

State Of California Direct Sale (CA 30582), Ward Valley  
San Bernardino County, California

DRAFT

SUPPLEMENTAL ENVIRONMENTAL IMPACT STATEMENT

to

STATE OF CALIFORNIA INDEMNITY SELECTION  
&  
LOW-LEVEL RADIOACTIVE WASTE FACILITY

Final Environmental Impact Report/Statement (April 1991)

October 1992

U.S. Department of the Interior  
Bureau of Land Management

Ed Hastey 20 OCT 1992  
Ed Hastey Date  
California State Director





## United States Department of the Interior

BUREAU OF LAND MANAGEMENT  
California Desert District Office  
6221 Box Springs Boulevard  
Riverside, California 92507-0714



IN REPLY REFER TO:

1792

2 OCT 1992

Dear Reader:

Enclosed for your review and comment is the Draft Supplemental Environmental Impact Statement (SEIS) for the proposed direct sale to the State of California of 1,000 acres in Ward Valley. The Draft SEIS analyzes the impacts of a proposed direct sale as an alternative not considered in the Final Environmental Impact Statement State of California Indemnity Selection and Low Level Radioactive Waste Facility (April 1991).

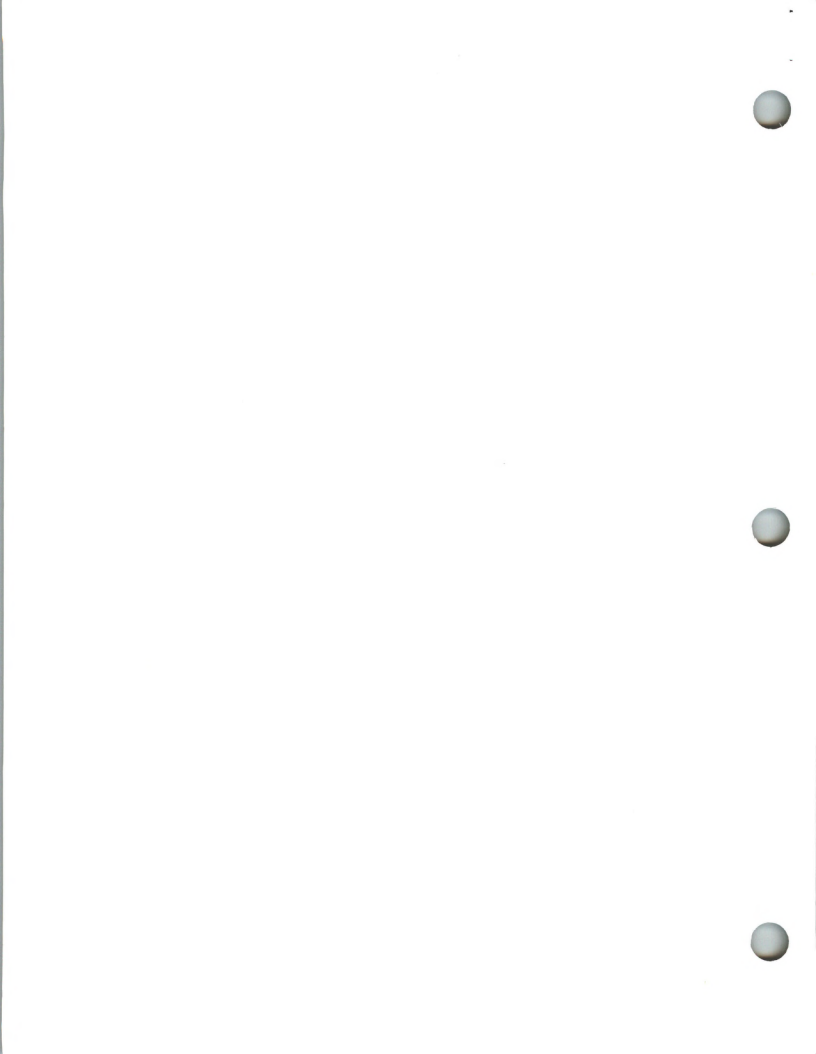
Comments concerning this document will be considered in the preparation of the Final SEIS. A 60-day comment period has been established for this document. The comment period will close on December 28, 1992. Please send your comments to:

California Desert District  
Attention Douglas Romoli  
6221 Box Springs Blvd.  
Riverside, CA 92507

We appreciate your interest in your public lands, and your commitment to participating in this review process.

