

June 4, 2010

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

SUBJECT: RELEASE OF A PORTION OF THE NEW YORK STATE ENERGY RESEARCH  
AND DEVELOPMENT AUTHORITY'S LICENSE UNDER 10 CFR 50.83

Dear Mr. Bembia:

I am writing in response to the New York State Energy Research and Development Authority (NYSERDA) letter of February 5, 2010. In that letter, NYSEDA expressed its intent to apply for a license amendment for release of a portion of the Western New York Nuclear Service Center (Center) from the 10 CFR Part 50 license for unrestricted use prior to completing decommissioning activities for the entire Center. The letter states that NYSEDA is proceeding with this activity in response to "... requests from community leaders and elected officials to return areas of the Center to the tax rolls "and because the completion of the West Valley Demonstration Project (WVDP) may be decades away."

In 2005, NYSEDA asked the U.S. Nuclear Regulatory Commission (NRC) to identify a process that could be used to release "non-impacted" portions of the Center from the license prior to completion of the WVDP. 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 release of "non-impacted" portions of the NRC-licensed area of the Center (ML060800748). Based on your recent letter, NYSEDA is considering the release of two areas. One area encompasses approximately 400 acres "non-impacted" by either previous or recent site operations. The second area includes the Bulk Storage Warehouse and 4.574 acres of surrounding grounds "impacted" by past site operations.

NYSERDA also confirmed its understanding that NRC is considering using a "full cost" approach under 10 CFR 170.21, fee category A, for determining the fee for regulatory services associated with NYSEDA's request for license amendment. As such, NYSEDA indicated it would appreciate any additional information in regard to NRC expectations for the cost of regulatory services for this activity, so NYSEDA may properly budget and schedule work activities.

In consideration of NYSEDA's request, NRC has considered the cost of comparable license reviews. NRC estimates the cost for this review to be approximately \$500,000 based on following assumptions:

- Use of 10 CFR 50.83 review process for release of a non-impacted and impacted area.

- Review process includes: acceptance review, public participation (public review and meeting in vicinity of site), detailed technical review (including potential request for additional information), environmental review, NRC evaluation and findings with license amendment.
- Multi-discipline review (e.g., health physics, performance assessment, hydrology, environmental, management, and legal review).
- Review time: 12 months.
- No adjudicatory hearing has been granted
- Based on comparable multi-discipline reviews 1900 hours X \$257/hr = \$488,300.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice for Domestic Licensing Proceedings and Issuance of Orders," a copy of this letter will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records component of NRC's Agencywide Documents Access and Management System (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>.

If you have any questions concerning the above, please contact Chad Glenn at (301) 415-6722 or via email at [Chad.Glenn@nrc.gov](mailto:Chad.Glenn@nrc.gov).

Sincerely,

**/RA/**

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

cc: See next page

- Review process includes: acceptance review, public participation (public review and meeting in vicinity of site), detailed technical review (including potential request for additional information), environmental review, NRC evaluation and findings with license amendment.
- Multi-discipline review (e.g., health physics, performance assessment, hydrology, environmental, management, and legal review).
- Review time: 12 months.
- No adjudicatory hearing has been granted
- Based on comparable multi-discipline reviews 1900 hours X \$257/hr = \$488,300.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice for Domestic Licensing Proceedings and Issuance of Orders," a copy of this letter will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records component of NRC's Agencywide Documents Access and Management System (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>.

If you have any questions concerning the above, please contact Chad Glenn at (301) 415-6722 or via email at [Chad.Glenn@nrc.gov](mailto:Chad.Glenn@nrc.gov).

Sincerely,

**/RA/**

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

cc: See next page

**ML101310497**

<b>OFC</b>	DWMEP	DWMEP	OGC	DWMEP	DWMEP
<b>NAME</b>	CGlenn	SMichonski	LLondon	RTadesse	KMcConnell
<b>DATE</b>	5/12 /10	5/2 /10	5/25/10	5/13/10	6/4/10

**OFFICIAL RECORD COPY**

cc list:

Ed Dassatti, Director  
Division of Solid & Hazardous Materials  
New York State Department of Environmental Conservation  
Region 2  
625 Broadway  
Albany, NY 12233-7252

Paul Giardina  
Chief Radiation Indoor Air Branch  
U.S. Environmental Protection Agency  
DEPP-RIAB – 28<sup>th</sup> Floor  
290 Broadway  
New York, NY 10007-1866

Adela Salame-Alfie, PhD.  
Assistant Director  
New York State Department of Health  
217 S. Salina Street  
Syracuse, NY 13202

Barry Snyder, President  
The Seneca Nation of Indians  
William Seneca Building  
1490 Route 438  
Irving, NY 14081