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DIRECTOR

January 31, 1991

Mr. James Kennedy
Office of Nuclear Materials
Safety and Safeguards
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Dear Mr. Kennedy:

This letter is in response to RIV 90-81 requesting public comment of the staff analysis of low-level waste issues as presented in SECY 90-318. These documents have been reviewed by the Governor's Low-Level Radioactive Waste Advisory Committee which presents the following comments.

The Committee is of the opinion that any authorization to store low-level radioactive waste for long periods of time beyond January 1, 1996 would undermine the purpose of the deadline imposed by the Low-Level Radioactive Waste Policy Amendments Act (LLRWPA). Therefore, there is agreement in concept with the staff recommendations in SECY 90-318 that long-term storage beyond January 1, 1996 not be authorized. Nothing must be done to lower the incentives for States and Compacts to comply with the current law in a timely fashion. Health and safety issues may well exist if States do not meet the deadline and must take possession and title of waste for which they are not properly prepared. However, sufficient time exists to avoid this potential without allowing storage of waste for prolonged periods after January 1, 1996.

Responses to the specific questions posed follow:

Question #1: What factors should the Commission consider in deciding whether to authorize on-site storage of low-level waste (other than storage for a few months to accommodate operational needs such as consolidating shipments or holding for periodic treatment or decay) beyond January 1, 1996?

Response: There must be an evaluation of the potential for this kind of storage becoming permanent. There are health and safety issues to be addressed if the state is an Agreement State and is unable to assume regulatory authority. The intent of the imposed deadline must not be weakened.

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Question #2: What are the potential health and safety and environmental impacts of increased reliance on on-site storage of low-level waste?

Response: If the storage area/facility is inadequate in terms of space, control, construction, or siting, the probability of an incident increases. The increased amount of waste as well as the increased number of sites creates additional concerns.

Question #3: Would low-level waste storage for other than operational needs beyond January 1, 1996, have an adverse impact on the incentive for timely development of permanent disposal capacity?

Response: Yes.

Question #4: What specific administrative, technical, or legal issues are raised by the requirements for transfer of title?

Response: The issues include the mechanics of the transfer of title and possession; state regulatory matrixes; for Agreement States, staff availability and expertise to license and inspect these facilities; and the issue of liability.

Question #5: What are the advantages and disadvantages of transfer of title and possession as separate steps?

Response: Advantages include the possibility of a less complicated transfer mechanism; it may be easier for Agreement States to assume regulatory authority by providing some additional time before the licensure must be completed.

Disadvantages include a potential for some confusion over liability between title transfer and possession if the regulatory authority is not in place; and the potential for the intent of the January 1, 1996 deadline to be weakened by the State effectively delaying taking possession of the waste.

Question #6: Could any State or local laws interfere with or preclude transfer of title or possession of low level waste?

Response: As the potential exists, a review of states to determine those with such laws should be undertaken. Laws could also be enacted to interfere with the process. It would have to be determined to what extent such laws would be held in conflict with Federal law.

Question #7: What assurances of the availability of safe and sufficient disposal for low-level waste should the Commission require and when should it require them? What additional conditions, if any, should the Commission consider in reviewing such assurances?

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Response: There must be assurance that the generator has adequately projected waste volumes for the time waste must be managed by the State through self-licensure (Agreement State) or NRC licensure (non-Agreement State). Consideration should be given to not approving any expansion of licensed activities that would generate even more waste. Along this same line, facilities should not be licensed before the deadline that could be expected to increase waste volumes. Consideration should be given to obtaining this information within the next few years.

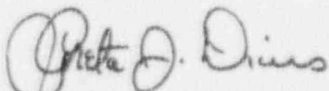
Other factors the NRC should consider are the previously mentioned state (or NRC) staff ability to license or regulate, the length of time storage is needed and the type, form, and chemical toxicity of the waste.

Question #8: Are there any other specific issues that would complicate the transfer of title and possession, as well as on-site storage, of low-level waste and mixed (radioactive and chemical hazardous) waste?

Response: References have been made to some of the differences that result dependent upon whether a State is an Agreement State or not, likely there are others to be considered. Litigation could cause problems and some potential exists for States to fail to react to the situation facing them. Consideration must also be given to determining if, in the event of a low-level waste generating accident, emergency access to an existing facility will be allowed if a State out-of-compliance with the Act (or that does not have sufficient storage for the accident-produced waste) will be allowed to use an existing disposal facility or must find additional storage.

The Committee appreciates the opportunity to review and comment on this important issue and hopes these comments are useful.

Sincerely,



Greta J. Dicus, Commissioner
Central Interstate Radioactive
Waste Compact Commission

GJD:jp

cc: Governor's Low-Level Radioactive Waste Advisory Committee
C. Kammerer, Nuclear Regulatory Commission