Sincerely,

*Acting* Jean Rivers-Council  
Acting District Manager



State of California Direct Sale (CA 30582) Ward Valley

(x) Draft Supplemental Environmental Impact Statement

Bureau of Land Management  
California Desert District  
6221 Box Springs Blvd  
Riverside, California 92507

ABSTRACT

The California State Lands Commission (SLC) has an application with the Bureau of Land Management for a disposal of 1000 acres of public land through the State Indemnity Selection (SIS) process. The proposed use of the public land, subject to license and permits, is as a low-level radioactive waste disposal facility. A joint environmental impact report/statement (EIR/EIS) was prepared by the State of California and the BLM, and a final EIS/EIR was distributed April 1991. On July 2, 1991 the SLC asked BLM to suspend processing the SIS application and specifies that California Department of Health Services (DHS) must decide how to acquire the property. On July 13, 1992 the State of California through DHS filed an application (CA 30582) for disposal of the same public land through a direct sale process.

The change from SIS to a direct sale modifies the method of conveyance of the land to the State of California. The change in the mode of conveyance is subject to different regulations and procedures; therefore, a supplemental EIS is deemed necessary.

Direct comments on the draft SEIS to:

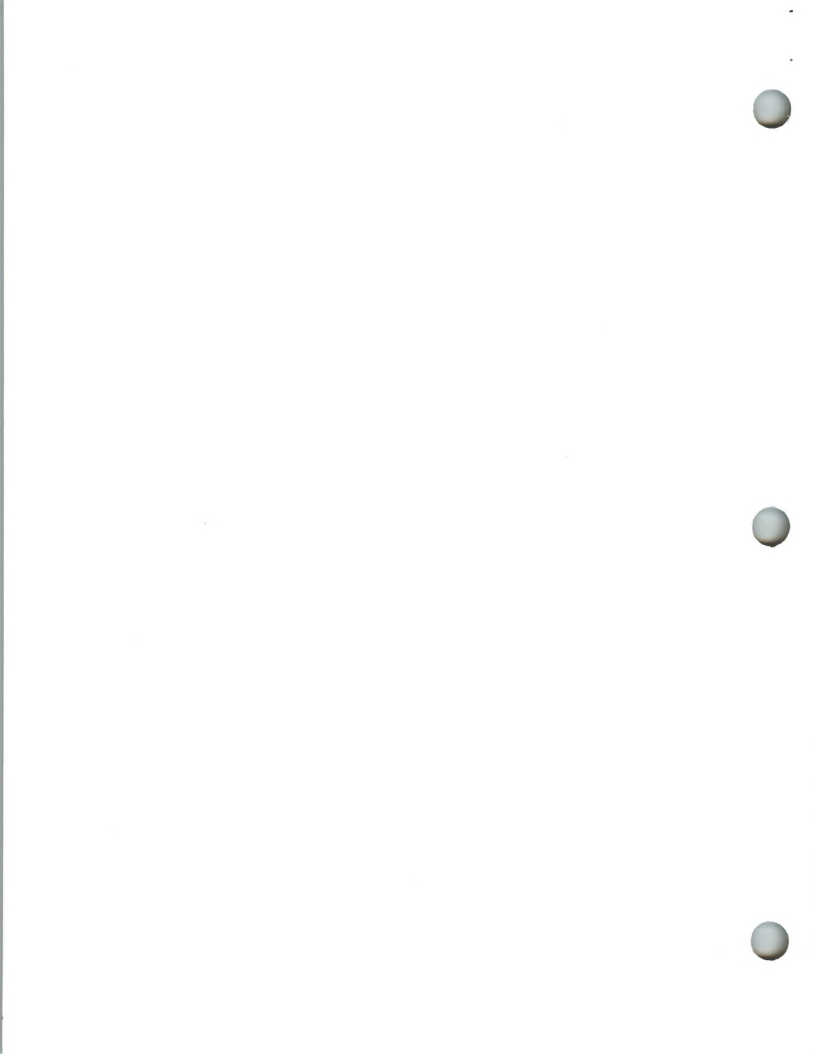
California Desert District  
Attn: Douglas Romoli  
6221 Box Springs Blvd  
Riverside, CA. 92507

