

United States Senate

WASHINGTON, DC 20510-2804

December 11, 1990

Dr. Don U. Deere, Chairman
Nuclear Waste Technical Review Board
1100 Wilson Boulevard, Suite 910
Arlington, Virginia 22209

Dear Dr. Deere:

I am writing to you to inquire about your view of some aspects of the Nuclear Waste Technical Review Board's organization and activities which have been the subject of questions and comments recently brought to my attention.

The Board's statutory charge in Section 503 of the Nuclear Waste Policy Amendments Act of 1987 states:

"The Board shall evaluate the technical and scientific validity of activities undertaken by the Secretary (of Energy) after the date of the enactment of the Nuclear waste Policy Amendments Act of 1987, including -

- (1) site characterization activities; and
- (2) activities relating to the packaging or transportation of high-level radioactive waste or spent nuclear fuel."

While there may be some latitude in determining that specific areas of activities are appropriate for the Board's attention, the purview of the Board's activities appear limited to reviewing the activities conducted by the Secretary of Energy. The question arises then regarding the Board's interest in participation in the pre-proposal revision of the remanded Environmental Protection Agency Rule, 40 CFR Part 191, regarding management and disposal of transuranic and high-level radioactive waste and spent fuel.

In its first report to Congress and the Secretary of Energy, the Board made specific comments regarding a working draft of that EPA rule and has since expressed itself in other meetings and discussions regarding this internal activity of the EPA. I would appreciate your view on how this activity by the Board is included within the scope of functions provided by the Congress.

The Board also appears to be becoming increasingly active in the area of socioeconomic evaluation plans and activities. While this not included within the most narrow meaning of site characterization, the DOE is, as it should be, planning and to some extent implementing a socioeconomic program during the site characterization period. I would appreciate learning your views

on how the Board's socioeconomic program activities fit within the scope of its mandated functions. And, I would also appreciate being advised of the Board and staff expertise that is currently available to evaluate the DOE's activities and plans.

I have also been informed recently that members of the Board are planning a tour in Nevada in the near future to visit representatives of affected local governments and seek to investigate perceived differences of opinion and approach between these government entities and the State government in regard to the Yucca Mountain program. Again, I am interested in hearing your view of how this activity is related to the Board's scope of functions, especially since the local governments are not currently implementing independent geotechnical programs, and their socioeconomic programs are largely in the planning stages.

The panels of the Board have held public hearings in Nevada this year on transportation and environment and public health. Representatives of the affected local governments have testified in these hearings, providing the Board with a record of their interests and concerns regarding the DOE program. To my knowledge, this record does not reveal any fundamental differences in the views expressed by the affected local governments and the State regarding the technical validity of the DOE program plans and activities. If the differences perceived by the Board are of a nature other than regarding the DOE program plans and activities, then would appear to be beyond the Board's mandate to investigate.

And finally, I am concerned about the information that I have received from numerous citizens regarding the treatment of the public by the Board members and staff at these hearings. Similar comments have been made to me by others who have just attended the public hearings of Board Panels in Nevada. In the highly charged atmosphere that surrounds the DOE's Yucca Mountain Program, it is especially important that citizens have an opportunity to address themselves to the Board in an open and serious manner without fear of cross-examination or lecturing from Board members. The citizens have the right to depend on the fairness and objectivity of the Board as it gathers information for developing its findings, conclusion and recommendations.

I look forward to your response to the questions and issues raised in this letter. Let me assure you they are presented constructively, in order to assist the Board in carrying out its important duty of evaluating the technical validity of the DOE high-level nuclear waste program.

Sincerely,

Richard Bryan
United States Senator