



CHAIRMAN

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

May 18, 1994

The Honorable Robert T. Matsui
United States House of Representatives
Washington, D.C. 20515-0505

Dear Congressman Matsui:

On behalf of the Commission, I am responding to your letter of May 2, 1994, regarding the potential use of the Rancho Seco Nuclear Generating Station site to store low-level radioactive waste. As a result of your inquiry and others, the NRC staff contacted the Sacramento Municipal Utility District (SMUD), the Rancho Seco licensee, to discuss this issue. Our understanding is that SMUD has not solicited proposals to store waste at Rancho Seco and has not established a position on this issue.

In the absence of any detailed information, the Commission is unable to take a position on potential storage of low-level radioactive waste at the Rancho Seco Nuclear Generating Station site. However, if SMUD were inclined to pursue this concept at Rancho Seco, it would need to submit a formal licensing request to the NRC. In evaluating such a request, the NRC staff would have to take into account several broad, generic considerations. For example, longstanding policy as reflected in NRC Generic Letter 85-14, "Commercial Storage at Power Reactor Sites of Low-Level Radioactive Waste Not Generated by the Utility," dated August 1, 1985, opposes any activity at a nuclear reactor site that is not generally supportive of activities authorized by the operating license or construction permit and that may divert the attention of licensee management from its primary task of safe operation or construction of the power reactor. Although Rancho Seco is not operating, the Commission would consider applying this policy to Rancho Seco to the extent of ensuring the storage of low-level wastes at the site would have no adverse impacts on public health and safety. In addition, the Commission has a long-standing position of favoring disposal over storage. The Commission expects that low-level waste disposal facilities are to be sited and developed in a timely manner and that the major interested parties, including waste generators and states, will continue all reasonable steps to ensure that low-level waste disposal capacity is available soon.

The implications of such proposed storage would also need to be addressed in the context of some of the provisions of the Low-Level Radioactive Waste Policy Amendments Act of 1985 to be implemented by States and compacts. Because this proposal could affect their interests, consultation with regional compact and State LLW officials would be necessary. Generic Letter 85-14 states that an application from a licensee would require "written agreement from the jurisdiction responsible for ultimate disposal, the State, that provisions are sufficient to assure ultimate disposal of the stored waste." Moreover, California's status as an Agreement State would have important implications for licensing. Generic Letter 85-14 states that Agreement States (of which California is one) have licensing authority for proposed locations outside the exclusion areas. Even without these general considerations,

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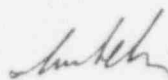
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storage of byproduct material produced by other licensees would require that the NRC issue a license in accordance with the requirements of 10 CFR Part 30. In addition, the existing 10 CFR Part 50 reactor license would be subject to review and possible amendment, to ensure that none of the Part 30 waste storage activities could impact decommissioning efforts in a manner that would adversely affect protection of public health and safety.

I want to emphasize that the NRC has not received a formal request for licensing action in this matter, nor has SMUD given any indication that such a request will be forthcoming. I can assure you that if such a proposal is submitted, it will require extensive NRC review and evaluation. The NRC would approve or disapprove such a proposal depending on its regulatory and legal merit.

If I can be of further assistance to you in this matter, please contact me.

Sincerely,



Ivan Selin



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

August 1, 1985

TO ALL LICENSEES

SUBJECT: COMMERCIAL STORAGE AT POWER REACTOR SITES OF LOW-LEVEL RADIOACTIVE
WASTE NOT GENERATED BY THE UTILITY (Generic Letter 85-14)

Gentlemen:

The Low-Level Radioactive Waste Policy Act of 1980 (P. L. 96-573) assigned to the states the responsibility to provide for disposal of commercial low-level radioactive waste (LLW) generated within each state. The Act envisioned that all states would be capable of providing for disposal of commercial LLW generated within their borders by 1986. Based on the current status of state efforts and the substantial time required to establish new disposal facilities, no new sites will be available for at least several years. Due to the uncertainty of this situation and statements made by some officials of states within which currently operating disposal sites are located, it appears possible that access to the existing sites may be restricted.

While some licensees have taken steps to temporarily store LLW generated at their sites to alleviate any impact that limiting of access to disposal capacity may have on licensed operations, provisions for storing LLW should be used only for interim contingency purposes. It is the policy of the NRC that licensees should continue to ship waste for disposal at existing sites to the maximum extent practicable.