Date by which draft SEIS comments must be received: December 28, 1992



## TABLE OF CONTENTS

	<u>Page</u>
Executive Summary .....	i
1.0 Introduction .....	1
1.1 Purpose and Need .....	1
1.2 Scope .....	2
1.3 General Location .....	3
1.4 Relationship to BLM Policies, Plans and Programs .....	3
1.5 Relationship to State of California Policies, Plans and Programs .....	3
1.6 Authorizing Action .....	3
2.0 Alternatives Including Proposed Action .....	3
2.1 Proposed Action (New) .....	4
2.2 Previously Addressed Alternatives .....	5
2.3 Alternatives Eliminated from Detailed Consideration .....	5
3.0 Affected Environment .....	5
4.0 Environmental Consequences .....	6
5.0 Cumulative Impact .....	6
6.0 Consultation and Coordination .....	6
7.0 Preparers .....	6
8.0 Index .....	7
Appendix	
A. SLC Letter .....	A1
B. DHS letter .....	B1





## EXECUTIVE SUMMARY

The California Department of Health Services (DHS) filed a proposal for a direct sale of 1,000 acres of land located in Ward Valley. The disposal of the subject land was analyzed in a prior joint environmental impact report/environmental impact statement (EIR/EIS), because the proposed use for the land is as a low-level radioactive waste (LLRW) facility. In the joint EIR/EIS, State of California Indemnity Selection & Low-Level Radioactive Waste Facility (April, 1991), the means of disposal was through State Indemnity Selection (SIS) as filed by the California State Lands Commission (SLC). However, on July 2, 1991, the SLC requested the BLM to suspend processing the SIS while the DHS decided on how to acquire the property. DHS filed a proposal for a direct sale of the 1,000 acres in Ward Valley on July 13, 1992. Since the direct sale mode of conveyance was not considered as an alternative in the final EIS/EIR (April 1991), BLM elected to prepare a supplemental environmental impact statement (SEIS).

The purpose and need for the proposed direct sale is to provide sufficient land on which to construct and operate a LLRW disposal facility. The DHS application is pursuant to State and Federal legislation which authorizes the State to license construction and operation of LLRW facility. Since DHS's proposal does not change the size, location or future proposed use, the final EIR/EIS, dated April 1991, is hereby incorporated by reference.

Since the only change in the proposed action as described in the final EIR/EIS is the mode of conveyance from SIS to direct sale, there are no other changes considered in the Supplemental EIS. The alternatives described in the final EIR/EIS (April, 1991) are still valid and are not reanalyzed. Since the proposed action does not change the size, location or purpose for which the State proposed acquiring the land, resources analyzed in the final EIR/EIS - geology, seismicity, hydrology, climate and air quality, environmental health and safety, noise, biology, land use, aesthetics, transportation, cultural resources including ethnology, paleontology, and socioeconomic will not be re-analyzed. The environmental consequences were analyzed in the final EIR/EIS, and with no change to the size, location, or purpose for which the State seeks the land, there is no change in the environmental consequences. The cumulative impact conclusion presented in the final EIR/EIS remains valid.



## 1.0 INTRODUCTION

This SEIS is being prepared to consider a new proposal from the State of California Department of Health Services (DHS) for a direct sale of the subject lands to the State of California. The direct sale alternative was not addressed in either the draft or final EIR/EIS. This new alternative is governed by a different authority and regulations than those governing State Indemnity Selection (SIS). The SIS process is under provisions of 43 U.S.C. Sections 51 and 52 for the *Act to Quiet Land Titles* while the direct sale process is under section 203(a)(3) *Federal Land Policy and Management Act* of 1976. Section 203(a) states that "...the Secretary determines that the sale of such tract meets the following disposal criteria: disposal of such tract will serve important public objectives..." BLM has elected to prepare a supplemental environmental impact statement (SEIS) to describe the differences between a disposal by sale and disposal through SIS, and to analyze the environmental consequences of the new proposal.

