

Second, I am chairman and part owner of Daily Journal Corp., publisher of many small newspapers much read by lawyers and judges. Long ago, this corporation was in thrall to IBM for its highly computerized operation. Then it was in thrall to DEC for an even more computerized operation. Now it uses, on a virtually 100 percent basis, amazingly cheap Microsoft software in personal computers, in a still more highly computerized operation including Internet access that makes use of Microsoft's browser.

Given this history of vanished once-dominant suppliers to Daily Journal Corp., Microsoft's business position looks precarious to me. Yet, for a while at least, the pervasiveness of Microsoft products in our business and elsewhere helps us—as well as the courts that make use of our publications—in a huge way.

But Microsoft software would be a lousy product for us and the courts if the company were not always improving it by adding features such as Explorer, the Internet browser Microsoft was forced to add to Windows on a catch-up basis if it didn't want to start moving backward instead of forward.

The Justice Department could hardly have come up with a more harmful set of demands than those it now makes. If it wins, our country will end up hobbling its best-performing high-tech businesses. And this will be done in an attempt to get public benefits that no one can rationally predict.

Andy Grove of Intel, a company that not long ago was forced out of a silicon chip business in which it was once dominant, has been widely quoted as describing his business as one in which "only the paranoid survive." If this is so, as seems likely, then Microsoft should get a medal, not an antitrust prosecution, for being so fearful of being left behind and so passionate about improving its products.

NUCLEAR WASTE STORAGE

Mr. BENNETT. Mr. President, I rise to address an issue that is of great concern to the people of my State, and, I think beyond the parochial issue, the people of the country as a whole.

Private Fuels Storage is in the process of seeking a license to store nuclear waste on the Goshute Indian Reservation in the State of Utah. Their application seeks a 20-year license with the option of extending it for an additional 20 years. This is being described as an "interim storage" place for nuclear waste. I have been silent on this issue up until now. But I have decided to take the floor and announce my opposition to this storage for two reasons, which I will outline. One is something that requires further study and might be dealt with, but the second and more powerful reason for my opposition is a permanent policy issue.

Let me address the perhaps less important issue first. But it is an important issue that requires consideration; that is, the location of this particular site with respect to the Utah Test and Training Range.

One of the things most Americans don't realize is that we require the Air Force to train over land. There are very few training ranges that will allow aircraft to train over land. Much of the training that takes place in the Armed Forces takes place over the water, but it is not the right kind of

training experience for pilots to always have to fly over water.

The Utah Test and Training Range has a long history of service to our Nation's military. It was there that the pilots trained for the flights over Tokyo in the Second World War. Indeed, it was there that the crew of the plane that dropped the atomic bomb on Hiroshima was trained.

The proposal for the storage site at the Goshute Indian Reservation is in a location that will affect the flight pattern of Air Force pilots flying over the Utah Test and Training Range. I have flown that pattern myself in a helicopter provided by the military, and I have seen firsthand how close it is to the proposed nuclear waste repository.

There are people at the Pentagon who have said the flight path will not be affected; everything is fine. I have learned during the debate over the base realignment and closure activity that sometimes what is said out of the Pentagon is more politically correct than it is substantively correct. I have talked to the pilots at Hill Air Force Base who fly that pattern, and they have told me, free of any handlers from the Pentagon, that they are very nervous about having a nuclear waste repository below military airspace that will require them to maneuver in a way that might cause danger, and could certainly erode the level of the training that they can obtain at the Utah Test and Training Range.

I do not think we should move ahead with certifying this particular location until there has been a complete and thorough study of the impact of this proposal on the Utah Test and Training Range and upon the Air Force's ability to test its pilots.

That, as I say, is the first reason I rise to oppose this. But it is a reason that is subject to study, analysis, and examination, and may not be a permanent reason.

The second reason I rise to oppose this is more important, in my view, than the first one. I want to deal with that at greater length.

Let us look at the history of nuclear waste storage in the United States. The United States decided 18 years before a deadline in 1998 that the Department of Energy would, in 1998, take responsibility for the storage of nuclear waste. That means that through a number of administrations—Republican and Democrat—the Department of Energy has had 18 years to get ready to deal with this problem. Current estimates are that the Department of Energy is between 12 and 15 years away from having a permanent solution to this problem. I do not think that is an admirable record—to have had 18 years' notice, miss the deadline, and still be as much as 15 years away from it.

