

December 10, 2009

Dr. Keith I. McConnell, Deputy Director
 Decommissioning and Uranium Recovery Licensing Directorate
 Division of Waste Management and Environmental Protection
 Office of Federal and State Materials and Environmental Management Programs
 U.S. Nuclear Regulatory Commission
 Washington, DC 20555-0001

Dear Dr. McConnell:

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

In a letter dated June 24, 2009, NYSERDA informed the U.S. Nuclear Regulatory Commission (NRC) of our intent to assume management responsibility for a portion of the West Valley Demonstration Project Premises (approximately 15 acres) located adjacent to the State-Licensed Radioactive Waste Disposal Area (SDA). We received a response letter from the NRC, dated August 18, 2009, that stated:

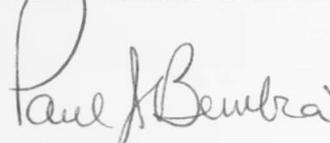
"The NRC does not object to this transfer and believes it is consistent with NYSERDA's license. When the transfer does occur, the Retained Premises as expanded by this action would be subject to the license as amended. NYSERDA should inform the NRC when the transfer occurs."

On October 19, 2009, the U.S. Department of Energy (DOE) transmitted the enclosed letter to NYSERDA, formally transferring responsibility of this property to NYSERDA. The 15.67 acres, as delineated on the map attached to DOE's letter, is now part of the Retained Premises and is under the management responsibility of NYSERDA.

We appreciate your cooperation in the review of this action. If you have any questions regarding this matter, please direct them to Thomas Attridge, Program Manager for the SDA and Retained Premises, at (716) 942-9960, extension 2453.

Sincerely,

WEST VALLEY SITE MANAGEMENT PROGRAM



Paul J. Bembia
 Director

THA/amd
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Messr. Keith McConnell

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Enclosure:

1. Letter, Bryan C. Bower (DOE) to Paul J. Bembia (NYSERDA), "Erosion Mitigation on Slopes Adjacent to the State-Licensed Low-Level Radioactive Waste Disposal Area," dated October 19, 2009.

cc: L. W. Camper, USNRC (w/o enclosure)
C. J. Glenn, USNRC (w/o enclosure)
B. C. Bower, DOE-WVDP (w/o enclosure)
B. B. Underwood, DOE-WVDP (w/o enclosure)
C. J. Eckert, DOE-WVDP (w/o enclosure)
T. B. Rice, NYSDEC (w/o enclosure)
D. J. O'Hehir, NYSDEC (w/o enclosure)
P. W. Concannon, NYSDEC, Region 9 (w/o enclosure)
H. Brodie, NYSERDA-Albany (w/o enclosure)
D. A. Munro, NYSERDA-Albany (w/o enclosure)
T. H. Attridge, NYSERDA-WV (w/enclosure)
J. C. Kelly, NYSERDA-WV (w/o enclosure)
P. L. Piciulo, Ph.D., NYSERDA-WV (w/o enclosure)
File #10300-1002 (w/enclosure)



Department of Energy
West Valley Demonstration Project
10282 Rock Springs Road
West Valley, NY 14171-9799
October 19, 2009



Mr. Paul J. Bembia, Director
New York State Energy Research and
Development Authority
10282 Rock Springs Road
West Valley, NY 14171

SUBJECT: Erosion Mitigation on Slopes Adjacent to the State-Licensed Low-Level
Radioactive Waste Disposal Area

REFERENCE: Letter (100340), P. J. Bembia to B. C. Bower, "Erosion Mitigation on Slopes
Adjacent to the State-Licensed Low-Level Radioactive Waste Disposal Area (SDA),"
dated January 21, 2009

Dear Mr. Bembia:

Thank you for your letter dated January 21, 2009, informing me of the need for a "buffer zone" around the SDA, per a requirement by the New York State Department of Environmental Conservation (NYSDEC). I also greatly appreciate the beneficial exchange of ideas and proposals between our respective staffs in two working meetings on this subject subsequent to receipt of your letter. Consistent with our many discussions, U.S. Department of Energy (DOE) proposes the following approach toward establishment of an SDA "buffer zone."

As the SDA "buffer zone" requested by NYSDEC will require continuous monitoring and maintenance by the New York State Energy Research and Development Authority (NYSERDA) for many years into the future, DOE believes that the most efficient means to address NYSDEC's requirement would be to alter the boundary of the existing West Valley Demonstration Project (WVDP) Premises, pursuant to the provisions of Section 4.07 of the Cooperative Agreement. DOE proposes to alter the existing Project Premises boundary to the east, north, and west of the northern SDA trenches. Specifically, approximately 15.67 acres of the current Project Premises would henceforth become part of the Retained Premises

To maintain a clear physical demarcation between the new Project Premises and Retained Premises boundaries, clearly visible and durable posts will be spaced not greater than every 50 feet between a point on the boundary fence of the current Project Premises east of the SDA to a point located in the centerline of the primary channel of Erdman Brook (upstream of the WVDP EQ-1 Gully and downstream of the SDA W02 storm water outfall). Signs should be placed on both sides of these posts indicating the boundaries for the Retained Premises and project premises respectively. NYSERDA will assume maintenance of the new posts and the existing eastern-most boundary fence currently maintained by DOE. Any changes to the posts or fencing described in this paragraph must be with the concurrence of DOE. Additionally, the centerlines of the primary channels of Erdman Brook and Lagoon Road Creek (up to WNNADR Sampling Station) will serve as the new boundary between the Project Premises and Retained Premises to the north and west of the SDA. The enclosed map shows the entire boundary of the buffer zone area.



Mr. Paul J. Bembia

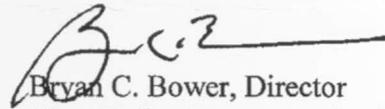
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As we have discussed, our two agencies believe this minor change will not affect total Project costs or obligations NYSERDA may have with respect to the Western New York Nuclear Services Center after the completion of the WVDP or exclusive of the WVDP. Finally, I'd like to acknowledge that close cooperation between DOE and NYSERDA will continue to be necessary for work, such as erosion mitigation or decommissioning activities that may span the new property boundary.

Thank you again for working closely with me and my staff to develop a practical and effective resolution to this matter.

Sincerely,



Bryan C. Bower, Director
West Valley Demonstration Project

Enclosure: Buffer Easement Map

cc: T. B. Rice, NYSDEC, Albany, w/enc.
D. J. O'Hehir, NYSDEC, Albany, w/enc.
P. W. Concannon, NYSDEC, Region 9, w/enc.
D. A. Munro, NYSERDA, Albany, w/enc.
T. H. Attridge, NYSERDA, AC-NYS, w/enc.
M. N. Maloney, DOE-WVDP, AC-DOC, w/enc.

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