### 1.1 Purpose and Need for the Proposed Action

In 1980 Congress enacted the *Low-Level Radioactive Waste Policy Act* (Public Law 96-573) which gave each state responsibility for managing its own low-level radioactive waste (LLRW). The act was amended in 1985 (Public Law 99-240). One provision of the act is that the three states with existing LLRW disposal sites would remain open to low-level radioactive waste from all states through December 1992. After January 1, 1993, the three states can refuse to accept waste. The Act was reviewed by the United States Supreme Court in 1992 and it was upheld with exception of the provision that the state's take title and custody of LLRW; this aspect was rejected.

To implement the *Low-Level Radioactive Waste Policy Act* (Public Law 99-240) as amended, the California State Legislature enacted *Assembly Bill 1513* (Torres) and *Senate Bill 342* (Alquist). DHS was designated to license a facility. The State of California is a member of the Southwestern LLRW Disposal Compact which includes Arizona, North Dakota and South Dakota. Compacts are permitted and encouraged by the *Low-Level Radioactive Waste Policy Act* as amended. The Southwestern LLRW Disposal Compact was ratified by Congress and signed into law by the President in 1988. California as a member of the Compact has agreed to provide a disposal site for a 30 year period.

In 1987, the California State Lands Commission (SLC) filed an application to acquire 1,000 acres of public land through the State's indemnity selection program (SIS). The intent of this application was to acquire the subject land for transfer to the California Department of Health Services (DHS). DHS is the state agency responsible for the licensing of a low-level radioactive waste disposal facility (LLRW).



A joint environmental impact report/statement (EIR/EIS) titled State of California Indemnity Selection & Low-Level Radioactive Waste Facility was prepared by DHS and BLM. After four scoping meetings, a draft EIR/EIS was distributed June 1990. During the public review period, four public hearings were held. A final EIR/EIS was distributed April 1991.

On July 2, 1991, the SLC asked the BLM to suspend processing the SIS, stating that DHS must decide on how to acquire the property (Appendix A). On July 13, 1992, the State of California through DHS filed a proposal (CA 30582) for a direct sale "to preserve use of the land as a LLRW site, in the event that a license is issued" (Appendix B). Owing to the change in the proposed means of conveyance and disposal from the final EIR/EIS and the difference in the acts and regulations governing the respective means of conveyance and disposal, a supplemental EIS was determined necessary to inform the public. On September 17, 1992 SLC filed a new SIS application.

## 1.2 Scope of Supplemental EIS

The DHS proposal does not propose any change either in the future use of the 1000 acres, or in the proposed facility as described and analyzed in the joint final EIR/EIS of April 1991. For this reason a supplement to the EIS is being prepared by the BLM only. Since the supplemental EIS concerns only the mode of conveyance, not the licensing of the facility, the technical, scientific and health issues analyzed in the final EIR/EIS, will not be re-analyzed in this supplemental EIS. This modification is not subject to the California Environmental Quality Act. Further, the proposed licensing of the facility is part of proposed adjudicatory hearing by the State, although the hearing is being challenged in court. If new environmental issues were to develop during the hearing, a supplemental EIR may be deemed necessary.

If the proposed LLRW facility is approved, it would be in the general public interest for the site to be owned by the State of California. The primary beneficiaries of this facility are limited to the States in the Southwestern Compact including California, Arizona, South Dakota, and North Dakota. If the site is approved for the LLRW facility and retained in public ownership, the Federal government would be liable for actions on the site. Thus, sale of the site is in the public interest if the project is approved.

If the proposed LLRW facility is not approved by the State of California, it would be in the general public interest for the land involved to be maintained in public ownership. The area is Category I desert tortoise habitat and contains cultural resources.

