



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

COMMISSION
CORRESPONDENCE

August 20, 1980

The Honorable Henry M. Jackson
Chairman, Committee on Energy
and Natural Resources
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

This is in response to your request for the Nuclear Regulatory Commission's (NRC) views on S. 2443, as recently amended, a bill which would authorize the Department of Energy to carry out a high-level liquid nuclear waste management demonstration project at the Western New York Service Center in West Valley, New York. The NRC supports initiation of this project to solidify high-level waste at West Valley and agrees that to the extent federal agency involvement would assist this project, the Department of Energy (DOE) is the appropriate organization to conduct this project. DOE, through its contractors, is the only federal organization with the requisite technical resources to perform the detailed engineering and development work for retrieving, solidifying, and disposing of the high-level liquid wastes at West Valley. Therefore, the Commission supports these aspects of S. 2443. However, the amendment recently accepted by the committee raises some problems which are described below.

1. Section 2(b)(3)(D) would authorize the Secretary of Energy to conduct activities which he determines to be appropriate for the protection of public health and safety. This provision could create an overlap of jurisdiction by the NRC and DOE and could lead the Secretary to take actions inconsistent with evaluations by the NRC. Accordingly, the Commission recommends that this section be amended to require the Secretary to consult with the NRC before taking such actions.

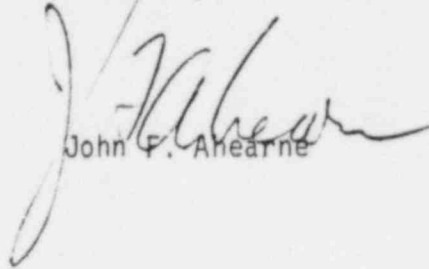
2. We interpret Section 2(b)(3)(C) as preserving NRC's authority regarding wastes of military origin currently at West Valley and which will be solidified by DOE. In our view, these wastes are not related to any military programs for the purpose of Pub. L. 96-164, and, thus, the NRC is not prohibited from expending funds to regulate DOE's receipt and storage of these wastes. The Commission supports Section 2(b)(3)(C) if it is intended to make unambiguous this NRC authority.

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With regard to the NRC, the bill would require the Secretary of Energy to consult with the NRC in carrying out the project, and would preserve any application licensing requirements of the Atomic Energy Act of 1954 or the Energy Reorganization Act of 1974. The Commission's views on these matters are described in the attached correspondence.

The Commission appreciates this opportunity to express its views. If you have further questions on these matters, the Commission will be pleased to provide further assistance.

Sincerely,



John F. Ahearne