



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2
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JUL 23 2001

Mr. John Greeves, Director
Division of Waste Management [Mail Stop T7J-8]
Office of Nuclear Material Safety and Safeguards
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Dear Mr. Greeves:

The purpose of this letter is to modify and revise the U.S. Environmental Protection Agency's (EPA) opinion concerning the level of protectiveness afforded by the U.S. Nuclear Regulatory Commission's (NRC) 25 mrem/year clean up dose limit for unrestricted release as it applies to the West Valley Demonstration Project (WVDP). Specifically, EPA now believes, based on information received and discussions with the NRC between January 2000 and the present, that portions of the WVDP site cleaned up, for unrestricted use, to Derived Concentration Guideline Limits (DCGLs) that are developed consistent with NRC's guidance for deriving concentration limits to meet the NRC's annual limit of 25 mrem TEDE (total effective dose equivalent) will result in a residual risk within the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) risk range of 10^{-4} to 10^{-6} when calculated in accordance with EPA's Risk Assessment Guidance for Superfund. As such, we believe the 25 mrem/yr cleanup dose limit will be protective at this site. This represents a change in our opinion as expressed in two pieces of correspondence, specifically the May 17, 1999 letter from Robert Hargrove to Mr. Dan Sullivan, and a January 10, 2000 letter from Jeanette Eng to Mr. Jack Parrott. A copy of each of these letters is attached. In both of these pieces of correspondence, EPA expressed concern that the NRC standard might not afford adequate protection of human health and the environment. This letter supercedes the opinion contained in both of those pieces of correspondence.

Background

On May 17, 1999 Robert W. Hargrove, the Chief of the EPA Region 2 Strategic Planning and Multi-Media Programs Branch, in a letter to Dan Sullivan of the U.S. Department of Energy, stated the EPA opinion that we "did 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 National Contingency Plan (NCP)." That opinion was primarily based on two NRC policy issue papers referenced therein.

Additionally, on January 10, 2000 Jeanette Eng of my staff sent a letter to Jack D. Parrott, then of your staff, containing a copy of a statement prepared and read by Ms. Eng at a January 5, 2000 meeting concerning the application of 10 CFR 20 Subpart E to the West Valley Site. That statement contains language from which one could conclude that EPA continued to have concerns whether NRC's 25 mrem/yr dose constraint would achieve the CERCLA risk range. In large part, Ms. Eng's statement was based on information similar to that used in Mr. Hargrove's aforementioned letter.

Subsequent to Ms. Eng's statement, the NRC has provided much more guidance on how the 25 mrem/yr standard would apply and be applied at West Valley. It became clear to EPA that the NRC had designed sufficient conservatism into its guidance such that the 25 mrem/yr standard seemed likely to achieve the CERCLA risk range. In May 2000, while attending the National Conference of Radiation Control Program Directors Meeting in Tampa, Florida you and I conferred briefly and agreed that it would be advisable to pursue an agreement concerning cleanup guidance for the WVDP site. We agreed that New York State should be included in these discussions. I subsequently discussed this proposal with the two New York State agencies with regulatory responsibilities at West Valley, the Department of Health and the Department of Environmental Conservation, and they agreed to participate in a dialogue for the purpose of agreeing on appropriate clean-up levels for the site. These efforts culminated in a conference call amongst the parties on October 13, 2000. A summary of that discussion and the agreement reached were distributed via email, and a copy of that summary is also attached.

One of the key next steps suggested by your agency was that we make the DOE aware of the non-NRC cleanup goals so that DOE could focus on addressing them in the Environmental Impact Statement (EIS) development process. To implement that suggestion we requested time for each of our agencies to present our cleanup guidance at the annual WVDP Regulatory Roundtable which was held on July 17, 2001 at the WVDP site. During that meeting it became clear to you and I that it was necessary for EPA to provide a letter which would provide a written record and reference that EPA had modified and revised its position as stated in the two previously mentioned letters of May 17, 1999 and January 10, 2000. This letter is being written to satisfy that need. It is our intent that this letter be used by the DOE in the development of subsequent EISs as the operative guidance regarding EPA's position on the NRC 25 mrem/yr dose limit for free release at the WVDP and that our position is as stated in the first paragraph of this letter.

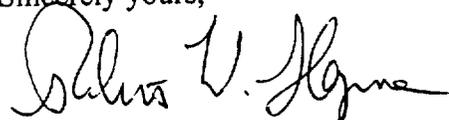
Other Issues and Challenges

The issue of protecting drinking water has been mentioned throughout this matter. EPA has enacted a standard for radionuclides in drinking water pursuant to the Safe Drinking Water Act (SDWA) for which the EPA has statutory authority. This standard requires a separate level of protection for radionuclides of 4 mrem/yr. The NRC's 25 mrem/yr standard is for all exposure pathways including the drinking water pathway. Our October 13, 2000 discussion and agreement concluded that depending upon the exposure from pathways other than the drinking water pathway, either the EPA or the NRC standard may be more restrictive. Notwithstanding, we

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