

West Valley
Citizen
Task
Force

April 17, 2002

Richard A. Meserve, Chairman
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

RE: Disagreements With the Final Policy Statement Establishing Decommissioning Criteria
for the West Valley Demonstration Project

Dear Chairman Meserve:

In verbal testimony given at the public briefing on January 12, 1999, and in written comments dated December 22, 1998, and January 5, 2000, the West Valley Citizen Task Force (CTF) expressed general agreement with the U.S. Nuclear Regulatory Commission's (NRC) application of the License Termination Rule (LTR) as the decommissioning criteria for the West Valley Demonstration Project (WVDP). However, the CTF specifically detailed numerous objections we had with earlier wording and provisions in the draft policy statements which would have: 1) delayed NRC's prescription of definitive decommissioning criteria until after the current West Valley Environmental Impact Statement (EIS) process was completed; 2) allowed residual high level waste (HLW) at the site to be classified as incidental waste; and 3) allowed the U.S. Department of Energy (DOE) to depart from the LTR standards if they simply developed a rationale indicating that a particular cleanup alternative was considered technically infeasible or prohibitively costly. We clearly urged the NRC to reject any such approach and we were guardedly optimistic that the final policy statement would incorporate our recommendations and fulfill the NRC's obligation to prescribe a definitive set of criteria for decommissioning at the West Valley site, near the WVDP.

We question whether the WVDP Act authorizes the NRC to establish incidental waste determination criteria for the Project. We are increasingly concerned about revised DOE plans to accelerate decommissioning activities when the respective long-term responsibilities of the federal and state governments in the clean up and monitoring of the West Valley site have not yet been established. The CTF, therefore, necessarily opposes any actions which serve to facilitate premature withdrawal of DOE from the Project before all WVDP Act and National Environmental Policy Act (NEPA) obligations are fulfilled. Consequently, we request clarification of the Commission's authority for providing incidental waste determination criteria for West Valley, and documentation of any procedural or public participatory requirements which normally might apply to such an action.

In addition, we request formal definitions of "engineered barriers" and "institutional controls" (ICs) as they relate to the LTR and EIS analyses. As the NRC has previously acknowledged, the West Valley site presents unusual challenges should long-term ICs need to be relied upon as part of the preferred alternative for the site. The Commission indicates in the Policy Statement that it need not conduct site-specific environmental review even though the generic EIS supporting the LTR requires that NRC

...conduct an independent environmental review for each site-specific decommissioning decision where long-term restrictions on ICs are relied upon for the purpose. Whether the NRC can conduct an independent

