

DSI-5

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**From:** John Randall  
**To:** WND1.WNP2.SECY  
**Date:** 10/25/96 11:57am  
**Subject:** Comment letter on Strategic Assessment Paper DSI 5

I am attaching a comment letter on Paper DSI 5. The letter was written with WP 5.1.

I also am mailing a hard copy of the letter to you.

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DSI 3

October 25, 1996

Mr. John C. Hoyle  
Secretary of the Commission  
United States Nuclear Regulatory Commission  
Attn: Chief of Docketing Service Branch  
Washington, DC 20555-0001

Subject: Comments on Strategic Assessment Paper DSI 5, "Low-Level Waste"

Dear Mr. Hoyle:

In response to the NRC's request for comments on its Strategic Assessment Issue Papers, I am submitting comments letter on Paper DSI 5, "Low-Level Waste."

I was intermittently involved in the NRC's LLW program for 15 years as a staff member and as a supervisor. I had supervisory responsibility over the LLW research plan, NUREG-1380, and I supervised the revision of 10 CFR Part 61 that expanded the definition of land disposal to include above-ground disposal. The opinions expressed in these comments are mine and are not meant to represent the opinions of my current or past NRC organizations.

#### Preference for Options

The current NRC LLW program is described in Paper DSI 5 as Option 3. The current LLW program is phasing out or severely limiting research, topical report reviews, and new guidance development. The Commission prefers Option 2, assuming a strong regulatory role in the national LLW program, as the NRC did through FY 1994. Under Option 2, the NRC would conduct research, topical report reviews, and new guidance development, license maintenance, and other activities.

I believe that the only acceptable options are Options 2 and 3 and that the Commission's choice of these options should depend on how strong the Agreement States' and Compacts' LLW regulatory programs are. If those programs are not technically strong, Option 2 may be the best choice. If the programs are technically strong, a too-active NRC role could be redundant with the Agreement States' and Compacts' efforts and possibly at cross-purposes with them and Option 3 may be the best choice.

If the Agreement States' and Compacts' regulatory programs are strong enough that Option 3 would be preferable from a licensing perspective, I believe that Option 3 could be augmented with an NRC regulatory research program designed primarily to serve the Agreement States' and Compacts' needs. I recommend that the Commission adopt this augmented option if it decides to select Option 3.

Option 1, assuming a greater leadership role, should not be pursued in its described form because it would involve the NRC too much in the development of LLW facilities and would compromise the NRC's regulatory position. Option 4, recognizing progress and reducing the NRC LLW program, depends too heavily on Barnwell's remaining open and should not be adopted. Option 5, transferring the NRC LLW program to the Environmental Protection Agency, is a specious idea and should not be adopted. The entire NRC LLW program is not transferrable, as Paper DSI 5 points out. The part that would be transferred should remain with the parts that have to be retained. Option 6, accepting long-term storage, may be acceptable under Part 61 now that the regulatory scope of Part 61 includes above-ground disposal. If long-term storage is not distinguishable from above-ground disposal, Option 6 is not really

separable from the other options.

#### Option 3 Augmented with Research

If national LLW conditions are such that Option 3 is preferable to Option 2, and if the NRC still needs to maintain an active partnership with the Agreement States and Compacts, the question arises, "What is the best way for the NRC to help the Agreement States and Compacts without interfering with their LLW regulatory activities?" Under Option 3, the NRC is providing the regulatory help that the Agreement States and Compacts need, but it is not providing research support that could help them avoid excessive conservatisms in their regulatory decision-making. To the best of my knowledge, there are no Agreement-State or Compact LLW regulatory research programs.

While each Agreement State or Compact will regulate LLW in its own way, they all need strong technical support that could be provided by the NRC through a research program. If each Agreement State or Compact were to operate its own LLW research program, there would be a lot of duplication of effort that a single NRC LLW research program could eliminate. An NRC-operated LLW research program could serve the Agreement States and Compacts in the same way that NRC LLW research served the NRC's Office of Nuclear Material and Safeguards through FY 1994.

An advantage to the NRC of having staff assigned to operating an LLW research program under Option 3 is that these staff members could be detailed to assist NMSS when an extraordinary LLW regulatory need, such as a license application or an important topical report review, arises.

Thank you for this opportunity to comment on the NRC Strategic Assessment effort.

Sincerely,

John D. Randall