

May 5, 2003

Alice C. Williams, Director
U.S. Department of Energy
West Valley Demonstration Project
10282 Rock Springs Road
West Valley, New York 14171-9799

Dear Ms. Williams:

This letter is in reference to the proposed schedule for completion of the Environmental Impact Statement (EIS) for Decommissioning and/or Long-Term Stewardship at the West Valley Demonstration Project (WVDP) and Western New York Service Center. While we share the U.S. Department of Energy's (DOE) desire for timely completion of the EIS and the decommissioning of the WVDP, we are concerned that the proposed schedule may not allow sufficient time for cooperating agency participation in the development of the EIS.

The U.S. Nuclear Regulatory Commission (NRC) believes that the importance of the EIS for the site cannot be overemphasized, and that it is essential that adequate time be allocated for the development of a high-quality and defensible EIS. The NRC intends to use the EIS to fulfill NRC's National Environmental Policy Act (NEPA) responsibilities for applying the License Termination Rule (LTR) to the WVDP and to assist in our determination of whether the preferred alternative meets the LTR. In addition, the EIS may also eventually be used by the New York State Energy Research and Development Authority (NYSERDA) if it seeks an NRC licensing action for the site following completion of DOE activities.

DOE's proposed schedule provides for transmittal of the preliminary Draft EIS to the cooperating agencies for review on December 29, 2003, followed by public release of a Draft EIS on April 5, 2004. NRC requests that DOE allow an additional three months for review and comment on the Closure Engineering Reports and other supporting documentation prior to transmittal of the entire Draft EIS to the cooperating agencies, and approximately six months for review of the Draft EIS as a whole. This would result in transmittal of the preliminary Draft EIS to the agencies for review at the end of March 2004, followed by public release of the Draft EIS in November 2004. We believe that this additional time will allow for meaningful and productive interaction between DOE, NYSERDA, and the cooperating agencies, and will allow for the development of a quality Draft EIS for public review. The dates we are proposing assume that DOE continues to meet its milestones and provide documents for review in a timely manner.

We urge DOE to revise its proposed schedule to allow sufficient time for the adequate participation of the cooperating agencies. It is our intent to adopt the EIS, but if we determine that the EIS is inadequate to support our requirements and responsibilities, then we would need to either supplement the EIS or prepare our own EIS. This would result in the expenditure of duplicative resources and may delay the decommissioning of the WVDP.

We look forward to continuing to work with DOE, NYSERDA, and the other cooperating agencies in the development of the EIS. Detailed comments regarding the schedule are being sent under separate cover to Mr. Daniel Sullivan, of your staff. If you would like to discuss these scheduling issues further, please contact me at 301-415-7437, or Anna Bradford, of my staff, at 301-415-5228.

Sincerely,

/RA/

John Greeves, Director
Division of Waste Management
Office of Nuclear Material Safety
and Safeguards

cc: Paul Giardina, EPA
Barbara Youngberg, NYSDEC
Paul Piciulo, NYSERDA
Adela Salame-Alfie, NYSDOH
Rickey Armstrong, Sr., Seneca Nation of Indians

A. Williams

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We look forward to continuing to work with DOE, NYSERDA, and the other cooperating agencies in the development of the EIS. Detailed comments regarding the schedule are being sent under separate cover to Mr. Daniel Sullivan, of your staff. If you would like to discuss these scheduling issues further, please contact me at 301-415-7437, or Anna Bradford, of my staff, at 301-415-5228.

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*see previous concurrence

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