A 30-day scoping period began September 11, 1992 with the publication of a Notice of Intent (NOI) in the Federal Register. In addition, a news release and several hundred copies of the NOI were mailed to interested persons. During the scoping period 24 letters were received; 23 opposed the LLRW



facility. Two letters recommended utilizing the SIS mode of conveyance. Several letters noted desert tortoise, water quality, seismicity and Native American values as issues to be considered.

### 1.3 General Location Of Proposed Action

The subject land is located near the northern end of Ward Valley, approximately 23 miles west of Needles, California (see Figure 1).

The legal description is:

T.9N., R.19E., SBM  
Sec. 26, SW1/4SW1/4;  
Sec. 27, S1/2S1/2;  
Sec. 35, W1/2W1/2;  
Sec. 34, All. Total 1,000 acres

### 1.4 Relationship to BLM Policies, Plans and Programs

It is the policy of the BLM not to permit landfills on public lands. The California Desert Conservation Area Plan (1980) (Desert Plan) guidelines for waste disposal state that public lands may not be used for hazardous waste disposal. In particular, the Multiple-Use Class M guidelines note that where potentially suitable locations are found on public land, consideration will be given to transfer those lands to other ownership. The subject lands are within that area of Ward Valley designated as Multiple-Use Class M.

### 1.5 Relationship to State of California Policies, Plans and Programs

The State of California legislation designated DHS to license a LLRW facility and required that the facility be built within the state.

### 1.6 Authorizing Action

Section 7 consultation under the Endangered Species Act was completed on the disposal of the subject land under SIS, and a biological opinion with a no jeopardy determination was issued by the Fish and Wildlife Service and was included in the final EIR/EIS. A section 106 consultation with the California State Historic Preservation Office was also completed. The conveyance of the subject land to the State of California would occur upon EIR certification by the State as DHS proceeds to issue a license for a LLRW disposal facility.

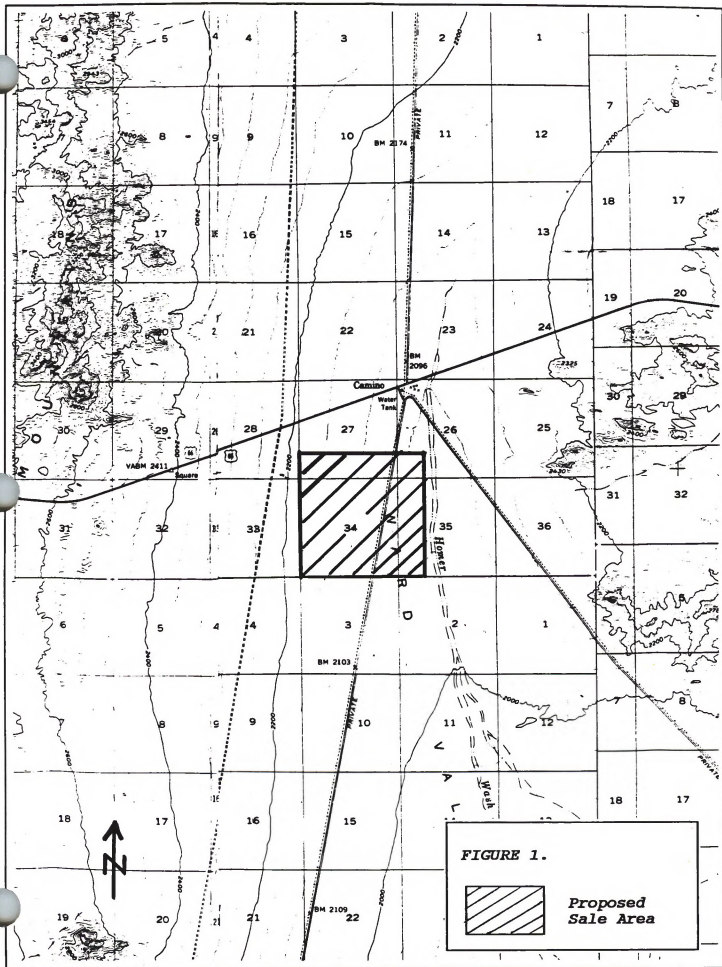
## 2.0 ALTERNATIVES INCLUDING PROPOSED ACTION

### 2.1 Proposed Action (New)

The proposed federal action is to convey 1,000 acres of public land to the State of California by means of a direct sale in accordance with section 203







