



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

April 13, 2001

Ms. Gary L. Jones, Director
Natural Resources and Environment Team
United States General Accounting Office
Washington, DC 20548

Dear Ms. Jones:

I am responding to your request dated March 27, 2001, to review and comment on the U.S. General Accounting Offices's (GAO's) draft report entitled, "Nuclear Waste - An Agreed-Upon Cleanup Level for the West Valley Site is Critically Needed," dated April 2001. We have identified inaccuracies, concerning our responsibilities, that should be corrected. In addition, we made some general comments and suggestions for the GAO to consider before finalizing the report.

Our comments and suggestions on the draft report are enclosed. If you have any questions, please contact Mr. Martin Virgilio, Director, Office of Nuclear Material Safety and Safeguards, at (301) 415-7800.

Sincerely,

A handwritten signature in black ink, appearing to read "William D. Travers".

William D. Travers
Executive Director
for Operations

Enclosure: U.S. NRC Comments

**U. S. NUCLEAR REGULATORY COMMISSION COMMENTS ON
THE U.S. GENERAL ACCOUNTING OFFICE DRAFT REPORT ON
WEST VALLEY**

A. GENERAL COMMENTS

1. Consistent with its obligations under the West Valley Demonstration Project (WVDP) Act, U.S. Nuclear Regulatory (NRC) published its "Draft Policy Statement on Decommissioning Criteria for the West Valley Demonstration Project and the West Valley Site" in the Federal Register on December 3, 1999. A public meeting, to solicit public comments on the draft, was held on January 5, 2000. The public comment period ended on April 1, 2000. NRC has completed its review of public comments and is in the process of finalizing the Policy Statement. As noted on page 20, at this point in time, the regulatory approach is "prospective." We suggest that the U.S. General Accounting Office (GAO) include this summary when referring to the status of NRC's decommissioning criteria for West Valley.
2. The title of the report does not reflect the "first" and "most important..." factor that GAO states is hindering the U.S. Department of Energy's (DOE's) attempts to clean up West Valley, as stated on page 2 ("Results in Brief"), namely, "... the Department and New York State, the principal parties to the West Valley cleanup, still have not agreed upon the overall future of the site, including their specific on-site roles and responsibilities." We suggest the following title for this report: "Agreement Among Responsible Parties on West Valley Roles and Responsibilities is Critically Needed."

B. SPECIFIC COMMENTS

1. Page 2 ("Results ..."), 2nd Para, lines 15-17; Page 14 ("Several Factors ...") 1st Para, lines 21-23, and Page 20 ("NRC Has ..."), Title of Section: Clarify that NRC is required, under the WVDP Act, to prescribe decontamination and decommissioning criteria for West Valley, but not cleanup standards nor guidelines. The report should state that the WVDP Act gives NRC the authority to prescribe the decommissioning criteria for the WVDP.
2. Page 3, 1st Para, line 2; Page 14, 2nd Para, line 23; Page 20; Page 21, 2nd Para, lines 2 and 6; Page 21, Footnote 26; Page 36, ("Conclusions"), line 16; Page 36 ("Recommendations..."), 1st Para, line 4: The U.S. Environmental Protection Agency (EPA) does not have standards nor criteria for radiological cleanup; it has guidelines. Accordingly, the "EPA standards" should be changed to "EPA guidelines."
3. Page 21, 1st Para, line 17: NRC does not plan "... to evaluate the standards a few years after issuance, prior to a prospective record of decision for West Valley." NRC plans: (1) to review DOE's environmental impact statement (EIS) to determine whether the NRC decommissioning criteria were applied; and (2) to use the decommissioning EIS to consider the impacts of the different approaches for decommissioning before deciding whether to accept the particular approach that DOE intends to use to meet the decommissioning criteria.

