

DOE/IG-0462

AUDIT  
REPORT

NATIONAL LOW-LEVEL WASTE  
MANAGEMENT PROGRAM



FEBRUARY 2000

U.S. DEPARTMENT OF ENERGY  
OFFICE OF INSPECTOR GENERAL  
OFFICE OF AUDIT SERVICES

February 24, 2000

MEMORANDUM FOR THE SECRETARY

FROM: Gregory H. Friedman (Signed)  
Inspector General

SUBJECT: INFORMATION: Audit Report on "National Low-Level Waste Management Program"

BACKGROUND

Under the Low-Level Radioactive Waste Policy Act of 1980 (Act), States were responsible for providing for disposal of commercial low-level radioactive waste. They were encouraged to enter into compacts to facilitate the development of new disposal sites. The Department of Energy (Department) was required to provide technical assistance to support States and compact regions in developing such facilities. In 1990, the Department was also directed by the Congress to provide assistance in establishing an independent, self-directed association through which States and compact regions could accomplish low-level waste disposal objectives.

Since 1982, the Department has spent over \$80 million to provide technical assistance to States and compact regions. The Department has provided \$5.4 million, since 1990, to fund the Low-Level Radioactive Waste Forum, an independent association for information exchange between State and compact officials.

Pursuant to a request from an official in the National Low-Level Waste Management Program, the Office of Inspector General reviewed the program to determine whether the assistance provided to States and compact regions supports the development of low-level waste disposal facilities.

RESULTS OF AUDIT

The Low-Level Waste Program, as envisioned by the Congress in 1980, has not come to fruition:

- No permanent disposal site has been developed by the States and compact regions,
- As traditional disposal efforts have stalled in every State and compact region, there has been a growing interest in pursuing alternative waste management techniques, and
- The Department provided assistance to States that was not fully consistent with the Act's objectives, in an attempt to adapt to the circumstances facing the National Low-Level Waste Management Program.

In response to State requests, the Department shifted the emphasis of its technical assistance from developing permanent disposal facilities to assured isolation of low-level waste. In assured isolation, the waste is stored in temporary aboveground facilities and is easily retrievable. The Nuclear Regulatory Commission has stated that assured isolation, by its nature, can only be considered temporary storage. This is in contrast to the permanent disposal objectives of the Act. As such, there is some question as to whether the technical assistance provided by the Department is consistent with congressional intent.

The audit further disclosed that the Department has provided assistance to the Radioactive Waste Forum beyond the duration envisioned by the Congress. The Department's role was limited to providing initial funding for Forum activities until the States and compacts could develop independent means of financing. Yet, the States and compacts have not provided any funds for Forum activities despite annual financial sponsorship by the Department. This indicates that the States and compacts do not consider the Waste Forum a priority. Continued Federal funding of the Forum at current rates through Fiscal Year 2006 is expected to cost \$4.6 million.

In conducting this audit, the Office of Inspector General recognizes that issues associated with the storage and disposal of commercial low-level waste are complex. We also understand the Department's sensitivity to the interests of its stakeholders, including the States. Recognizing these issues in the context of our concern that Federal taxpayer funds be appropriately expended, we recommended that the Assistant Secretary for Environmental Management clarify the intent of the Congress regarding the expenditure of funds in developing storage sites. We also recommended that the Department discontinue funding for the Forum and technical assistance until clarification is obtained. We noted that Congress did not provide funding for Forum activities or for the technical assistance program in Fiscal Year 2000. We were informed that Environmental Management, as a consequence, is considering using available Fiscal Year 2000 funding for these activities.