In anticipation of possible curtailment of access to existing disposal facilities, interest is being expressed in some states in commercial storage of LLW generated within the states. While the NRC recognizes that storage may appear desirable in states which have not resolved their low-level waste disposal problems, commercial storage facilities, however, should not become *de facto* disposal sites. NRC will require for commercial storage under its jurisdiction that, in addition to safe siting and operation, commitments and assurances be made for eventual disposition of all waste stored at commercial storage locations. This includes provisions for repackaging (if necessary), transportation and disposal of the waste, as well as decommissioning of the facilities.

Some of the concepts for commercial storage involve using nuclear power reactor sites as commercial storage locations for LLW not generated by the utility licensee. As a matter of policy, the NRC is opposed to any activity at a nuclear reactor site which is not generally supportive of activities authorized by the operating license or construction permit and which may divert the attention of licensee management from its primary task of safe operation or construction of the power reactor. Accordingly, interim storage of LLW within the exclusion area of a reactor site, as defined in 10 CFR 100.3(a), will be subject to NRC jurisdiction regardless of whether or not the reactor is located in an Agreement State, pursuant to the regulatory policy expressed in 10 CFR 150.15(a)(1). Within Agreement States, for locations outside the exclusion areas, the licensing authority is in the Agreement State.

In order for NRC to consider any proposal for commercial storage at a reactor site, including commercial storage in existing low-level waste storage facilities, the NRC must be convinced that no significant environmental impact will result and that the commercial storage activities will be consistent with and not compromise safe operation of the licensee's activities, including diverting reactor management attention from the continued safety of reactor operations. A Part 30 license is required for the low-level waste storage and a Part 50 license amendment may also be required. The application must include:

By the utility

- ° A determination by the utility licensee that the proposed low-level waste commercial storage activities do not involve a safety or environmental question, and that safe operation of the reactor will not be affected. In making this determination, the licensee shall consider:
 - Direct impacts of the commercial storage operation on reactor operations during normal and accident conditions;
 - Diversion of utility management and personnel attention from safe reactor operation;
 - Combined effects of onsite and offsite dose during normal and accident conditions;
 - Influence on effectiveness of reactor emergency plans;
 - Influence on effectiveness of reactor security plans;
 - Financial liability provisions, including impact on indemnity coverage; and
 - Environmental impact of the storage facility, including potential interaction with the generating station.

By the applicant (the utility or another person)

- ° Information relating to the safety of the commercial storage operation;
- ° Information relating to the environmental impact of the storage operation in sufficient detail to allow staff to establish the need for preparation of an Environmental Impact Statement;
- ° Financial assurance to provide for the commercial storage operation and decommissioning including any necessary repackaging, transportation and disposal of the waste; and
- ° Written agreement from the jurisdiction responsible for ultimate disposal, the State, that provisions are sufficient to assure ultimate disposal of the stored waste.

The Office of Nuclear Reactor Regulation (NRR) will conduct an environmental review and review the application to determine whether the low-level waste commercial storage activities on a reactor site impact the safe operation of the reactor. Following NRR review, the licensing authority for commercial storage on a reactor site under NRC jurisdiction (all locations in non-Agreement States and locations within reactor exclusion areas in Agreement States) is the Office of Nuclear Material Safety and Safeguards. The NRC will assess

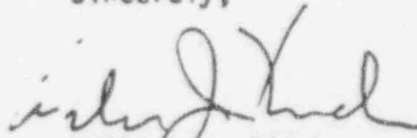
environmental impact and will issue an Environmental Impact Statement, if appropriate, in accordance with provisions of 10 CFR 51.20, 51.21 and 51.25. As part of the procedures, the NRC will provide notice in the FEDERAL REGISTER of receipt and availability of any application received for commercial storage activities. The public notice will also indicate the staff's intent regarding preparation of an environmental assessment and its circulation for public review and comment. An Environmental Impact Statement will most likely be needed based on the environmental assessment.

Because the NRC has not yet received or reviewed an application for a centralized commercial low-level waste storage facility intended to store large amounts of LLW for five or more years, the NRC may consider applying the criteria described above to such commercial storage facilities whether they be on a reactor site or not.

Interim storage of utility licensee-generated LLW will continue to be considered according to the provisions stated in Generic Letter 81-38, dated November 10, 1981.

For additional information, please contact Frank Miraglia, Office of Nuclear Reactor Regulation, U. S. Nuclear Regulatory Commission, Washington, D.C. 20555 [Telephone: (301) 492-7980] or Richard Cunningham, Office of Nuclear Material Safety and Safeguards, U. S. Nuclear Regulatory Commission, Washington, D.C. 20555 [Telephone: (301) 427-4485].

Sincerely,



William J. Dircks
Executive Director
for Operations