

## LUNCHEON SPEAKER

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I promised myself I wouldn't say this today; but, I am happy to be here as your luncheon speaker. It's interesting and difficult to come from Washington to such a beautiful place as Tucson. I know none of you have plans other than attending the meeting and I will be pleased to hear that report later knowing that all our (travel) money will have been spent well. But this audience today will appreciate the fact that I sometimes speak before audiences that would like to chew me up and spit me out and occasionally they do; but, I hope that together we, as interested parties in solving a national problem, can possibly present the "dessert", or solution, for us all to enjoy.

I will try to take a few moments to apprise you of developments in the program; I doubt that I will bring any revelations to many of you at the kinds of input that we do get. As an example, in the last couple of weeks we had an opportunity to speak to several members of the Congress and several Committees. In that period, perhaps ten days ago, a letter from about 15 or 16 Senators said, in affect, "Dear Mr. Rusche, the course you have chosen for the program under the direction of the Secretary (of Energy) is absolutely the right course. Please be assured that there are many of us who are convinced that the course you have chosen on May 28 and which you have proposed to follow in the future is precisely the course that this country should be on. I repeat, do not allow yourself to be swayed from that course". Within a couple of days I got another letter signed by about 19 Senators that said, "Dear Mr. Rusche, this letter is to inform you that your actions and directions have been illegal, irresponsible and inconsistent with the intent of Congress. Please be assured that that view prevails among many of us". And that dilemma is part of the difficult subject that we have to deal with. If it were not so important, I think that many of us would turn away; but, it is important for the country and I find the challenge occurring in many ways. I do note, however, that there is progress in many places. I was pleased to learn this morning that Chairman Post and others have established a scholarship in honor of Congressman Mo Udall. I regret that he could not be here to speak to you and give you his view; but, I can tell you that amongst the members of Congress, I personally, and many folks that I know, consider him as one of the outstanding members to whom I go to for advice. I am not always able to follow it, but I can assure you that he is revered amongst members of Congress. I compliment your committee, Roy, for the effort and I know that the honor will be appreciated by him.

I continue to look for direction and to my surprise I got some more direction this morning. I think I now know how Moses must have felt when he was about to lead the Israelites across the Red Sea and when he got there someone said: "Stop a minute, I think you need to write an Environmental Impact Statement or an Environmental Assessment (EA)". I think this morning I got charged to write an EA about capping Mt. St. Helens. I'm not sure we'll have it ready in 30 days, but we will certainly begin working on it.

Let me turn to a more serious vein if I may. Passage of the Nuclear Waste Policy Act by Congress on December 20, 1982 in the weaning hours of the 97th Congress was a major accomplishment. The Congress and the President made a difficult decision that this generation must bite the bullet and proceed with the development of a permanent waste disposal system for the protection of future generations. These are turbulent challenging times for the waste program; but, challenge almost always presents opportunities and progress and I think we have made substantial progress. In spite of our efforts to work together with affected parties and to formally seek agreements, consultation and cooperation agreements, the progress has been accompanied by objection by those most directly involved. You have heard some of that this morning and you will hear again that we have not yet reached the level of perfection and the level of excellence that will be required for the satisfaction and execution of the program. We're committed to try to be more effective in consulting and cooperating and in developing formal consultation and cooperation agreements, while also trying to carry out the objectives and schedules of the Nuclear Waste Policy Act. Today, I propose to summarize some of the significant judgements and achievements concerning implementation of the NWPA and to direct your attention to courses of action we have placed before the states and Indian Tribes for comment and about which we will formally seek Congressional direction.

