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

JAN 1 2 2010

Joanne Hameister, Chair
Steering Committee
The Coalition on West Valley Nuclear Wastes
PO Box 603
Springville, NY 14141

Dear Ms. Hameister:

This is in response to the document prepared by the Coalition on West Valley Nuclear Wastes (CWVNW) entitled "Comments on the proposed Consent Decree settlement of the December 2006 NYS lawsuit against the USA, 06-CV-810, brought in the Western District Court" and statements concerning the U.S. Environmental Protection Agency's (EPA) position regarding National Environmental Protection Act (NEPA) coverage of the West Valley Demonstration Project (WVDP) contained on page 3 of that document. The statements attributed to EPA contain a misunderstanding of our position and of our role in this matter.

The Federal agency responsible for NEPA coverage at the WVDP is not the EPA but the U.S. Department of Energy (DOE). EPA's role is spelled out, in part, by the West Valley Demonstration Project Act of 1980 which authorizes the Secretary of the DOE to "consult with the Administrator of the EPA in carrying out the project for demonstrating solidification techniques for preparing high-level radioactive waste for disposal; for decontaminating and decommissioning project facilities; and for preparing required environmental impact analyses for the project." The DOE has done just that by establishing a Core Team which consists not only of DOE and EPA representatives but also representatives from the U.S. Nuclear Regulatory Commission (NRC) as well as from the appropriate State agencies. That team effort resulted in the revised draft environmental impact statement (RDEIS) for Decommissioning and/or Long Term Stewardship at the West Valley Demonstration Project and Western New York Nuclear Service Center (WNYNSC) (CEQ #20080489) being prepared and published in December 2008. EPA commented on that draft in a letter dated June 4, 2009. Those are EPA's comments to the RDEIS and a copy of that letter is attached.

My letter of September 1, 2009, referred to by the CWVNW comments, is not RDEIS comments, but programmatic guidance to DOE as stated in the first sentence of that letter. This guidance addresses the uncertainty of radioactive waste disposal capacity for wastes at the WVDP site. This uncertainty has increased since the original RDEIS was published in December 2008 and for which the comment period was extended, hence the

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JUN - 4 2009

Catherine Bohan, EIS Document Manager
West Valley Demonstration Project
U.S. Department of Energy
P.O. Box 2368
Germantown, MD 20874

Rating: EC-1

Dear Ms. Bohan:

The U.S. Environmental Protection Agency (EPA) has reviewed the revised draft environmental impact statement (RDEIS) for the Decommissioning and/or Long-Term Stewardship at the West Valley Demonstration Project and Western New York Nuclear Service Center (WNYNSC) (CEQ #20080489). The WNYNSC is a 3,340 acre site located 30 miles south of Buffalo, New York. The WNYNSC was originally licensed by the Atomic Energy Commission in 1966, and closed in 1972. The site was the home of the only operational commercial nuclear fuel reprocessing facility in the United States. This review was conducted in accordance with Section 309 of the Clean Air Act, and the National Environmental Policy Act (NEPA).

In 1980, the West Valley Demonstration Act required the Department of Energy (DOE) to decontaminate and decommission, in accordance with any requirements prescribed by the Nuclear Regulatory Commission, the waste storage tanks and facilities used in the solidification of high-level radioactive waste, along with material and hardware used in connection with the West Valley Demonstration Project. This RDEIS consists of an analysis of environmental impacts associated with a range of reasonable alternatives for decommissioning and/or long–term stewardship of WNYNSC, as well as a No Action Alternative. The preferred alternative is the Phased Decision-making Alterative.

Under the Preferred Alternative, decommissioning would be accomplished in two phases: Phase 1 decisions would include removal of all Waste Management Area (WMA) 1 facilities, the source area of the North Plateau Groundwater Plume, and the lagoons in WMA 2. Phase 1 activities would also include additional characterization of site contamination and studies to provide additional technical information in support of the technical approach to be used to complete site decommissioning. Phase 2 would support the completion of decommissioning actions or long-term management. In general, the Phased Decision-making Alternative involves near-term decommissioning and removal

Surface Water

On page 3-51, Section 3.6.1.1. the text states that several surface water locations "are scheduled for sampling in 2007." This information should be updated.

EPA also recommends that any near-term vegetation mitigation, particularly near surface waters, be created with plants native to western New York.

Additional detailed comments by document section or page are enclosed. Thank you for the opportunity to comment on this project. If you have any questions concerning our comments, please contact Lingard Knutson of my staff at (212) 637-3747.

Sincerely yours,

John Filippelli, Chief
Strategic Planning and Multi-Media Programs Branch

Enclosures

SUMMARY OF RATING DEFINITIONS AND FOLLOW-UP ACTION

Environmental Impact of the Action

LO-Lack of Objections

The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

EC-Environmental Concerns

The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact. EPA would like to work with the lead agency to reduce these impacts.

EO-Environmental Objections

The EPA review has identified significant environmental impacts that must be avoided to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

EU-Environmentally Unsatisfactory

The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of environmental quality, public health or welfare. EPA intends to work with the lead agency to reduce these impacts. If the potential unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommend for referral to the Council on Environmental Quality (CEQ).

Adequacy of the Impact Statement

Category 1-Adequate

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

Category 2-Insufficient Information

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analyzed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses, or discussion should be included in the final EIS.

Category 3-Inadequate

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analyzed in the draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analysis, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

*From: EPA Manual 1640, "Policy and Procedures for the Review of Federal Actions Impacting the Environment."