

October 18, 2000

Mr. Andrew R Grainger
NEPA Compliance Office
Evaluation and Performance Division
Department of Energy
Savannah River Operations office
P.O. Box A
Aiken, South Carolina 29802

RE: State of Nevada Comments -- Draft Environmental Assessment (EA) for the Offsite Transportation of Certain Low-Level and Mixed Radioactive Waste from the Savannah River Site for Treatment and Disposal at Commercial and Government Facilities (DOE/EA-1308)

Dear Mr. Grainger

The State of Nevada appreciates the opportunity to comment on the above referenced Draft Environmental Assessment (EA). The EA assess the potential environmental impacts of shipping approximately 4.8 million cubic feet (136,000 cubic meters) of low level radioactive waste (LLW) and mixed low level radioactive waste (MLLW) from DOE's Savannah River Site (SRS) to one or more offsite commercial and/or government sites for treatment and disposal. According to the EA, DOE is proposing this action because treatment and disposal capabilities for these wastes do not exist at SRS and/or it would be more beneficial for DOE to dispose of these wastes at another location.

General Comments:

It is most disturbing that, as part of the Proposed Action, the EA assumes that LLW and MLLW would be transported by rail to Las Vegas, where it would be transferred from rail cars to trucks for the rest of the trip to the Nevada Test Site (NTS). The State of Nevada, Clark County, the City of Las Vegas, the City of North Las Vegas, the City of Henderson, and Boulder City are all on record strongly opposing shipments of LLW through the Clark County/Las Vegas metropolitan area. This is one of the most heavily urbanized area in the country and is characterized by significant traffic congestion and high population densities. The Las Vegas area is also especially vulnerable to severe impact to its tourism-based economy in the event of accidents or incidents involving radioactive materials. (Over 20 million

tourists visit Las Vegas each year.)

Over the past 3 years, the State of Nevada has worked closely with NTS officials to identify alternative highway routes for LLW to NTS that avoid the Las Vegas Valley. NTS, in turn, has worked successfully with other DOE waste generator sites to require that these alternative routes be used. The State strongly objects to and will actively oppose any proposal that would require the intermodal transfer of LLW and MLLW in Las Vegas or elsewhere in Nevada.

The fact that this matter has, again, arisen in the context of an EA produced by a potential NTS waste generator site is renewed evidence of the need for a complex-wide understanding of and policy for transportation requirements that will apply to the disposal of any LLW and MLLW at the NTS.

Specific Comments:

The State of Nevada's review of the referenced EA suggests that DOE should not issue a Finding of No Significant Impact (FONSI) for the proposed actions as currently defined. In fact, we strongly suggest that DOE withdraw the EA as written. In addition, if DOE officials believe the proposed actions are indeed necessary, then we contend that a new [Programmatic] EA and/or an Environmental Impact Statement (EIS) be prepared.

DOE officials have suggested that treatment and disposal operations for LLW and MLLW at government facilities other than at SRS are beyond the scope of the EA. It is further stated that government facilities, where treatment and disposal might occur, are separately covered through appropriate National Environmental Policy Act (NEPA) documentation (EA page 6). However, no evidence is offered to support these statements. It must be recognized that DOE is legally obligated to identify a range of actions, alternatives, and impacts to be considered for every major federal action affecting the quality of the human and natural environment. The EA simply does not meet this basic legal requirement.

We note that NEPA compliance for expanded disposal actions at the Nevada Test Site (NTS) and the Hanford Site are not specifically addressed in the document. We believe acceptance of new LLW streams at the Hanford site will require completion of a new Site-Wide EIS. As for the NTS, additional NEPA documentation would be required for any transportation alternatives involving rail services. (Rail access to NTS is non-existent and, while DOE has attempted to "study" the intermodal [rail -to - truck] shipping concept, no formal NEPA documentation has been processed to date).

