Public Law 96-368
96th Congress

An Act

To authorize the Department of Energy to carry out a high-level liquid nuclear waste management demonstration project at the Western New York Service Center in West Valley, New York.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "West Valley Demonstration Project Act".

SEC. 2. (a) The Secretary shall carry out, in accordance with this Act, a high level radioactive waste management demonstration project at the Western New York Service Center in West Valley, New York, for the purpose of demonstrating solidification techniques which can be used for preparing high level radioactive waste for disposal. Under the project the Secretary shall carry out the following activities:

(1) The Secretary shall solidify, in a form suitable for transportation and disposal, the high level radioactive waste at the Center by vitrification or by such other technology which the Secretary determines to be the most effective for solidification.

(2) The Secretary shall develop containers suitable for the permanent disposal of the high level radioactive waste solidified at the Center.

(3) The Secretary shall, as soon as feasible, transport, in accordance with applicable provisions of law, the waste solidified at the Center to an appropriate Federal repository for permanent disposal.

(4) The Secretary shall, in accordance with applicable licensing requirements, dispose of low level radioactive waste and transuranic waste produced by the solidification of the high level radioactive waste under the project.

(5) The Secretary shall decontaminate and decommission—
(A) the tanks and other facilities of the Center in which the high level radioactive waste solidified under the project was stored,
(B) the facilities used in the solidification of the waste, and
(C) any material and hardware used in connection with the project,
in accordance with such requirements as the Commission may prescribe.

(b) Before undertaking the project and during the fiscal year ending September 30, 1981, the Secretary shall carry out the following:

(1) The Secretary shall hold in the vicinity of the Center public hearings to inform the residents of the area in which the Center is located of the activities proposed to be undertaken under the project and to receive their comments on the project.

(2) The Secretary shall consider the various technologies available for the solidification and handling of high level radioactive waste taking into account the unique characteristics of such waste at the Center.
(3) The Secretary shall—
   (A) undertake detailed engineering and cost estimates for the project,
   (B) prepare a plan for the safe removal of the high level radioactive waste at the Center for the purposes of solidification and include in the plan provisions respecting the safe breaching of the tanks in which the waste is stored, operating equipment to accomplish the removal, and sluicing techniques,
   (C) conduct appropriate safety analyses of the project, and
   (D) prepare required environmental impact analyses of the project.

(4) The Secretary shall enter into a cooperative agreement with the State in accordance with the Federal Grant and Cooperative Agreement Act of 1977 under which the State will carry out the following:
   (A) The State will make available to the Secretary the facilities of the Center and the high level radioactive waste at the Center which are necessary for the completion of the project. The facilities and the waste shall be made available without the transfer of title and for such period as may be required for completion of the project.
   (B) The Secretary shall provide technical assistance in securing required license amendments.
   (C) The State shall pay 10 per centum of the costs of the project, as determined by the Secretary. In determining the costs of the project, the Secretary shall consider the value of the use of the Center for the project. The State may not use Federal funds to pay its share of the cost of the project, but may use the perpetual care fund to pay such share.
   (D) Submission jointly by the Department of Energy and the State of New York of an application for a licensing amendment as soon as possible with the Nuclear Regulatory Commission providing for the demonstration.

(c) Within one year from the date of the enactment of this Act, the Secretary shall enter into an agreement with the Commission to establish arrangements for review and consultation by the Commission with respect to the project: Provided, That review and consultation by the Commission pursuant to this subsection shall be conducted informally by the Commission and shall not include nor require formal procedures or actions by the Commission pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, or any other law. The agreement shall provide for the following:

   (1) The Secretary shall submit to the Commission, for its review and comment, a plan for the solidification of the high level radioactive waste at the Center, the removal of the waste for purposes of its solidification, the preparation of the waste for disposal, and the decontamination of the facilities to be used in solidifying the waste. In preparing its comments on the plan, the Commission shall specify with precision its objections to any provision of the plan. Upon submission of a plan to the Commission, the Secretary shall publish a notice in the Federal Register of the submission of the plan and of its availability for public inspection, and, upon receipt of the comments of the Commission respecting a plan, the Secretary shall publish a notice in the Federal Register of the receipt of the comments and of the availability of the comments for public inspection. If the Secre-
(a) The Secretary does not revise the plan to meet objections specified in the
comments of the Commission, the Secretary shall publish in the
Federal Register a detailed statement for not so revising the
plan.