The deadline is now 2 years past, and we are no closer to getting an intelligent long-term solution to this problem than we were. Perhaps that is not true. Perhaps we are closer in this sense: That a location has been identi-

fied. Up to \$8 billion, or maybe even as much as \$9 billion, has been spent on preparing that location as a permanent storage site for America's nuclear waste. We are no closer politically to being ready for that. We perhaps are a good bit closer in terms of the site.

I am referring, of course, to the proposed waste repository at Yucca Mountain in Nevada, on the ground that was originally set aside and used as the Nevada Test Site. Many times people forget that. The Nevada Test Site is where we tested the bombs that were dropped elsewhere, and the bombs went into our nuclear stockpile. So the ground at the Nevada Test Site has already been subjected to nuclear exposure. The seismic studies have been done, and Yucca Mountain has been found to be the most logical place to put this material on a long-term basis. Twice while I have been in the Congress we have voted to move ahead on that, and twice the President has vetoed the bills.

Against that background comes this proposal to build an interim storage site in the State of Utah on the reservation of the Goshute Indians adjacent to the Utah Test and Training Range.

This is my reason for opposing that so-called interim site: I do not believe that it will be interim. I do not believe that. If we start shipping nuclear material to the Goshute Reservation in Utah, that gives the administration and other politicians the opportunity to continue to delay moving ahead on Yucca Mountain.

Now, how much Federal money has been spent preparing the Goshute Indian Reservation to receive this? Virtually none, compared to the between \$8 and \$9 billion that has been spent on Yucca Mountain.

There will be one delay after another if this thing starts in Utah. People will say: We don't need to move ahead on Yucca Mountain; we have a place we can put it in the interim. The interim will become a century, or two centuries, while the Government continues to dither on the issue of Yucca Mountain.

I am in favor of nuclear power. I believe it is safe. I believe it is essential to our overall energy policy. I am in favor of the Energy Department's fulfilling the commitment that was made in 1980 that said by 1998 the Department of Energy will have a permanent storage facility. I believe we have identified that facility through sound science, through expenditure of Federal funds, through every kind of research that can be done, and we are ignoring, for whatever political reason, the opportunity to solve this problem at Yucca Mountain while we are talking about an interim solution at the Goshute Reservation.

It is simply not a wise public policy to say that since we cannot solve the permanent problem, we will find a backdoor way for a stopgap interim solution. The stopgap interim solution

will become a permanent solution without the plan, without the analysis, and without the expenditures that have already gone into the permanent solution that is available.

Therefore, for these two reasons, I announce my opposition to the depositary on the Goshute Reservation in Utah. I am sending a letter to the Nuclear Regulatory Commission asking that they extend the time for another 120 days for public comment on their proposal to proceed with this license. I think the first reason that I have cited alone justifies that extension of time because there has not been sufficient analysis of the impact of this proposed facility on the Utah Test and Training Range. I hope in that 120-day period we can get that kind of analysis.

The second more serious reason will still remain. I hope in that 120-day period we can begin to approach that, as well.

I thank the Senators for their courtesy in allowing me to proceed on this issue. It relates directly to the State of Utah, but I think in terms of the impact on nuclear power as a whole, it is an issue about which the entire Nation should be concerned.

I yield the floor.

DR. WEN HO LEE

Mr. SPECTER. Mr. President, I have sought recognition to comment briefly on the extraordinary case of Dr. Wen Ho Lee who was released from custody yesterday by the Federal judge saying that Dr. Lee was owed an apology because of major mistakes made by ranking officials at the Department of Justice and the Department of Energy. This matter has been the subject of oversight inquiry by the Judiciary subcommittee, which I chair. Our inquiry began last October and ended in early December at the request of the Director of the FBI so that it would not interfere with the pending prosecution of Dr. Lee.

There are many questions which arise from what has happened since—especially the dramatic comments of Judge Parker yesterday that Wen Ho Lee was owed an apology, and that blame lay at the doorsteps of the top officials in Justice and Energy.

The questions which need to be explored are:

What evidence or what factors were there which led to Dr. Lee's detention and solitary confinement for some 9 months?

What did the Department of Justice and the Department of Energy do by way of their investigation?

What were the specifics where the key FBI witness changed his testimony from an earlier hearing where he said Dr. Lee was deceptive, to a later hearing where he omitted that very important fact which led to Wen Ho Lee's detention?

Was there any racial profiling in this case?

How did the Department of Justice focus on Dr. Lee?

