Those are firm assurances from the Department of Energy. But I wanted to be sure this was not just Ambassador Linton Brooks' attitude, so I had a conversation with Paul Wolfowitz at the Department of Defense. Dated June 23, he sent me a letter reaffirming what Administrator Brooks had said and makes it clear that the Department of Defense agrees there will be no nuclear test with respect to RNEP under the current administration.

So I am heartened by these assurances I have received from the Department of Defense and the Department of Energy that there is no plan or requirement to conduct an underground nuclear explosive test of any kind, and I accept these assurances. But here in the Congress I have those to whom I look for guidance on these matters. I want to be sure that should some future administration decide to change the policy that has been outlined by the Bush administration, that the present law would hinder future administrations from conducting these same tests without there being a vote of Congress; particularly with respect to RNEP, that there would be no underground nuclear test without a congressional vote.

I have asked the Senator from Arizona, who is an expert on these matters, if he would agree. I also discussed it with the Senator from Michigan, who is the ranking member on the Armed Services Committee.

If I may, Mr. President, I ask the Senator from Arizona, Mr. KYL, if he agrees that under current law, a vote from Congress would have to occur before a test could be conducted on RNEP?

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I answer the Senator from Utah, yes, I agree Congress would have to vote before a test could be conducted.

Mr. BENNETT. I thank the Senator from Arizona, Mr. President.

I would now like to address the same question to the Senator from Michigan, with his great background in the area of law concerning this.

Does the Senator from Michigan agree that under current law, a vote from Congress would have to occur before a test could be conducted for RNEP?

Mr. LEVIN. Yes. I, too, agree that Congress would have to vote before a test could be conducted.

Mr. BENNETT. I thank the Senator from Michigan. I thank the Senator from Arizona.

On the basis of their assurances, along with the written assurances I have received from this administration—two Departments speaking—I will not offer my amendment.

Mr. President, I now ask unanimous consent those two letters be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF ENERGY, NATIONAL NUCLEAR SECURITY ADMINISTRATION,

Washington, DC, June 15, 2004.

Hon. ROBERT BENNETT,
U.S. Senate,
Washington, DC.

DEAR SENATOR BENNETT: Thank you for taking the time to meet with me on June 3, 2004, to discuss your concerns regarding the Robust Nuclear Earth Penetrator (RNEP) study and underground nuclear testing at the Nevada Test Site (NTS). I appreciate your concerns and I hope to address them in this letter.

First, let me state unequivocally this Administration has no current plans or requirements to conduct an underground nuclear test. The Stockpile Stewardship Program is working today to ensure that America's nuclear deterrent is safe, secure and reliable. Currently there are no issues of sufficient concern to warrant a nuclear test. I certainly understand the concerns you and your constituents in Utah have with nuclear testing at the Nevada Test Site. However, I believe it is critical to maintain a readiness capability at the NTS to conduct such a test in the future if called for by the President of the United States, in order to ensure the safety and/or reliability of a weapon system. Therefore, I believe it is important for us to work together to ensure that the NNSA test readiness program continues to make safety a top priority.

Furthermore, I know you are concerned that the ongoing RNEP study could lead to the resumption of underground nuclear testing. The RNEP study will not require an underground nuclear test. Should the President support, and Congress approve, full-scale engineering development of RNEP, the Administration does not intend to conduct a nuclear test. From the beginning, we have operated under the assumption that resuming testing to certify RNEP is not an option and for that reason, more than any other, the RNEP study is only looking at two existing weapon systems, the B–61 and the B–83. Both are well-proven systems with an extensive test pedigree from the 1970s and 80s. I would be happy to work with you and the Senate Armed Services Committee to address your concerns on this sensitive matter.

If you have any further questions or concerns, please do not hesitate to contact me or C. Anson Franklin, Director, Office of Congressional, Intergovernmental and Public Affairs at (202) 586–8343.

Sincerely,

LINTON F. BROOKS,
Administrator.

DEPUTY SECRETARY OF DEFENSE,

Washington, DC, June 23, 2004.

Hon. ROBERT BENNETT,
U.S. Senate, Dirksen Senate Office Building,
Washington, DC.

DEAR SENATOR BENNETT: I understand that you have concerns about the Department's plans to study options for a Robust Nuclear Earth Penetrator (RNEP) that would give the United States the capability to threaten hardened, deeply buried targets in hostile nations. Specifically, you have raised concerns that the development of such a system could require the resumption of underground nuclear testing.

I want to assure you that the Administration has no plans to conduct an underground nuclear test associated with the development of RNEP. As National Nuclear Security Administration Administrator Linton Brooks recently wrote to you, ''the RNEP study is only looking at two existing weapon systems, the B–61 and B–83. Both are well-proven systems with an extensive test pedigree from the 1970s and 80s.''

If RNEP were to move from its current study phase to development, such plans would be part of the Administration's annual budget request to Congress. The Administration's intentions concerning underground nuclear testing during RNEP development, if different from our current intentions, would be explicit in that request. Congress would have the opportunity at that time to debate and pass judgment on those plans.

Thank you for the opportunity to address your concerns about the Department's development of RNEP. If I can be of further assistance, I hope you will let me know.

Sincerely,

PAUL WOLFOWITZ.

NOTICE

Incomplete record of Senate proceedings. Except for concluding business which follows, today's Senate proceedings will be continued in the next issue of the Record.

ORDERS FOR THURSDAY, JUNE 24, 2004

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 10 a.m. on Thursday, June 24. I further ask consent that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate proceed to executive session for the consideration en bloc of Calendar Nos. 715 and 731, the nomination of John Danforth to be Representative to the United Nations.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. FRIST. Mr. President, tomorrow we will begin the day with the consideration of the nomination of our former colleague to be Representative to the United Nations. The nomination will require a little debate but then will not need a vote. We will also consider judicial nominations tomorrow. Therefore, rollcall votes will occur throughout the day.