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PDR/LPDR

COALITION ON WEST VALLEY NUCLEAR WASTES
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June 2, 1992

TO: T. J. Rowland, DOE, West Valley Demonstration Project
G. C. Ccafort, NRC, West Valley Project Manager
Office of General Counsel, NRC

FROM: Raymond C. Vaughan, Coalition on West Valley Nuclear Wastes

SUBJECT: DOE request for rulemaking on TRU limit in WVDP wastes

It has come to our attention that DOE recently requested NRC to undertake a rulemaking on the transuranic (TRU) limit in West Valley Demonstration Project (WVDP) wastes. Our knowledge of DOE's request comes from NRC's "Weekly Information Report—Week Ending April 10, 1992." We find it odd that we have had no direct communication from either DOE or NRC regarding this rulemaking request.

We are writing to ask for 1) a copy of DOE's request; 2) copies of any subsequent communications exchanged by DOE and NRC regarding DOE's request; 3) information on the procedure that NRC intends to use, and the role that DOE will play, in carrying out the rulemaking; 4) a list of differences, if any, between the rulemaking procedure that NRC now intends to use and the rulemaking procedure that NRC previously intended to use; 5) the reason for such differences, if any exist; and 6) an overall schedule that shows major steps in the rulemaking (including public comment periods and any other opportunities for public involvement), along with the estimated date of each step. In addition, we are writing to express our concern that DOE's request is premature.

As you no doubt know, DOE's request for this rulemaking stems from §11 of the Stipulation of Compromise Settlement that we signed with DOE in U.S. District Court, Western District of New York, on May 27, 1987. Both parties (DOE and our attorney) sent copies of the Stipulation of Compromise Settlement to NRC; those copies are on file in the NRC Public Document Room as ACN 8707090304 and ACN 8708100108.

As you probably also know, NRC has already issued five documents (3 letters, 1 task plan, 1 set of meeting minutes) that outline in some detail the procedure, criteria, and rationale that NRC intended to use in making a determination or rulemaking on the WVDP TRU limit. Those five documents are:

1. Letter from Knapp (NRC) to Bixby (DOE) dated 8/18/87: apparently no copy in NRC Public Document Room.

2. Letter from Knapp to me dated 2/26/88: apparently no copy in NRC Public Document Room.
3. Minutes (one page) of NRC-DOE meeting of 4/27/88: apparently no copy in NRC Public Document Room
4. NRC Task Plan dated 4/27/88: ACN 8806280243.
5. Letter from Bangart to me dated 6/8/88: ACN 8806280243.

The NRC position outlined in these five documents, including the key concept of performance of the West Valley site as a whole, is presumably the same as NRC's current position on this rulemaking. However, if the basis for NRC's rulemaking is to be substantially different, it is incumbent on NRC and DOE to let us know—and explain why.

Assuming that the basis for NRC's rulemaking has not changed, we ask that the dates marked "TBD" ("to be determined") on pp. 11-12 of the Task Plan be filled in, if they're available, as part of the overall rulemaking schedule requested above.

NRC's "Weekly Information Report—Week Ending April 10, 1992" indicates that DOE's rulemaking request included a statement that DOE is prepared to perform supporting analyses. These analyses, intended to show that the 10 CFR 61 performance objectives can be met, would be done "in the context of [DOE's] Phase II Environmental Impact Analysis."

If DOE is indeed asserting its readiness to do analyses in support of the rulemaking, we must register our concern. We doubt that DOE is ready to perform such analyses at this time. While we should probably await the above-requested information before jumping to conclusions, we feel obliged to note some major gaps in DOE's characterization of the site. Meaningful analyses cannot be done, in our opinion, without good site characterization. Among the apparent gaps in site characterization are those outlined in my January 24, 1991 letter to T. J. Rowland and my May 17, 1992 letter to John Chamberlain (WVDP). We are continuing to look at this question of unresolved site-characterization issues.

We look forward to an eventual NRC determination or rulemaking on the WVDP TRU limit—but only when the supporting data is reasonably complete. We see no evidence that that point has been reached.

