NYSERDA New York State Energy Research and Development Authority
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February 4, 2010

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 20555-001

Dear Dr. McConnell:

SUBJECT: Release of a Portion of the Western New York Nuclear Service Center) from the 10 CFR Part 50 License, CSF-1

I am sending this letter to notify you that the New York State Energy Research and Development Authority (NYSERDA) intends to release a portion of the Western New York Nuclear Service Center (Center) for unrestricted use prior to completing decommissioning activities for the entire Center. We are proceeding with this activity in response to longstanding requests from community leaders and elected officials to return areas of the Center to the tax rolls. Because the completion of the West Valley Demonstration Project (WVDP) may be decades away, NYSERDA is initiating these actions to establish whether portions of the Center could be released from the 10 CFR Part 50 license prior to the completion of site decommissioning.

In 2005, NYSERDA asked NRC to identify a process that could be used to release non-impacted portions of the Center from the license prior to the completion of the WVDP (Ref. 1). In response, NRC approved the use of the process in 10 CFR 50.83, *Release of part of a power reactor facility or site for unrestricted use,* for requests for the release of "non-impacted" portions of the NRC-licensed area of the Center (REF). NYSERDA intends to request the release for unrestricted use of approximately 400 acres of property on the east side of the Center (see attached figure). All of this property is likely to be "non-impacted" by past or recent site operations.

In addition to the property identified above, NYSERDA intends to request the release of the Bulk Storage Warehouse (BSW) and 4.574 acres of surrounding property from the Part 50 license (the location of the BSW and 4.574 acres is shown on the attached figure). The BSW was originally used to store plutonium product resulting from fuel reprocessing operations at the Center, and was operated from 1969 to 1974 by the New York Site Atomic and Space Development Authority under a separate AEC license (SNM-1138). In 1974, all plutonium product was shipped to other facilities, and the building, storage containers and equipment were surveyed and decontaminated. In 1975, the AEC license SNM-1138 (for the plutonium storage facility) was terminated by NRC. Because the BSW was previously used for radiological operations, NYSERDA proposes to use the process for release of "impacted" areas specified in 10 CFR 50.83 to evaluate the release of this property. We wish to point out that the BSW has already been subject to a license termination process, and DOE subsequently performed radiological surveys of the facility before using it for almost 20 years for non-radiological storage. NYSERDA will, however, conduct a detailed characterization of this facility to document the radiological status.

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NYSERDA plans to provide a single application for license modification that will include all of the information needed by NRC to release these two parcels for unrestricted use.

Per the 1981 Cooperative Agreement between NYSERDA and DOE, NYSERDA cannot use or authorize the use of portions of the Center in a manner that interferes with DOE's ability to carry out the Project. Discussions with DOE to date indicate that they believe that the release of the BSW and the 400-acre portion of the Center property would not interfere with their ability to carry out the Project. As such, NYSERDA is preparing a letter to formally request a determination from DOE that the partial site release will not interfere with their carrying out the Project.

It is our understanding that NRC is considering using a "full cost" approach under 10 CFR 170.31 for determining the fee for regulatory services associated with NYSERDA's request for license amendment. NYSERDA would appreciate any additional information you can provide NYSERDA in regard to your expectations for the cost for the regulatory services for this activity, so we may properly budget and schedule our work activities.

Thank you for your assistance in this important project. Please call me at 716-942-9960 ext. 4900 if you have any questions.

Sincerely,

WEST VALLEY SITE MANAGEMENT PROGRAM

Paul J. Bembia, Director

PLP/amd
Attachment:
(1) Figure showing the Western New York Nuclear Service Center and the boundaries of the areas proposed for partial site release

Reference:
1. Letter, Larry W. Camper to Dr. Paul L. Piciulo, *PROCESS FOR RELEASING NON-IMPACTED PORTIONS OF THE WESTERN NEW YORK NUCLEAR SERVICE CENTER FOR UNRESTRICTED USE PRIOR TO COMPLETION OF SITE DECOMMISSIONING*, Dated March 29, 2006.

cc: B. C. Bower, DOE-WVDP (w/att.)
M. N. Maloney, DOE-WVDP (w/att.)
E. E. Dassatti, NYSDEC (w/att.)
P. A. Giardina, EPA (w/att.)
D. A. Munro, NYSERDA-Albany (w/att.)
J. C. Kelly, NYSERDA-WV (w/att.)
T. H. Attridge, NYSERDA-WV (w/att.)
P. L. Piciulo, Ph.D., NYSERDA-WV (w/att.)
File #: 60201-0000 (w/att.)

