

May 14, 2004

The Honorable Spencer Abraham  
Secretary of Energy  
1000 Independence Avenue, SW  
Washington, DC 20585-1000

Dear Secretary Abraham:

This is in response to the letter of May 13, 2004, from the Assistant Secretary for Environmental Management regarding the nuclear safety consequences of proposed Section 3116 of the National Defense Authorization Act for Fiscal Year 2005 (S. 2400). Section 3116 would permit certain radioactive residual materials to remain in a facility (including a tank) at the Savannah River Site.

Safe disposal of radioactive waste is essential to preserving public health and safety. In 1994, the Board issued Recommendation 94-2, *Conformance with Safety Standards at Department of Energy Low-Level Nuclear Waste and Disposal Sites*, which identified the importance of performance assessments for ensuring safe disposal of radioactive materials in shallow land burial grounds. Department of Energy (DOE) subsequently issued Order 435.1, *Radioactive Waste Management*, which defines an acceptable process for conducting the required performance assessments for DOE onsite waste disposal activities.

During the period 1996 to 1997, the DOE at the Savannah River Site undertook the closure of two high level waste tanks. At that time, The Defense Nuclear Facilities Safety Board (Board) closely observed the undertakings and saw no basis to determine that the remaining residual material constituted a danger to the public. The closure process involved transport modeling of the residual material left in the tanks.

When conducted with appropriate rigor, a performance assessment can provide a conservative estimate of potential safety and health consequences. When these estimates meet acceptable safety standards (i.e., DOE Order 435.1 or 10 CFR Part 61 subpart C, *Performance Objectives*), it is reasonable to conclude that the disposal action adequately protects public health and safety.

The Board believes that disposal of wastes as contemplated in Section 3116 can be accomplished safely and should enable efficient disposition of the radioactive waste. The Board, under its statutory safety oversight mandate, will continue to follow DOE's actions to ensure that activities related to disposal of such wastes are conducted safely.

Sincerely,

John T. Conway  
Chairman

c: The Honorable Jessie Hill Roberson  
Mr. Mark B. Whitaker, Jr.