



Pennsylvania Department of Environmental Protection
Rachel Carson State Office Building
P.O. Box 8469
Harrisburg, PA 17105-8469
July 7, 2003

Bureau of Radiation Protection

Mr. Dan Gillen, Chief
US NRC
Office of Nuclear Material Safety and Safeguards
Decommissioning Branch
MS T7527
Washington, DC 20555

Dear Mr. Gillen:

Thank you for your letter of June 6th to Mr. Rich Janati, my former Acting Bureau Director, regarding our April 23, 2003 letter to Mr. Robert N. Kossack of the Kiski Valley Water Pollution Control Authority (KVWPCA).

In your letter you requested clarification of Pennsylvania's requirements for closure of the KVWPCA ash lagoon and the basis for applying Pennsylvania's regulatory positions. We were pleased to be able to respond in detail to these questions during our teleconference on June 12 and in follow-up telephone conferences between NRC and Pennsylvania Department of Environmental Protection (Department) counsel.

As we discussed at length during our June 12 teleconference, the Department believes the Closure Plan submitted by the Authority in 1994 is, with some modification, the appropriate means to close the ash lagoon, and that implementation of this plan is consistent with both federal and state laws. In fact, completely aside from the presence of radiological constituents, incinerated ash is "solid waste" under Pennsylvania's Solid Waste Management Act, Act of July 7, 1980, P.L. 380, No. 97, *as amended*, 35 P.S. §§6018.101-6018.1003 ("Solid Waste Management Act") and regulations promulgated thereunder, and such waste in the Authority's lagoon should be removed and properly disposed of per the Commonwealth's jurisdiction over the material *as solid waste*.

I look forward to NRC's response to our request for the Department to regulate the closure of the Authority's ash lagoon under Pennsylvania's Solid Waste Management Act and Clean Streams Law. If you have any questions concerning this matter, please contact Mr. Robert Maiers of my staff at 717-783-8979 or email at rmaiers@state.pa.us.

Thank you.

Sincerely,

Robert C. Maier
for

David J. Allard

Director

Bureau of Radiation Protection



Mr. Dan Gillen, Chief

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cc: R. Maiers, BRP
J. Yusko, SWRO
J. Herman, SWRO