Attachment 1

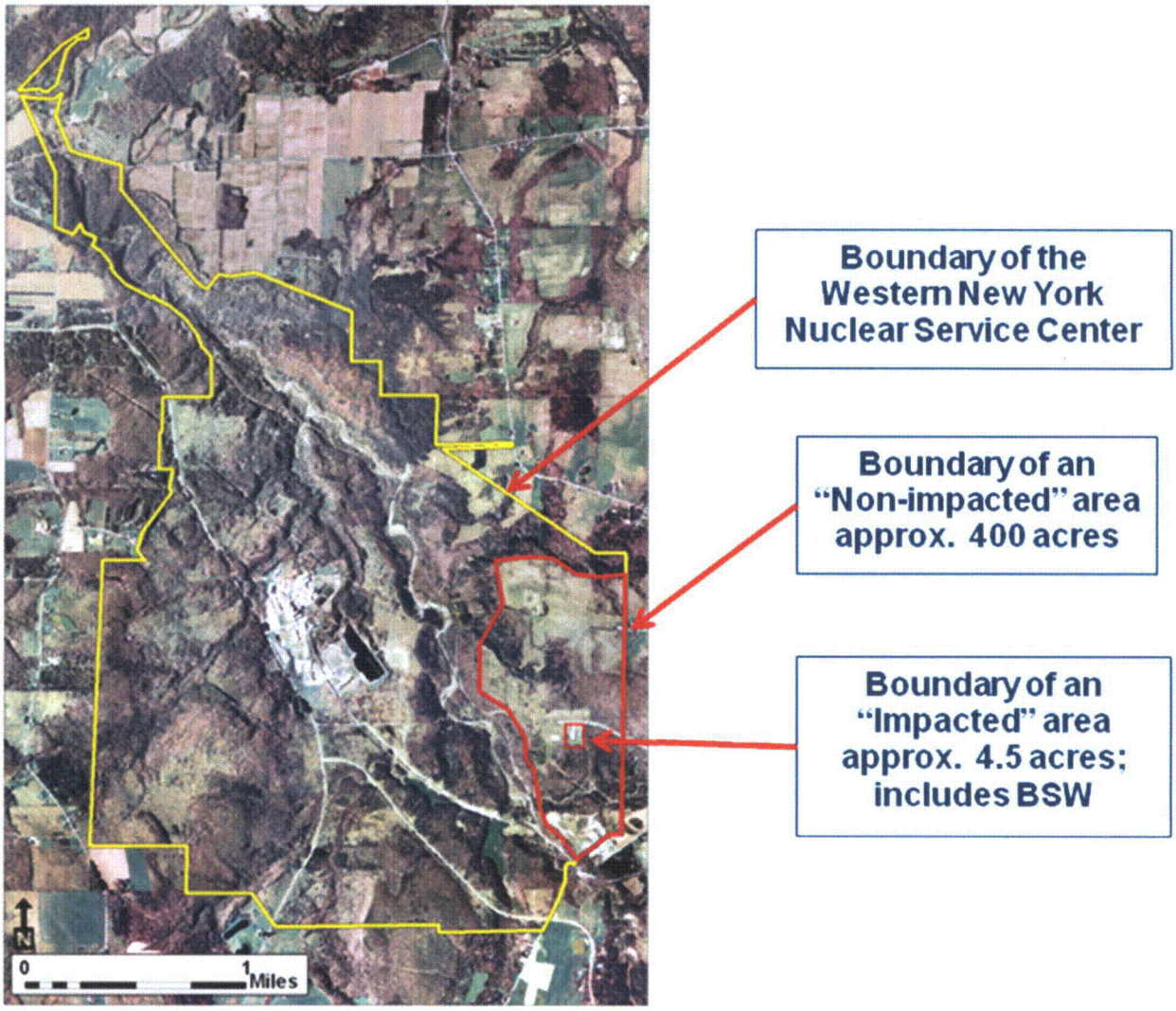

Figure showing the Western New York Nuclear Service Center and the boundaries of the areas proposed for partial site release