



CHAIRMAN

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

March 19, 1999

The Honorable Gary L. Walker
Texas House of Representatives
District 80
P.O. Box 2910
Austin, Texas 78768-2910

Dear Mr. Walker:

I am responding to your March 4, 1999, letter requesting the views of the Nuclear Regulatory Commission (NRC) on assured storage (or assured isolation) as an alternative to disposal of low-level radioactive waste (LLW). Our views on assured storage remain the same as those expressed in my May 9, 1996 letter to David Leroy of Idaho. The Commission policy has been, and continues to be, that LLW should be disposed of safely as soon as possible after it is generated. Thus, the Commission strongly supports State and compact efforts to develop new LLW disposal capacity in accordance with the Low-Level Radioactive Waste Policy Amendments Act of 1985. The Commission also is aware that there are a variety of complex waste disposal issues currently facing this Nation, many of which are within the purview of the Atomic Energy Act. In particular, in view of the many challenges in the area of site decommissioning that are tied closely to the availability of safe and economic means of managing LLW, the Commission is open to serious consideration of any feasible and safe proposals.

We also recognize that a few States have expressed interest in the assured storage concept. If a State came to the Commission directly seeking our views on the feasibility of assured storage, we would evaluate the request in accordance with our regulatory responsibilities. This evaluation would have to address several complex issues associated with assured storage, such as when does assured storage constitute disposal, what financial assurance would be required during the storage period, and how would current regulatory limits on the possession of special nuclear material apply to an assured storage facility.

Because no one has applied to the NRC for a license to construct and operate an assured storage facility, *per se*, the NRC has not licensed an assured storage facility. However, the NRC has licensed numerous commercial nuclear facilities that included LLW storage as an integral component of other nuclear activities. We do not consider assured storage to be the equivalent of permanent disposal of LLW. By its very nature, assured storage is considered a temporary facility. If it were intended to be permanent, we would review an application for such a facility under our requirements for LLW disposal in 10 CFR Part 61. As I stated in my letter to Mr. Leroy, the NRC would need to determine which regulations to apply in reviewing an application to construct an assured storage facility. The applicable safety requirements would vary based on the nature of the proposal and the potential risks to the public and the environment.

I trust that this response will be useful to Texas in your consideration of assured storage and safe management of LLW. If the NRC can be of further assistance, please do not hesitate to contact us.

Sincerely,

A handwritten signature in cursive script, appearing to read "Shirley Ann Jackson".

Shirley Ann Jackson