



Department of Energy
Ohio Field Office
West Valley Demonstration Project
10282 Rock Springs Road
West Valley, NY 14171-9799

June 8, 2001

Mr. John T. Greeves
U.S. Nuclear Regulatory Commission
TWFN, Room 7 E53, MS-7 J8
Washington, DC 20555-0001

SUBJECT: U.S. Department of Energy (DOE) Proposal for Off-Site Disposal of West Valley Low-Level Waste (LLW) at the Nevada Test Site (NTS)

Dear Mr. Greeves:

As you are aware, the West Valley Demonstration Project (WVDP) Act of 1980 predates the U.S. Nuclear Regulatory Commission's (NRC) December 1982 promulgation of 10 CFR Part 61. NRC promulgated its waste classification system in 10 CFR Part 61 for wastes generated by NRC-licensed commercial facilities. DOE subsequently reevaluated its own waste classification system (on a site-specific basis) and analyzed and updated where appropriate the Waste Acceptance Criteria to be functionally equivalent to the NRC's updated waste classification system for those DOE sites that managed and/or performed on-site disposal of wastes. On-site disposal of wastes at West Valley, however, was not included in either DOE's or NRC's updated analyses.

DOE is no longer considering on-site waste disposal at West Valley for low-level waste currently in storage. Instead, DOE is now proposing to dispose of some WVDP LLW at its NTS, consistent with complex-wide decisions made as a result of analyses in DOE's Waste Management Programmatic Environmental Impact Statement (PEIS). DOE intends to evaluate this off-site waste disposal action in its recently rescoped EIS for Decontamination and Waste Management, which is currently being prepared.

Had DOE planned to continue disposal of LLW on the West Valley site, DOE recognizes the NRC's cognizant authority in determining the suitability of that waste in the 10-100 nCi/g transuranics range for on-site disposal as LLW, since after completion of the WVDP, the site would return to the regulatory oversight of the NRC and the operational control of New York State Energy Research and Development Authority (NYSERDA) as the licensee. However, since DOE has decided, on the basis of its analyses in the Waste Management PEIS, to dispose of such LLW (10-100 nCi/g transuranics range) at a DOE disposal site (either NTS or Hanford), DOE believes that NRC's involvement and authority in determining the ultimate definition of

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West Valley's LLW versus Transuranic (TRU) waste is essentially transferred to DOE's authority, under the Atomic Energy Act, as amended. DOE has statutory authority to manage its waste and its sites under the Atomic Energy Act of 1954, as amended, and has an established system of directives, guidance, policies, and procedures in place to fulfill its responsibilities for waste management.

DOE is planning to dispose of WVDP LLW at the NTS, in accordance with the NTS Waste Acceptance Criteria. DOE has established Waste Acceptance Criteria for disposal of wastes at the sites that it manages, including the NTS and Hanford Reservation, and will retain permanent control of these sites in the future. DOE has the authority to dispose of WVDP waste at one of its other sites in accordance with its authority under the Atomic Energy Act, if that waste satisfies the established waste acceptance criteria for that site.

DOE believes that the site-specific performance assessment that would have been required for continued on-site disposal of wastes that fall into the 10 vs. 100 nCi/g transuranics range is not required to be conducted on West Valley waste for the NTS if West Valley's waste is determined to be acceptable on the basis of the NTS Waste Acceptance Criteria. DOE proposes to exercise the language of the WVDP Act "or in other such concentrations as the Commission may prescribe" by requesting that the NRC issue a letter of no objection on this planned approach for West Valley LLW disposal at the NTS.

If you have any questions, please contact Dan Sullivan of my staff at (716) 942-4016.

Sincerely,



Alice C. Williams, Director
West Valley Demonstration Project

cc: J. M. Ebersole, OH/OCC, OSE-407

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