Let me turn to the first repository. We made a giant step last May. The President approved the Secretary of Energy's recommendation of three sites for detailed site characterization as candidates for the nation's first geologic repository and, of course, these are located in Nevada, Texas and Washington. This milestone follows more than ten years of scientific research, field study and data collection analysis and hundreds of thousands of pages of documentation with many of you involved in that endeavor. Reaching this stage of determination permits us to thoroughly investigate, evaluate and compare geologic environmental, and transportation safety factors of each of the three sites. Site characterization will take more than 6 or 7 years depending on the sites. It includes laboratory investigations, surface base data collection activities, such as geologic mapping and seismic surveys conducted through the drilling of boreholes and studies conducted in the candidate host rock in the exploratory shaft facility. Although Congress and the budget appropriation for the waste program for the fiscal year 1987 (FY 87) specified that no funds are to be used for drilling shafts or any exploratory shaft in the FY 87, Congress did provide for site specific work and other exploratory shaft drillings and these are being conducted at the reduced funding levels provided in the continuing resolution of last Fall. Activities that are currently underway as part of the site characterization phase include the preparation of a site characterization plan for each site. Characterization plans are key documents of major importance to the states, Indian tribes and the public as well as the NRC and us. These plans will contain a

detailed specification of the information to be developed at each site, a waste package and repository design and the issues to be addressed. Schedules to indicate a logical sequence of testing and the timing for the issuance of publications on technical procedures, findings and issue resolutions, and so forth and, finally milestones and decision points to be encountered along the way. As one might guess, there is intense interest in the site characterization plan (SCP) since the SCP will guide the DOE and all of us who are participating in the site characterization phase until a license application is submitted to the Commission.

While these site characterization plans are being developed, the activities at or related to each of the candidate sites include the Nevada Site-land acquisition, at the Hanford site-hydrology tests, and at the Texas site-proceeding with plans to obtaining access to the land. We have opened an office in the Texas Panhandle consisting of about ten DOE contractor personnel who have begun discussion with the local community people. The main purpose of the site characterization network is to determine whether a candidate site is suitable for a repository and to provide a basis for the selection of the repository site and for the construction authorization by or to the NRC.

Experience gained in achieving the important milestone of approval of sites for characterization and advances in the technical planning of the program have led us to reassess the program as scheduled for the First Repository. The new schedule as presented in the Draft Mission Plan Amendment, which is now out for comment by the States and Tribes on a formal basis for 60 days, shows a five year extension of the date for the waste acceptance at the first repository-that is from 1998 to 2003. This five year extension of the operation of the first repository is primarily a result of additional time needed in the near term. The schedule for the first repository near term activities was first changed in the Mission Plan in 1985-June as compared to the schedule contained in the NWPAA, and we have subsequently discussed it in the 87 budget changes. There are several reasons for the near term extension; among them are the experience to date that more time is required to involve the States and Indian Tribes in review and discussions and the recognition that more time should be provided in the future for such consultations, and thirdly the recognition that clearly more technical information will be required and it will take more time to gather that than we had originally understood. Since passage of the Act, many parties have insisted that given the controversial nature of the program, the schedule specified in the Act is not realistic and achievable. On several occasions the schedules and processes prescribed in NWPAA have been expanded to provide additional time for input by affected and interested parties, for additional review of our actions and documents and for incorporation of comments and resolution of the issues identified. The schedule must not be allowed to prevail at the expense of technical excellence, safety and public participation and I continue to maintain that position. I respect the timetables listed in the Act but where additional time appears to be needed to insure the quality of the product, I feel that we must recommend such additional times. We now recognize that additional time is required and have made plans as I have described for the first repository.

For Monitored Retrievable Storage (MRS), Section 141 of NWPAA directs DOE to complete a study of the need for and feasibility of an MRS and submit to Congress a proposal for the construction of one or more such facilities. In the Spring of 1985, we completed a preliminary analysis of the need for and feasibility of an MRS and announced our conclusion that such a facility could serve as an integral and important part in the overall waste disposal system. We have identified a preferred site and two alternate sites as required by the NWPAA and in addition we completed the need and feasibility studies verifying our tentative conclusions and paid special attention to evaluating the "no MRS" case. In mid-December, 1985 as required by the Act, we submitted to the NRC and EPA review copies of the proposal to Congress, the environmental assessment of the MRS and an MRS program plan. At the same time, we provided copies to the State of Tennessee, the host state for the three states we identified. Thus far, we have been prohibited by the courts from submitting the proposal to Congress. Most of you are aware that the State of Tennessee filed a petition to the Supreme Court and we will file our rebuttal comments momentarily and the matter will be in the hands of the Supreme Court. Our intent regarding MRS is to fulfill our statutory obligations under the act and submit the proposal to the Congress at the earliest date practical. In accordance with other provisions of the NWPAA should Congress approve proceeding with a MRS facility we are committed to seek immediately to enter into a formal consultation and cooperation agreement with the host state.

