



September 9, 2010

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US Nuclear Regulatory Commission
Washington, D.C. 20555-0001

References:

1. MEMORANDUM FOR COMMANDER, PITTSBURGH DISTRICT
SUBJECT: Record of Decision (ROD), Shallow Land Disposal Area (SLDA), under the Formerly Utilized Sites Remedial Action Program (FUSRAP), Sept 2007.
2. Memorandum of Understanding Between the U.S. Nuclear regulatory Commission and the U.S. Army Corps of Engineers for Coordination of Cleanup & Decommissioning of the Formerly Utilized Sites Remedial Action Program (FUSRAP) Sites with NRC Licensed Facilities, July 5, 2001.

The purpose of this letter is to propose a path forward for the management of materials that are outside the scope of USACE remediation at the SLDA and to allow continued progress on the license abeyance process being executed between USACE and NRC.

In 2007 the Record of Decision (Ref. 1) was issued for remediation of the SLDA licensed by the NRC under SNM-2001. The United States Army Corps of Engineers (USACE) has determined that NRC standards for decommissioning of licensed facilities found in 10 CFR 20.1402, Radiological Criteria for Unrestricted Use, are relevant and appropriate for cleanup of radiological contamination at the SLDA site. In that decision USACE described their activities as:

1. Excavate radiologically contaminated soil and waste, demonstrate compliance with soil cleanup goals using Derived Concentration Guideline Levels (DCGLs) and guidance in accordance with the Multi-Agency Radiation Survey and Site Investigation Manual (MARSSIM), and document in a Final Status Survey Plan (FSSP).
2. Remove and dispose offsite all affected soil and waste excavated to achieve cleanup goals discussed above for the radionuclides of concern (ROCs).

The ROD states further that:

"The authority for this response action is found in Section 8143 of the Fiscal Year 2002 Defense Appropriations Act, Public Law 107-117, which, subject to subsections (b) through (e) of section 611 of Public Law 106-60 (113 Stat. 502; 10 U.S.C. 2701 note), directs the Secretary of the Army, acting through the Chief of Engineers, to clean up radioactive waste at the SLDA site under the Formerly Utilized Sites Remedial Action Program (FUSRAP). Any chemical contamination that is not co-mingled with radioactive waste cannot be addressed by the U.S. Army Corps of Engineers (USACE) under FUSRAP by the authority provided in Section 8143 of Public. Law 107-117."

Over the past two years a series of discussions have taken place between the various stakeholders and regulators. These discussions have focused on the responsibility for, and management of, excavated material that contains radioactive materials above background (i.e., licensed material), yet has been demonstrated to be below DCGL values and is unsuitable for use as backfill on the site due to non-radiological characteristics of the material. BWXT continues to believe that the USACE scope applies to all radioactive waste, even that below the site-specific DCGL values; however, USACE has maintained that this material is outside their authority and will remain the responsibility of BWXT.

In May of 2009, USACE requested that NRC place the license (SNM-2001) into abeyance so that remediation work could proceed. This request was in accordance with the MOU between NRC and USACE (Ref 2). In that request, USACE did not address the management of licensed material that was below DCGLs and could not be used as backfill due to non-radiological characteristics.

After lengthy discussions with state and federal agencies, BWXT and USACE have agreed in concept on a path forward that allows for any excavated material that becomes the responsibility of BWXT to be managed and disposed of safely and efficiently and in accordance with the regulatory requirements of the state and federal agencies involved. BWXT proposes the following path forward with respect to licensed materials and the actions necessary for NRC to place the license into suspension according to the MOU:

- BWXT and USACE will agree on a portion of the property currently identified by the SLDA boundaries to be used by BWXT to manage licensed material.
- This portion of property will be delineated through survey and will be physically identified with demarcations such as fences or barriers.
- BWXT and USACE will agree on the details of how the materials will be transferred from the USACE project to the license and how BWXT will be assured that the material is below the DCGLs value and is above chemical criteria for use as backfill on the site.
- BWXT will request, via a request for amendment to SNM-2001, that this area be excluded from the initial abeyance process and remain as an active license held by BWXT.
- The license amendment will include a description of work activities beyond those currently authorized under SNM -2001 so that material may be formally received from USACE, prepared for offsite shipment, and shipped to an appropriate disposal facility.
- BWXT and USACE will agree on the details of how the materials will be transferred from the USACE project to the licensee. These details, along with a Health, Safety and Environmental Plan that describes, commensurate with the hazards of material to be managed, how the activities will be performed safely and in compliance, will be included with the request for amendment of SNM-2001.
- Given BWXT desires to use the new "haul road" constructed by USACE to transport waste material from the licensed property across property under the control of USACE and the B&W Parks site, the license amendment request and the Health, Safety and Environmental Plan will also describe how radioactive waste materials will be safely transported to the public highway (Route 66) under the control and oversight of the licensee.
- This "interim" state of SNM-2001 will remain in effect through the duration of the SLDA remediation work until USACE ceases to generate excavated material that is outside their scope of activities.
- Once USACE has ceased to generate excavated materials requiring BWXT management, this "interim" license can be placed into abeyance while USACE completes their Final Status Survey activities for this area.

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BWXT is still considering alternate disposal under 10CFR20.2002. This option may be chosen to pursue prior to project initiation or at a later date once waste volumes are better understood. Absent an alternative, waste containing radioactive material would be disposed at an appropriately licensed facility.

BWXT is actively working with USACE to agree on the details of this concept. We are also working to develop the license amendment request and supporting Health, Safety and Environmental Plan. We understand that submittal of this license amendment request in a timely manner is important to allow for sufficient NRC review prior to finalizing USACE's request for license abeyance and are actively working on the amendment request. We trust, however, that this statement of intent will allow progress to continue toward license abeyance pending our submittal of the amendment request.

If you have questions or need additional information, please contact me at 434-522-6243 or the SLDA Project Manager, Terry Chalker, at 434-522-5531.

Sincerely,



S.W. Schilthelm
SLDA License Manager
BWXT Technologies, Inc.

cc via email:

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