

NYSERDA **New York State Energy Research and Development Authority**

Vincent A. DeIorio, Esq., *Chairman*

Paul D. Tonko, *President and CEO*

Toll Free: 1 (866) NYSERDA

www.nysesda.org • info@nysesda.org

September 17, 2007

James L. Joyce
Document Manager
Office of Regulatory Compliance (EM-10)
U.S. Department of Energy
10000 Independence Avenue, S.W.
Washington, DC 20585-0119

Dear Mr. Joyce:

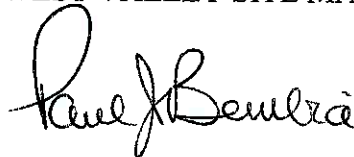
SUBJECT: NYSERDA Comments on *Notice of Intent To Prepare an Environmental Impact Statement for the Disposal of Greater-Than-Class-C Low-Level Radioactive Waste, 72 FR 40135 (July 23, 2007)*

The New York State Energy Research and Development Authority (NYSERDA) is providing the attached comments on the Department of Energy's (DOE) *Notice of Intent To Prepare an Environmental Impact Statement (EIS) for the Disposal of Greater-Than-Class-C Low-Level Radioactive Waste (GTCC LLW), 72 FR 40135 (July 23, 2007)*. NYSERDA respectfully requests that the attached comments be taken into consideration when DOE defines the scope of this EIS.

If you have any questions regarding the attached comments, please contact me at (716) 942-9960 extension 4900.

Sincerely,

WEST VALLEY SITE MANAGEMENT PROGRAM



Paul J. Bembia, Acting Director

CLG/amd

Attachment: *NYSERDA Comments on "Notice of Intent To Prepare an Environmental Impact Statement for the Disposal of Greater-Than-Class-C Low-Level Radioactive Waste, 72 FR 40135 (July 23, 2007)"*

PJB/07amd038.clg

Main Office
Albany
17 Columbia Circle
Albany, NY 12203-6399
Toll Free: 1 (866) NYSERDA
Phone: (518) 862-1090
Fax: (518) 862-1091

West Valley Site
Management Program
10282 Rock Springs Road
West Valley, NY 14171-9799
Phone: (716) 942-9960
Fax: (716) 942-9961

New York City
485 Seventh Ave., Suite 1006
New York, NY 10018
Phone: (212) 971-5342
Fax: (212) 971-5349

Buffalo
Larkin at Exchange Building
726 Exchange Street, Suite 821
Buffalo, New York 14210
Phone: (716) 842-1522
Fax: (716) 842-0156

Messr. James L. Joyce

Page 2

September 17, 2007

cc: H. Brodie, NYSERDA-Alb (w/att.)
J. P. Spath, NYSERDA-Alb (w/att.)
P. L. Piciulo, NYSERDA-WV (w/att.)
A. L. Peterson, NYSERDA-Alb (w/att.)
C. L. Gerwitz, NYSERDA-Alb (w/att.)
B. Youngberg, NYSDEC (w/att.)
File #60501-06 (w/att.)

NYSERDA Comments on
Notice of Intent To Prepare an Environmental Impact Statement for the Disposal of Greater-Than-Class-C Low-Level Radioactive Waste, 72 FR 40135 (July 23, 2007)

1. NYSERDA is supportive of DOE's efforts to fulfill its statutory obligation to dispose of GTCC LLW. Identification of disposal options and, ultimately, the establishment of disposal capability for GTCC waste serves New York State's and our nation's interests. We look forward to continued opportunities to be involved in this important effort.
2. DOE refers to "GTCC-like" waste in the Notice of Intent (NOI) and describes this waste as "...DOE LLW and transuranic waste having characteristics similar to GTCC LLW and which may not have an identified path to disposal." In addition, DOE states, "The use of the term 'GTCC-like' does not have the intent or effect of creating a new classification of radioactive waste." NYSERDA requests that DOE provide further explanation and/or definition for "GTCC-like" wastes and a clear basis for what will and will not be considered "GTCC-like." For example: Are "GTCC-like" wastes defined strictly by concentration in accordance with Part 61 or by concentration and source? Will "GTCC-like" wastes include high-level waste that has been reclassified by DOE as waste incidental to reprocessing (WIR)? Will all DOE generated non-defense TRU wastes or mixed defense and non-defense TRU wastes be classified at "GTCC-like" wastes?
3. The estimated quantities of GTCC and GTCC-like wastes which DOE intends to analyze in the proposed EIS are the subject of a July 2007 report entitled *Greater-Than-Class C Low-Level Radioactive Waste Inventory Estimates* (GTCC Inventory Report). This GTCC Inventory Report, which is referenced in the NOI, indicates that wastes from New York State, specifically West Valley wastes, make-up a significant percentage of GTCC-like wastes that are currently in storage (*i.e.*, 66.9% by volume and 79.3% by activity). According to the GTCC Inventory Report, 669 m³ of TRU waste is currently in storage at West Valley. This current inventory estimate seems high in comparison to the 760 m³ of GTCC-like wastes that are projected to be generated as a result of site decommissioning activities. NYSERDA requests that DOE verify the accuracy of the current TRU waste inventory, and that the supporting details and assumptions underlying this stored waste inventory estimate be provided to NYSERDA and other interested parties.
4. The GTCC Inventory Report provides projected inventory estimates for DOE GTCC-like waste from specific activities or facilities at the West Valley site, including Process Plant Demolition, Tank 8D-1 and the STS columns, Tanks 8D-2 and 8D-4, Remote-Handled Waste Facility operations and TRU waste from various D&D projects. Since a decommissioning end-state for the West Valley site has not yet been decided and is the subject of an ongoing draft EIS, it is unclear why the GTCC Inventory Report did not include a range of GTCC, GTCC-like, and/or TRU waste volume estimates corresponding to the various decommissioning alternatives being evaluated in the West Valley decommissioning EIS. NYSERDA requests that DOE provide NYSERDA and other interested stakeholders with information regarding the decommissioning end-state assumptions associated with inventory estimates in the GTCC Inventory Report, and then update the report to include the full volume and activity of GTCC, GTCC-like, and/or TRU waste that would be generated if the West Valley site were decommissioned to unrestricted release standards. Specifically, NYSERDA requests that this GTCC EIS be scoped to include adequate capacity to facilitate removal of contaminated above-grade facilities and removal of below-grade contamination, such as the HLW tanks, the NRC-

licensed disposal area, the State-licensed disposal area, the below-grade portions of the Process Plant and Vitrification Facility, and the portion of the north plateau plume soils that may be GTCC wastes upon exhumation.

5. While NYSERDA is supportive of DOE's effort to create disposal capacity for GTCC wastes, we believe that West Valley TRU wastes are defense wastes and should be disposed of at WIPP. Approximately 60% of the spent nuclear fuel that was processed at West Valley originated from the N-Reactor at Hanford as part of the defense program and thus the wastes originating from West Valley are mixed defense and non-defense wastes. We encourage DOE to acknowledge that West Valley wastes are defense wastes and include West Valley among the list of WIPP generators so the West Valley Demonstration Project can be completed regardless of the outcome and timing of this GTCC disposal siting initiative.
6. The GTCC Inventory Report indicates that the projected inventory from Tank 8D-1 and the STS columns will not be a mixed waste. NYSERDA requests that the basis for this non-mixed waste assumption be provided to NYSERDA and other interested parties.