

STATE OF CALIFORNIA—HEALTH AND WELFARE AGENCY

PETE WILSON, Governor

DEPARTMENT OF HEALTH SERVICES

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(916) 445-1248



July 26, 1991

Mr. Ivan Selin, Chairman
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Dear Mr. Selin:

A situation is developing in California on which I need the Nuclear Regulatory Commission's (NRC) timely assistance. As the Director of the California Department of Health Services (Department), I will soon make a decision on the California Low-Level Radioactive Waste (LLRW) Disposal Facility License Application submitted to the Department by US Ecology, Inc. Hearings on the proposed action to issue a license for operation of a California LLRW Disposal Facility were conducted on July 22, 1991. Following the close of the comment period on August 5, 1991, I will complete the decision process.

Issues have been raised regarding section 6 of the LLRW Policy Amendments Act of 1985 (Act) which authorizes the NRC to grant emergency access to any regional facility for specific LLRW, if necessary to eliminate an immediate and serious threat to the public health and safety or common defense and security. If California succeeds in its endeavor to license and establish an operational LLRW disposal facility, it will probably be the first in the nation to do so. Certain elected officials and members of the public are raising concerns that other states, less successful in meeting the Act's deadlines, will avail themselves of the provisions of section 6, as implemented by title 10, Code of Federal Regulations, part 62, to gain routine and continuous access to the California disposal facility. Enclosed is a letter from Ms. Carolyn Toenjes which raises this concern.

To respond to this issue, I am requesting NRC's timely response to the following inquiries:

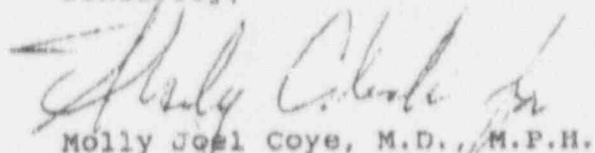
1. Are there any circumstances under which all the generators in a state or compact region, that cannot meet the milestone requirements of Public Law 99-240, would be granted emergency access to the California facility?

Mr. Ivan Selin, Chairman
Page 2

2. In light of NRC policy set forth in NRC Generic Letter 81-38 and subsequent pronouncements regarding interim storage of nuclear power plant LLRW, and the fact that many utilities have demonstrated the ability to establish storage capacity in a timely fashion, under what conditions could a nuclear power utility demonstrate that emergency access was justified as a necessary alternative to storage, volume reduction, and/or ceasing waste generation activities?
3. What opportunities for appeal (both administratively and legally) exist for states, compacts and/or private citizens to challenge an NRC determination to grant or extend emergency access?
4. How will NRC coordinate technical review of emergency access matters for disposal facilities it has not licensed and does not regulate?
5. Can the emergency access provision be used to grant access to the California facility for the defense program nuclear weapons waste, or LLRW exceeding Class C limits set forth in Title 10, Code of Federal Regulations, Part 61.55?

I am being interviewed by the MacNeill/Lehrer news program the week of August 5, 1991, and anticipate questions on this issue. Therefore your response by Friday August 2, would be greatly appreciated.

Sincerely,


Molly Joel Coye, M.D., M.P.H.
Director

Enclosure

cc: Mr. Carlton Kammerer (OWFN - 3D23)
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Mr. Robert Bernero (OWFN - 6E6)
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

June 7, 1991

State of California
DEPARTMENT OF HEALTH SERVICES
P.O. Box 94732
Sacramento, CA 94234-7320
Att: Darice Bailey, Associate Health Physician

Dear Ms. Bailey and Department of Health Services:

I am writing for myself and other concerned citizens to formally request that the licensing process on the radioactive disposal facility in Ward Valley near Needles, CA, a project of USEcology, be postponed for the reason that the State of California Compact is the only Compact on schedule in its compliance with the Low-Level Radioactive Waste Policy Act of 1980. Since other states have been very slow to comply with LLRW 1980, the 1985 Amendment was brought about, allowing the NRC to grant emergency dumping privileges in existing dump-sites. This is unfair as it will leave California in the vulnerable position of being the recipient of radioactive waste from many states. In fact, Hugh Kaufman of the E said he believes this amendment may be used to make up for non-compliance in other states (see enclosed article LA Times, May 20, 1991). Because of the unfairness, we formally request the the 1985 Amendment to the LLRW as well as Senate Bill 342 (Alquist) be repealed. People have been led to believe that there must be a dump, when, in fact, there were other options. It is up to the Governor and we request that Governor Wilson look into the other options.

We also believe licensing should be postponed for these additional reasons:

1. USEcology has a poor record in its other waste management programs.
2. Impact to the Ward Valley area of the radioactive waste has reportedly been down-played by dump proponents. (The Riverside Press Enterprise, April 30, 1991) quotes as follows:
3. Radiation is bound to be released into the environment. "Sure there will be gases coming up at the site. That's understood...", said Reuben Junkert, project director for the California DHS. (Press Enterprise, April 30, 1991). This information has not been acknowledged publicly before, that we know (though EIR/S states site may leach. p4.1-18/para 4.1.4.3.)
4. We feel that economic costs are taking priority over safety. (Press Enterprise, April 30, 1991).

Radioactive Waste/Ward Valley Page 2
California

5. Reportedly, State Health Officials and USDeology feel that contamination of the huge body of groundwater 500 feet beneath the surface would not be a problem because no one uses it anyway. (Press Enterprise, April 30, 1991, enclosed). This shows complete indifference to a valuable resource which may, indeed, be needed at a future time. No consideration has been given for future generations.
6. Inclusion of reactor parts from decommissioned power plants and animal carcasses from research laboratories have not been acknowledged before publicly and prominently (hearings/forums). (LA Times, May 20, 1991/ Press Enterprise, April 30, 1991)
7. All radioactive wastes should be disposed of in already contaminated areas rather than pristine areas.
8. Insurance for workers, people living, working travelling in the area is not adequate.
9. Accidents in transportation of Rad-waste are a real probability. We, in Riverside County, CA, as well as people in other locations along the routes would be endangered. According to news releases, over 1000 accidents have occurred across the United States.
10. Most scientists agree that so-called "low-level" radioactive waste/ materials are far more dangerous than formerly thought.
11. Disposal at the proposed dump will continue over many years. Plutonium and other long lived radioisotopes will accumulate and as the first loads may begin to decay, more will be deposited continuing to contaminate for thousands upon thousands of years making the area virtually uninhabitable forever.

Sincerely,

Carolyn Toenjes
Carolyn Toenjes and Concerned Citizens
1863 Park Drive
Palms Springs, CA 92262

Jon R. Cullen
Bob [unclear]
James T. Hackett

Page 3

1. FORMAL REQUEST THE LICENSING PROCESS ON THE RADIOACTIVE DUMP IN WARD VALLEY NEAR NEEDLES, CALIFORNIA BE POSTPONED FOR REASONS LISTED ON PAGES 1 & 2 OF THIS LETTER. Carolyn Toenjes and Concerned Citizens.
2. FORMAL REQUEST THAT THE 1985 AMENDMENT TO THE LLRW OF 1980 and SENATE BILL #342 (ALQUIST) BOTH BE REPEALED. Carolyn Toenjes and Concerned Citizens. REASONS LISTED ON PAGE 1 & 2 OF THIS LETTER.

C.C.

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