#### MANAGEMENT REACTION

The Assistant Secretary for Environmental Management disagreed with the audit conclusions and recommendations, indicating that most of the substantive issues arose from differing interpretations of the Department and States' duties under the Act. Management also questioned the conclusion in the report regarding assured isolation. Management believes that it is appropriate and legally defensible for the Department to provide technical assistance to States and compact regions on assured isolation, as well as support to States through the grant process for the Low-Level Waste Forum. A more detailed summary of management's comments and our response are included in the Management Reaction and Auditor Comments sections of this report.

cc: Deputy Secretary  
Under Secretary

# The U.S. Department Of Energy's National Low-Level Waste Management Program

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## Overview

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### INTRODUCTION AND OBJECTIVE

The Low-Level Radioactive Waste Policy Act of 1980 (Act), as amended, declared that States were responsible for providing for the disposal of commercial low-level radioactive waste and encouraged States to enter into compacts (interstate agreements) to fulfill this responsibility. Ten compact regions consisting of 44 States were formed and approved by the Congress. The six other States remained unaffiliated with any compact.

Under the Act, the Department was required to provide States and compact regions with technical assistance to support them in fulfilling their responsibilities to develop new low-level waste disposal facilities. To carry out its responsibility, the Department's Office of Environmental Management assigned this effort to the National Low-Level Waste Management Program (National Program) at the Idaho National Engineering and Environmental Laboratory. The National Program provided technical assistance by holding workshops, fulfilling State requests for specific assistance, developing technical documents, distributing general information on low-level waste, and providing technical coordination for organization conferences. Since 1982, the Department has spent over \$80 million to provide States and compact regions various types of technical assistance.

In 1990, the Department was also directed by the Congress to provide organizational assistance in establishing an independent, self-directed association through which States and compacts could accomplish their site disposal objectives. The Department was to initially fund an association until the States could develop a means for independent funding. A 3-year grant was used to provide this funding for the Low-Level Radioactive Waste Forum (Forum). The Forum consists of State and compact officials appointed to exchange information related to the development of new waste sites. As of December 1999, the Forum has received \$5.4 million from the Department with no funds provided by the States or compact regions.

Pursuant to a request from an official of the National Program, the Office of Inspector General reviewed the program to determine whether the assistance provided to States and compact regions supported the development of low-level waste disposal facilities.

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## **CONCLUSIONS AND OBSERVATIONS**

The assistance provided by the Department to States and compact regions did not fully support the development of low-level waste disposal facilities. Specifically, the Department funded assistance to States and compact regions for alternative waste management methods, such as storing low-level waste, which were not covered by the Act. In addition, the Department continued to finance Forum activities beyond the initial funding responsibilities envisioned by Congress.

Although traditional disposal efforts have stalled in every State and compact region, there has been a growing interest from several States in pursuing alternative management techniques to traditional disposal. Initial efforts by States and compact regions to build disposal facilities incurred numerous barriers that hindered progress, including public and legislative opposition. Also, because existing disposal capacity was available, there was little incentive for States or compact regions to establish new waste disposal facilities. By the beginning of 1997, all unaffiliated States had stopped their waste disposal siting efforts. In early 1999, all compact States had stopped further progress on their disposal siting efforts. As of October 1999, no disposal facilities for commercial low-level radioactive waste had been developed or built.

Starting in 1996, the Department shifted its technical assistance from developing low-level waste disposal facilities to providing assistance to States and compact regions on assured isolation as a low-level radioactive waste management technique. In assured isolation, the waste remains available for inspection and easily retrievable in temporary aboveground storage facilities. However, the assured isolation concept does not meet the purpose and intent of the Act, which required waste to be placed in permanent isolation. The Nuclear Regulatory Commission (NRC) has stated that assured isolation, by its very nature, could only be considered a temporary facility.

Despite the position of the NRC, the Department's National Program Office has provided funding for assured isolation. Specifically, it has published five reports for various States on the cost and use of this alternative to permanent disposal. In total, the Department has spent \$9.1 million since 1997 on this program, including funding for studies on assured isolation. Additionally, the National Program's life-cycle cost plan estimated that approximately \$22 million would be spent through Fiscal Year 2006 to provide assistance to States, including assured isolation technical assistance.

