



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

June 6, 1997

Mr. Ernest Goitein
167 Almedral Avenue
Atherton, CA 94027

Dear Mr. Goitein:

I am responding to your letter of May 2, 1997, to Chairman Jackson, of the U.S. Nuclear Regulatory Commission, concerning our views on a San Bernardino County Board of Supervisors' proposal for amending the Low-Level Radioactive Waste Policy Amendments Act of 1985. As you noted, NRC commented on the proposal in a letter to U.S. Congressman Jerry Lewis on March 27, 1997. In your letter, you raised several concerns including: (1) your view that because radioactive waste disposal facilities have leaked in the past, the concept of shallow land burial must be abandoned, (2) your view that low-level radioactive waste (LLW) should be classified by the half-life of the radioactive elements, and (3) your desire that the Commission reconsider the design concepts and suggestions unanimously approved by the San Bernardino City Board of Supervisors.

We share your concerns about the need for safe disposal of low-level radioactive waste, and public confidence in LLW disposal. Our primary mission is the protection of public health and safety from the effects of radiation. However, your letter does not address new issues or provide additional information beyond the information considered in response to Congressman Lewis.

Early in the development of LLW disposal facilities, there were problems with unacceptable practices used for disposal. The Commission addressed these concerns when it issued standards for LLW disposal in 10 CFR Part 61. These regulations address acceptable levels of risk to the general population from LLW disposal. Based upon these regulations, the Commission believes that shallow land disposal of LLW can be conducted in a manner that adequately protects the public health and safety. For the reasons identified in our letter to Congressman Lewis, we have no reason to believe that public health and safety would not be protected adequately at the Ward Valley site.

The proposal to classify radioactive material primarily based on half-life is neither scientific nor risk-based, and does not comport with acceptable international views. Risk is a function of radiation dose, and the determination of risk depends on a variety of factors, including the type of radiation, the concentration of radionuclides in the medium in which they are present, the likelihood that barriers will be fully effective to contain the radionuclides, and the likelihood and rate of exposure if the radiation is not fully contained. The half-life of a particular radionuclide may also be a factor, but it is not the controlling factor.

Concerning the recommendations of the San Bernardino County Board of Supervisors, the proposal is based on some misunderstandings of both the law and the facts related to LLW disposal. In our letter to Congressman Lewis, we noted a number of significant, specific concerns, regarding the proposal, that

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noted a number of significant, specific concerns, regarding the proposal, that could adversely affect protection of public health and safety. These include the proposal's failure to address the orphan wastes that it would create, the fact that it is neither scientific nor risk-based, and its lack of a justification in terms of health benefits to be gained versus costs. Your letter does not address any of these specific concerns with the proposal.

The Commission appreciates your interest in the development of new LLW disposal capacity in the United States. I trust that this reply responds to your concerns and clarifies our position.

Sincerely,

Carl J. Paperiello, Director
Office of Nuclear Material Safety
and Safeguards

* see previous concurrence

CP/PROOFED/MAY 16, 1997

OFC	LLDP*		LLDP*		LLDP*		OGC*		Tedit*		DWM*	
NAME	JKennedy/cv		RNelson		JHickey		WReamer		EKraus		MVFederline	
DATE	5/14/97		5/14/97		5/14/97		5/14/97		5/13/97		5/15/97	
OFC	NMSS*		DCDO*		EDO*		OC					
NAME	CPaperiello		HTompson		JCallan		SAJackson					
DATE	5/16/97		5/20/97		5/29		6/6/97					

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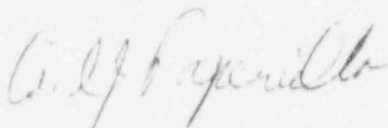
E. Goitein

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A handwritten signature in cursive script, appearing to read "C. J. Paperiello".

Carl J. Paperiello, Director
Office of Nuclear Material Safety
and Safeguards

E. Goitein

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ACTION

EDO Principal Correspondence Control

FROM:

DUE: 05/21/97

EDO CONTROL: G970345

DOC DT: 05/02/97

FINAL REPLY:

Ernest Goitein
Atherton, California

TO:

Chairman Jackson

FOR SIGNATURE OF :

** PRI **

CRC NO: 97-0451

Office Director

DESC:

LOW-LEVEL WASTE POLICY ACT

ROUTING:

Callan
Jordan
Thompson
Norry
Blaha
Burns
Bangart, SP
Cyr, OGC

DATE: 05/09/97

ASSIGNED TO:

CONTACT:

NMSS

Paperiello

SPECIAL INSTRUCTIONS OR REMARKS:

Put EDO and Chairman on for concurrence.
Chairman's office to review response prior to
dispatch.

OFFICE OF THE SECRETARY
CORRESPONDENCE CONTROL TICKET

PAPER NUMBER: CRC-97-0451 LOGGING DATE: May 8 97

ACTION OFFICE: EDO

AUTHOR: ERNET GOITEIN
AFFILIATION: CALIFORNIA

ADDRESSEE: CHAIRMAN JACKSON

LETTER DATE: May 2 97 FILE CODE: M-20

SUBJECT: LOW LEVEL WASTE POLICY ACT

ACTION: Direct Reply

DISTRIBUTION: CHAIRMAN

SPECIAL HANDLING: SECY TO ACK

CONSTITUENT:

NOTES: CHAIRMAN SHOULD REVIEW RESPONSE PRIOR TO DISPATCH

DATE DUE: May 23 97

SIGNATURE: . DATE SIGNED:

AFFILIATION: