

COALITION ON WEST VALLEY NUCLEAR WASTES
Sharp Street · East Concord, NY 14055 · (716) 941-3168

M-32
PDR

January 14, 1992

Gary Comfort
West Valley Project Manager
Fuel Cycle Safety Branch
Mail Stop 6H3
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Dear Mr. Comfort:

In November and December of 1986, NYSERDA exchanged letters with DOE and NRC regarding an adjoining landowner's request for a right-of-way (20' x about 40') across a portion of the Western New York Nuclear Service Center property located about a mile from the West Valley Demonstration Project (WVDP). The purpose of the NYSERDA, DOE, and NRC letters was to determine whether the granting of the right-of-way would either 1) conflict or interfere with the WVDP or 2) create any immediate or future problem from an NRC licensing standpoint. As expressed in letters dated November 24 and December 23, 1986, respectively, neither DOE nor NRC saw any problem with the granting of the right-of-way.

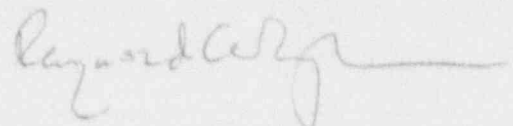
In the event that New York State passes legislation authorizing the construction of a commercial LLRW facility on the Western New York Nuclear Service Center property, the same two questions (possible conflict with the WVDP and possible concerns from an NRC licensing standpoint) will need to be examined by NYSERDA, DOE, and NRC. Both questions would be more difficult to answer for a LLRW facility than for a 20' x 40' right-of-way. Some of the issues that would need to be addressed are included in the enclosed outline entitled "West Valley Essentials."

In the event that such legislation is passed by New York State, we request 1) that NYSERDA, DOE, and NRC examine and answer the above questions by means of an open, deliberative process and 2) that we be permitted to have input into that process.

In addition to the above requests, we ask that you review the enclosed outline in relation to NRC's overall activities and responsibilities at West Valley. Comments on the enclosed outline are welcome. If there are others in NRC who should see the enclosed outline, please send them copies.

For your information, the enclosed outline was published as an ad in the January 13 issue of the Albany Legislative Gazette.

Sincerely,



Raymond C. Vaughan

9201270011 920114
PDR PROJ PDR
M-32

NF13
111

WEST VALLEY ESSENTIALS

OUTLINE OF OUR POSITION AGAINST S.6283-A / A.8748-A AND AGAINST ANY SIMILAR FAST-TRACK BILL WHOSE PURPOSE IS TO BRING NEW RADIOACTIVE WASTES TO WEST VALLEY

7. The need for planning. There is such a thing as good planning. Some of the recognized principles of good planning are codified in NEPA and SEQRA.

2. Our stance on planning. We, the Coalition on West Valley Nuclear Wastes (CWVNW), have consistently worked for good planning with respect to the nuclear waste problems at West Valley. Our participation in the planning process has taken various forms, including the submission of comments in many public comment periods since the 1970s and our work toward the passage of the West Valley Demonstration Project (WVDP) Act in 1980.

3. Purpose and results of the 1986 lawsuit. Our lawsuit against DOE in 1986 was undertaken to prevent two shortcuts in proper planning for the WVDP: a) lack of EIS for LLRW disposal and b) misclassification of Class C / TRU waste. Results of the lawsuit included the Stipulation of Compromise Settlement of May 1987, the EIS specified therein (which is now in progress), and the NRC Task Plan of April 1988.

4. Coordination of planning after the lawsuit. Post-lawsuit goals of CWVNW, DOE, and NYS were generally consistent with respect to the West Valley site. The DOE under W. Bixby took the lead in coordinating WVDP completion and NYS site-closure responsibilities under the umbrella of a single EIS.

5. Post-lawsuit planning assumed no new wastes at West Valley. Passage of the NYS LLRW Management Act of 1986, with its ban on using West Valley as the state's commercial LLRW site, was approximately contemporary with the lawsuit. For the West Valley site, this meant that the preparation of the EIS and other post-lawsuit planning activities were undertaken and discussed in good faith by the three above parties (CWVNW, DOE, NYS) on the assumption that no new wastes would come to the site. This assumption was based not just on the language of the 1986

Act but on the explicit statements made by Cuomo, Waish, and others, regarding the logic for the West Valley ban.

