

EDO Principal Correspondence Control

FROM: DUE: 05/02/05 EDO CONTROL: G20050287  
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FINAL REPLY:

Senator Patty Murray  
Representative Norm Dicks

TO:

Chairman Diaz

FOR SIGNATURE OF : \*\* PRI \*\*

CRC NO: 05-0216

Chairman Diaz

DESC:

ROUTING:

Disposal of Low-Activity Radioactive Waste at a  
RCRA Hazardous Waste Facility in Idaho

Reyes  
Virgilio  
Kane  
Merschhoff  
Silber  
Dean  
Burns/Cyr  
Hagan, ADM  
Mallett, RIV  
Outlaw, OCA

DATE: 04/20/05

ASSIGNED TO: CONTACT:  
NMSS Strosnider

SPECIAL INSTRUCTIONS OR REMARKS:

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OFFICE OF THE SECRETARY  
CORRESPONDENCE CONTROL TICKET

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LOGGING DATE: 04/19/2005

ACTION OFFICE: EDO

AUTHOR: REP Norm Dicks

AFFILIATION: REP

ADDRESSEE: Nils Diaz

SUBJECT: Concerns the disposal of low-activity radioactive waste at a RCRA hazardous waste facility in Idaho

ACTION: Signature of Chairman

DISTRIBUTION: RF, OCA to Ack

LETTER DATE: 04/13/2005

ACKNOWLEDGED No

SPECIAL HANDLING: Comr. Correspondence

NOTES:

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# Congress of the United States

Washington, DC 20515

CHAIRMAN REC'D

05 APR 18 PH 3: 31

April 13, 2005

The Honorable Nils J. Diaz  
Chairman  
Nuclear Regulatory Commission  
One White Flint North Building  
11555 Rockville Pike  
Rockville, Maryland 20852-2738

Dear Chairman Diaz:

We are writing with regard to a regulatory policy matter that we believe to be of considerable significance for the Nuclear Regulatory Commission and, in particular, for the agency's public credibility. Our understanding is that the Commission intends to begin a major rulemaking in the near future regarding the disposal of low-activity radioactive waste. We further understand that a central question in that rulemaking will be whether and under what conditions such low-activity waste may be disposed of at a facility not licensed by the NRC, such as a RCRA hazardous waste disposal facility.

We also understand that Connecticut Yankee Atomic Power Company now has pending before the NRC an application to dispose of certain low-activity radioactive waste at a RCRA hazardous waste disposal facility in Idaho, and that the application presents many of the same policy questions that are expected to be addressed in the upcoming rulemaking. Finally, we understand that the Commission may be about to approve that application only shortly before its rulemaking begins, and that the application approval process will not involve the same rights of public participation and other procedural protections that typically accompany a rulemaking.

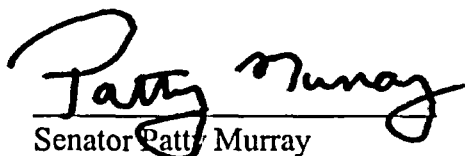
If this is in fact an accurate account of the matter, we trust you will do whatever you can to ensure that the application is not granted at this time. That is not because we believe the application is necessarily without merit, or because we have already decided that the proposed disposal is ill-advised. The fact is that we have not yet had an opportunity to examine the specifics of the proposal sufficiently to evaluate its merits. What we do believe, however, is that if the facts are as they appear to be and the application is granted nonetheless, the NRC will be severely criticized -- and justifiably so -- for preempting its own rulemaking and thereby denying the public adequate participation in Commission decision-making.

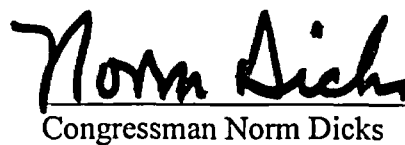
We therefore strongly urge the Commission to deny the application until it has examined the relevant policy considerations through its rulemaking process. Alternatively, we request that the Commission clearly explain why it is that the granting of this particular application shortly in advance of a rulemaking that is expected to consider very similar subject matter constitutes acceptable regulatory policy.

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Thank you for considering our views on this matter.

Yours sincerely,

  
Senator Patty Murray

  
Congressman Norm Dicks