

May 14, 2003

Daniel W. Sullivan, EIS Manager
U.S. Department of Energy
West Valley Demonstration Project
10282 Rock Springs Road
West Valley, NY 14171-9799

SUBJECT: COMMENTS ON SCHEDULE FOR THE ENVIRONMENTAL IMPACT
STATEMENT

Dear Mr. Sullivan:

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 Nuclear Service Center. As you may recall, the U.S. Nuclear Regulatory Commission (NRC) sent a letter to Ms. Alice Williams dated May 5, 2003, which expressed our overall concerns with the U.S. Department of Energy's (DOE's) proposed schedule. The letter stated that our detailed comments on the proposed schedule would be sent under separate cover to you; those detailed comments are enclosed.

Our May 5, 2003, letter stated that we would prefer that the preliminary Draft EIS be sent to the cooperating agencies for review in March 2004, and the Draft EIS be released to the public in November 2004. Therefore, our enclosed comments do not suggest specific time frames for individual tasks because we realize that DOE will need to make adjustments to the schedule according to our proposed dates. We also recognize that DOE will need to consider the comments provided by the other cooperating agencies. We believe that a meeting between DOE, the New York State Energy Research and Development Authority, and the cooperating agencies would be the most productive way to decide on mutually agreeable milestones.

Please note that in a letter from Ms. Williams to us dated February 12, 2003, DOE agreed to prepare a decommissioning plan for the WVDP, in accordance with our expectations that it be submitted at approximately the same time as the Draft EIS. We continue to believe that the submittal of the decommissioning plan at the same time as the Draft EIS would facilitate our review of both documents.

D. Sullivan

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If you would like to discuss scheduling issues further, please contact me at 301-415-5228.

Sincerely,

/RA/

Anna H. Bradford, Project Manager
Environmental and Performance
Assessment Branch
Division of Waste Management
Office of Nuclear Material Safety
and Safeguards

Enclosure: As stated

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

NRC Comments on Proposed EIS Schedule

1. There is no cooperating agency review provided for Closure Engineering Reports (CERs) for Alternatives 2 or 5. The U.S. Nuclear Regulatory Commission (NRC) believes that the cooperating agencies should be allowed to review the CERs and supporting documentation for all of the proposed alternatives. It is our understanding that DOE does not plan to develop a CER for Alternative 2, but instead plans to consolidate applicable information from the CERs for Alternatives 1 and 3. The NRC feels that consistent CER documentation needs to be developed for each alternative.
2. The review time for the CERs and other supporting EIS documentation is 20 working days. In some cases, 20 working days may not be adequate for a thorough review and comment on the technical information contained in the documents.
3. The schedule does not include time for resolution of the comments received from the cooperating agencies on the CERs and other documentation. The NRC believes that cooperating agency comments need to be evaluated and incorporated, as applicable, during development of the documentation and the Draft EIS. In addition, the cooperating agencies should be informed of the disposition of their comments, and any resultant changes should be appropriately documented.
4. Several cooperating agency reviews that were included in the previous schedule (dated July 10, 2002) have been eliminated, such as those for the structural geology report, the seismic hazard curve report, and revisions of hydrology and erosion appendices. The cooperating agencies should be consulted as to which reports and draft EIS sections should be eliminated from review and which should be retained for review.
5. The NRC has been informed that the incidental waste determinations for the high-level waste tank farm, the vitrification facility, and the process building will be sent to the NRC for review in October 2003, April 2004, and September 2004, respectively. It is unclear how the results of these incidental waste determination reviews can be factored into the EIS, considering that the Draft EIS is scheduled for completion by April 5, 2004, and a Final EIS by October 21, 2004. The NRC's Policy Statement on West Valley (67 FR 5003) states that the impacts of identifying waste as incidental should be considered in DOE's environmental reviews.
6. The schedule states that the characterization reports for the State-licensed disposal area and the high-level waste tank farm were sent for cooperating agency review and comment on October 9, 2002, and November 20, 2002, respectively, and that the cooperating agency reviews are complete. Although we did receive copies of these reports, we were not asked by DOE to review or comment on these reports, and we have not done so.
7. The schedule provides for a review time of 30 working days for the Draft EIS before it is released to the public. Considering that the NRC will not have had the opportunity to review the majority of the information in the EIS before that time, 30 working days is insufficient time for adequate review and comment.

Enclosure

8. The schedule states that the Draft EIS will be released for a 45-day public comment period. It is our understanding that the Stipulation of Compromise requires a six-month comment period. During the EIS scoping meetings, DOE indicated that up to 180 days would be allowed for public comment.
9. The schedule provides for 30 working days to revise the EIS to address public comments. Considering that some comments may need to be distributed to the applicable cooperating agency for response, 30 working days does not seem to be an adequate amount of time to coordinate the comment response effort and incorporate all of the necessary changes to the EIS. Similarly, 30 working days for NRC review of the Final EIS may not be sufficient if the revisions to the EIS are significant.

D. Sullivan

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If you would like to discuss scheduling issues further, please contact me at 301-415-5228.

Sincerely,

/RA/

Anna H. Bradford, Project Manager
Environmental and Performance
Assessment Branch
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Office of Nuclear Material Safety
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Enclosure: As stated

cc: Paul Giardina, EPA
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