

June 12, 2007

Dr. Alan Pasternak
California Radioactive Materials
Management Forum
P.O. Box 1638
Lafayette, California 94549-1638

Dear Dr. Pasternak:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am responding to your letter of April 3, 2007, requesting that NRC urge its committees of jurisdiction in the Senate and House of Representatives to revisit and amend the Low-Level Radioactive Waste Policy Amendments Act of 1985. You believe congressional action is needed to ensure access to disposal facilities for organizations that use radioactive materials and generate low-level radioactive waste (LLRW), especially in light of the fact that access to the Barnwell, South Carolina LLRW disposal facility is expected to be restricted to the three member States of the Atlantic Compact after July 1, 2008. Specifically, you suggest that legislation is needed that would allow the U.S. Department of Energy (DOE) to open its existing LLRW disposal facilities to other potential users on either a long-term or short-term basis.

The NRC agrees that low-level radioactive waste issues, including difficulties with the development of additional LLRW disposal facilities, will present challenges to licensees and regulatory authorities. The closure of the Barnwell site to out-of-compact wastes in 2008 could result in leaving many of the Nation's licensees without a disposal option for Class B and C wastes and needing to store the wastes until a final disposal option becomes available, a far from ideal situation. The NRC and the Agreement States will be faced, in all probability, with ensuring that the absence of disposal capacity does not result in unsafe storage of such wastes.

The NRC staff is considering your specific suggestion on the use of DOE disposal facilities as part of its strategic assessment of the NRC's LLRW program, based on your letter of August 31, 2006, responding to the staff's request for comments published in the *Federal Register* (71 FR 38675) on July 7, 2006. The NRC staff expects to complete its strategic assessment and present its results and recommendations to the Commission this summer. At that time, the Commission will have an opportunity to review your and others' suggestions on LLRW issues, including how best to provide a stable, reliable, and adaptable regulatory framework for effective LLRW management. The Commission may at that time also consider a notification to Congress that its action is needed to address this issue.

The Commission appreciates your interest in the National LLRW disposal system. The NRC, consistent with its regulatory authority and mission, will continue to work cooperatively with Congress and others in efforts to bring resolution to this important issue,.

Sincerely,

/RA Martin J. Virgilio Acting for/

Luis A. Reyes
Executive Director
for Operations

The Commission appreciates your interest in the National LLRW disposal system. The NRC, consistent with its regulatory authority and mission, will continue to work cooperatively with Congress and others in efforts to bring resolution to this important issue.

Sincerely,

/RA Martin J. Virgilio Acting for/

Luis A. Reyes
Executive Director
for Operations

DISTRIBUTION: G20070232/LTR-07-0230/EDATS-OEDO-2007-0135

DWMEP r/f

FSME r/f

RidsEdoMailCenter

EDO r/f

BFleming

RidsSecyCorrespondenceMailCenter

ML071060129

OFFICE	DWMEP/FSME	DWMEP/FSME	DWMEP/FSME	OGC	DWMEP/FSME
NAME	JKennedy	JKennedy for RWhited	CMcKenney for SFlanders	FXCameron	KMcConnell for LCamper
DATE	04/25/07	04/25/07	04/25/07	04/24/07	04/26/07
OFFICE	TechEd	FSME	DEDMRT	OCM	EDO
NAME	CPoland	GPangburn for CMiller	MVirgilio		MVirgilio for LAReyes
DATE	04/26/07	04/29/07	05/04/07	06/08/07	06/11/07

OFFICIAL RECORD COPY