



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

September 16, 1997

Mr. Raymond C. Vaughan  
Coalition On West Valley Nuclear Wastes  
Sharp Street  
East Concord, NY 14055

Dear Mr. Vaughan:

I am responding to your letter of July 27, 1997, in which you express concerns regarding U.S. Nuclear Regulatory Commission compliance with the West Valley Demonstration Project (WVDP) Act and the National Environmental Policy Act (NEPA). In particular, I will address your concerns, respectively, regarding decontamination and decommissioning criteria and regarding applicable licensing requirements for disposal of low-level and transuranic wastes. I will also address, specifically, your suggestions that NRC has not been forthcoming regarding what policies, criteria, and regulations apply to West Valley, in accordance with the WVDP Act and NEPA, and your concern that NRC needs to take immediate regulatory authority for certain areas of the WVDP site.

With regard to your concern on decontamination and decommissioning criteria, NRC made a presentation to the Citizen's Task Force (CTF), of which you are a member, on May 20, 1997, describing the NRC staff's intended approach relating to decommissioning West Valley. At the meeting, NRC noted the WVDP Act requires the U.S. Department of Energy (DOE) to decontaminate and decommission certain West Valley facilities "in accordance with such requirements as the Commission may prescribe" and, in this context, expressed staff's intention to apply the Commission's final rule on decommissioning criteria at West Valley. The staff presentation described the then-proposed final rule which was made available to the CTF and publicly approved by the Commission the following day. Although not elaborated on in NRC's May 20 presentation, the Commission's final rule on decommissioning criteria was the product of enhanced participatory rulemaking initiated by NRC in 1992, to specify radiological criteria for the decommissioning of licensed facilities and facilities subject to NRC jurisdiction. Over a two-year period, NRC conducted a series of public workshops and meetings across the country to discuss the scope, issues, and alternative approaches to the rulemaking. The workshops and scoping discussions were used in the preparation of the proposed rule that was published in August 1994 for public comments. More workshops were held and comments on the proposed rule were accepted through January 1995. Therefore, in view of the above and other, relevant interactions with the CTF and members of the public, I strongly disagree with any suggestion that NRC is maintaining an improper veil of privacy regarding its activities relating to West Valley, or that NRC is developing policies, criteria or regulations for West Valley that are less protective than those that would be applicable for other sites.

As indicated during the presentation before the CTF on May 20th, the NRC staff plans to obtain Commission approval regarding its intention to apply the rule on decommissioning criteria and any needed institutional control at West Valley. Subject to Commission review, my staff is planning to provide, in writing, the foregoing NRC position on decommissioning to DOE, the New York State Energy Research and Development Authority (NYSERDA), and the CTF in the fall of 1997. Therefore, it appears that the application of the Commission's final rule on

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R. Vaughan

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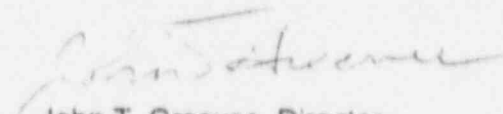
decommissioning criteria to West Valley can be a consideration in the ongoing West Valley Environmental Impact Statement process being conducted by DOE and NYSERDA (to which NRC is a cooperating federal agency).

In regard to your concern about applicable licensing requirements for low-level and transuranic waste disposal, NRC has previously provided its position to DOE in the context of disposal of wastes contaminated with transuranic radionuclides. As stated in the letter from Malcolm Knapp, NRC, to Willis Bixby, DOE, dated August 18, 1987, NRC believes that DOE should evaluate the disposal of low-level waste, regardless of its radionuclide content, against the performance objectives of 10 CFR Part 61.

As to your concern relating to immediate regulatory action by NRC, the information available to me does not indicate that NRC must take immediate steps to establish formal regulatory authority for the North Plateau plume, main plant cells and any other facilities or properties which are not used in conducting the project. DOE is adequately maintaining the North Plateau plume and, according to information available to us, all other facilities and properties within the project premises. There is no condition that presents an immediate threat to public health and safety, and we believe that DOE is capably performing its responsibility to maintain the project premises under the present structure. There remains the question of the remediation of the facilities and properties within the project premises including the North Plateau plume. In general, DOE is responsible for any remediation needed to complete the project, and NYSERDA is responsible to apply for any licensing action needed for the safe repossession of the project premises after the project is completed. As you know, the NEPA process currently being conducted by DOE and NYSERDA is addressing relevant remediation issues.

I trust you will find this letter responsive to your concerns. Further, NRC will continue to make every reasonable effort to carry out its West Valley activities in a forthcoming manner and in accordance with the WVDP Act and NEPA, and to ensure that the project premises are being adequately controlled and monitored.

Sincerely,

  
John T. Greeves, Director  
Division of Waste Management  
Office of Nuclear Material Safety  
and Safeguards

cc: T. Rowland, DOE  
R. Tormey, DOE  
P. Piciulo, NYSERDA  
H. Brodie, NYSERDA  
J. Krajewski, DEC  
CTF

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John T. Greeves, Director  
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Office of Nuclear Material Safety  
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cc: T. Rowland, DOE      P. Piculo, NYSERDA      H. Brodie, NYSERDA  
R. Tormey, DOE      J. Krajewski, DEC      CTF

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To conclude, I trust you will find this letter responsive to your concerns. Further, NRC will continue to make every reasonable effort to carry out its West Valley activities in a forthcoming manner and in accordance with the WVDP Act and NEPA, and is ensuring that the project premises are being adequately controlled and monitored.

Sincerely,

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Office of Nuclear Material Safety  
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[Original signed by]  
John T. Greeves, Director  
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Office of Nuclear Material Safety  
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cc: T. Rowland, DOE      P. Piccolo, NYSERDA      H. Brodie, NYSERDA  
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