**FIGURE 1.**



**Proposed  
Sale Area**



(a)(3) FLMPA. The final EIR/EIS State of California Indemnity Selection & Low-Level Radioactive Waste Facility (April 1991) is hereby incorporated. Copies of the document are available for review at the BLM's Needles Resource Area office, Needles, California; the California Desert District Office, Riverside, California; BLM State Office, Sacramento, California; California Department of Health Services, Sacramento, California; and varied San Bernardino County Libraries.

## 2.2 Previously Addressed Alternatives

The alternatives described in the April, 1991 Final EIR/EIS are still valid and will not be reanalyzed in this Supplemental EIS. Those alternatives include:

State Indemnity Selection. This method of transfer was the proposed action in the Draft and Final EIR/EIS.

No-action. The No Action alternative would deny a land transfer to the State of California.

## 2.3 Alternatives Eliminated from Detailed Consideration

The following alternatives were eliminated from detailed consideration in the Draft and Final EIR/EIS. The reasons for eliminating the alternatives have not changed, and they will not be reconsidered in the Supplemental EIS.

A competitive sale. This alternative is not considered because the LLRW Policy Act as amended requires that the land considered for a proposed LLRW waste facility remain in Federal or State ownership.

An exchange. This alternative is not considered because DHS does not have title to state land which could be exchanged for the Ward Valley site.

A lease, R&PP, or right-of-way. These option are not considered because BLM would retain title to the land, and the proposed use is inconsistent with Bureau policy that no waste disposal facility be located on public land.

## 3.0 AFFECTED ENVIRONMENT

The following resources were described in the affected environment in the Final EIR/EIS: geology and seismicity, hydrology, climate and air quality, environmental health and safety, noise, biology, land use, aesthetics, transportation, cultural resources including ethnology, paleontological and socioeconomic. The change in proposed action from SIS to direct sale does not alter the size, location or purpose for which the State seeks the land. There is no change to these resources, and they will not be re-analyzed.



#### **4.0 ENVIRONMENTAL CONSEQUENCES**

The environmental consequences to the above resources were analyzed in the final EIR/EIS for conveyance through SIS, the proposed facility siting and alternatives. Since there is no change to the resources, there is no change in the environmental consequences.

#### **5.0 CUMULATIVE IMPACT**

Cumulative impacts under conveyance through SIS were analyzed in the Final EIR/EIS. Since the change in the proposed action from SIS to direct sale does not alter the size, location, or purpose for which the State seeks the land, there is no change in the cumulative impacts. A re-analysis of the cumulative impacts is not necessary.

#### **6.0 CONSULTATION AND COORDINATION**

Department of Health Services

#### **7.0 PREPARERS**

Douglas Romoli, Environmental Specialist, California Desert District.  
Jack Mills, Environmental Coordinator, California State Office.  
Richard F. Johnson, Deputy State Director, Lands and Renewable Resources,  
California State Office.



8. INDEX

California State Historic Preservation Office 3

Cumulative Impact 6

Department of Health Services 1-2, 3

Desert Plan 3

Direct Sale Alternative 1, 3, 6

Endangered Species Act 3

Environmental Consequences 6

Low-Level Radioactive Waste

Federal Law 1

State Law 1, 3

Resources 5

State Lands Commission 1-2





## STATE LANDS COMMISSION

LEO T. McCARTHY, Lieutenant Governor  
 GRAY DAVIS, Controller  
 THOMAS W. HAYES, Director of Finance

EXECUTIVE OFFICE  
 1807 - 13th Street  
 Sacramento, CA 95811  
 CHARLES WARREN  
 Executive Officer  
 (916) 322-4108  
 FAX (916) 322-3884



July 2, 1991

Mr. Ed Hastey, State Director  
 Bureau of Land Management  
 2800 Cottage Way, E-2841  
 Sacramento, CA 95827

Dear Mr. Hastey:

Now that the Final Environmental Impact Statement/Report on the proposed Low-Level Radiation Disposal Project has been released, it is time to finalize the details on the transfer of the lands to the Department of Health Services.

