

NYSERDA

New York State Energy Research and Development Authority

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August 4, 2006

Dale E. Klein, Chairman
U.S. Nuclear Regulatory Commission
11555 Rockville Pike
Rockville, MD 20852

Dear Chairman Klein:

SUBJECT: NYSERDA Requests Revision of West Valley Policy Statement

The New York State Energy Research and Development Authority (NYSERDA) has recently completed our review of *NUREG-1854, Standard Review Plan for Activities Related to U.S. Department of Energy Waste Determinations, Draft Report for Interim Use and Comment (SRP)*. We commend the U.S. Nuclear Regulatory Commission (NRC or Commission) staff for having produced a high quality document that provides for a thorough and technically sound review of U.S. Department of Energy (DOE) W...

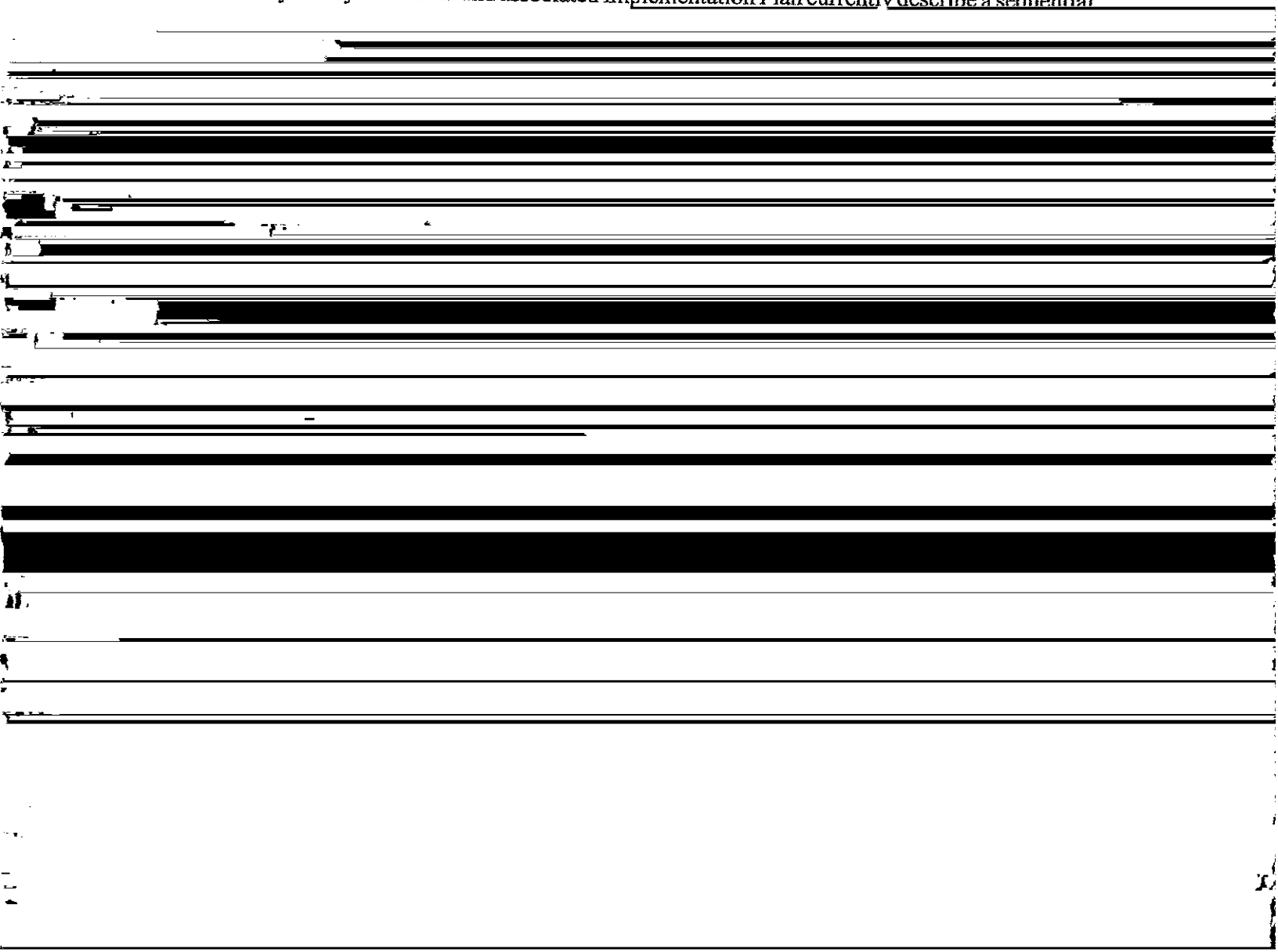
The HLRW tanks in the states of South Carolina and Idaho are located on federally-owned land for which the federal government will be responsible in perpetuity. Under the NDAA, any residues in those tanks must be disposed of in compliance with the performance objectives in 10 CFR Part 61, Subpart C. The HLRW tanks at West Valley are located on state-owned land for which the federal government denies any long-term maintenance responsibility. Yet, under the West Valley Policy Statement, residues in those tanks only need to be “. . . managed so safety requirements comparable to the performance objective in 10 CFR Part 61, Subpart C, are satisfied.” NYSERDA requests that the “comparable” standard in the West Valley Policy Statement be replaced with a “compliance” standard. NYSERDA believes that the residents of New York State should be provided a compliance-based safety standard that is at least as stringent as that being applied to protect the residents of other states.

Chairman Klein
Page 3
August 4, 2006

Section 3(b)(1)(D) of the Low Level Radioactive Waste Policy Amendments Act (LLRWPA) provides that the federal government is responsible for disposal of GTCC waste. This determination is critical to decide whether the tank waste can remain on State-owned property and to ascertain stewardship responsibilities that would be integral to any decision concerning the waste if it remains at the West Valley site. Moreover, the LLRWPA provides that all such GTCC waste be disposed of in a facility licensed by the NRC. Properly characterizing this waste would be essential to determining the appropriate licensing requirements.

Concurrent NRC Determinations Under AEA and WVDP Act Authorities

The West Valley Policy Statement and associated Implementation Plan currently describe a sequential



Chairman Klein

Page 4

August 4, 2006

U.S. Senator Charles Schumer
U.S. Representative Brian M. Higgins
U.S. Representative John R. Kuhl, Jr.
U.S. Representative Thomas R. Reynolds
U.S. Representative Louise M. Slaughter
Governor George E. Pataki
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