

June 24, 2009

Mr. Lawrence W. Camper, Director
U.S. Nuclear Regulatory Commission
TWFN- 7 J8, NMSS/DWMEP
11545 Rockville Pike
Rockville, MD 20852

SUBJECT: Transfer of a Portion of West Valley Demonstration Project Premises to the New York State Energy Research and Development Authority (NYSERDA)

Dear Mr. Camper:

NYSERDA possesses a Radiation Control Permit for the State-Licensed Disposal Area (SDA), issued by the New York State Department of Environmental Conservation (NYSDEC) under 6 NYCRR Part 380, "Prevention and Control of Environmental Pollution by Radioactive Materials." As part of our most recent permit renewal process for the SDA, NYSDEC requested that NYSERDA define a buffer zone "*of sufficient extent to allow for mitigation and remediation of erosional impacts to the site and its immediate surroundings.*" NYSDEC stated that "*at a minimum this zone must include the surrounding slopes, the upgradient drainage features, and those portions of Franks Creek and Erdman Brook adjacent to and immediately downgradient of the SDA disposal trenches.*" Under this description, a large section of the buffer zone would be located within the fenced area of the Project Premises¹.

NYSERDA contacted the U.S. Department of Energy (DOE) to explore ways to satisfy NYSDEC's request in a manner acceptable to both agencies. DOE has agreed to transfer a section of the Project Premises adjacent to the SDA (approximately 15 acres) to NYSERDA for the purposes of establishing this buffer zone area. This section of the Project Premises is an erosion prone area, including slopes on the east, north and west side of the SDA fence (see attached map). Upon transfer, this section of the Project Premises would become part of the Retained Premises¹.

NYSERDA is responsible for management of the Retained Premises consistent with the requirement of the NRC license, CSF-1. NYSERDA acknowledges that under the West Valley Demonstration Project Act, DOE will no longer be responsible for decommissioning the section of the Project Premises transferred to NYSERDA.²

¹ The "Project Premises" and the "Retained Premises" are defined in the *Cooperative Agreement between United States Department of Energy and New York State Energy Research and Development Authority on the Western New York Nuclear Service Center at West Valley, New York*, as amended September 18, 1981.

² DOE may, however, continue to have a financial liability for the decommissioning of this area of the Center in accordance with the terms of separate agreements between DOE and NYSERDA.

Main Office

Albany
17 Columbia Circle
Albany, NY 12203-6399
Toll Free: 1 (866) NYSERDA
Phone: (518) 862-1090
Fax: (518) 862-1091

West Valley Site

Management Program
10282 Rock Springs Road
West Valley, NY 14171-9799
Phone: (716) 942-9960
Fax: (716) 942-9961

New York City

485 Seventh Ave., Suite 1006
New York, NY 10018
Phone: (212) 971-5342
Fax: (212) 971-5349

Buffalo

Larkin at Exchange Building
726 Exchange Street, Suite 821
Buffalo, New York 14210
Phone: (716) 842-1522
Fax: (716) 842-0156

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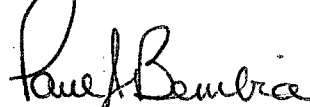
Further, NYSERDA acknowledges our responsibility for decommissioning the Retained Premises consistent with the criteria set forth by your agency.

We wish to point out that this property is immediately adjacent to the Project Premises and will actually share the center line of Erdman Brook as a property boundary with the Project Premises. Accordingly, with respect to the future activities of either DOE and/or NYSERDA involving Erdman Brook, the two agencies will seek to coordinate efforts, and work cooperatively in order to accomplish necessary tasks and maximize economic and technical efficiencies.

If you have any questions about this proposed action, please let me know at your earliest convenience.

Sincerely,

WEST VALLEY SITE MANAGEMENT PROGRAM



Paul J. Bembia
Director

PJB/amd

Attachment:

1. Map of the Project Premises and area to be transferred to NYSERDA

cc: K. I. McConnell, USNRC (w/att.)
~~C. J. Glenn, USNRC (w/att.)~~
B. C. Bower, DOE-WVDP (w/att.)
B. B. Underwood, DOE-WVDP (w/att.)
C. J. Eckert, DOE-WVDP (w/att.)
T. B. Rice, NYSDEC (w/att.)
D. J. O'Hehir, NYSDEC (w/att.)
P. W. Concannon, NYSDEC, Region 9 (w/att.)
H. Brodie, NYSERDA-Albany (w/att.)
D. A. Munro, NYSERDA-Albany (w/att.)
T. H. Attridge, NYSERDA-WV (w/att.)
J. C. Kelly, NYSERDA-WV (w/att.)
P. L. Piciulo, NYSERDA-WV (w/att.)

Map of the Project Premises & Area to be transferred to NYSERDA

