



March 30, 2000

Jack D. Parrott, Project Scientist
Office of Nuclear Material Safety and Safeguards
Mail Stop T-8F37
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Subject: Draft Policy Statement on Decommissioning Criteria for the West Valley Demonstration Project and the West Valley Site

Dear Mr. Parrott:

The New York State Energy Research and Development Authority (NYSERDA) would like to congratulate the Nuclear Regulatory Commission (NRC) on the process that led to the issuance of the Draft Policy Statement. We believe that the Commission's consideration of written comments on the staff papers and particularly the Commission's extensive exchange with key stakeholders at the January 12, 1999 meeting have resulted in substantial policy improvements. NYSERDA is pleased that the Commission has applied the License Termination Rule as the decontamination and decommissioning criteria for the West Valley Demonstration Project and appreciates the Commission's clarification that the same criteria will apply to NYSERDA's license.

We note that selecting the specific criteria to be applied at West Valley from the range of criteria provided in the License Termination Rule is a substantial issue that will require careful scrutiny from the Commission. We agree with the analysis in the Draft Policy Statement to the effect that the Commission can use the environmental impact statement being conducted jointly by the Department of Energy (DOE) and NYSERDA to support NRC's approval of specific criteria at West Valley. We hope and expect that Commission staff will continue to work closely with the DOE and NYSERDA on these issues as planning work continues.

We also note that while SECY 98-251 included application of the "incidental waste criteria" as part of the decontamination and decommissioning criteria for West Valley, the Draft Policy Statement does not. NYSERDA commented extensively on the application of the incidental waste criteria in the January 4, 1999 letter of Paul Picuolo to Chairman Jackson and discussed it at some length during the January 12, 1999 meeting. This is a crucial issue at West Valley as it is at DOE sites like Hanford and Savannah River. We understand that DOE's position is that DOE can reclassify any waste remaining in the West Valley tanks under DOE Order No. 435.1. We do not agree with this position. West Valley is different from sites like Savannah River and Hanford in that West Valley is subject to an NRC license, which is currently held in abeyance. NRC also has the statutorily prescribed role of prescribing decontamination and decommissioning criteria for the West Valley Demonstration Project. We do not believe it would be appropriate at West Valley for DOE to unilaterally reclassify high-level waste as incidental. In SECY 99-232, Commission Staff indicated that "any

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response to DOE regarding incidental waste classification methodology" will be submitted to the Commission for approval. NYSERDA agrees with Commission staff in this regard. If DOE plans to close the tanks in place, the Commission will ultimately have to prescribe, as part of the decommissioning criteria, such criteria as may be necessary and appropriate to reclassify residual waste contained in those tanks.

Finally, NYSERDA believes that two matters discussed in the Draft Policy Statement require some elaboration. The first is the scope of the application of the License Termination Rule at the site. As NYSERDA has previously indicated (see the letter from Paul Piciulo to Chairman Jackson dated January 4, 1999), we believe that any dose criteria must consider the site as a whole. This would include both West Valley Demonstration Project premises and facilities and non-Demonstration Project premises and facilities that are subject to the Part 50 license. As we have previously indicated, we believe that under the West Valley Demonstration Project DOE is responsible for decontaminating and decommissioning all premises and facilities within the 200-acre fence line other than the State-Licensed Disposal Area and the waste disposed of in the Nuclear Regulatory Commission-Licensed Disposal Area prior to commencement of the Project. (See the letter from Hal Brodie to Jeffrey S. Merrifield dated March 1, 1999.) Although the State-Licensed Disposal Area is not subject to the Commission's immediate regulatory jurisdiction, we believe that the source term there must also be considered in any dose criteria. We understand that the Commission is working on a Memorandum of Understanding with the state Department of Environmental Conservation. We believe that memorandum should address this issue.

The second matter that we believe requires further consideration is how the continued existence of the two disposal areas might affect the application of the License Termination Rule to the balance of the site. We reiterate that it appears unlikely that either of the disposal areas will be decommissioned in the near future. (See the letters from F. William Valentino to Chairman Jackson dated April 6, 1999 and from Hal Brodie to Chairman Jackson dated April 15, 1999.) If the balance of the site is to be decommissioned, then the Commission will need to consider the interplay between the License Termination Rule requirements for the decommissioned portion of the site and the dose criteria that will govern the nondecommissioned portion of the site.

Sincerely,

WEST VALLEY SITE MANAGEMENT PROGRAM



Paul L. Piciulo, Ph.D.
Program Director

PLP/ams

cc: Barbara Mazurowski, US.DOE
Paul J. Merges, NYSDEC
CTF Members