

JUN 05 1990

Project M-32

Willis W. Bixby, Director
West Valley Project Office
U. S. Department of Energy
Idaho Operations
P.O. Box 191
West Valley, NY 14171

Dear Dr. Bixby:

The enclosure is a trip report on our meeting in New York, New York, concerning the Federal Facilities Compliance Agreement being negotiated between you and the Environmental Protection Agency. The trip report describes what we consider to be NRC's interest in the agreement as well as the level of NRC involvement we think is appropriate in future deliberations on this subject. Please advise us if this is in any way inconsistent with your own view of the matter.

Sincerely,

Original Signed by

R. Davis Hurt
West Valley Project Manager
Advanced Fuel and Special
Facilities Section
Fuel Cycle Safety Branch
Division of Industrial and
Medical Nuclear Safety

Enclosure: Memorandum from R. D. Hurt
to C. J. Haughney: May 24, 1990

cc: T. DeBoer, NYSERDA
w/enclosure

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

MAY 24 1990

Project M-32

MEMORANDUM FOR: Charles J. Haughney, Chief
Fuel Cycle Safety Branch
Division of Industrial and
Medical Nuclear Safety

FROM: R. Davis Hurt
Advanced Fuel and Special
Facilities Section
Fuel Cycle Safety Branch
Division of Industrial and
Medical Nuclear Safety

SUBJECT: MEETING CONCERNING A FEDERAL FACILITIES COMPLIANCE
AGREEMENT FOR THE WEST VALLEY DEMONSTRATION PROJECT

The Department of Energy (DOE) is negotiating a compliance agreement and consent order with the Environmental Protection Agency (EPA) that would cover DOE activities at the West Valley Demonstration Project. The New York State Energy Research and Development Authority (NYSERDA), DOE's partner in the West Valley Demonstration Project and the owner of the West Valley property, would be a party to these agreements. So would the New York State Department of Environmental Conservation, the state agency authorized by EPA to regulate hazardous wastes. The purpose of the agreement under negotiation would be to establish a process for implementing plans and schedules for the management of radioactive mixed waste consistent with the requirements of the Resource Conservation and Recovery Act and the New York State Environmental Quality Review Act.

On May 10, 1990, I attended a meeting in New York, New York, on this matter, accompanied by James R. Wolf of the Office of the General Counsel and Dominic A. Orlando of the Division of Low-Level Waste Management and Decommissioning. A list of attendees from the other agencies is enclosed. Most of the other parties present had apparently met several times before. This was the first meeting attended by representatives from the Nuclear Regulatory Commission (NRC).

NRC has an interest in this subject for two reasons. First, we have responsibilities under the terms of the West Valley Demonstration Project Act for matters of safety presented by the Project. Any measures undertaken by DOE by virtue of new agreements with EPA may need review by NRC for this purpose. Second, NRC will have a large role in determining how the site should be cleaned up. The West Valley legislation specifically gave NRC the responsibility of defining decontamination and decommissioning criteria for the facilities and materials used by DOE in connection with the Project. Any facilities or materials under DOE's custody at present but not used by DOE in connection with the Project would, at a minimum, revert to NRC's licensing authority when the Project is completed. So under the current regime, NRC's decontamination and decommissioning standards will be directly applied, sooner or later, to all parts of the West Valley site that were covered by the original

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Charles J. Haughney

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NRC license, which is to say all parts of the site except the state-licensed burial ground. DOE and NYSERDA have undertaken to write an Environmental Impact Statement on the topic of site closure that will consider all features of the site, both the parts currently under DOE control and the state-licensed burial ground. NRC has agreed to work closely with DOE and NYSERDA to ensure that the Environmental Impact Statement properly reflects NRC's standards. Any agreement made with EPA regarding remedial actions will have to be closely assessed for its impact on this site closure evaluation process.

It was clear in the meeting that DOE and NYSERDA have not completely agreed on the division of responsibility for any remedial actions that might have to be taken on the site, either at the site closure stage or before. When the EPA representatives asked when such responsibilities would be determined, the NYSERDA representatives suggested that the conditions of the suspended NRC license might prevent action on their part. We said that we did not think the NRC license should be an impediment to any needed remedial actions, and that we would be prepared to consider amendments to the license if the need arises.



R. Davis Hurt, Project Manager
Advanced Fuel and Special
Facilities Section
Fuel Cycle Safety Branch
Division of Industrial and
Medical Nuclear Safety

Enclosure: List of attendees

LIST OF ATTENDEES

NRC: D. Hurt (IMNS)
J. Wolf (OGC)
D. Orlando (LLWM)

DOE: W. Bixby (WVPO)
C. Ljungberg (WVPO)
B. Bowhen (Idaho Operations, OGC)
P. Hinman (Idaho Operations)
D. Rasch (Idaho Operations)
T. McIntosh (HQ)
M. Stahr (HQ)
L. Waldo-Smith (HQ)
C. Blake (HQ)
V. Franklin (contractor)
J. Knabenschuh (contractor)
G. Baker (contractor)
R. Carter (contractor)

EPA: J. Gorman
C. Howard
W. Sawyer

NYSERDA: H. Jack (counsel)
P. Gitlen
D. Miller

NYSDEC: J. Jones
T. Diguilio
D. Christian
S. Quine
K. Johnson