

March 11, 2010

Mr. Bryan C. Bower, Director
U.S. Department of Energy
West Valley Demonstration Project
10282 Rock Springs Road
West Valley, NY 14171-9799

Dear Mr. Bower:

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

I am writing to request that the U.S. Department of Energy (DOE) assist the New York State Energy Research and Development Authority (NYSERDA) in its efforts to release a portion of the Center from the NRC License, CSF-1, prior to the completion of site decommissioning.

Local residents and elected officials have a longstanding request to return portions of Center property to the local government tax rolls. Several hundred acres of the site have been impacted by nuclear operations, waste disposal, and releases of contamination; however, large tracts of land are likely to be non-impacted by nuclear operations or contamination. NYSERDA is initiating actions to establish whether portions of the site could be released from the NRC 10 CFR Part 50 License prior to the completion of site decommissioning.

NYSERDA intends to prepare and submit a license amendment application to NRC to release approximately 400 acres of "non-impacted" land on the east side of the Center (see Figure 1). We also intend to release the Bulk Storage Warehouse (BSW) and the surrounding 4.574 acres from the license as the BSW lies within the area likely to be "non-impacted" from past or recent site operations.

NYSERDA requests the following assistance from DOE:

1. Determine whether the release of the approximately 400 acres of the Center and the BSW will interfere with DOE's ability to carry out the West Valley Demonstration Project (WVDP or Project).

Section 4.02, *Use of the Project premises, Project Facilities and Retained Premises*, of the Cooperative Agreement (Reference 1) states that "During the Project Term, the Authority shall not use, or authorize the use of, the portion of the Center not Subject to the exclusive use and possession of the Department (the "Retained premises") in a manner which interferes with carrying out the Project." NYSERDA requests a determination from DOE as to whether the release of the 400-acre portion of the Center, including the BSW, will interfere with DOE carrying out the Project.

PJB/10amd005.plp

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2. Demonstrate that public health and safety shall be maintained following the release of Center property. In 2006, 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 Center from the NRC License. NYSERDA will follow that process for the release of approximately 400 acres of land on the east side of the Center that is likely to be "non-impacted" by past or recent site operations. NYSERDA also intends to request that the NRC release the BSW and the surrounding 4.574 acres from the license. Because the BSW was previously used for radiological operations, NYSERDA will use the process for release of "impacted" areas specified in 10 CFR 50.83.

According to 10 CFR 50.83 (a) (1), a licensee must "*Evaluate the effect of releasing the property to ensure that:*

- (i) *The dose to individual members of the public does not exceed the limits and standards of 10 CFR 20, subpart D;*
- (ii) *There is no reduction in the effectiveness of emergency planning or physical security;*
- (iii) *Effluent releases remain within license conditions;*
- (iv) *The environmental monitoring program and offsite dose calculation manual are revised to account for the changes;*
- (v) *The siting criteria of 10 CFR Part 100 continue to be met; and*
- (vi) *All other applicable statutory and regulatory requirements continue to be met."*

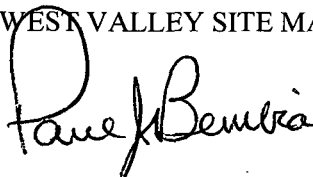
NYSERDA requests that DOE evaluate WVDP operations and future site decommissioning alternatives, and provide NYSERDA with documentation to demonstrate that items (i) through (iv) and item (vi) listed above, can be achieved. Guidance regarding the specific information to be included is presented in NRC NUREG-1836, *Standard Review Plan for Releasing part of a Reactor Facility or Site For Unrestricted Use Before Approval of the License Termination Plan, Draft Report for Comment, Section 2.3 License Program Impacts*. NYSERDA requests that the information identified above be provided by May 28, 2010.

As we proceed with this activity, NYSERDA may need other information or specific documents from DOE to support the preparation of our application for license amendment. We will provide requests for additional information to DOE as early as possible.

Thank you for your assistance in this important activity. Please call Paul Piciulo at 716-942-9960 ext. 4378, if you have questions.

Sincerely,

WEST VALLEY SITE MANAGEMENT PROGRAM



Paul J. Bembia, Director

Messr. Bryan C. Bower
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PLP/amd
Attachment:

1. *Figure 1: The Western New York Nuclear Service Center and the boundaries of the areas proposed for partial site release*

References:

1. *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, Effective October 1, 1980 as amended September 18, 1981.*

cc: M. N. Maloney, DOE-WVDP (w/att.)
~~K. I. McConnell, NRC (w/att.)~~
C. G. Glenn, NRC (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 #: 60201-0003 (w/att.)