Now on transportation, another integral part of the waste disposal system, major activities include fabrication and testing of prototype casks for truck, rail and large transports and public review of the designs, fabrication and testing a prototypical rod consolidation hardware. Work will be continued to support institutional programs, including national and regional workshops with completion and publication of a comprehensive transportation plan and issue resolution attached thereto.

Systems integration activities include systems analysis and engineering development to insure that the waste systems components are fully integrated into an efficient, safe and timely waste management system and to develop equipment to consolidate spent fuel assemblies on a production line basis.

The storage program is another important element in the program, it is intended to encourage and expedite the most efficient use of existing storage facilities and the addition of new licensed capacity in a timely fashion as needed by the utilities. In FY 86, as a result of cooperative agreements between DOE and utilities, two independent spent fuel storage installations were licensed by NRC, one in Virginia and one in North Carolina. These demonstrations will be completed in FY 88 and will provide a valid basis for utilities to have confidence that such dry storage facilities are suitable and licensable. Another rod consolidation demonstration of spent fuel, as part of a cooperative agreement with Northeast Utilities, has been completed.

Now, let me turn to the Second Repository. The NWPAA authorizes siting of the second repository, but does not authorize its construction. We plan to propose construction of the second repository because even the lowest current projections of spent fuel generation indicate that the second repository will be needed under the provisions of the Act; therefore, we remain

fully committed to a two repository system. Our current program regarding a second repository focuses on technology development. A significant portion of these studies is expected to involve cooperative efforts with other countries in continuation of the current program of international cooperation such as that with Canada. We are participating with them in the extension of the depth of the shaft of their underground research laboratory in Manitoba near Winnipeg. We have extensive work underway with friends in both Sweden and Switzerland which will provide very useful and meaningful information to us. A requirement related to the second repository is stated in the NWA in terms of the maximum amount of fuel that the NRC can allow to be employed in the first repository until the second repository is in operation. That figure is set at 70,000 metric tons of uranium. Under the revised schedule for the first repository, this limit would be reached sometime after the year 2025. The maximum annual rate of disposal requirement is about 3,000 metric tons which is the designed rate. DOE believes that the actual schedule for the consideration of the second repository should be based on more refined estimates: the generation rates, the time needed for the first repository to reach the limit of 70,000 metric tons and the time needed to develop the second repository. Our experience in siting the first repository suggests thus far that a site specific screening activity leading to the identification of potentially acceptable site should start about 25 years before the start of waste acceptance, therefore, to have the second repository available by about 2025, site specific studies need not start till the middle of the late 1990's and that is the schedule we have proposed. Based on the schedule represented in the draft amendment Mission Plan and an approval of DOE's plans presented therein, we believe the best course of action is to postpone site specific activity for the second site repository until the mid to late 1990's, then assess the circumstances and begin with national surveys.

Let me speak a moment about consultation and cooperation since we are fortunate to have at the table with us today representatives from the States and Tribes and you will be hearing from them in various context this week. NWA requires DOE to seek to enter into and negotiate written consultation and cooperation (C&C) agreements with States and affected Indian Tribes after approval of candidate sites for characterization or earlier if an eligible state or Indian Tribe requests. Some negotiations have occurred which I'm grateful, but as of yet no C&C agreements have been concluded. Given the nature of the program and the reality that the perspectives of the States and affected Tribes differ from DOE's, we recognize that C&C agreements may not be easy to reach and, in this regard, we plan to increase our efforts to negotiate such efforts and are considering a number of new initiatives to encourage these negotiations. For example, the adoption and implementation of defacto agreements or memorandum of understanding that would contain less than is required to be in the C&C agreement might be desirable. This could allow both parties to adopt "agreed on" procedures immediately, even before the C&C agreement is fully developed. Such an approach might be attractive because it recognizes the importance and the achievements of a negotiation process that have been underway since the Act was signed into law. But C&C negotiations and agreements are but one part of the process of working with affected parties. Interactions with interested and affected parties occur every day. I mention this because I believe it is important to point out that while formal cooperation and consultation negotiations are only required to begin after a candidate repository

site is approved for site characterization, we really are involved in consultation and cooperation every day and its an every day activity and responsibility. Its DOE's responsibility, the States, and Indian tribes responsibility. In fact, its the responsibility of all the affected parties to consult and cooperate.