Those are among the many questions to be answered in an oversight hearing which our subcommittee is attempting to schedule now for the week of September 25.

The inquiries which we have already made have suggested that there was significant reason for the FBI to conduct the investigation. Dr. Wen Ho Lee is entitled to the presumption of innocence like every American. And on this date of the report, he is presumed innocent, and he is, in fact, innocent. But on this date of the record, the Department of Justice has convicted itself of absolute incompetence. Let me be very specific about why.

Director Louis Freeh sent his top deputy, John Lewis, to talk to Attorney General Janet Reno in August of 1997 to request a warrant for Dr. Lee under the Foreign Intelligence Surveillance Act. There was a statement of probable cause which was very substantial which justified the issuance of that warrant to gather further evidence. Attorney General Reno referred that matter to a man named Daniel Seikaly in her department, a person who had never handled a warrant under the Foreign Intelligence Surveillance Act.

The wrong standard was applied, and the FBI was turned down notwithstanding the top deputy, John Lewis, having been sent there by Director Freeh. Then, inexplicably, for the next 16 months, the FBI did not conduct any investigations. Some memoranda were transmitted between Washington, DC, and Albuquerque, NM, but the case lay dormant.

It is really hard to understand why the case would lie dormant when the FBI had been so arduous in asking for the warrant under the Foreign Intelligence Surveillance Act. But then, in late December of 1998, it was known that the Cox committee was about to publish its report and was said to be highly critical of the way the Department of Justice and the Department of Energy handled the Wen Ho Lee case.

Then the Department of Energy initiated a polygraph of Dr. Lee on December 23, 1998, conducted by an outside agency—not by the FBI but by Wackenhut. The Wackenhut contractors told the FBI that Dr. Lee passed the polygraph but did not give the FBI agents the polygraph charts or the videotape of the interview.

On January 17 of 1999, the FBI conducted an interview with Dr. Lee to close out the case. But then, on January 22, 5 days later, the FBI finally received the complete record of the December 23 polygraph and began to question the Wackenhut interpretation of the results.

Without going into more of the details in the limited time I have at the moment—there will be more time to amplify this statement later in the subcommittee hearings—Dr. Lee was not terminated until March 8. The search warrant was not issued until April 9 in the context of substantial evidence of deletions and downloading.

There are very significant questions for the Department of Justice to answer as to why the warrant was not issued under the Foreign Intelligence Surveillance Act, why the investigation was not made by the FBI from August of 1997 to December of 1998, why Dr. Lee was kept on the job in the face of downloading very substantial classified matters.

The issues about his retention require very serious oversight. There are all the appearances that the FBI's failure to handle the matter properly, the Department of Justice's failure to handle the matter properly, through the disclosure by the Cox committee in January of 1999, and the ultimate firing, the ultimate search warrant, suggest that the Department of Justice really threw the book at Dr. Lee to make up for their own failings. But there needs to be a determination on oversight as to the justification for keeping Dr. Lee in solitary confinement. When the judge finally suggested that he was going to release Dr. Lee to house arrest, the Federal Government put out an objection to his having any contact with his wife, which was really extraordinary.

Then suddenly, on a plea agreement, on one of 59 counts under the indictment, according to the Department of Justice, it is OK to release Dr. Lee on the plea bargain. There was no fine, no jail time on the conviction, only a debriefing. There is a real question as to how meaningful that is since those materials are customarily offered on a tender by Dr. Lee's counsel before the plea bargain is entered into.

These are some of the issues which our Judiciary subcommittee will be looking into on oversight, both as to the Department of Justice and the Department of Energy. When a Federal judge says that America owes Dr. Lee an apology, the details have to be determined. When the FBI makes representations that Dr. Lee poses a threat to the security of the United States, and that the information he has downloaded could lead to the defeat of our military forces worldwide, those assertions need to be investigated as a matter of oversight. How did the Department of Justice move from those very serious allegations to a statement, in effect, that let the matter go, without a fine, without a jail sentence, with only probation on a single one of 59 counts.

The handling of these espionage matters is of great import. The subcommittee is nearing completion of a report on Dr. Peter Lee, who confessed to providing information to the People's Republic of China on nuclear secrets and submarine detection. These are matters which require congressional oversight. Our Judiciary subcommittee will undertake just that.

I yield the floor.

Mr. GRAMM. Mr. President, like most people this morning, I read the headline "Physicist Lee Freed With Apology." I want to comment on this.