



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
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APR 18 2003

Alice C. Williams, Director  
U.S. Department of Energy  
West Valley Demonstration Project  
1282 Rock Springs Road  
West Valley, NY 14171-9799

Dear Ms. Williams:

This letter will follow up the discussions held on April 10, 2003, at a meeting between our Agencies, the U.S. Nuclear Regulatory Commission (NRC), the New York State Departments of Environmental Conservation (DEC) and Health (DOH) and the New York State Energy Research and Development Authority (NYSERDA) concerning the schedule for the proposed environmental impact statement (EIS) for the West Valley Site Decommissioning and/or Long Term Stewardship.

As you know, the ultimate decommissioning of this site is one of the U.S. Environmental Protection Agency's (EPA) top priorities. Our Agency, working with the NRC and the various state agencies, made a priority effort, beginning in 2000 and culminating in 2001, to provide a complete set of cleanup criteria for the site (Regulators' Communication Plan). This was done so that the DOE would not be delayed in its efforts to scope out a preferred alternative for decommissioning and for the preparation of both the required EIS and decommissioning plan. Also, EPA signed on to be a cooperating agency in the preparation of the aforementioned EIS and pledged what we believe to be a reasonable level of resource support to assure we met our commitments. It is with this perspective as an introduction that I must provide our misgivings about your current EIS schedule.

The revised accelerated EIS schedule which you proposed and transmitted to us on April 7<sup>th</sup> is so ambitious that it will conceivably compromise the quality of input from the involved agencies and this, in turn, could compromise the quality of the document itself. The quality of this document and the strong consensus of the cooperating and lead agencies are essential for several reasons. For one, the NYSERDA will be using this EIS as a key factor in any future licensing determinations by the NRC on the remainder of the site. In addition, NRC intends to use the environmental record for its determination that the proposed alternative meets its license termination regulations. If the EIS is not of sufficient quality, then the NRC will have to do an independent EIS. This would be wasteful to all concerned since all Agencies would be involved in both EIS efforts.

Let me outline some problems associated with this new time schedule:

1. It provides no time for review, discussion and consensus building among the co-lead and cooperating agencies in regards to various alternatives. This cannot work since either Alternative 2 or 3 is likely to formulate the basis for the preferred alternative, and each alternative calls for continued storage of some waste on site. Comments from the co-lead and the three cooperating agencies are certain to be diverse and will need patient and careful consideration if we are all to stand by the EIS at the end of this process.
2. Now the schedule requires concurrent reviews of three alternatives, two sets of facility characterizations, and four sets of models covering hydrology, erosion, and long-term performance when the original understanding was that these were to be done essentially sequentially throughout the process. This concurrent review is impossible for EPA with existing resource constraints.
3. It does not allow sufficient time for consideration for how DOE's and NYSERDA's different goals would be considered unless there is a designated comment review for each alternative. DOE clearly wants to fulfill its responsibilities under the West Valley Demonstration Project Act and move on as expeditiously as possible. NYSERDA will probably end up with some responsibility for the site beyond the current time frame envisioned by the Act unless there is new Federal legislation. This circumstance has created a series of difficult challenges for both agencies in resolving related issues. We cannot imagine this EIS schedule being effective in dealing with these issues without a designated comment review period for each of the alternatives.
4. It does not include a schedule for Alternative 2, which we believe should be a discrete item. It sends a poor signal to the public which wants due consideration for all realistically implementable alternatives not to include a schedule for Alternative 2.
5. It reduces that DEIS public comment period from 180 days, which was already discussed with the public, to 45 days. This reduction in the public comment period would not represent the public participation that you originally portrayed to the public.
6. It portrays a perception that the EIS development time frame is being shortened to accommodate a protracted administrative review process prior to the issuance of the Notice of Intent.
7. It does not provide sufficient review time to ensure consistency with other cleanup efforts involving long-lived radionuclides. Specifically, it has always been our basic guidance that on site disposal, and even long term storage of long-lived radionuclide contamination in any quantity, is not desirable. We have been firm in this approach with others who are doing clean ups, specifically the U.S. Army Corps of Engineers in their efforts dealing with old Manhattan Engineering District waste in the Buffalo - Niagara Falls area.
8. It does not take into consideration the precedent setting this EIS will be making in that it is the first time that NRC LTR requirements and Superfund risks for radionuclides are being

calculated, analyzed, and concurrently reported in an EIS. A careful review of this portion of the EIS is needed and a successful effort will pay benefits now and in the future.

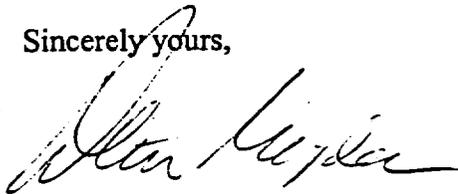
We understand that the accelerated schedule is favored by DOE because it allows for earlier decisions that will influence the new contractor selection process for this project which must begin soon. While we do not want to give the signal that we are in favor of any delays in the final decisionmaking on this site, we do want sound environmental decisionmaking and a reasonable effort to achieve consensus among the involved Agencies.

As such, we proposed at last week's meeting some alternative approaches which would allow you to accommodate your contracting deadlines and still have reasonable time for the environmental review process. We believe that by using an alternate approach, the schedule can be modified whereby the DEIS is published by August 31, 2004 and the comment period will run for 180 days from that date. This gives additional time for the resolution of comments and a segmented review of each alternative.

Our suggestions are not meant not to lengthen the EIS process, but rather to assure the process yields a quality document with the consensus of the involved Agencies, which will encourage public confidence in our decision making. In the end, without such confidence, this process toward final decommissioning and long term stewardship will be protracted far worse than the extra time needed to do the job correctly.

Thank you for considering our comments and your continuing consultation.

Sincerely yours,



Walter Mugdan, Director  
Division of Environmental Planning and Protection

cc: Paul Piciulo, NYSERDA  
Daniel M. Gillen, NRC  
Barbara Youngberg, DEC  
Adela Salame-Alfie, DOH

bcc: Paul A. Giardina, RIAB  
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