



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

August 27, 1998

Dr. Thomas B. Cochran, Director
Nuclear Program
Natural Resources Defense Council
1200 New York Avenue
Suite 400
Washington, DC 20005

Dear Dr. Cochran:

I am writing to acknowledge receipt of the petition submitted to the U.S. Nuclear Regulatory Commission (NRC) by the Natural Resources Defense Council (NRDC) on July 28, 1998, regarding the high-level waste (HLW) storage tanks at the U.S. Department of Energy (DOE) Savannah River Site (SRS) in South Carolina. Specifically, the NRDC requests that NRC exercise immediate licensing authority over all HLW stored in 51 underground tanks in two "farms" at SRS. DOE is currently removing and processing (i.e., vitrifying) the approximately 34 million gallons of HLW in these tanks in the Defense Waste Processing Facility (DWPF) at SRS for ultimate disposal in a HLW repository. NRDC recognizes that DOE plans to remove these tanks from service when they are emptied of their contents and their missions are complete, as part of the SRS tank closure program. The tank closure process includes a combination of bulk waste removal, tank cleaning to minimize any residual wastes, and subsequent stabilization of the tank configuration.

As NRDC notes in its petition, DOE has closed 2 of the 51 storage tanks at SRS in accordance with the process described above. The basis for tank closure by DOE is its determination that the residual wastes in the tanks are not subject to NRC licensing authority under Section 202 of the Energy Reorganization Act of 1974 (ERA). The key issue with respect to tank closure is whether DOE effectively removes essentially all of the HLW from the tanks such that the residual wastes in the tanks can be classified as "incidental" wastes outside the definition of "high-level radioactive waste" in Appendix F of 10 CFR Part 50. Consistent with the requirements of the ERA, the facilities (i.e., the tanks) to be used for disposal of DOE wastes that are not HLW are not subject to NRC licensing authority under the ERA.

Based on the foregoing discussion, the key issue with respect to any need for NRC to exercise licensing authority over the residual tank wastes is whether NRC agrees with DOE's assessment that the residual wastes in the tanks can, in this sense, be called "incidental." In this regard, as NRDC is aware, the NRC staff is currently reviewing DOE's methodology for classifying the residual wastes in the SRS tanks. This review is not anticipated to be completed for several more months. As such, the staff has not yet made any findings with respect to the adequacy of DOE's waste classification methodology and DOE's determination that the residual wastes are incidental, and, thus, not subject to NRC licensing authority. Accordingly, the NRC cannot respond fully to NRDC's petition at this time. A full response will be developed upon completion of the staff's ongoing waste classification methodology review.

The staff's approach, as described above, for resolving the jurisdictional issues regarding the SRS tanks does not differ from the approach anticipated to be implemented for the Hanford

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tanks and tanks at other DOE sites. In fact, the approach applied at SRS is expected to establish the precedent for subsequent tank closure evaluations at Hanford and elsewhere that HLW was generated.

With respect to NRDC's request for NRC to exercise "immediate" licensing authority over the SRS storage tanks, the staff does not believe there is any need for urgent action by NRC, pending completion of the staff's waste classification methodology review. First, the staff does not perceive any immediate threat to public health and safety from DOE's management of the SRS tank farms. DOE is making steady progress in the immobilization in DWPF of the aqueous HLW inventory and the corresponding placement of these wastes in a safer form as a solid. Second, DOE has an active program for monitoring the condition and integrity of the tanks. All of the tanks have two containment barriers and, other than a small spill in one tank from an overflow condition, they have maintained their integrity in isolating the wastes from the environment. Additionally, the two tank farms are equipped with a network of monitoring wells to provide early detection of any leakage from the tanks. Further, like the two tanks closed to date, the small amount of waste remaining in the tanks will be immobilized, and the levels of residual radioactivity are expected to be relatively low. Lastly, DOE is not planning to close any more tanks until the staff completes its review of DOE's waste classification methodology. Accordingly, the staff does not see any compelling reasons for immediate resolution of the jurisdictional issues raised in the NRDC petition that would necessitate urgent action by NRC in advance of completion of the methodology review.

Enclosed for your information is a copy of an August 27, 1998, letter notifying DOE of the NRDC petition and the opportunity to comment (Enclosure 1) and a copy of a notice of the petition for publication in the Federal Register (Enclosure 2). If you have any questions regarding this response or the staff's ongoing review of DOE's waste classification methodology for residual SRS tank wastes, please contact Richard Weller (301-415-7287) or Jennifer Davis (301-415-5874) of my staff.

Sincerely,



Carl J. Paperiello, Director
Office of Nuclear Material Safety
and Safeguards

Enclosures: As stated