



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2
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MAY 17 1999

Mr. Dan Sullivan
West Valley Area Office
U.S. Department of Energy
P.O. Box 191, WV-37
West Valley, New York 14171-0191

Dear Mr. Sullivan:

As you know, the Environmental Protection Agency (EPA) reviewed the draft environmental impact statement (EIS) for the Completion of the West Valley Demonstration Project (WVDP) and Closure or Long-Term Management of the Western New York Nuclear Service Center, located in Cattaraugus County, New York.

Our October 4, 1996, comment letter (copy enclosed) expressed environmental objections to the proposed project and requested additional information to address these objections in the final EIS; we understand that the Department of Energy (DOE) is in the process of preparing a supplemental EIS. Our specific objections included: the limited information on existing site contamination; the uncertainty in achieving the stated cleanup levels; waste disposal; ground and surface water related impacts; the potentially adverse radiation impacts; the questionable accuracy of the risk assessment; and the potential loss of institutional controls. Of particular concern were issues regarding the radiation risk assessment. We stated that the selection of 15 mrem/yr total effective dose equivalent would be consistent with the risk range specified in the National Contingency Plan (NCP), and with the treatment of non-radioactive contaminants as presented in the draft EIS. Therefore, we stated that the final EIS should include a commitment to use either 15 mrem/yr or 10 mrem/yr (as established in the New York State Department of Environmental Conservation's Technical Assistance Guidance Memorandum) as the final dose constraint for remedial activities.

It has come to our attention that the Nuclear Regulatory Commission (NRC) has written two Policy Issue Papers, SECY-98-251 and SECY-99-057, regarding the decommissioning criteria for the West Valley site. We further understand that the papers propose a dose for unrestricted use of no more than 25 mrem/yr to the average member of the critical group with application of the As Low As Reasonably Achievable (ALARA) principle; higher doses will be allowed for restricted use of the site. Additionally, SECY-98-251 proposes to not prescribe the decontamination and decommissioning requirements until after DOE and the New York State

Energy Research and Development Authority (NYSERDA) have issued the final EIS and Record of Decision; it also provides for license termination at a higher dose limit provided there are site restrictions. The options recommended in SECY-99-057 are to: prescribe use of the License Termination Rule (10 CFR 20 Subpart E), or issue the criteria in SECY-98-251 as proposed criteria with final criteria to be prescribed after issuance of the final EIS but before the Record of Decision (ROD).

EPA urges that the dose assessment for the WVDP be made with cognizance of how decisions will affect/contribute to doses for the other facilities and activities at the West Valley site. Segmenting dose assessment by areas under different agency programs or regulatory authorities may result in unforeseen impacts on other areas of the West Valley site outside of the 200-acre WVDP, and may cause increased technical difficulties as well as increased doses for these other areas.

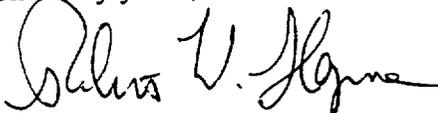
With respect to the dose limit NRC proposes for the West Valley site, EPA does not believe that a 25 mrem/yr dose constraint is adequately protective of human health or the environment because the NRC dose limit of 25 mrem/yr is outside of the risk range of 10^{-4} to 10^{-6} as established in the 1990 revisions to the NCP and EPA guidance under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA); the 25 mrem/year dose limit proposed by NRC is equivalent to approximately 5×10^{-4} . In addition, SECY-98-251 proposes the possibility of transferring regulation of decommissioning to EPA if there is no workable remedy under NRC's authority. Transferring the site to another agency with more stringent public dose criterion in exchange for allowing a longer institutional control period may result in revisiting the cleanup standard. Revisiting a cleanup standard or evaluating a site against a more stringent cleanup standard after a remediation has been "completed" usually leads to requiring additional remediation. To avoid a situation where additional cleanup activities are necessary, we urge NRC and DOE to give serious consideration to using the more stringent cleanup number so that remedial activities are conducted one time.

In addition, not prescribing the decontamination and decommissioning criteria until after issuance of the final EIS makes it difficult to compare and assess the impact of volumes of material to be remediated and goals for treatability studies for each alternative, which depend on establishing Derived Concentration Guidance Limits (DCGLs) based on the cleanup level selected. At the end of the decontamination process, we expect that the Multi-Agency Radiation Survey and Site Investigation Manual (MARSSIM) approach to demonstrate compliance will be used since it is a consensus document that was developed collaboratively by NRC, DOE, and EPA. Additionally, electing to prescribe the criteria after issuance of the final EIS could mislead the public to believe that there are continuing significant opportunities beyond the EIS and ROD process to provide input to determining the decontamination and decommissioning requirements for the WVDP.

Accordingly, we believe that NRC should prescribe the decontamination and decommissioning criteria before the issuance of the final EIS and ROD and we reiterate our recommendation from our comments on the draft EIS that DOE and NYSERDA commit to use either the 15 mrem/yr or 10 mrem/yr dose for unrestricted use of the West Valley site. Further, should DOE pursue movement away from achieving unrestricted use of the West Valley site, it should closely evaluate and rigorously justify that decision.

Should you have any questions, please contact Ms. Marie Jenet of my staff at (212) 637-3747.

Sincerely yours,



Robert W. Hargrove, Chief
Strategic Planning and Multi-Media Programs Branch

Enclosure

cc: J. Parrott, NRC
P. Merges, NYSDEC
P. Giardina, EPA/DEPP/RIAB