

December 18, 2002

MEMORANDUM TO: Marc Dapas, Acting Director  
Division of Nuclear Materials and Safeguards/RIII

FROM: Larry Camper, Chief  
Decommissioning Branch **/RA/**  
Division of Waste Management/NMSS

SUBJECT: MDNR (FORMER HARTLEY AND HARTLEY SITE)  
CHARACTERIZATION PLAN CONCERNS

We have reviewed your memorandum dated September 18, 2002. The memorandum includes an Attachment which is a memorandum (dated September 5, 2002) to Mr. J. E. Dyer, Regional Administrator, Region III, submitted by Mr. Edward L. Kulzer, Radiation Specialist, Region III. The Attachment refers to the characterization of the four acre portion of the Michigan Department of Natural Resources' (MDNR's) Site Decommissioning Management Plan (SDMP) site known as Tobico Marsh State Game Area (SGA) in Bay County, Michigan (former Hartley & Hartley industrial waste landfill).

Mr. Kulzer requests two actions: 1) suspension of all drilling until the "Differing Professional View" (DPV) is formally resolved and 2) notification of the appropriate State agencies and the US Environmental Protection Agency (EPA). Mr. Kulzer's first concern, based on his understanding of the July 22, 2002, meeting at the site between the NRC and the MDNR staff, is that the NRC health physicists were considering requesting additional bore holes because the data obtained from the original 425 holes bored was in question. No such request has been made for additional bore holes as a result of that meeting. We are waiting for the decommissioning plan (DP) to be submitted by the MDNR by March 1, 2003. The DP will be reviewed according to NRC's guidance. The review will indicate whether additional information needs to be provided to demonstrate compliance with 10 CFR Part 20 requirements for decommissioning. At that time, a decision will be made with regard to the need for any additional bore hole samples. Additionally, as part of the staff's evaluation, the staff will consult with and inform the appropriate agencies.

As a follow-up to the issues raised by Mr. Kulzer, a telephone conference was held on December 10, 2002, between the headquarters and Region III staff. The participants from headquarters were: Claudia Craig, Nick Orlando, Jean-Claude Dehmel, Sam Nalluswami and myself and from Region III were Bruce Berson, Chris Miller, Ed Kulzer and Mark Satorius. Each of Mr. Kulzer's concerns were discussed. Additionally, we informed Mr. Kulzer of the telephone conversation Region III staff held with the Michigan Department of Environmental Quality (MDEQ). The appropriate staff within MDEQ are aware of the situation at MDNR site and would like to be informed of future activities at the site. The MDEQ staff do not view this as an immediate environmental concern. During the December 10, 2002, telephone conference, Region III committed to draft a letter to the MDEQ summarizing the conversation it had with MDEQ staff and provide a copy to the regional office of the EPA, per Mr. Kulzer's request.

Mr. Dapas

2

We understand that on December 10, 2002, Mr. Kulzer withdrew his DPV and that this matter is closed once you provide the cited letter to MDEQ with a copy to the EPA. We appreciate Mr. Kulzer raising his concerns and recognize that the formal DPV process is available to him should he raise additional concerns.

If you have any questions on this matter, please contact me (301-415-7234) or Sam Nalluswami of my staff (301-415-6694).

Mr. Dapas

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**AN:**

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\* see previous concurrence

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