

# SOUTHERN STATES ENERGY BOARD

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January 30, 1991

Mr. James Kennedy  
Mail Stop 5E2  
Office of Nuclear Materials Safety and Safeguards  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Re: Request for comments on SECY 90-318

Dear Mr. Kennedy:

The Southern States Energy Board is pleased to provide comments on the title transfer and possession provisions of the Low-Level Radioactive Waste Policy Amendments Act of 1985 (LLRWPA) and on the Nuclear Regulatory Commission's staff analysis of those provisions. While the Board's member states possess differing and sometimes opposing viewpoints on handling and disposing low-level radioactive waste, the NRC's staff analysis touches on several concerns common to all southern states.

SSEB wholeheartedly agrees with NRC's position that allowing long-term low-level waste storage on-site for other than operational reasons runs contrary to the intent of the LLRWPA. Efforts to site permanent low-level radioactive waste disposal facilities have been frustrated since passage of the LLRWPA. Any action that might lessen the necessity for new capacity, even if such action is deemed to be of a temporary nature, could delay the process even further and hence work against the best interests of the public at large.

The NRC staff outlined four possible approaches that could be used in implementing the title transfer and possession provisions of the LLRWPA. SSEB feels the first option, the amending of 10 CFR Parts 30, 40, and 70 by the NRC, could result in the delay of siting and building new disposal capacity. Imposing a rigid rulemaking process may not be an effective approach to take. A more flexible option would be the issuance of guidance to the governors (approach 2), guidance that could be amended and altered as conditions dictate. While this approach would not result in the formal codification of NRC's position, the relative ease and speed with which the needed actions could be taken outweigh the possible drawbacks such a mechanism could produce.

SSEB has received comments from member states in reference to the specific questions outlined in the notice appearing in the December 4, 1990 issue of the Federal Register. Specifically, states expressed concern about providing input on administrative, technical and legal issues pertaining to title transfer provisions. Some states believe that they have not had the opportunity to examine specific issues in detail. Many complex issues, such as those pertaining to liability, require close attention. Consequently, state and federal regulations may need to be amended. Agreement states and other affected parties must be

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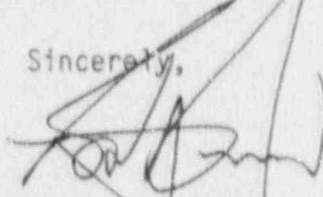
letter to Mr. James Kennedy  
U.S. Nuclear Regulatory Commission  
January 30, 1991

Page 2

brought together to discuss these and other issues as they arise. Historically, this Board has brought together representatives of its member states and other entities in an effort to resolve conflicts on a regionwide basis in several areas ranging from high-level radioactive waste handling to coastal resources protection. We have found that such an approach can be extremely fruitful in bringing about substantive discussions. We encourage the NRC to use a regional entity to bring together various parties for further discussion.

SSEB appreciates the opportunity to provide comments and we applaud the NRC's efforts thus far in the resolution of these important issues. The Board will continue to follow developments in this area in the future. If I or anyone on the SSEB staff can be of assistance, please feel free to call on us.

Sincerely,



Kenneth J. Nemeth  
Executive Director

KJN:awt

cc: Governor Carroll A. Campbell, Jr., South Carolina, SSEB Chairman