



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

July 14, 1994

The Honorable John M. McHugh
United States House of Representatives
Washington, D.C. 20515-3224

Dear Congressman McHugh:

On behalf of the Commission, I am responding to your letter of June 23, 1994, regarding the potential use of the James A. FitzPatrick Nuclear Power Plant site to store low-level radioactive waste. As a result of your inquiry, the NRC staff discussed this issue with the Power Authority of the State of New York (PASNY), the FitzPatrick licensee. We understand that PASNY has not solicited proposals to store at FitzPatrick waste generated at other sites, 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 James A. FitzPatrick Nuclear Power Plant site. However, if PASNY were inclined to pursue this concept at FitzPatrick, 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. In addition, the Commission has a longstanding position of favoring disposal over storage. The Commission expects that low-level waste (LLW) 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 LLW disposal capacity is available soon.

A number of other factors would have to be considered with respect to storage at a nuclear power plant site. For example, the implications of such proposed storage would 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, especially in light of the fact that 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." Also, New York's status as an Agreement State would have important implications for licensing. Generic Letter 85-14 states that Agreement States (such as New York) have licensing authority for proposed locations outside the exclusion areas.

(Originated by: JMenning, NRR)

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PDR COMMS NRCC
CORRESPONDENCE PDR

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Even without these general considerations, 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 plant operations 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 PASNY 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

Dated July 14, 1994

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DOC DT: 06/23/94
FINAL REPLY:

Rep. John M. McHugh

TO:

Chairman Selin

FOR SIGNATURE OF : ** PRI **

CRC NO: 94-0600

Chairman Selin

DESC:

ROUTING:

LOW-LEVEL RADIOACTIVE WASTE STORAGE AT FITZPATRICK
NUCLEAR POWER PLANT

Taylor
Milhoan
Thompson
Blaha
Bernero, NMSS
TMMartin, RI
Cyr, OGC

copy for SW - done 6/27

DATE: 06/24/94

ASSIGNED TO: CONTACT:

NRR Russell

SPECIAL INSTRUCTIONS OR REMARKS:

Per Chairman's office, use same language as that contained in the response to Rep. Matsui letter (attached) concerning Rancho Seco.

NO EXTENSION WILL BE GRANTED.

Varga - action coord. w/ by Warren + NMSS

NRR RECEIVED: JUNE 24, 1994
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ACTION
DUE TO NRR DIRECTOR'S OFFICE
BY June 29, 1994

