the Department of Energy's repository development program for high-level radioactive waste since the Board was established in early 1989. The Board's *First Report to the U.S. Congress and the U.S. Secretary of Energy* was published in March 1990, and the second report is scheduled for publication in mid-November 1990.

Our Board's efforts have included a review and discussions of the standards and regulations that are pertinent to the licensing, operation, closure, and postclosure of a repository for high-level radioactive waste. At this time, there is widespread dialog in the United States and other countries regarding the various issues involved with the disposal of high-level radioactive waste.

It is noted that 10 CFR 60 was published in 1983 and that 40 CFR 191 [part of which is under a July 1987 remand by the U.S. Court of Appeals (First Circuit)] is still under development in a procedure that began in 1978. Also, as recently as July 27, 1990, the U.S. Nuclear Regulatory Commission issued a clarification on the meaning and intent of a subsystem regulation in 10 CFR 60 that pertains to the design lifetime of high-level radioactive waste packages.

In addition, many voices have been raised about the environmental standards and regulations applicable to the disposal of high-level radioactive waste in the United States.

Major issues include:

1. The requirement that the environmental standards and regulations fully protect the public's health and safety without being overly stringent
2. The obligation that the standards and regulations be consistent and compatible. There must be a closer, workable nexus between 40 CFR 191 and 10 CFR 60.

3. The need to have pertinent standards and regulations stated in a clear and understandable manner.

4. The desirability for having the rationale, including established risk levels, be an inherent part of appropriate environmental standards, rules, and regulations.

5. The need to ensure that the environmental standards are applicable and defensible in the licensing arena.

6. A desire (because of uncertainties and limitations in data) for some degree of flexibility in the regulation and control of a first-time technical venture whose impacts will extend more than 10,000 years.

7. A desire to have environmental standards reasonably consistent with today's standards and have these standards apply to future populations.

In light of these concerns, the Nuclear Waste Technical Review Board believes that the current circumstances and interest suggest a need, and opportunity, for the U.S. Environmental Protection Agency and the U.S. Nuclear Regulatory Commission to enter jointly into negotiated rule making regarding 40 CFR 191 and 10 CFR 60. Such a process would appear to be timely and extremely useful.

Our Board stands ready to be of appropriate assistance to you in such an endeavor.

Sincerely,



Don U. Deere
Chairman

cc:
Mr. William K. Reilly
Dr. John W. Bartlett