

NOTATION VOTE

RESPONSE SHEET

RELEASED TO THE PDR

3/3/93

date

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initials

TO: SAMUEL J. CHILK, SECRETARY OF THE COMMISSION

FROM: COMMISSIONER DE PLANQUE

SUBJECT: SECY-92-391 - DENIAL OF PRM-60-4 - PETITION
FOR RULEMAKING FROM THE STATES OF WASHINGTON
AND OREGON REGARDING CLASSIFICATION OF
RADIOACTIVE WASTE AT HANFORD

APPROVED ☒ DISAPPROVED ☐ ABSTAIN ☐

NOT PARTICIPATING ☐ REQUEST DISCUSSION ☐

COMMENTS:

I concur with the comments of both Commissioners Rogers and Remick. Further, I have additional edits to the letter to DOE and the Federal Register Notice (attached).

9303050181 921222
PDR COMMS NRCC
CORRESPONDENCE PDR

E. Gail de Planque
SIGNATURE

RELEASE VOTE ☒

December 22, 1992

DATE

WITHHOLD VOTE ☐

ENTERED ON "AS" YES ☒ NO ☐

DF02

acted in this manner in its inquiries to DOE. It has obtained and evaluated information that is relevant and material to a determination whether or not the proposed activities of the DOE are subject to NRC licensing jurisdiction. All the information obtained and evaluated has been made available contemporaneously to the public.

Moreover, as a practical matter, the NRC has requested the DOE to periodically submit summaries of the analytical results of all samples of the grout feeds for disposal as incidental wastes. NRC recognized the

uncertainties associated with the projected radionuclide inventories in the tank wastes and endorsed DOE plans for sampling and analyzing the grout feeds before disposal. The objective of these efforts is to control the final

composition of the grout wastes. If DOE finds that ~~inventories of key~~ *it can no longer assure* ~~that these wastes will be managed in accordance with the criteria~~ *radionuclides entering the grout facility are significantly higher than DOE* ~~previously discussed, DOE should notify NRC~~ *estimated in 1989, DOE should notify NRC so that the Commission could*

~~reconsider its classification of the waste.~~ NRC has also requested DOE to provide the summaries of the analytical data to other affected parties.

If a standard of "largest technically achievable amount will be isolated" were to be applied, then the facts submitted by DOE might not be sufficient to conclude that NRC lacked jurisdiction. However, the proper standard includes considerations of economical practicality as well. As indicated in an earlier part of this decision, the Commission has obtained information that is sufficient for this purpose.

3. Future Adjudications

The petitioners contemplate that if a rule were to be adopted in



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

~~Mr. John Tseng, Director~~
~~Hanford Program Office~~
Office of Waste Management
Environmental Restoration
and Waste Management
U.S. Department of Energy
Washington, D.C. 20585

*Ms. Jill Lytle, Deputy Assistant Secretary
for Waste Operations*

Ms. Lytle:
Dear ~~Mr. Tseng~~:

Members of the Nuclear Regulatory Commission staff appreciated the opportunity to meet with the Department of Energy (DOE) staff, DOE contractors, and other parties on July 16, 1992, to review new waste characterization data and current DOE plans for management of radioactive tank waste at Hanford. The purpose of this letter is to provide DOE with the staff's assessment of that information as it relates to DOE's program to classify, process and dispose of Hanford tank wastes. We are also taking this opportunity to respond to the related November 4, 1992 letter from Leo P. Duffy to Chairman Ivan Selin.

During the meeting, DOE presented revised tank waste inventory estimates based on current characterization data. The information indicated that the double-shell tank activity that would be grouted in near-surface vaults is within earlier range estimates. However, Cs-137 quantities are now near the upper end of the range, rather than at the lower end as previously believed. DOE indicated that uncertainties associated with the activity estimates remain because of the limited sampling and analysis to date.

In presenting its current plans for waste management, DOE outlined its intention to complete, by March 1993, a broad reevaluation of various treatment options for both single and double-shell tanks. These options include a new facility to be used to separate radionuclides for repository disposal of high-level radioactive waste (HLW).

As you recall, NRC indicated to DOE, in 1989, its agreement that the criteria DOE used for classification of grout feed as low-level waste were appropriate, and, consequently, that the grout facility for disposal of double-shell tank waste would not be subject to our licensing authority (R. Bernero letter to A. Rizzo, September 25, 1989). This reflected our understanding that DOE would segregate the largest practical amount of the total site activity attributable to "first-cycle solvent extraction, or equivalent" for disposal as HLW, leaving behind only a small fraction of moderately radioactive material.

The Commission has recently completed its review of a rulemaking petition from the States of Washington and Oregon on the subject of the double-shell tank wastes and has indicated in the enclosed petition denial that it would regard the residual fraction as "incidental" waste, ~~provided that the waste:~~ (1) has been processed (or will be further processed) to remove key radionuclides to the maximum extent that is technically and economically practical; (2) will be

*based on the Commission's understanding that
DOE will assure that the waste:*

incorporated in a solid physical form at a concentration that does not exceed the applicable concentration limits for Class C low-level waste as set out in 10 CFR Part 61; and (3) will be managed, pursuant to the Atomic Energy Act, so that safety requirements comparable to the performance objectives set out in 10 CFR Part 61 are satisfied.

It is therefore essential, in the light of this position, that DOE's present reevaluation of waste tank remediation options, and subsequent periodic evaluations as may be conducted, include the application of these principles. We recognize that there may be significant economic, programmatic, and safety factors affecting the remediation program, but the consideration of such factors as they may relate to the possible jurisdiction of NRC should be made clear.

We request that you keep us informed of the progress of your ongoing reassessment and of relevant technical information including, but not limited to, your tank waste treatment plans and the analytical results for tank wastes that are proposed to be sent to the grout facility. If it becomes apparent to you that any wastes may be subject to NRC licensing, it will be necessary to determine what form of pre-licensing interactions, analogous to repository site characterization, would be necessary to determine the appropriate disposition of these wastes.

I trust that this letter, and the enclosed petition denial, provide the information requested in Leo P. Duffy's November 4, 1992, letter to Chairman Ivan Selin, regarding NRC's intended response to the rulemaking petition by the States of Washington and Oregon. If you have any further questions, please feel free to contact me, at 301-504-3352, or B.J. Youngblood, Director of the Division of High-Level Waste Management, at 301-504-3404.

Sincerely,

Robert M. Bernero, Director
Office of Nuclear Material Safety
and Safeguards

Attachment:
As stated

J. Tseng, DOE-EM-36
cc: J. Anztonen, DOE-RL
J. Bartlett, DOE-RW-1
L. Duffy, DOE-EM-1
D. Duncan, EPA
R. Stanley, Washington State
J. Franco, Oregon State
R. Jim, YIN