Attachment 1

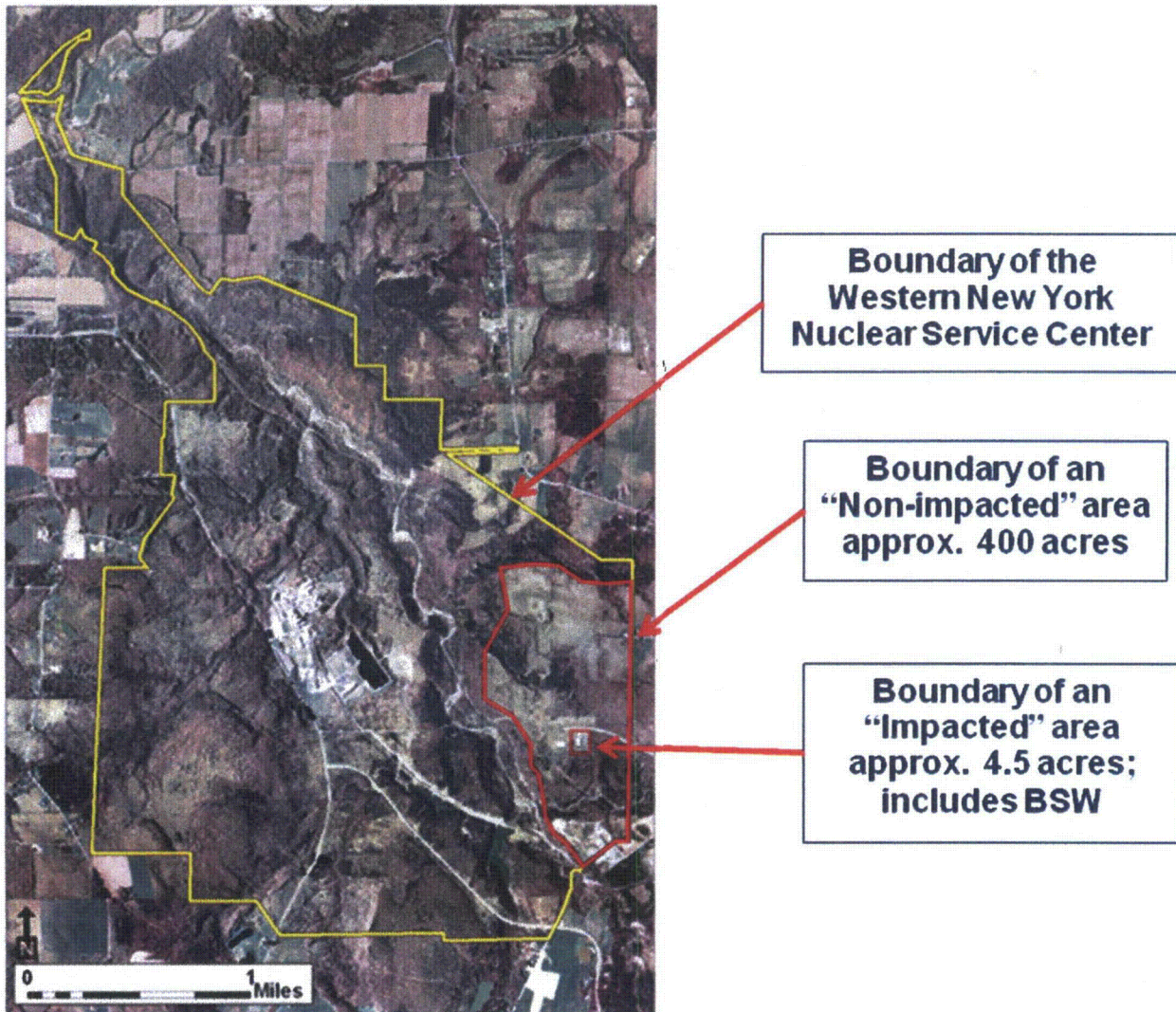


Figure 1: The Western New York Nuclear Service Center and the boundaries of the areas proposed for partial site release