



West Valley Citizen Task Force

September 18, 2003

The Honorable J. Dennis Hastert
Speaker of the U.S. House of Representatives
H-232 Capitol Building
Washington, DC 20515-6501

Dear Mr. Speaker:

Recently it has come to our attention that Secretary of the U.S. Department of Energy (DOE) Spencer Abraham wrote you (August 1, 2003) proposing legislation that would make significant changes in laws affecting numerous sites containing highly radioactive waste, including the West Valley Demonstration Project (WVDP) here in West Valley, NY. We are very concerned that his proposed amendment would undermine the original purpose of these laws and jeopardize the future health and safety of citizens living near sites containing highly radioactive waste.

For clarity, the following is an outline of our concerns:

Background

- < DOE would like to change the definition of some high-level radioactive waste to “Waste Incidental to Reprocessing” (WIR), thus removing this dangerous waste from the high-level waste (HLW) category. With that change DOE would not need to fulfill the Nuclear Waste Policy Act requiring burial of high-level radioactive waste in a deep geological repository (presently projected to be Yucca Mountain).
- < DOE has already used the WIR definition in some cases by issuing an internal ruling (DOE Order 435.1), allowing itself to change the definition of waste resulting from reprocessing of irradiated reactor fuel (waste created in extracting material for the defense program). That action provoked the following lawsuit.
- < The Natural Resources Defense Council (NRDC) led the lawsuit for the Snake River Alliance and the Yakima and Shoshone-Bannock Nations, in which four states signed on as friends of the court (Washington, Oregon, Idaho and South Carolina). All but Oregon are hosts to extensive radioactive material on site. Oregon joined the lawsuit because of the Columbia River, a water source for millions of people, and common to both Oregon and the state of Washington.
- < DOE lost the lawsuit (Idaho Federal District Court, July 2, 2003) and was prevented from reclassifying the waste as “incidental” and from leaving a significant amount of radioactive waste in the ground for future generations to deal with.
- < DOE now has proposed legislation that would allow the WIR designation by amending present law (primarily the Nuclear Waste Policy Act and the West Valley Demonstration Project Act).
- < The four states involved in the successful lawsuit wrote Secretary Abraham (August 12, 2003) urging him to change strategy and avoid reopening the Nuclear Waste Policy Act, reiterating an offer to work together (an offer rejected by DOE before the lawsuit proceeded).
- < The NRDC, having recently led that successful lawsuit against the DOE, wrote you (August 19, 2003) pointing out serious discrepancies in several statements made by the Secretary in his rationale for amending current laws.



The West Valley Citizen Task Force (CTF) concurs with the statements made by the NRDC.

Among them:

- < What DOE is proposing is a loophole that would enable it to avoid the original mandate of Congress and permanently abandon “residual” high level waste in corroding tanks at Hanford, Savannah River, INEEL and the WVDP.
- < By declaring high-level waste left in the tanks “incidental” the DOE could dispose of the waste as if it were low-level radioactive waste.
- < Waste left in the tanks is often even more highly radioactive than that which has been removed.
- < What DOE calls “remaining residues” or “low activity” wastes can amount to thousands of gallons of highly radioactive liquid waste nationwide.
- < Once abandoned in storage tanks and filled with grout, the waste would be there for thousands of years, long after DOE or any other governmental authority has disappeared from the scene.
- < DOE has claimed that by “mathematically averaging” the radioactivity concentration of the waste with that of the concrete-like grout that they would pour on top, the HLW would be less than highly radioactive; however, since there is essentially no mixing of the HLW, there is no dilution of the HLW to make it “low-activity.”
- < The concept of disposal by dilution of the nation’s most highly radioactive waste was discarded thirty years ago. In general, environmental experts and regulators have rejected the idea that “dilution is the solution to pollution.”

The West Valley Scene

- < Although West Valley does not have as many buried tanks containing residual high-level waste as Washington, South Carolina, or Idaho, the HLW problem at the WVDP is sufficiently large to be a major public concern (and large enough that DOE added West Valley to the proposed legislative amendment, even though West Valley was not part of the lawsuit).
- < Because of the geology and climate of the area, and proximity to the Great Lakes which supply water for millions of people, the West Valley area was long ago declared unsuitable even for storage of low-level waste.
- < The waste at the West Valley site is a mixture of commercial and defense/weapons waste and, regardless of the source, is still high-level waste.
- < If DOE is allowed to reclassify the waste, it will not be required to assure the isolation necessary for such high-level waste and could leave several sites severely contaminated, including the West Valley site, jeopardizing the Great Lakes and the water supply of millions of people.
- < If the proposed legislation were to be approved, several laws would be amended that were written to protect the health and safety of the environment and the people therein.
- < As the NRDC letter points out, current law is sufficient for DOE to do its job. A change in the laws would give undue free rein to DOE, along with the U.S. Nuclear Regulatory Commission (NRC), to override the Nuclear Waste Policy Act as well as the WVDP Act.
- < DOE says in the proposed amendment: “High-level radioactive waste does not include radioactive materials resulting from the reprocessing of irradiated reactor fuel (including wastes commingled or contaminated with such materials)” Under that change in the law, the Secretary of Energy, in consultation with the NRC, will determine what is considered to be HLW. This would make the Secretary of Energy the ultimate decision-maker on radioactive waste, and it is totally unacceptable.

We urge you to reject this amendment to existing law. Adoption of this change in the law will complicate, not resolve, the outstanding legal, health, safety and policy issues raised in the NRDC case and similar local West Valley cases that may be brought.

N.B.

The CTF has been in existence since early 1997. We deal not only with the HLW that is the subject of this letter, but also with a great deal of other waste that remains on the West Valley site, including waste in the burial grounds and the old reprocessing plant.

For six and a half years the volunteer members of the CTF have come together, often for two evening meetings a month, to learn about the site and advise site managers from the DOE and New York State Energy Research and Development Authority (NYSERDA) in making decisions for decommissioning and decontamination of the Project facilities.

Since the WVDP was begun as a result of congressional legislation in 1980, the site is run according to