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The Department has also provided organizational assistance to the States beyond its responsibilities stipulated by the Congress. The Department was only to provide initial funding for Forum activities until the States and compacts could develop an independent means of financing. However, the Forum has relied on the Department for 100 percent of its funding. Grant funding has grown from about \$395,000 in 1990 to about \$657,000 in 1999. The State and compact membership has not provided funds for any of the Forum's initiatives. This indicates to us that the Forum is not a State nor compact priority.

The Congress did not provide funding in Fiscal Year 2000 for the technical assistance program or Forum activities, except for funds to maintain Federal databases on waste disposal information. The Assistant Secretary for Environmental Management should clarify with appropriate congressional committees the intent of the Congress regarding the expenditure of funds in developing storage sites prior to authorizing additional work in this area. Furthermore, the Assistant Secretary should discontinue funding for technical assistance not related to permanent disposal until clarification is obtained.

Management should consider the issues discussed in this report when preparing the yearend assurance memorandum on internal controls.

(Signed)

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Office of Inspector General

## **Departmental Support For Waste Disposal Facilities**

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### **Technical Assistance Requirements**

The Department's responsibilities to provide technical assistance to States and compact regions were established in the Low-Level Radioactive Waste Policy Act, as amended. The Act stated that the Department shall provide technical assistance including, but not limited to, the following:

- 1) technical guidelines for site selection;
- 2) alternative technologies for low-level radioactive waste disposal;
- 3) volume reduction options;
- 4) management techniques to reduce low-level waste generation;
- 5) transportation practices for shipment of low-level wastes;
- 6) health and safety considerations in the storage, shipment, and disposal of low-level radioactive wastes; and
- 7) establishment of a computerized database to monitor the management of low-level radioactive waste.

The Senate Energy Committee report accompanying this Act described the types of activities for which the Department was responsible. It stated that these responsibilities included continued technical assistance to States and compact regions for the development of new low-level radioactive waste **disposal facilities** (emphasis added). Disposal was defined as the "permanent isolation" of low-level waste.

### **Technical Assistance For Temporary Storage**

Despite the Act's requirement, the Department provided technical assistance to States and compact regions for alternative methods of storing low-level waste that were not considered permanent disposal technologies. Since 1996 the Department has provided technical assistance for a new concept to manage low-level waste termed "assured isolation."

The Department's National Program described assured isolation as an alternative approach to safe, long-term management of low-level waste. Assured isolation offers an alternative to permanent underground disposal whereby the facility can be physically inspected, monitored, and maintained for many years. The Idaho Operations Office reported that as many as eight States have participated in requests for technical assistance on assured isolation including the issuance of reports and studies from 1995 through 1999.



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In August 1999, the Department issued its latest report comparing low-level waste disposal to assured isolation. The report acknowledged that despite State and compact region endeavors to develop new low-level radioactive waste disposal facilities, no such facility has been licensed and actually constructed. This report also indicated that assured isolation facility costs were estimated to be 50 to 75 percent higher than those of a disposal facility. In addition, the report recognized that assured isolation did not function like a disposal facility.

Even as States have continued to receive technical assistance from the Department, they were concerned whether the definition and licensing criteria for assured isolation would meet the intent and legal requirements of their compact obligations to build a disposal facility. For example, in August 1999, a State Radiation Advisory Board recommended that a definition be developed so the concept of assured isolation satisfied the States' intent to isolate waste materials, even though this concept is different from underground disposal. The Board stated that it was important that assured isolation was not ruled unacceptable due to a definition of disposal that does not consider aboveground storage options.

To clarify the regulatory requirements for an assured isolation facility, we discussed this issue with NRC personnel. A NRC senior project manager stated that NRC had not established a license requirement for an assured isolation facility. Also, the NRC concluded that assured isolation was temporary storage, not disposal. This position was articulated in a March 1999 letter to a Texas State Representative (See Appendix 3). The Chairman of the NRC stated that "We do not consider assured storage to be the equivalent of permanent disposal of LLW (Low-Level Waste). By its very nature, assured storage is considered a temporary facility."

