

[Transcribed from scanned copy of original letter from Governor Mike Sullivan to Fremont County Commissioners]

August 21, 1992

Fremont County Commissioners
Office of the County Commissioners
P.O. Box CC
Lander, WY 82520

Dear Commissioners:

The process which you requested commence relating to the siting of a Monitored Retrievable Storage (MRS) facility for storing nuclear waste in Fremont County has reached the conclusion of Phase I and you have now requested that I agree to a continuation of the process into Phase IIa. I conclude not to do so. This is not a decision I make lightly or without considerable thought for I know this issue of continuing the process has many supporters as well as detractors and there are many people whose opinions I respect on both sides, including your own. I arrive at this decision, which the federal government in its infinite wisdom has placed in the lap of the Governor, because I believe it to be in the best long term interests of Wyoming, its citizens and future generations. Before outlining the reasons for my decision, let me make some observations:

1) While the Phase I process has been subjected to criticism from some quarters, I believe it has worked well. The participants, including the Citizens Advisory Group and the County Commissioners, have worked conscientiously to generate public debate and discussion and they have done so. While I do not accept the recommendation, I commend you and the Citizens Advisory Group for your efforts. Many on both sides of this issue have called or written my office eloquently expressing their views.

2) This is not an issue that simply pits antis or "environmentalists" vs. "proponents". It cuts across all segments of Wyoming citizens and has caused them to assess personal values, emotions, economic realities, their personal image of Wyoming, the image they want others to have of Wyoming and ultimately their vision for this great state.

3) This is not a political issue in the sense of a Republican-Democrat, Liberal-Conservative ideological controversy. I have received comments pro and con from citizens of both political persuasions and philosophies and it cannot be divided by politics or philosophy.

4) Phase IIa, while billed as simply additional education and study, is clearly programmed to be more than that. The process

provides that an applicant to receive the grant shall conduct the following initial activities during the grant period:

- "1. Conduct of public information activities;
2. Participation in MRS meetings; and,
3. For a state or local unit of government...execution of a letter in which the governor of the state...in which an area has been identified to be considered for a potential MRS site, notifies the Office that:
 - a) The state...is requesting to enter into credible formal discussion with the Negotiator which may lead to an agreement for presentation to the Congress;
 - b) One or more areas to be considered for a potential MRS site has been identified;
 - c) The area proposed is within the jurisdiction of the applicant, and the applicant has identified the means by which they have control of the areas; and
 - d) Appropriate intergovernmental notification and coordination has been conducted."

Phase IIa clearly anticipates a greater involvement than simply further public education, including the obligation to identify sites and secure the Governor's agreement to negotiate.

5) The MRS siting and operation is a project that is essentially federal government sponsored, will be controlled and overseen by the federal government.

6) While a persuasive argument for Phase II is that a vote be allowed in Fremont County, the issue is not local but statewide and, if the MRS were proposed to be sited in Wyoming, would ultimately become a regional issue. While nothing in my decision precludes the Commissioners from conducting a vote in Fremont County, should they choose to do so, such a vote would not and could not address the statewide nature of the issue.

I am vetoing the federally adopted and programmed Phase II because my training as a lawyer and my experience as governor clearly supports the conclusion that under the current circumstances, this rural sparsely populated state cannot expect to control the terms under which such a long term decision would be implemented. I do not object to further education or debate but the discussion I would seek

is only tangentially related to Phase II. The process is federally engineered to avoid several basic questions that I am not convinced can be answered to the satisfaction of the people of Wyoming. They are:

a) Does the national policy which was initially designed to place the MRS in the East near the point of origination of the waste and now appears to target the West continue to make sense? Does a policy, which the Nuclear Regulatory Commission states is not required for public health and safety, i.e. transporting a portion of the waste from the approximately 70 points of storage half way across the country to a "temporary" site only to be moved again if and when a permanent site is established, represent appropriate national policy? If the storage of the waste is as safe and as benign as represented, does it not make better sense to leave it where it is or, if it is to be moved temporarily, to place it at or near the location of the permanent repository?

b) After five years and over a billion dollars of investment, and more billions to be spent, the permanent repository at Yucca Mountain, Nevada, is neither sited nor assured of its permanent status. Can we and are we willing to trust the federal government's assurances that the MRS site will be temporary? Can we be paid enough or place enough in trust to accept a permanent repository that was intended to be temporary? It is my belief we cannot.