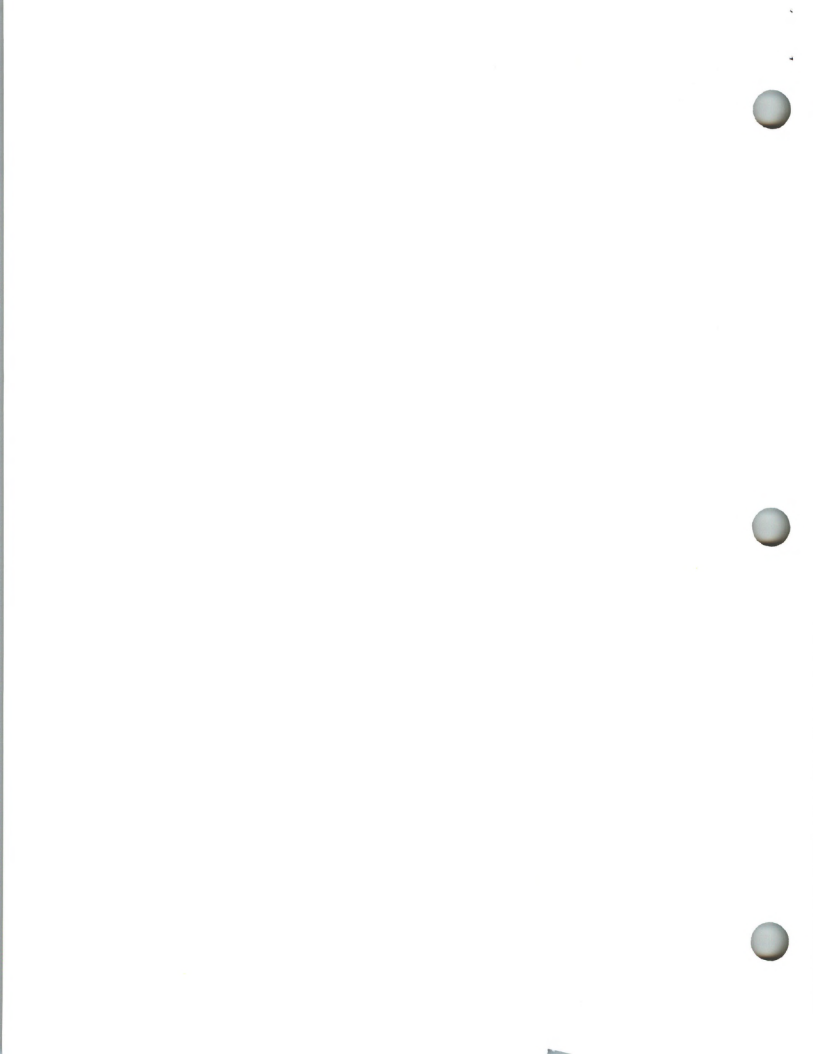
The Department of Health Services solicited the Commission's assistance in order to use the segregative effect of the in lieu process in order to prevent the filing of mining claims and other forms of entry which could interfere with the project. If the Department of Health Services decides to approve the issuance of a license to build and operate the low-level disposal facility, it must decide how to acquire the property. Therefore, you should suspend processing of the State Indemnity Selection and not classify the property for transfer by the in lieu methodology.

Should you have any questions, please contact me.