## **Program Management**

To understand management's rationale for providing technical assistance for assured isolation, we discussed this issue with Environmental Management officials. A representative from the Office of Waste Management stated that the Office of Environmental Management supports the States in the concept of assured isolation, and if the States pursue this concept the Department would support them from a national perspective. The National Program Manager stated that the Department was chartered under the Act to come up with alternative approaches for the disposal of low-level waste. The Program Manager

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further indicated that while the Act listed certain types of technical assistance that were to be provided by the Department, assistance was not limited to the listed items. Based on this interpretation, the contractor developed and promoted the assured isolation concept, even though it was not permanent disposal.

The Department's shift in technical assistance emphasis was a reaction to the States' inability to overcome barriers to disposal site selection. In a recent program funding profile, the Department recognized that States and compacts had suspended their efforts to site and construct new disposal sites because of these conditions. The National Program Office adapted to these changes by increasing support to State regulatory agencies for radioactive waste related issues and reducing assistance for new site development activities. Also the National Program increased assistance to State policy makers to aid them in evaluating policy options.

With this reduction in site development activities, we asked the National Program Manager why the program should continue if no State is attempting to establish a new facility. The manager said that even though States had stopped their site development efforts, program staff continued to respond to requests for other types of technical assistance. For example, they received many requests for additional information on licensing and regulatory issues. They also received increased requests for technical assistance in the areas of tracking waste, providing personnel support for a State task force working on options to waste disposal, and storing waste by those who generate it. However, assistance for waste generators was obtained through the compacts since the Program cannot provide assistance directly to them.

The Program Manager added that personnel anticipated additional requests to provide workshops on waste storage issues such as costs if States store their waste, financial liabilities to States, and continuing requests for help with licensing and data management functions. In addition, the Program maintains information management systems that keep data for all the disposal operators and prepares the Department's annual report to the Congress required by the Act.

Continued Departmental funding of the program for Fiscal Years 2000 through 2006, including assistance for assured isolation, is expected to cost approximately \$22 million. Beginning in Fiscal Year 2000, the

**Need For Continued Funding**

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Department planned to start downsizing the National Program. However, Congress did not provide any funding in Fiscal Year 2000 for the technical assistance program except for \$595,000 to fund Federal database maintenance. The Assistant Secretary for Environmental Management chose to use \$1.7 million of projected carryover money to continue funding National Program activities, including assured isolation, in Fiscal Year 2000. We believe further expenditure of Departmental funds for assistance on temporary storage projects is inconsistent with the intent of Congress.

## **RECOMMENDATION**

Because no State or compact region is developing a permanent disposal facility, we recommend that the Assistant Secretary for Environmental Management clarify with appropriate congressional committees the intent of Congress regarding the expenditure of funds in developing storage sites prior to authorizing additional work in this area. Furthermore, the Assistant Secretary should discontinue funding for technical assistance not related to permanent disposal until clarification is obtained.

## **MANAGEMENT REACTION**

The Assistant Secretary for Environmental Management indicated that management disagreed with the audit conclusions and recommendations. Management also stated that its interpretation of the Act permitted the Department to fund a range of technical assistance activities related to the management of low-level radioactive waste. Based on this interpretation and belief that Congress did not intend for the Department to return for further guidance every time circumstances changed, management did not see any need to seek clarification from the authorizing committee. Management further indicated that the Nuclear Regulatory Commission had not issued a formal policy on assured isolation.

Management also provided additional comments during the exit conference. They pointed out that the assured isolation concept is an evolving issue among the States. However, carryover funds will not be used to conduct any additional studies on assured isolation. They stated that the Office of Environmental Management was using the carryover amounts in Fiscal Year 2000 to fund the Forum and National Program closeout activities.