4. Page 20 ("NRC Has ... "), 1st Para, lines 6-8: Delete: "However, these standards (referred to as NRC's license termination rule) were not designed specifically for reprocessing plants such as West Valley," and replace with "With limited exceptions, such as uranium and thorium recovery facilities and uranium solution extraction facilities as delineated in 10 CFR 20.1401, the LTR applies to all NRC's licensed sites." The LTR was not designed for any particular site; it is a dose standard, applicable to all sites.
5. Page 20 ("NRC Has ... "), Footnote 24: Delete the words "or terminated." NRC would not be an on-site regulator if the NRC license were terminated.
6. Page 23, 1st Para: It is important to note that each agency is required to periodically report to Congress on its status. Change the last sentence of this paragraph to read, "As of March 2001, the two agencies had not finalized such a memorandum and each agency continues to report periodically to Congress on its status."
7. Page 34 ("West Valley ... "), 2nd Para: Delete the text beginning with sentence 5, "With regard to.." to the end of the paragraph, and replace it with the text suggested below. Rationale: The second paragraph should be rewritten to more accurately reflect the coordination between NRC and DOE on incidental waste at the DOE sites discussed. The Commission is not providing technical assistance to DOE on three criteria for categorizing the wastes as incidental. DOE requested NRC to review its "Waste Incidental to Reprocessing" (WIR) evaluations for specific projects at these sites. NRC agreed to review WIR evaluations on a case-by-case basis. NRC evaluations are site-specific. In 1993, NRC found the three referenced criteria acceptable for the Hanford Site. Use of these criteria for any other site requires a separate evaluation. For example, more recently NRC approved a more risk-informed and performance-based approach for the Savannah River Site and found that only two of the three referenced criteria applied.

Suggested text:

"With regard to Savannah River and Hanford, NRC has been advising DOE on its methodology for classification and stabilization of incidental waste. In the case of Hanford, NRC in 1993 recommended three criteria for categorizing the wastes as incidental. Under these criteria, first, the wastes must be processed to remove key radionuclides to the maximum extent technically and economically practical; second, it must be shown that the wastes will be incorporated in a solid form at a concentration that does not exceed applicable concentration limits in applicable regulations (10 C.F.R., part 61); and third, the wastes must be managed pursuant to the Atomic Energy Act to meet safety requirements comparable to the performance objectives in the regulations (10 C.F.R., part 61, subpart C). In the case of Savannah River, the Commission in June 2000 approved a more risk-informed and performance based approach in analyzing DOE's methodology. The Commission stated that it would support DOE's proposed methodology as long as the first and third criteria are satisfied. Adherence to the second criterion was not necessary. For West Valley, the Commission is considering whether to deal with the incidental waste issue in its policy statement. DOE will attempt to meet Commission-specified criteria at West Valley."

8. Page 35, Footnote 44: NRC response to the Natural Resources Defense Council petition was published in the Federal Register [65 FR 62377 (Oct 18, 2000)].

April 13, 2001

Ms. Gary L. Jones, Director
Natural Resources and Environment Team
United States General Accounting Office
Washington, DC 20548

Dear Ms. Jones:

I am responding to your request dated March 27, 2001, to review and comment on the U.S. General Accounting Offices's (GAO's) draft report entitled, "Nuclear Waste - An Agreed-Upon Cleanup Level for the West Valley Site is Critically Needed," dated April 2001. We have identified inaccuracies, concerning our responsibilities, that should be corrected. In addition, we made some general comments and suggestions for the GAO to consider before finalizing the report.

Our comments and suggestions on the draft report are enclosed. If you have any questions, please contact Mr. Martin Virgilio, Director, Office of Nuclear Material Safety and Safeguards, at (301) 415-7800.

Sincerely,

ORIGINAL SIGNED BY *WFKane for*

William D. Travers
Executive Director
for Operations

Enclosure: U.S. NRC Comments

DISTRIBUTION: File Center	NMSS r/f	DWM r/f t/f	DCB r/f t/f	EDO r/f
J Piccone	NMSS Dir. r/f	R Nelson	C Poland	W Travers
CPaperiello	W Kane	S Reiter	J Craig	KCyr
SBurns	D Corley, OEDO	P Norry		
	GAO File			

TICKET NO: EDO G20010120
DOCUMENT NAME: A:\res42REV2.wpd
* See previous concurrence:

*See Previous Concurrence

OFC	DCB	DCB	DCB	Tech.Ed.	0	DWM*
NAME	ASnyder*/mk	RNelson*	LCamper *	EKraus by fax		JGreeves/Lcamper
DATE	3/20/01	4/2/01	4/2/01	4/2/01		4/2/01
OFC	OGC	NMSS	DEDR			EDO <i>W Travers</i>
NAME	STreby*	M Virgilio*	CPaperiello*			W Travers
DATE	4/12/01	4/4/01	4/4/01			4/13/01

OFFICIAL RECORD COPY

This document should/ ~~X should not~~ be made available to the PUBLIC ~~AMS 4/2/01~~ *MM 5/10/05*
 (Initials) (Date)

This document should/ X should ~~not~~ be put in ADAMS ~~AMS 4/2/01~~ *MM 5/10/05*