In reference to MLLW, an evaluation of potential complex-wide treatment alternatives -- approved under the Federal Facilities Compliance Act -- is missing from the document. The document should contain a regulatory assessment of potential treatment alternatives currently available through Federal Facility Compliance Act (FFCA) approved Site Treatment Plans that were negotiated between the States and DOE. As for MLLW disposal, DOE's Nevada Operations office (DOE/NV) has yet to

acquire a Resource Conservation and Recovery Act (RCRA) Part B permit to operate a MLLW disposal facility on the NTS. (We do acknowledge, however, that DOE/NV is developing a permit application for the development of such a facility.)

Given the complexities associated with assessing alternatives for treatment and disposal of the referenced LLW and MLLW streams at SRS, Nevada officials strongly suggest that DOE initiate a broad based NEPA scoping process (as per CEQ 40 CFR . 1508.25). The public scoping requirements prescribed under NEPA should be followed to fully identify the range of actions, alternatives, and impacts for the treatment and disposal of the referenced waste streams. Because DOE failed to initiate a scoping process for disposition of the referenced waste streams, SRS officials were unable to identify a path forward for the treatment and disposition of the wastes identified in the EA. This is simply not acceptable.

DOE must specifically define and assess the treatment alternatives for LLW and MLLW that would be conducted in the DOE complex [including the Savannah River Site] and/or at a commercial facility. Specifically, the identification and selection of potential onsite and offsite treatment and disposal alternatives is a DOE complex-wide responsibility that must be coordinated at the DOE headquarters level. The decision to select a given treatment alternative or disposal option at a given DOE site or at a commercial facility is not a responsibility that can be delegated to a “vendor” -- as indicated in the EA. While vendors may be responsible for certain federal, state, and local licenses and permits (i.e., for “managing” radioactive waste streams), they cannot be authorized ownership and control of DOE wastes. We contend that cradle to grave management of defense waste is a federal responsibility. This is particularly critical when final disposal of those wastes occur at a federal site like the NTS.

If DOE does decide to relinquish ownership and control of a given waste stream to a commercial vendor for treatment, then the given waste stream may well be deemed ineligible for disposal at a DOE facility. The State of Nevada would protest acceptance of a defense LLW at the NTS for disposal if the waste were in the sole control and ownership of a private vendor. And if the waste were mixed, we would refuse acceptance. We believe the State of Washington may well take the same position.

Throughout the EA, continual references are made to Beatty, Nevada as the destination for LLW and MLLW from SRS. Beatty is not on the Nevada Test Site. While there was a commercial LLW disposal facility located at Beatty, that site is closed, and under no circumstances would the State of Nevada allow any further disposal of LLW at Beatty. (Beatty is a State of Nevada owned and controlled facility.) The referenced EA appears to suggest that Beatty is an active LLW disposal site for both LLW and MLLW. This is simply not the case. Beatty has been closed to LLW disposal since 1992.

The assumption that waste can be shipped via rail to Las Vegas, Nevada, offloaded, and then trucked to NTS is faulty. This assumption underlies all of the transportation analyses reported in the EA.

Under existing understandings between the State of Nevada and DOE, no intermodal transfer of LLW or MLLW is contemplated in Las Vegas or elsewhere in Nevada, and all shipments of LLW and MLLW destined for disposal at NTS must be shipped on highway routes that avoid the Las Vegas Valley.

Again, the State's review of the referenced EA suggests that a FONSI should not be issued. If DOE officials believe the proposed actions defined in the EA are indeed necessary and must be pursued, we strongly believe that a new "Programmatic" EA and/or an Environmental Impact Statement (EIS) be prepared .

If you have any questions please feel free to contact me or the State of Nevada regulators at the Nevada Division of Environmental Protection - Paul Liebendorfer, Karen Beckley, or John Walker at (775 687-4670 ex 3039, 3033, or 3027 respectively) .

Sincerely

Robert R. Loux
Executive Director

JBW/RRL

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