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**AUDITOR  
COMMENTS**

We disagree that alternative storage technologies, such as assured isolation, are consistent with congressional intent to promote the development of low-level radioactive waste disposal sites. With passage of the Act, Congress clearly intended for the Department to provide States and compact regions the technical assistance they needed to provide for the disposal of waste. Disposal is defined as the permanent isolation of radioactive waste, not the safe storage of waste. We recognize that the Act gave the Secretary the latitude to determine which States and compact regions require technical assistance, but such assistance is limited to waste disposal projects.

Beyond this disagreement, management's response to the draft audit report did not recognize that after nearly 20 years of technical assistance to States and compact regions, no State or compact region has established a low-level waste disposal facility. The inability to establish disposal sites raises a concern about the effectiveness and desirability of providing additional technical assistance, even as States and compact regions persist with requests for the Department to spend additional resources.

Furthermore, for Fiscal Year 2000, Congress chose not to directly appropriate any additional funds for the National Low-Level Radioactive Waste Management Program, except for funding of Federal database management. The House Appropriations Committee, in choosing not to provide additional funds, stated that "Over \$80,000,000 has been provided for the low-level waste program over the past two decades, and State expertise is now mature enough that Federal funding is no longer required."

With reference to the Nuclear Regulatory Commission statement, the audit report does not present the NRC statement as policy. It clearly identifies the source of the statement on assured isolation as a letter from the NRC Chairman to a Texas State representative. We consider the Chairman an authoritative source in describing the NRC position on assured isolation.

# Funding Of The Low-Level Radioactive Waste Forum

## State And Federal Funding Responsibilities

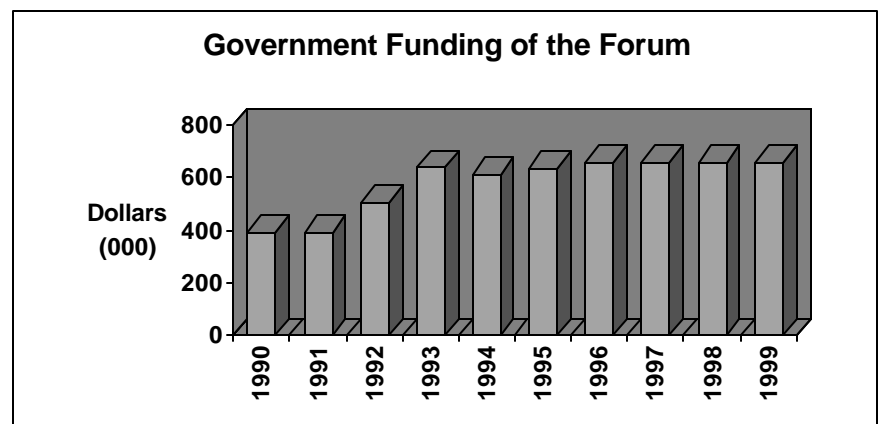
Departmental responsibility to initially fund the Low-Level Waste Forum was established by Congress. In a committee report attached to the 1990 Energy and Water Development Appropriations Bill, Congress recognized the need to establish an independent State forum that would promote an effective and efficient system for management and disposal of low-level waste. It also recognized that disposal was a **State responsibility** (emphasis added) with the Department providing initial assistance to the States.

To support this effort, the Committee recommended the following:

"...that during the fiscal year 1990, the Department of Energy assist the states and compacts in organizing an independent, self-directed association through which the States and compacts may accomplish these objectives. The DOE should provide organizational assistance to the extent requested by the States and compacts, in establishing such an association, and should provide **initial funding** (emphasis added) for the association until the States and compacts can develop a means for independent funding."

## Continued Federal Funding

The Department continued to fund the Low-Level Radioactive Waste Forum beyond requirements intended by Congress. Although the Congress directed the Department to provide only initial funding, the Forum has relied upon the Department for 100 percent of its finances since 1990. This funding has been provided through grant awards totaling \$5.4 million. Since 1990, annual funding has increased from \$395,387 to \$656,780 in 1999 as shown in the table below.