6. Magnitude of the remaining work reinforces the need for planning. For multi-year projects as long, complex, and expensive as the ongoing work at West Valley (including the WVDP and the massive non-WVDP responsibilities of NYS), proper planning is essential. Current estimates for the work are \$2.4 to \$3.4 billion. To date, only about \$530 million has been spent, leaving at least 75% of the work yet to be done (and 75% of the money yet to be appropriated).

7. Bill seeks to bypass the planning process. The waste generators' attempt to bring new wastes to the site by means of S.6283-A / A.8748-A is an attempt to bypass the current West Valley planning process, including the ongoing joint EIS and the NRC Task Plan. In general, S.6283-A / A.8748-A is inconsistent with the principles of good planning. It seeks to achieve a 'quick fix' without regard to the ongoing planning process at the West Valley site.

8. Plans may be modified in reasonable ways. Change must be accommodated as new information is gathered and as society's goals evolve. But the problems with the waste generators' plan for bringing new wastes to West Valley include: a) its short time scales; b) its refusal to recognize, and its failure to seek to integrate with, the ongoing West Valley planning process; and c) its provision for bringing new wastes to West Valley on a 'temporary' basis before site suitability is determined.

9. Problems with the bill. Specifically, S.6283-A / A.8748-A has many problems. These include:

a) Lead agency (DEC) inconsistent with lead agencies of ongoing joint EIS.

b) Failure to recognize the geologic and hydrologic complexity of the West Valley site

and the consequent length of time needed to do studies required for site characterization. Multi-year studies would clearly be needed for some aspects of site characterization such as hydrology. The fact that studies are still continuing on the part of the site used since the 1960s illustrates this point.

c) Failure to recognize the potential for erosion at the West Valley site, the consequent need for erosion-control measures, and the need to coordinate erosion-control measures with any such measures being considered in the ongoing joint EIS. It is generally accepted that erosion control over an area such as the 3300-acre West Valley site must be coordinated (lest poorly planned erosion-control measures cause aggravated erosion elsewhere on the site).

d) Failure to recognize that additional land, within the state-owned 3300-acre site but outside the WVDP fence-line, is likely to be needed for relocation of existing wastes (either for WVDP wastes or for the non-WVDP wastes on the site that are a NYS responsibility). Whether such additional land will be needed cannot be known with certainty until the ongoing joint EIS is completed. If such additional land is needed, it should be the best available land—which is exactly what NYS would want under S.6283-A / A.8748-A.

e) Failure to recognize that the NRC Task Plan will, at a future date, either allow or disallow certain WVDP activities based on the total inventory of radioactive wastes at the West Valley site. For NYS to establish a new LLRW facility on the site under S.6283-A / A.8748-A would affect the whole-site performance in two ways: i) the incremental addition of more wastes to the site, and ii) the foreclosure of one or more options for relocation of existing wastes that may need to be moved.

f) Failure to recognize the masking problem, whereby monitoring equipment may not readily be able to distinguish between emissions from a new facility constructed

under S.6283-A / A.8748-A on the one hand, and past or future emissions from the existing wastes on the other hand. Masking from the existing wastes is usually regarded as a problem of *past* emissions—but note that the WVDP 'hot' glassmaking operations, scheduled to start in 1996, will be a new source of radioactive emissions (presumably very small yet potentially large, depending on the efficiency and dependability of the off-gas treatment systems).

10. Ample warning. The 1993 and 1996 deadlines have been approaching gradually. Passage of the federal LLRW laws in 1980 and 1985 provided ample warning to all parties of the impending deadlines. The fact that NYS has fallen behind in fulfilling the provisions of its 1986 and 1993 LLRW laws is well known; it is not a sudden development.

11. The short-term problem. Any short-term problem in finding storage or disposal space for LLRW is self-created by the waste generators and the State of New York. Specifically, the problem is due to a lack of commitment and a lack of diligence by both the state and the waste generators in fulfilling the state's 1989 Interim Management Plan. This plan was the basis for Gov. Cuomo's certification to South Carolina, Washington, and Nevada that NYS would be able to manage its own LLRW after January 1, 1993.

12. The long-term problem. The long-term problem in finding storage or disposal space for LLRW is not just statewide but nationwide. It reflects a growing public distrust of the 'quick fixes' that have been so commonly used in dealing with radioactive wastes.

The above points are expressed very briefly. We apologize for the lack of full explanation, and for the use of certain terms and acronyms, but we believe that a brief outline will be useful. Please contact us for more information.