



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

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OFFICE OF
SOLID WASTE AND
EMERGENCY RESPONSE

Mr. John R. Tappert, Director
Division of Decommissioning, Uranium Recovery,
and Waste Programs
Office of Nuclear Material Safety
and Safeguards
U.S Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Dear Mr. Tappert:

I am writing in response to your letter of March 17, 2017, regarding the Fansteel Site in Muskogee, Oklahoma. The March 17 letter notified EPA that the Fansteel site triggers an NRC consultation with EPA in accordance with the 2002 Memorandum of Understanding (MOU) entitled: **“Consultation and Finality on Decommissioning and Decontamination of Contaminated Sites”** (OSWER No. 9295.8-06, signed by EPA on September 6, 2002, and NRC on October 9, 2002). This letter responds to the notification in accordance with Section V.D.1 of the MOU. When NRC requests EPA’s consultation on a decommissioning plan or a license termination plan, EPA is obligated to provide written notification of its views within 90 days of NRC’s notice.

Your letter constitutes a Level 1 consultation as specified in the MOU because the consultation is concerning proposed derived concentration limits (CLs) for certain radionuclides in the Decommissioning Plan (DP) that exceed the MOU trigger values, Maximum Contaminant Levels (MCLs) in groundwater.

The views expressed by EPA in this letter regarding NRC’s decommissioning are limited to discussions related to the MOU. The comments provided here do not constitute guidance related to the cleanup of sites under Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).¹ EPA’s views on the matters addressed in this letter were developed from information furnished by NRC in the March 17 letter, other materials provided by NRC, and staff discussions.

¹Please see the memorandum entitled: “Distribution of Memorandum of Understanding between EPA and the Nuclear Regulatory Commission” (OSWER No. 9295.8-06a, October 9, 2002) which includes guidance to the EPA Regions to facilitate Regional compliance with the MOU and to clarify that the MOU does not affect CERCLA actions that do not involve NRC (e.g., the MOU does not establish cleanup levels for CERCLA sites). This memorandum may be found on the Internet at: <http://semspub.epa.gov/src/document/HQ/175259>.

EPA Consultation Views

This response is limited to those matters that initiated NRC's request for consultation in its letter of March 17. NRC initiated this consultation because the proposed groundwater concentrations for eight radionuclides (uranium-238, uranium-234, uranium-235, thorium-232, thorium-230, thorium-228, radium-226, and radium-228) exceed the MOU trigger values. It is EPA's understanding that CLs are generally developed for all radionuclides that a licensee was permitted by NRC to use. It is also our understanding that the remediation activities associated with NRC's decommissioning process are likely to significantly decrease the levels of those radionuclides that are present to residual levels below the CLs. Please note that the EPA and the Oklahoma Department of Environmental Quality prefer the use of MCLs as groundwater cleanup goals when it is time for them to be set.

Groundwater:

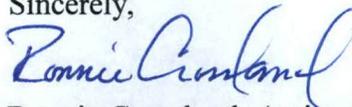
NRC triggered the consultation for groundwater on the basis of CLs for eight radionuclides in the DP exceeding Maximum Contaminant Levels (MCLs) under the Safe Drinking Water Act. It is EPA's understanding that NRC is planning to first implement a source control remediation strategy that may also address groundwater contamination. At CERCLA sites, EPA often uses such a phased approach for remediating groundwater. In addition to source control, EPA may employ active remediation measures (e.g., pump and treat), passive remediation measures (e.g., monitored natural attenuation), as well as evaluate the potential applicability of program flexibilities (e.g., technical impracticability waivers, or aquifer classification exemptions) under EPA's phased approach to address groundwater contamination. At CERCLA sites, EPA often uses the guidance "Presumptive Response Strategy and Ex-Situ Treatment Technologies for Contaminated Ground Water at CERCLA Sites, Final Guidance," (OSWER Directive 9283.1-12, October 1996) to implement its phased approach. This guidance document may be found at: <http://semspub.epa.gov/src/document/HQ/174592>.

In EPA's view, a strategy should be developed for the remaining groundwater contamination in the event the planned source control remedy does not reduce contamination in groundwater to MCLs. While conducting a groundwater response action, EPA would typically encourage state or local governments to implement land use controls to prevent well drilling or drinking the groundwater with contamination above the MCLs. Specifically, Oklahoma has a Universal Environmental Covenants Act (UECA) statute (60 O.S. § 2-49) that allows for a restrictive covenant to be placed on a property and is enforceable by the State. In some cases, EPA may provide an alternative drinking water source.

Conclusion

EPA staff is available to NRC for consultation if needed at the site. If you have any questions regarding this letter, please contact Stuart Walker of my staff at (703) 603-8748.

Sincerely,

A handwritten signature in blue ink that reads "Ronnie Crossland". The signature is written in a cursive style with a large, stylized initial "R".

Ronnie Crossland, Acting Director
Assessment and Remediation Division
Office of Superfund Remediation and
Technology Innovation