



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

October 2, 1997

CHAIRMAN

Mr. Carl Lischeske, Manager
Low-Level Radioactive Waste Program
California Department of Health Services
714/744 P Street
Sacramento, California 94234-7320

Dear Mr. Lischeske:

I am responding to your August 12, 1997, letter expressing your concern about a portion of the testimony of Department of the Interior (DOI) Deputy Secretary John Garamendi at the July 22, 1997, hearing of the Senate Committee on Energy and Natural Resources. You indicated that Mr. Garamendi stated that DOI intends to address, as an issue in its supplemental environmental impact statement (SEIS) for the transfer of land from the Federal Government to the State of California, whether the California Department of Health Services (DHS) is capable of monitoring the proposed low-level radioactive waste (LLW) disposal facility at Ward Valley. You state that you are under the impression that the DHS's capability to monitor the Ward Valley LLW facility is part of the Nuclear Regulatory Commission's (NRC) responsibilities for reviewing Agreement State programs and are concerned that DOI may be preparing to reexamine determinations already made by the NRC.

As you suggest, NRC has a continuing responsibility, under section 274 of the Atomic Energy Act, to review an Agreement State's regulatory program to make sure it is compatible with NRC's program for the regulation of similar materials and that it is adequate to protect public health and safety. California has adopted regulations that are compatible with NRC's regulations for land disposal of radioactive waste (10 CFR Part 61). As I indicated in my January 10, 1997, letter to you (copy provided to Secretary Babbitt), the NRC staff has concluded that California has followed NRC licensing guidelines and the standard review plan for acceptance and review of the Ward Valley application, and that the California staff, advisory committees, and supporting contractual staff are well-qualified. Accordingly, while we have not made detailed findings on all the technical issues in this case, we have no reason to believe that public health and safety would not be adequately protected by disposal of LLW at the Ward Valley site. NRC's most recent review of the California Agreement State program was conducted October 21-25, 1996, and included an assessment of the State's plans for regulating the Ward Valley disposal facility. The NRC staff concluded, as a result of that review, that the California program is adequate to protect public health and safety and is compatible with NRC's program.

Whether Mr. Garamendi's testimony reflects an intent to duplicate any of the work normally undertaken by NRC in the course of reviewing an Agreement State program is unclear. The Commission recognizes that DOI has oversight authority for public lands and may determine that it has certain responsibilities under the National Environmental Policy Act when the use of such lands will be changed. As you know, NRC will actively serve as a "commenting agency" on DOI's SEIS and thus will review the draft SEIS and provide comments based on the



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C. Lischeske

-2-

raised in the SEIS. Thus, NRC's views with respect to any overlapping issues will be made known to DOI and we have no reason to believe that DOI will not fully consider our views in developing its final SEIS.

I trust this reply responds to your concerns.

Sincerely,

Shirley Ann Jackson

cc: Deputy Secretary John Garamendi, DOI

TICKET: G970595

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*OGC had no legal objection

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DATE	9/17/97	9/17/97	9/17/97	10/2/97			

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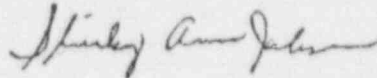
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requirements in Federal law and regulations and our knowledge of policy, technical and legal issues in LLW management. We will also describe our reviews of the California Agreement State program and report our findings, to the extent that this information would address issues raised in the SEIS. Thus, NRC's views with respect to any overlapping issues will be made known to DOI and we have no reason to believe that DOI will not fully consider our views in developing its final SEIS.

I trust this reply responds to your concerns.

Sincerely,

A handwritten signature in cursive script, appearing to read "Shirley Ann Jackson".

Shirley Ann Jackson

cc: Deputy Secretary John Garamendi, DOI

C. Lischeske

-2-

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Shirley Ann Jackson

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C. Lischeske

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I trust this reply responds to your concerns.

Sincerely,

Shirley Ann Jackson

cc: Deputy Secretary John Garamendi, DOI

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