

EDO Principal Correspondence Control

FROM: DUE: 06/15/04 EDO CONTROL: G20040374
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FINAL REPLY:

Senator James Jeffords

TO:

Chairman Diaz

FOR SIGNATURE OF : ** PRI ** CRC NO: 04-0348

Chairman Diaz

DESC:

NRC's Jurisdiction Over Wastes Incidental to
Reprocessing (WIR)

ROUTING:

Reyes
Norry
Virgilio
Kane
Collins
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Burns/Cyr
Paperiello, RES
Dyer, NRR
Rathbun, OCA

DATE: 06/04/04

ASSIGNED TO: CONTACT:
NMSS Strosnider

SPECIAL INSTRUCTIONS OR REMARKS:

Template: SECY-017

E-RIDS: SECY-01

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United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
 WASHINGTON, DC 20510-6175

June 2, 2004

The Honorable Nils J. Diaz
 Chairman
 U.S. Nuclear Regulatory Commission
 Washington, DC 20555-0001

Dear Mr. Chairman:

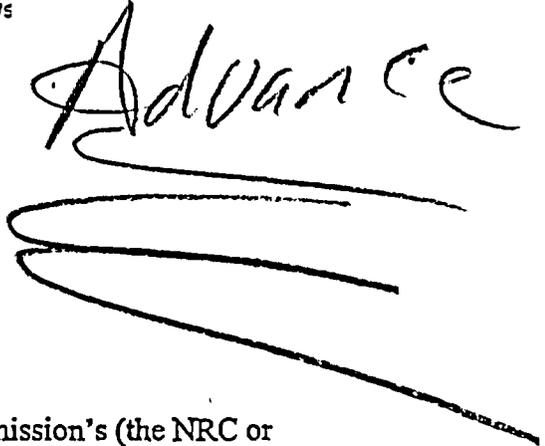
I write to obtain additional clarification of the Nuclear Regulatory Commission's (the NRC or the Commission, hereafter) jurisdiction over wastes incidental to reprocessing (WIR) as expressed in your letter to Senator Inhofe and me on May 18, 2004. Your letter was written in response to a number of policy questions that were forwarded by Senator Inhofe at the request of the Senate Committee on Armed Services. Your letter is being interpreted, however, as NRC endorsement of the language contained in Section 3116 of the Department of Defense Authorization bill. I do not believe your May 18, 2004 reply was intended to be a formal review of legislative language contained in Section 3116. Further, Section 3116 appears to differ sharply with longstanding NRC policy on the long term disposal of radioactive waste. Therefore, I am seeking additional clarification of NRC's jurisdiction over WIR.

In your letter, you state that the NRC does not currently have regulatory authority over the Savannah River, Hanford, and Idaho facilities and radioactive waste storage tanks. It is my understanding that the Commission does not have such authority because both Congress and the courts expected reprocessing wastes to be stored in those tanks for less than 20 years. After 20 years, Congress intended for the wastes in these tanks to be transferred to a long-term storage facility that would be licensed and regulated by the NRC.

Section 3116 of the Department of Defense Authorization bill (S. 2400) appears to significantly change this policy. It authorizes the Department of Energy (DOE) to leave reprocessing wastes in the short-term storage tanks in perpetuity, and exempts the permanent disposal of the waste in those tanks from future NRC licensing and regulation. In order for the Senate to have a better understanding of the potential effect of this legislation on the NRC's jurisdiction, I would appreciate receiving answers to the following questions:

- Section 202(4) of the Energy Reorganization Act of 1974 give the NRC licensing and regulatory authority over facilities authorized for the long-term storage of high-level radioactive waste generated by DOE. Would a proposal to leave reprocessing wastes in the short-term storage tanks in perpetuity evoke the NRC's authority under that Act or under its licensing requirements of 10 CFR 61.10?

Advance

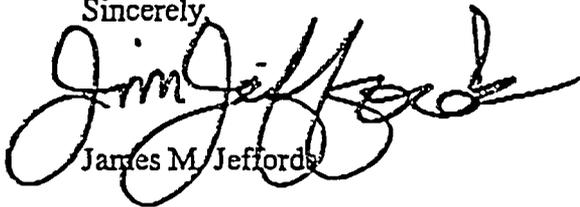


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- The NRC staff reviewed DOE's WIR plans for the Savannah River tanks four years ago in June of 2000. Is it the case that in this consultative review the NRC assumed that DOE would remove all bulk waste from the tanks and would wash the tanks with water to remove 98 percent of the radioactivity in the tanks?
- In its Savannah River review, the NRC found that most of the tanks either would need to be cleaned further with oxalic acid or DOE would need to use another alternative measure to reduce the remaining radioactivity to acceptable levels. Without those additional actions, would DOE's cleanup plans meet the NRC's performance objectives and dose limits?
- Are any of the cleanup methodologies and performance objectives and dose limits that the NRC assumed DOE would use at Savannah River codified in Section 3116 of the Department of Defense Authorization bill?
- The language of Section 3116 appears to modify the NRC's role to one of consultation and review in the management of the storage tanks once they are grouted. If enacted, will Section 3116 allow NRC to require DOE to follow Commission approved methodologies or enforce compliance with performance objectives and dose limits? Would the NRC retain such authority independent of Section 3116?
- In its review the proposal for the Savannah River tanks, the NRC indicated that DOE's modeling of the closure of the tanks, ancillary piping and equipment should take into better account the possibility of future disturbances of the tanks through accidental discovery by an adjacent landowner, such as a neighboring farmer drilling a well. Has DOE reported to the Commission any correction to the models to incorporate these recommendations?

As this matter is currently pending before the Senate, I request that you answer these additional questions regarding your jurisdiction over WIR expeditiously.

Sincerely,



James M. Jeffords