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During the same period (1990-1999), the frequency of Forum meetings decreased. Originally, the Forum held four meetings a year. As State efforts to site low-level disposal facilities diminished, the number of meetings held in 1997 and 1998 dropped to three per year with only two meetings held in 1999. Despite this change, there was not a proportional decrease in Government funding.

## **Evaluation Of Funding Requests**

The Department had not formally evaluated the effectiveness of continued funding for Forum activities and the accuracy of information supporting Forum funding.

In its initial evaluation of the grant award, the Department stated that it expected Federal support for State and compact low-level waste activities to be significantly reduced after 1992. The evaluation report indicated that it would be prudent for the States and compacts to establish an organization entity that could foster interstate cooperation and was capable of managing funds. The report pointed out that the Department had notified State and compact officials that its role in assisting them was transitional.

Personnel in the National Program office stated that little, if any, attempt had been made by States and compact commissions to provide funding for Forum activities. The only financial support provided by States was for travel expenses. At its February 1998 meeting, the executive committee of the Forum notified the Department that it was unable to incorporate and become self-funded. As a result, the Forum would continue to seek Departmental funding through the grant process.

State organizations have recently requested the Department to continue funding the grant based upon the Forum's contribution to the States' "...progress toward finding permanent disposal locations for low-level radioactive waste." Despite this assertion, no State was actively attempting to site a facility for disposal of its low-level waste.

## **Future Funding Requests**

Departmental funds for the Low-Level Waste Forum represent about 20 percent of the total program expenditures over the last 2 years. This represents a significant continuing reduction in the funds available to perform National Program operations. If the Department continues to fund the Forum at 1999 levels, an additional \$4.6 million will be spent through the remaining life of the program. The Congress did not

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provide funding in Fiscal Year 2000 for Forum activities. However, the Assistant Secretary for Environmental Management is considering using available carryover funds in Fiscal Year 2000 for Forum activities.

**RECOMMENDATION**

Given the States' unwillingness to fund the Low-Level Radioactive Waste Forum, we recommend that the Assistant Secretary for Environmental Management discontinue funding this activity.

**MANAGEMENT REACTION**

The Assistant Secretary for Environmental Management did not provide specific comments on the audit recommendation concerning funding for the Low-Level Waste Forum. Management stated in its general response to the draft report that "...states have routinely identified the Low-Level Waste Forum as being the highest priority for DOE support to the states." During the exit conference, management noted that the Department's decision to fund the Forum in Fiscal Year 2000 was consistent with past budget requests for Forum funding.

**AUDITOR COMMENTS**

States have not viewed the Low-Level Waste Forum to be enough of a priority to provide any funding for its activities since it was established. In this regard, the Forum's executive committee informed the Department in February 1998 that it was unable to become self-funded and would continue to seek Departmental money through the grant process. The unwillingness of the States to fund the Forum raises serious questions about whether the Forum is the highest State priority for Departmental support as suggested in management's response. In addition, continued funding of the Forum is inconsistent with congressional and Departmental positions that the Department's role in supporting the Forum was transitional.

## Appendix 1

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### SCOPE

The audit was performed from July through November 1999 at Department Headquarters in Washington, DC, and Germantown, MD, and the Idaho Operations Office in Idaho Falls, Idaho.

### METHODOLOGY

To accomplish the audit objective, we:

- Reviewed Federal and Departmental regulations and operating policies and procedures relating to the management of the Department's Low-Level Radioactive Waste Management Program;
- Reviewed applicable laws and regulations, including the Low-Level Radioactive Waste Policy Act of 1980, as amended, and the Energy and Water Development Bill of 1990;
- Held discussions with personnel from the Office of Waste Management responsible for directing the Program;
- Interviewed Department and contractor personnel responsible for managing the Program at the Idaho Operations Office;
- Reviewed and evaluated contractor files used to support the Program;
- In accordance with the requirements of the Government Performance and Results Act reviewed performance measures; and
- Held a discussion with personnel from the Nuclear Regulatory Commission to determine licensing procedures for low-level waste disposal facilities.

