March 4, 2005

Mr. James Moore, CPG
Project Manager, Colonie FUSRAP Site
Department of the Army
New York District, Corps of Engineers
Jacob K. Javits Federal Building
New York, New York 10278-0090

Dear Mr. Moore,

I am writing in response to your letter, dated February 2, 2005, in which you request U.S. Nuclear Regulatory Commission (NRC) concurrence on your plan to blend material at the Colonie, New York, Formerly Utilized Sites Remedial Action Program (FUSRAP) and ship the material to a permitted Resource Conservation and Recovery Act (RCRA) facility for disposal as an "unimportant quantity" of source material.

Pursuant to the Director's Decision dated March 26, 1999, (64 FR 16504, April 5, 1999) the NRC does not impose licensing or other regulatory requirements on the U.S. Army Corps of Engineers (USACE) for USACE handling of radioactive material at FUSRAP sites. Thus, we are unable to offer a regulatory view on your proposal, given our lack of authority in this case.

Our staff analysis of this issue in SECY-04-0035, "Results of the License Termination Rule Analysis of the Use of Intentional Mixing of Contaminated Soil," recommended that intentional mixing of soils to meet a facility's waste acceptance criteria be found acceptable and handled on a case-by-case. The Commission subsequently approved this staff recommendation. Thus, this information might be useful in your consideration of methods for fulfilling the regulatory criteria that apply to this site. To the extent that some of the materials proposed for blending at the Colonie site are not soil, which was the principal focus of SECY-04-0035, our paper also discussed blending of other materials in other Federal programs. Blending of other materials has been permitted under certain conditions and may facilitate efficient cleanup of sites while ensuring protection of public health and safety. The discussion in our paper may be of interest to you.

If you have any questions, please contact me at 301-415-7295.

Sincerely,

**/RA/**

Daniel M. Gillen, Deputy Director
Decommissioning Directorate
Division of Waste Management
and Environmental Protection
Office of Nuclear Material Safety
and Safeguards

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ML050410210 *See previous concurrence

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