



UNITED STATES
NUCLEAR REGULATORY COMMISSION
ADVISORY COMMITTEE ON NUCLEAR WASTE
WASHINGTON, D.C. 20555

February 6, 1995

The Honorable Ivan Selin
Chairman
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Dear Chairman Selin:

SUBJECT: PRIVATE OWNERSHIP OF LOW-LEVEL WASTE SITES

The Advisory Committee on Nuclear Waste (ACNW) has concluded that there are no fundamental reasons why private ownership of low-level waste (LLW) disposal sites should be prohibited but finds that several related issues require deliberate and cautious action by the Commission.

During the 67th meeting of the ACNW, we heard from and discussed with representatives of the Office of State Programs the subject of private ownership of LLW disposal sites. We believe that privatization of LLW disposal sites is partly a legal matter but there are several aspects closely related to topics we have dealt with in the past. This report contains a summary of our concerns about private ownership of LLW disposal sites.

We believe that at least two major issues arise when private ownership of waste disposal sites is proposed. The first concerns the assurance of the protection of the health and safety of the public and of the environment (protection function). We recognize that the extent to which assurance of adequacy of the protection function is obtained may be strongly influenced by Agreement State laws and the extent to which the NRC exercises surveillance of the quality of the Agreement State activities. During the recent Commission policy discussions of adequacy and compatibility, the topic of provisions for private ownership of waste disposal sites was not included. We believe that the NRC needs to include explicit statements for pertinent requirements under the heading of adequacy and compatibility if the Commission proceeds with generic approval of private ownership of waste sites. In addition, the NRC should require effective and timely transfer of ownership to another responsible and capable entity, such as the State, when any changes in the private ownership provision for waste sites, including dissolution of the corporate entity, are effected. The measure of adequacy and compatibility of Agreement State operations should include effective and frequent monitoring and evaluation of private entities that are responsible for waste sites.

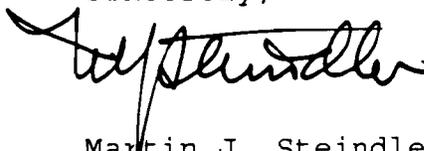
Provisions in Part 61 of Title 10 of the Code of Federal Regulations present 500 years as a target reference for siting and intruder barrier considerations [10CFR61.7(a)(2) and 61.7(a)(5)].

It is likely, however, that waste disposed in LLW facilities will pose a significant hazard for periods that, under some conditions, may well exceed 500 years and indeed Part 61 provides a caution on site characteristics that extends beyond that time. The Commission should expand the criteria for adequacy and compatibility of an Agreement State program in which private ownership is allowed so as to ensure that the State maintains an active interest in the protection function of the disposal site for as long as the waste poses a hazard in the regulatory sense.

The second issue concerns the procedures that lead to privatization. We believe that the procedures used by the NRC that involve open meetings, public and other stakeholder participation, judicial review, and other factors give all interested parties ample opportunity to have their views transmitted and considered. We believe that the importance of transferring accountability for the protection function to a private entity with a likely modest life compared to the hazard life of the waste requires procedures comparable to those used by the NRC. The NRC should ensure that privatization of ownership of LLW disposal sites involves procedures that are at least as open and accessible to stakeholders as those procedures managed according to the policies and regulations of the NRC. We have thus far not obtained information that this was the case when the State of Utah acted.

In summary, we focused our concerns on two aspects of the privatization issue, namely the protection of the health and safety of the public and the environment and the accessibility by stakeholders to the procedures that lead to privatization. Although we believe that private entities are potentially capable of meeting the longer-term protection function requirements, final accountability for the long-term performance of an LLW disposal facility should continue to be through a governmental entity. Further, the privatization decision process should be as open as those now used by the NRC. We believe that the NRC should craft provisions and requirements for private ownership of disposal sites so that government (state or Federal) accountability and open procedures are implemented. In light of NRC's role to ensure adequacy and compatibility we believe that the NRC should be very deliberate and cautious in allowing Agreement States to implement privatization of disposal sites.

Sincerely,



Martin J. Steindler
Chairman

Reference:

U.S. Nuclear Regulatory Commission, "Proposed Rule, Land Ownership Requirements for Low-Level Waste Sites," Federal Register, Vol. 59, No. 148, August 3, 1994, p. 30485

