



Department of Energy

Washington, DC 20585

March 25, 2003

Mr. Christopher McKenney
Systems Performance Analyst
U.S. Nuclear Regulatory Commission
Environmental and Performance Assessment Branch
Division of Waste Management
Washington, D.C. 20555-0001

Dear Mr. McKenney:

The Department of Energy (DOE) Office of Environmental Management (EM) has reviewed the December 20, 2002, Draft Safety Analysis Report (SAR) entitled, "*Long-Term Hazard of Millstone Unit 1's Missing Spent Fuel Rods Potentially Disposed at the Hanford Commercial Low-Level Waste Disposal Facility.*" Based upon the results of the draft SAR, the DOE does not believe that the permanent disposal of Millstone spent nuclear fuel rods at the site, if the Millstone rods are actually disposed of there, would affect the determination of custodial responsibility for the site.

It is the DOE's view that custodial responsibility for long-term stewardship of the U.S. Ecology commercial low-level waste disposal site will be determined by the 1964 lease and perpetual care agreement between the United States and the State of Washington. The DOE's position assumes that there would be no additional regulatory requirements imposed on the site custodian by any regulatory agency solely because of the presence or potential presence of any Millstone spent nuclear fuel at the site that will cause the DOE to incur additional cost, beyond what would be incurred because of the other material at the site.

If you have any further questions, please call me at (202) 586-7709 or Ms. Patrice M. Bubar, Associate Deputy Assistant Secretary, Office of Integration and Disposition, at (202) 586-5151.

Sincerely,

A handwritten signature in black ink, appearing to read "Jessie Hill Roberson".

Jessie Hill Roberson
Assistant Secretary for
Environmental Management