The audit was performed in accordance with generally accepted Government auditing standards for performance audits and included tests of internal controls and compliance with laws and regulations to the extent necessary to satisfy the audit objective. Because our review was limited, it would not necessarily have disclosed all internal control deficiencies that may have existed at the time of our audit. We did not rely on computer-processed data to accomplish our audit objective.

We held an exit conference with officials from the Office of the Deputy Assistant Secretary for Waste Management on February 11, 2000.



## Appendix 2

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### AUDIT REPORTS RELATING TO LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT

- *Disposal of Low-Level and Low-Level Mixed Waste*, (DOE/IG-0426, September 3, 1998). The Department generally did not dispose of low-level and mixed waste as cost-effectively as possible. Most Department facilities stored large quantities of waste on-site, and when disposals of low-level waste were made, they were often not cost effective.
- *Low-Level Radioactive Waste: States Are Not Developing Disposal Facilities*, General Accounting Office (GAO/RCED-99-238, September 17, 1999). States, acting alone or within compacts of two or more States, have collectively spent almost \$600 million over the last 18 years attempting to find and develop about 10 sites for disposing of commercially generated low-level radioactive waste. None of the States or compacts has successfully developed a new disposal facility.

## Appendix 3

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UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

March 19, 1999

The Honorable Gary L. Walker  
Texas House of Representatives  
District 80  
P.O. Box 2910  
Austin, Texas 78768-2910

Dear Mr. Walker:

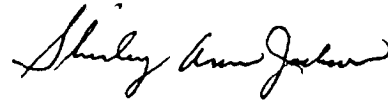
I am responding to your March 4, 1999, letter requesting the views of the Nuclear Regulatory Commission (NRC) on assured storage (or assured isolation) as an alternative to disposal of low-level radioactive waste (LLW). Our views on assured storage remain the same as those expressed in my May 9, 1996 letter to David Leroy of Idaho. The Commission policy has been, and continues to be, that LLW should be disposed of safely as soon as possible after it is generated. Thus, the Commission strongly supports State and compact efforts to develop new LLW disposal capacity in accordance with the Low-Level Radioactive Waste Policy Amendments Act of 1985. The Commission also is aware that there are a variety of complex waste disposal issues currently facing this Nation, many of which are within the purview of the Atomic Energy Act. In particular, in view of the many challenges in the area of site decommissioning that are tied closely to the availability of safe and economic means of managing LLW, the Commission is open to serious consideration of any feasible and safe proposals.

We also recognize that a few States have expressed interest in the assured storage concept. If a State came to the Commission directly seeking our views on the feasibility of assured storage, we would evaluate the request in accordance with our regulatory responsibilities. This evaluation would have to address several complex issues associated with assured storage, such as when does assured storage constitute disposal, what financial assurance would be required during the storage period, and how would current regulatory limits on the possession of special nuclear material apply to an assured storage facility.

Because no one has applied to the NRC for a license to construct and operate an assured storage facility, per se, the NRC has not licensed an assured storage facility. However, the NRC has licensed numerous commercial nuclear facilities that included LLW storage as an integral component of other nuclear activities. We do not consider assured storage to be the equivalent of permanent disposal of LLW. By its very nature, assured storage is considered a temporary facility. If it were intended to be permanent, we would review an application for such a facility under our requirements for LLW disposal in 10 CFR Part 61. As I stated in my letter to Mr. Leroy, the NRC would need to determine which regulations to apply in reviewing an application to construct an assured storage facility. The applicable safety requirements would vary based on the nature of the proposal and the potential risks to the public and the environment.

I trust that this response will be useful to Texas in your consideration of assured storage and safe management of LLW. If the NRC can be of further assistance, please do not hesitate to contact us.

Sincerely,

A handwritten signature in black ink that reads "Shirley Ann Jackson". The signature is written in a cursive style with a large initial 'S' and a long, sweeping tail.

Shirley Ann Jackson

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