c) Can we take comfort from the DOE record of nuclear facilities in the West? I think not. Can we be assured of continuing control or oversight of such a facility? Last month the House of Representatives voted to exempt Yucca Mountain from state environmental permitting because DOE contended Nevada was not cooperative. Unless the Supremacy clause of the U.S. Constitution is changed, Congress, for fiscal reasons or preemptive reasons, can mandate new terms and new controls as it deems expedient or simply not accept the terms initially negotiated.

d) Can we trust the federal government or the assurance of negotiation to protect our citizens' interests? To do so would disregard the geographical voting power in Congress and 100 years of history and experience. We have had such assurances on issues like grazing fees, federal mineral royalty administrative costs, operations of dams and waterways, and wolves, and yet we are continually called upon to fight to retain those assurances because of a change in circumstances (fiscal or otherwise) or a change in the attitudes in Congress. Let us not deceive ourselves—we are being invited through continuing study to dance with a 900-pound gorilla. Are we willing to ignore the experience history would provide us for the siren song of promised economic benefits and a policy that is clearly a moving target. As Governor, I am not.

e) Who can assure us what risks we would accept that new businesses may choose not to locate in Wyoming or what the alteration of our image as a state, or environment or our tourism industry may be from our willingness to embrace this nuclear waste? The technical quantification of the risk to citizens and environment has not been done by an independent body. It has been done by the federal agency promoting the facility and the economic report provided was basically prepared by the group hired to design the facility. Is this the federal fox in charge of the henhouse?

I am absolutely unpersuaded that Wyoming can rely on the assurances we receive from the federal government. Even granting the personal integrity and sincerity of the individuals currently speaking for the federal government, there can be no guarantees or even assurances that the federal government's attitudes or policies will be the same one, five, ten or 50 years from now. We have seen the roller coaster ride of federal involvement and attitudes. During the Arab Oil Embargo, this state fought against federal proposals for an energy mobilization board. That board would have had authority to override state and local laws to facilitate energy development. Even the most ardent supporters of developing Wyoming's energy resources were appalled by the federal proposals.

f) The MRS is a federal facility. It will be run by the federal government. The Government Accounting Office Report of September 1991 concluded that an MRS would likely only reduce the amount of on-site storage capacity utilities would have to add not eliminate that need. The Nuclear Regulatory Commission concluded, as related in a letter to me dated January 16, 1992, that spent fuel generated at nuclear plants can be stored safely and without significant environmental impacts in reactor storage pools or independent spent fuel storage installations for at least 30 years beyond the licensed life for operation and that a permanent repository will likely be available thereafter. The House Interior and Insular Affairs Committee views on the FY 1993 DOE budget stated, "Conversely, the Subcommittee believes that the Monitored Retrievable Storage Program, no longer represents a useful or necessary interim step in the high level waste program." While this position on the budget request was not adopted by the House Budget Committee, all of these views reflect, at best, the tenuous nature of the MRS strategy and the difficulty of relying upon the current policy of the federal government.

Finally, since there will be a great deal of speculation about my motivation and my true intent in taking this action, let me reduce the opportunity for speculation. I am vetoing Phase II. I do so with no great sense of satisfaction because there are a substantial number of thoughtful, well intentioned people in Fremont County and throughout Wyoming who are firmly convinced that the MRS is valuable to, if not the savior of, our future. I do not fault their position. I simply

Page 5
Fremont County Commissioners
August 21, 1992

do not endorse the wisdom of the policy adopted by the federal government nor do I trust the federal government or the nuclear industry to assure our interests as a state are protected. I have great respect for this great State and faith in its future and I believe it is better served with a greater independence from the federal government rather than more dependence. While further discussion and study may be illuminating and I am extremely reluctant to discourage public discussion, I am now satisfied the federal government cannot provide assurances or guarantees to the issues raised herein and originally raised in my no objection letter or that even given those assurances the voluntary acceptance of nuclear waste is in the interests of Wyoming. Given these circumstances and my own reservations listed above, it makes no sense to me as Governor to put this State or its citizens through the agonizing and divisive study and decision making process of further evaluating the risks and benefits of an MRS facility. Many have urged me to do just that but the ultimate decision would be no easier and, I am convinced, no different.

For better or for worse, the process Congress has now adopted places the decision making authority to halt this process in the Governor. In what I believe to be the interests of Wyoming I choose to make the decision at this time.

With best regards, I am

Very truly yours,

Mike Sullivan
Governor