



## Department of Energy

Washington, DC 20585

January 13, 2017

The Honorable Brian Higgins  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Congressman Higgins:

Thank you for your October 28, 2016, letter to Secretary Moniz regarding your support for the comments recently submitted by the New York State Energy Research and Development Authority (NYSERDA) in response to the Department's *Invitation for Public Comment to Inform the Design of A Consent-Based Siting Process for Nuclear Waste Storage and Disposal Facilities* (80 FR 79872, Dec. 23, 2015). NYSEDA's comments provide the basis for New York State's position that high-level radioactive waste (HLW) at the West Valley Demonstration Project should be sent to a defense waste repository, should one be licensed and operated. While this position raises issues beyond the scope of the Invitation for Public Comment—which sought input from communities, states, Tribes, and other interested stakeholders on how to design a consent-based siting process—your letter and NYSEDA's comment identify important questions about the disposition of the West Valley HLW.

Since the 1980's, the Department has planned to dispose of all HLW in a common repository alongside civilian and defense SNF. However, circumstances have changed significantly over the years and there is now a need for options and flexibility when planning for the disposal of HLW. Since the Cold War is over and the United States is no longer generating defense HLW, a known quantity of such HLW now exists in different forms that are largely defined, thereby opening up opportunities to look at separate disposal pathways for these waste forms. Some forms are less radioactive, cooler, and easier to handle than commercial spent nuclear fuel, which could permit the disposal of such HLW in a separate repository with a simpler design and potentially fewer licensing and transportation issues than a common repository. Separate disposal of HLW could also allow greater flexibility in site selection – and that could help keep costs down.

In March 2015, after a thorough review of the changed circumstances, the President authorized the Department to move forward with planning for a separate repository for HLW resulting from atomic energy defense activities, consistent with the Nuclear Waste Policy Act of 1982, as amended. This decision recognized that the path to a common repository has been significantly more controversial, costly and delayed than was anticipated in the 1980's and that this history highlights the need for, and the merits of, investigating multiple options.

Given the relatively homogeneous nature of vitrified HLW, we recognize that there may be considerable merit in disposing of the West Valley HLW and defense HLW in the same repository. Of course, to reach such a decision there are a number of complex legal and policy issues that would need to be resolved first. We do believe such a conversation is timely and would welcome a dialogue with the State of New York and other interested parties with respect to the potential disposal of the West Valley HLW in a defense waste repository.



If you have any questions, please contact me or Ms. Shari Davenport, Chief Operating Officer for Congressional and Intergovernmental Affairs, at (202) 586-5450.

Sincerely,

A handwritten signature in black ink, appearing to read "Raymond Furstenu". The signature is fluid and cursive, with a prominent initial "R".

Raymond Furstenu  
Acting Assistant Secretary  
for Nuclear Energy

cc:

New York State Energy Research and Development Authority