



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

OCT 01 2009

Mr. Paul J. Bembia, Program Director
West Valley Site Management Program
New York State Energy Research
and Development Authority
10282 Rock Springs Road
West Valley, New York 14171-9799

Dear Mr. Bembia:

The U.S. Environmental Protection Agency (EPA) is in receipt of your letter dated September 4, 2009. In that letter you indicated that the issues raised would be discussed during a September 9 inter-agency meeting. Subsequently, the meeting was postponed, and we look forward to having it rescheduled as soon as possible.

Your letter seeks to clarify the New York State Energy Research and Development Authority's (NYSERDA) position on two issues: first, that NYSERDA has not made a Phase 2 decision on the SDA and believes that more analytical work is a prerequisite to such a decision, and second, that NYSERDA has not come to any decision as to whether continued monitoring and maintenance would be acceptable for the NDA, but that this should be considered, just as NYSERDA intends to consider this option for the SDA.

I appreciate your re-stating NYSERDA's position on these issues, but I would point out that this does not obviate EPA's concerns, as expressed in my September 1, 2009 letter to Mr. Bower of the U.S. Department of Energy. Your September 4 letter to me still leaves open the possibility that the SDA and NDA, which contain similar radioactive wastes, could be treated differently. While EPA understands that responsibility for decommissioning of the NDA is subject to ongoing litigation, NYSERDA will likely be responsible for the care and disposition of those wastes in the NDA that predate the West Valley Demonstration Project (WVDP) Act, as well as for the similar wastes in the SDA. As such, we continue to question why NYSERDA would contemplate the possibility of different decisions for the two disposal areas.

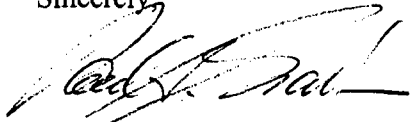
The SDA contains radioactive waste that is not low-level waste, just as the NDA contains waste that is not low-level or was disposed of there prior to the WVDP Act. There are also waste pesticides and apparently hazardous wastes in the SDA according to burial records. NYSERDA has consistently raised the issue of erosion being a force that confounds the long-term storage of wastes at this location. Therefore, NYSERDA's willingness to consider deferring decisions on these disposal areas while maintaining that all other decisions for the site can be made within the next ten years is perplexing. We look forward to discussing these issues with you at a rescheduled inter-agency meeting soon.

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We are also committed to working with you and your staff to address these issues so that solutions can be found that are protective of public health and the environment and meet all applicable Federal environmental standards, such as RCRA.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul A. Giardina". The signature is fluid and cursive, with a large initial "P" and "G".

Paul A. Giardina, Chief
Radiation and Indoor Air Branch

cc: Bryan Bower, NYSERDA
K.I. McConnell, NRC
E.E. Dassati, NYSDEC
G. Baker, NYSDOH