



**A Communication from the Attorneys General of the States of
Idaho, Oregon, South Carolina, and Washington.**

August 28, 2003

By Facsimile

The Honorable Bill Frist
Majority Leader of the U.S. Senate
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Tom Daschle
Minority Leader of the U.S. Senate
U.S. House Representatives
Washington, D.C. 20515

The Honorable J. Dennis Hastert
Speaker of the House
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Nancy Pelosi
Democratic Leader
U.S. House of Representatives
Washington, D.C. 20515

Dear Senators Frist and Daschle and Representatives Hastert and Pelosi:

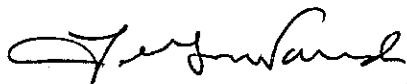
We were deeply troubled to learn that the Department of Energy recently submitted to Congress proposed legislation to amend federal law governing the management of our nation's high-level radioactive waste. The Department's proposal, submitted via an August 1, 2003 letter from Energy Secretary Spencer Abraham to Speaker Hastert, would amend the Nuclear Waste Policy Act, the West Valley Demonstration Project Act, the Atomic Energy Act, and the Energy Reorganization Act of 1974, to give the Department blanket discretion to exempt such wastes from long-standing management and disposal requirements.

The Department's stated reason for these changes is an Idaho Federal District Court decision that the Department contends would require fundamental changes in its plans for retrieval, treatment, and disposal of defense high-level radioactive waste. Our states participated as *amici curiae* in the case, and we strongly disagree with the Department's characterization of the effect of the court's decision. In our view, amendment of federal law is wholly unnecessary to remedy the defects the court identified in the Department's internal policies. Moreover, enactment of the proposed legislation would merely serve to do what the states objected to in the first instance by giving the Department unbounded discretion to reclassify high-level radioactive waste. The broad grant of discretion to the Department of Energy proposed by the legislation would not ensure protection of human health and the environment.

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Our respective clients jointly wrote to Secretary Abraham to lay out the states' concerns on these issues. We have attached a copy of the states' letter for your information. We add our voices to those of our clients: amendment of the Nuclear Waste Policy Act and other Federal law is unnecessary and unwise.

Very truly yours,



LAWRENCE G. WASDEN
Attorney General of Idaho



HARDY MYERS
Attorney General of Oregon



HENRY McMASTER
Attorney General of South Carolina



CHRISTINE O. GREGOIRE
Attorney General of Washington

August 12, 2003

The Honorable Spencer Abraham
U.S. Department of Energy
1000 Independence Ave. SW
Washington, DC 20585

Dear: Secretary Abraham:

The Department of Energy and states affected by DOE facilities face technical, political, and fiscal challenges as we decide how to treat and dispose of high-level waste created by Cold War-era reprocessing. It will take our combined efforts to devise and implement responsible, effective policies that protect human health and the environment as well as respect taxpayer dollars.

We write to express concern with DOE's current strategy for addressing this key issue. DOE's recent proposal to reopen the Nuclear Waste Policy Act runs counter to our mutual interests.

Fortunately for our shared high-level waste challenge, reasonable solutions exist within the current law without undermining public trust in DOE's efforts to properly manage nuclear waste. DOE already has the tools it needs to address this issue by making internal policy changes; it doesn't need a sledgehammer to do the job.

DOE's recent statements to Congress appear to exaggerate the impacts of the recent judicial decision on high-level waste classification. The federal court decision only confirmed long-standing national policy, which requires disposal of high-level waste in a geologic repository while allowing properly treated, less radioactive wastes to be disposed elsewhere.

The court's ruling allows DOE to proceed with retrieval and treatment of liquid waste from tanks at Hanford, Savannah River and INEEL. If the wastes in question are not highly radioactive following treatment, DOE has the ability now to develop a classification strategy to qualify these wastes for management, including disposal, outside a high-level waste repository. What the court rejected was giving DOE free rein to override national policy as expressed in the Nuclear Waste Policy Act.

The States of Idaho, Oregon, South Carolina and Washington participated in the lawsuit, not as parties, but as friends of the court to protect our interests in safe, cost-effective, timely cleanup and responsible use of repository capacity. As you may know, last November the states made a concrete proposal to resolve these issues outside of litigation, outlined the legal and practical risks associated with continuing to litigate this matter, and offered to enter into mediation with the parties. DOE rejected our efforts and chose to litigate instead.

Today we renew our offer to work with DOE to develop a waste classification strategy that ensures protective, cost-effective, and timely disposal of the nation's defense high-level radioactive waste in a manner consistent with the court's opinion.

We urge to you to reconsider your strategy and to work with the states on a reasonable solution within the framework of existing law. By doing so, we can do the job right without jeopardizing progress on repository development, slowing down cleanup or undermining public trust in our efforts.

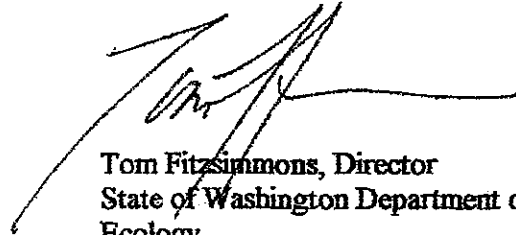
Letter to The Honorable Spencer Abraham

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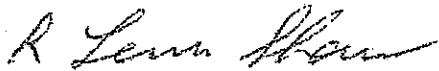
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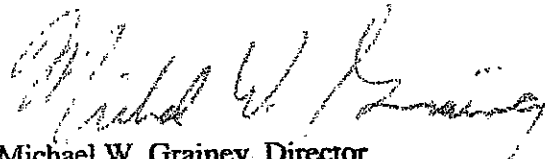
C. Stephen Alred, Director
State of Idaho Department of
Environmental Quality



Tom Fitzsimmons, Director
State of Washington Department of
Ecology



R. Lewis Shaw, Deputy Commissioner
South Carolina Department of Health And
Environmental Control



Michael W. Grainey, Director
State of Oregon Department of Energy

Cc: Governors, Attorneys General and Congressional Delegations of Idaho, Oregon, South
Carolina, Washington