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June 15, 2010

Rebecca Tadesse, Chief
Materials Decommissioning Branch
Division of Waste Management and Environmental Protection
Office of Federal and State Materials and Environmental Management Programs
Nuclear Regulatory Commission
Washington, DC 20555-0001

Re: NRC Technical Evaluation Report Comment #1 and CSAP

Dear Ms. Tadesse,

We recently participated in a conference with NRC and DOE concerning NRC's Technical Evaluation Report. Comment #1 expressed that Phase 1 evaluations and studies would need to be identified, scoped and implemented early in Phase I to ensure that results were available in a timeframe that supports making a technically sound Phase 2 decision.

We question why NRC did not mention the notable problem with the Characterization, Sampling and Analysis Plan, CSAP, that it did not really fulfill the identified objective of collecting sufficient data to assist phase 2 decision-making, when NRC submitted its comments. In the NRC's cover letter of May 17th on the FSSP and CSAP, the Commission instead seems to only refer to Phase 1 and decommissioning.

We endeavored to get our comments on the CSAP to you as soon as possible and our comments definitely addressed the fact that the CSAP was not designed to prepare for making Phase 2 decisions. We wonder why NRC missed the opportunity to address this issue, if an early timeframe is important to your agency.

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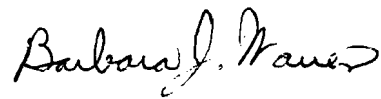


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Thank you for your attention. We enclose our letter to Bryan Bower on this matter. It is best to use email for me at this time (warrenba@msn.com) because I will be in Oregon, but I can also be reached by cell phone at 845-701-9851.

Sincerely,

A handwritten signature in cursive script, reading "Barbara J. Warren".

Barbara J. Warren
Executive Director

cc. Chad Glenn



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June 15, 2010

Bryan Bower
Director
West Valley Demonstration Project
Department of Energy
10282 Rock Springs Road
West Valley, NY 14171-9799

Re: The Characterization, Sampling and Analysis Plan

Dear Mr. Bower,

As you know CEC & NIRS participated in the recent conference call with representatives of NRC, DOE, EPA, DEC and various consultants, SAIC, URS and Argonne. I could not hear everyone, so I may have left an entity out. The subject of the call was the Technical Evaluation Report and DOE response to NRC Comments.

During the public comment period, I gave a somewhat long introduction to the issue of the CSAP. Since you did not really answer the issue I raised, I am submitting it in writing in a bulleted format, so it is absolutely clear to you.

- NRC mentioned the importance of early studies in order to prepare for Phase 2 decisions.
- Phase 2 decisions are our primary concern given that the majority of buried radioactivity, approx. 99%, will not be dealt with until Phase 2. (Vitrified material is not included in this calculation.)
- The Characterization, Sampling and Analysis Plan, CSAP, as a first study claims a goal of informing Phase 2 decisions, but we see almost no evidence of that in the design of the CSAP.
- We submitted comments on the CSAP. We also indicated that we wanted to discuss this CSAP with DOE and its consultants. DOE has responded that it will put this on the agenda for the August 3rd Quarterly meeting.

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- At the June 10th meeting, DOE said it is planning to issue a contract for the CSAP in late July, prior to the meeting you scheduled for us to discuss the CSAP.
- Recently, in response to a lengthy EIS process, hundreds of oral and written comment submissions with perhaps thousands of specific comments, DOE made only one change in the EIS.
- Ines Triay in our meeting with her committed to full public participation related to future studies and activities at the site. Our expectation is that she was talking about meaningful public participation, not just the appearance of participation.
- Regarding the CSAP we expect our comments to be taken seriously and that changes will be made in the study. Given that expectation, the contract for July should reflect the possibility of amendments or you should plan for a conference call with us before the contract is finalized.

We want to make it perfectly clear that dismissing the substantive issues we raise is no longer acceptable. We have spent countless hours over the past two years on this work and there needs to be a major change in business as usual. DOE has made no commitment to a future NEPA process for Phase 2 therefore resolution of every issue must occur as we move forward on each individual study or project.

We look forward to hearing from you. It is best to use email for me at this time (warrenba@msn.com) because I will be in Oregon, but I can also be reached by cell phone at 845-701-9851.

Sincerely,



Barbara J. Warren

Executive Director

cc. Inés Triay

Rebecca Tadesse

Chad Glenn

Judith Enck

Paul Bembia

Linda White



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June 15, 2010

Inés Triay
Assistant Secretary for Environmental Management
Department of Energy
1000 Independence Ave, SW
Washington, DC. 20585

Re: West Valley Decision & the CSAP

Dear Assistant Secretary Triay,

We are writing regarding recent developments on the West Valley cleanup project. The DOE has released the Final EIS and ROD. On May 3rd, DOE admitted at a Quarterly public meeting at West Valley that the Agency made only one change as a result of public comments on the EIS- change of the Phase I time period from 30 years to 10 years. It should be noted that hundreds of comments were received from individuals, organizations and elected officials, including Congressmembers and State legislators. The Seneca Nation and several county resolutions also supported full cleanup of the site. While the DOE committed to a 10 years Phase I, the Agency simultaneously connected it to a funding level of \$75 million for every year of those ten years. In this very first year when the Record of Decision on the cleanup has just been announced-- \$11 million of West Valley funding is being transferred to Brookhaven National Labs. This tells us if sufficient funding is not available, the 10 year commitment will disappear. Please explain to us how we could have a shortfall for cleaning up West Valley, when there is apparently \$50 billion available for new nuclear plants.

We pushed hard for Sitewide Removal to be selected as the option, but stressed that if the Agency proceeded with a choice of Phased Decision-making there needed to be a future NEPA process. There are three primary reasons that a future NEPA process is needed: 1) the terribly inadequate scientific analysis of long term impacts, 2) the fact that the EIS planned to make up

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for these inadequacies by Phase I studies, which had not even been presented to the public and 3) that these new studies would constitute new information, thus requiring another EIS and public review process.

In our meeting with you in December of 2009, you committed to a strong future public participation process. However, DOE has not committed to a future NEPA process for Phase 2, and also appears to be setting the stage for very limited public participation for studies and projects in Phase 1. A first study, the Characterization, Sampling and Analysis Plan, CSAP, was released in February. We submitted comments on this plan and asked to have a more detailed discussion of the plan with DOE consultants. We attach those comments, however the important point to note is the claim that one of the study's goals is to assist or prepare for Phase 2 decision-making. We found little evidence that the study deals with Phase 2 major facilities where 99% of buried waste resides. DOE has scheduled a public meeting on the CSAP for August 3rd at the next Quarterly meeting. However, at a scheduled NRC-DOE meeting on June 10th, DOE indicated their plan to finalize the contract for the CSAP in July. (We participated by conference call.) This timing would seem to severely limit public input into that study. For your information we are attaching the letter sent to Bryan Bower.

At our meeting in December you made a commitment to public participation for all future studies and projects. Now we have commented on the Characterization, Sampling and Analysis Plan, a sampling and testing plan for the site, and it seems that DOE is planning to move forward with issuing a contract for that work without first addressing our comments on that plan. In fact they have scheduled to talk with us, after issuing the contract in July. Attached is also our letter to Bryan Bower on this matter.

Thank you for your attention. We look forward to your action on this matter. It is best to use email for me at this time (warrenba@msn.com) because I will be in Oregon, but I can also be reached by cell phone at 845-701-9851.

Sincerely,



Barbara Warren
Executive Director

Attachments:

Letter to Bryan Bower
CEC Comments on CSAP