(2) The Secretary shall consult with the Commission with
respect to the form in which the high level radioactive waste at
the Center shall be solidified and the containers to be used in the
permanent disposal of such waste.

(3) The Secretary shall submit to the Commission safety
analysis reports and such other information as the Commission
may require to identify any danger to the public health and
safety which may be presented by the project.

(4) The Secretary shall afford the Commission access to the
Center to enable the Commission to monitor the activities under
the project for the purpose of assuring the public health and
safety.

(d) In carrying out the project, the Secretary shall consult with the
Administrator of the Environmental Protection Agency, the Secre­
tary of Transportation, the Director of the Geological Survey, and the
commercial operator of the Center.

Sec. 3. (a) There are authorized to be appropriated to the Secretary
for the project not more than $5,000,000 for the fiscal year ending
September 30, 1981.

(b) The total amount obligated for the project by the Secretary shall
be 90 per centum of the costs of the project.

(c) The authority of the Secretary to enter into contracts under this
Act shall be effective for any fiscal year only to such extent or in such
amounts as are provided in advance by appropriation Acts.

Sec. 4. Not later than February 1, 1981, and on February 1 of each
calendar year thereafter during the term of the project, the Secretary
shall transmit to the Speaker of the House of Representa­
tives and the
President pro tempore of the Senate an up-to-date report containing a
detailed description of the activities of the Secretary in carrying out
the project, including agreements entered into and the costs incurred
during the period reported on and the activities to be undertaken in
the next fiscal year and the estimated costs thereof.

Sec. 5. (a) Other than the costs and responsibilities established by
this Act for the project, nothing in this Act shall be construed as
affecting any rights, obligations, or liabilities of the commercial
operator of the Center, the State, or any person, as is appropriate,
arising under the Atomic Energy Act of 1954 or under any other law,
contract, or agreement for the operation, maintenance, or decontami­
nation of any facility or property at the Center or for any wastes at
the Center. Nothing in this Act shall be construed as affecting any
applicable licensing requirement of the Atomic Energy Act of 1954 or
the Energy Reorganization Act of 1974. This Act shall not apply or be
extended to any facility or property at the Center which is not used in
conducting the project. This Act may not be construed to expand or
diminish the rights of the Federal Government.

(b) This Act does not authorize the Federal Government to acquire
title to any high level radioactive waste at the Center or to the Center
or any portion thereof.

Sec. 6. For purposes of this Act:

(1) The term "Secretary" means the Secretary of Energy.
(2) The term "Commission" means the Nuclear Regulatory
Commission.
(3) The term "State" means the State of New York.
(4) The term "high level radioactive waste" means the high level radioactive waste which was produced by the reprocessing at the Center of spent nuclear fuel. Such term includes both liquid wastes which are produced directly in reprocessing, dry solid material derived from such liquid waste, and such other material as the Commission designates as high level radioactive waste for purposes of protecting the public health and safety.

(5) The term "transuranic waste" means material contaminated with elements which have an atomic number greater than 92, including neptunium, plutonium, americium, and curium, and which are in concentrations greater than 10 nanocuries per gram, or in such other concentrations as the Commission may prescribe to protect the public health and safety.

(6) The term "low level radioactive waste" means radioactive waste not classified as high level radioactive waste, transuranic waste, or byproduct material as defined in section 11 e. (2) of the Atomic Energy Act of 1954.

(7) The term "project" means the project prescribed by section 2(a).

(8) The term "Center" means the Western New York Service Center in West Valley, New York.

Approved October 1, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1100, pt. I (Comm. on Science and Technology) and pt. II (Comm. on Interstate and Foreign Commerce), both accompanying H.R. 6865.

SENATE REPORT No. 96-787 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 126 (1980):

June 12, considered and passed Senate.

Sept. 15, H.R. 6865 considered and passed House; passage vacated and S. 2443, amended, passed in lieu.

Sept. 17, Senate concurred in House amendment with amendments; House concurred in Senate amendments.