In conclusion, the draft Mission Plan Amendment now out for comment, addresses achievements; the major achievements which I've alluded to briefly in the program and identifies issues which we believe warrant response and input from States, Indian Tribes and the Congress. The draft is with affected parties for a 60 day comment period, which extends through April 3, 1987. Following the comment period, we will do our best to accommodate the comments as best we believe we can in following the general course layed out in the NWA. We plan to formally cement the amendment and comments to Congress in early Summer or sooner and, if we can, to seek Congressional direction. Let me briefly summarize what we have done. We have suggested a five year extension of the schedule for the first repository operation to accommodate a number of factors which I have eluded to. We have reiterated our view that we think it prudent to continue on the second repository program as we have outlined-that is, the indefinite postponement of site specific activities while continuing technical development activities. And our view of perspective Monitored Retrievable Storage continues to be that we think it ought to be an integral part of the waste management system and we intend to get such proposal to Congress at the earliest time we are allowed in the law. We recognize that there is a need for more progress in Consultation and Cooperation. I think we have made some progress and by far it is not enough and we must continue to try to work together. We recognize that there are areas of Congressional concern particularly concerning the first and second repositories and we have attempted to address them in the Mission Plan Amendment. We believe we have honored our commitment to provide through the Draft Mission Plan Amendment a basis for informed evaluation for the program and for the Congress to provide direction for the conduct of the program. We believe that the plans, as presented in the Draft Amendment, present a course of action that will allow us to fulfill best the objective of the NWA in light of our experience and best judgement. But perhaps, there are other views on the subject. We are committed to proceeding with the program because of the Nation's commitment to America as expressed by the Congress and the Law. Now, if we receive no direction from the Congress regarding our plans, we will precede with the first repository program and try to meet the 1998 date for operation although, as I have indicated, we do not believe that we can possibly meet that date now. We will pick up where we left off on the second repository site specific activity although we do not believe that is the best course of action at this time. We will submit the MRS proposal to Congress when permitted. Program activities will be carried out consistent with the level of appropriated funds by the Congress. Perhaps no national program has ever offered the opportunity for so many diverse and strongly held views. In spite of its flaws, however, I still believe the NWA was indeed a miraculous achievement by Congress for America. I remain hopeful and confident that out of the current discussions will come a reaffirmation of the validity of the act and for our approach for its interpretation or we will get improved direction from Congress. Either way, I believe the turbulent force before us will be recognized in history as the price that has to be paid to solve social and technical problems related to nuclear waste management which, although may be more difficult than we see today, but may be typical of the problems our society will

continue to face and other developed and industrial societies. Maybe in the end, we're faced with a situation that we all need to check our attitude. I'm reminded of the story of the salesman who went to an undeveloped country, a shoe salesman, and he found that few people were wearing shoes, in fact most were not. He wired back to his boss and said, "Dear Boss: I think its a lost cause, these folks don't wear shoes over here at all". The boss said something must be wrong. He sent another fellow over and the fellow saw the same results and observations and said, "Dear Boss: the greatest opportunity yet is here before us, these folks don't wear shoes and I'm about to convince them that they ought to".

So perhaps this conference will provide a means for all of us to rethink where we are and where we're going and if we have chosen a course thats not right for the country, we have asked the forum of America, that is the Congress, to provide us direction. I think its fair to say that we recognize our challenge is one to carry out the law as best we know how consistent with its provisions and intents that we can understand but we recognize, most of all, that it is to carry out the law. I hope that discussion such as these will help us all to better understand how to do that and provide a basis to correct either courses we have chosen if incorrect or mistakes we have made and, I dare say that some of you think we have done both. Thank you very much.