

New York State Department of Environmental Conservation
Division of Solid and Hazardous Materials
Bureau of Radiation & Hazardous Site Management, Room 460
50 Wolf Road, Albany, New York 12233-7252
Phone: (518) 457-9253 • **FAX:** (518) 457-9240
Website: www.dec.state.ny.us



APR 10 2001

Mr. Larry Camper, Chief
Decommissioning Branch
Office of Nuclear Materials and Safeguards
US Nuclear Regulatory Commission
1 White Flint North
Rockville, Md. 20852-2738

Dear Mr. Camper,

Re: West Valley Cooperation Agreement

This letter addresses the current effort to formulate a Cooperation Agreement between the New York State Department of Environmental Conservation (DEC) and the United States Nuclear Regulatory Commission (NRC) relative to the decommissioning activities for the Western New York Nuclear Service Center (West Valley).

The DEC had proposed the Cooperation Agreement with the expectation that it would be a vehicle to begin to address substantive regulatory issues regarding decommissioning of the West Valley site. Initial discussions between our technical staff's had centered on several issues that we had wanted to address with this Agreement. Unfortunately, the NRC has subsequently chosen not to use the Agreement in this manner. Given our differing views on what should be included in the Agreement, and several recent developments related to site decommissioning, the DEC believes that the original purpose for requesting such a document will not be addressed and therefore it is more appropriate to deal with the issues involved on a more individual basis. The other related developments include the United States Department of Energy's (DOE) De-Scoping of the site EIS, the expected adoption of the NRC's License Termination Rule as its decommissioning criteria for the Demonstration Project. Also influencing this decision is the need to involve the United States Environmental Protection Agency (EPA), the New York State Energy Research and Development Authority (NYSERDA), and the DOE in future discussions on the issue of acceptable end-points for the decommissioning process. With several different criteria in use by the involved agencies, a resolution agreeable to all of the agencies, not just the DEC and NRC, is desirable.

In order to address the original purpose of the Agreement, we propose that, following NRC's Congressionally mandated adoption of a final decommissioning criteria for the Demonstration Project, representatives from our agencies should meet to discuss alternatives for addressing the pertinent issues. These more narrowly focused mechanisms could take the form of MOU's, letters of intent, or some other mutually acceptable means. Representatives of the EPA, NYSERDA, and DOE should be involved as appropriate.

Enclosure 1

Issues that the Department would like to address include, but are not necessarily limited to:

- 1) The application of the different decommissioning criteria of the State and Federal agencies involved at West Valley.
- 2) Availability to the DEC of copies of draft documents pertaining to the EIS.
- 3) The regulatory status of the site property outside of the Project premises and the SDA.
- 4) How to deal with offsite contamination areas, i.e., consensus vs. single agency approval, for areas such as the Cesium Prong and potentially contaminated stream sediments.

We appreciate the time and effort of the NRC staff. We look forward to working with them in the future to ensure a disposition for the West Valley site that is protective of the public health and the environment of our State. Please contact me at the above number, or Mr. Timothy Rice of my staff at (518) 457-2225, with any questions regarding this letter.

Sincerely,



Paul J. Merges, Ph.D. Director,
Bureau of Radiation
& Hazardous Site Management
DS&HM

✓