Sincerely,

Charles Warren  
 Executive Officer

cc: Molly Joel Coye, M.D., M.P.H.  
 Director, Department of Health Services  
 Harvey Collins, Deputy Director  
 Ron Gaynor, US Ecology



(CA 30587)

3 pages -  
date stamped and  
received by DMM  
on 7/13/91  
R. Johnson  
PETE WILSON, Governor

DEPARTMENT OF HEALTH SERVICES

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(916) 657-1425

copy Romo  
7/14/91



Mr. Edward Hastey  
State Director  
U. S. Bureau of Land Management  
2800 Cottage Way, E-2835  
Sacramento, California 95825

WARD VALLEY LOW-LEVEL RADIOACTIVE WASTE DISPOSAL FACILITY SITE

Dear Mr. Hastey:

Federal law requires states to establish adequate disposal capacity to manage the nation's commercial low-level radioactive waste (LLRW). Federal law further provides that states that have not made arrangements for disposal of their own waste can be denied access to the three existing sites in the nation. California law requires that a disposal facility be built within the State and directs that a private company be selected as license-designee to locate, develop, and operate the facility subject to regulation by the California Department of Health Services. The Southwestern LLRW Disposal Compact obligates California to develop a LLRW facility to serve the four member states, California, Arizona, North Dakota, and South Dakota.

A site in Ward Valley, near Needles, California, has been proposed as the location for the LLRW disposal facility. The site is located on federal land under the jurisdiction of the Bureau of Land Management. On September 19, 1990, the California State Lands Commission filed an application with the Bureau of Land Management for selection of the public lands on which the proposed Ward Valley LLRW site is located (State Application For Selection No. 27379). The filing of an application for lands for selection by a state segregates the lands included in the application for a period of two years from the date of such filing. Therefore, the protection afforded by segregative effect will soon expire, on or about September 19, 1992, if no further action is taken.

On July 2, 1991, Mr. Charles Warren, Executive Officer of the State Lands Commission, stated in a letter to you:

"If the Department of Health Services decides to approve the issuance of a license to build and operate the low-level disposal facility, it must decide how to acquire the property. Therefore, you should suspend



processing of the State Indemnity Selection and not classify the property for transfer by the in lieu methodology."

The Department of Health Services has interpreted this language to mean that the State Lands Commission is withdrawing from the State Indemnity Selection process. The Department of Health Services, however, desires to take whatever action is necessary in order to preserve use of the land as a LLRW site, in the event that a license is issued.

The decision to approve the issuance of a license to build and operate the LLRW facility is pending and will not be made until I am satisfied the public health and safety is protected. Before the decision is made, the Department of Health Services will hold a hearing in an adjudicatory format to allow the public to address remaining scientific or safety issues related to the Ward Valley facility. I expect this process to take approximately eight months to complete. Therefore, it is important that I take action now if the Ward Valley option is to be preserved.

This letter is a request to the Bureau of Land Management for the sale of public lands as authorized by section 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. §§ 1701, 1713 and 43 C.F.R. §§ 2710.1-1 et seq.). Request is for the sale of four parcels of land in San Bernardino County, California described as follows:

PARCEL 1: SW-1/4 of the SW-1/4 of Section 26, T9N, R19E, SBM.

PARCEL 2: S-1/2 of the S-1/2 of Section 27, T9N, R19E, SBM.

PARCEL 3: W-1/2 of the W-1/2 of Section 35, T9N, R19E, SBM.

PARCEL 4: Section 34, T9N, R19E, SBM.

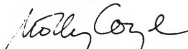
I suggest that disposal of such tract would serve important public objectives, the siting of the California LLRW disposal facility, which cannot be achieved prudently or feasibly on lands other than public lands and which outweigh other public objectives and values, including, but not limited to, recreation and scenic values, which would be served by maintaining such tract in Federal ownership. Also, the property to be conveyed is an integral part of a project of public importance, the timely completion and economic viability of which would be jeopardized by competitive bidding, the sale should be handled as a "direct sale" (43 C.F.R. §§ 2711.3-3).



Mr. Edward Haste  
Page 3

If you have any questions, please do not hesitate to contact Elisabeth Brandt, Department of Health Services' Deputy Director and Chief Counsel at (916) 654-0589.

Sincerely,



Molly Joel Coyle, M.D., M.P.H.  
Director

