



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

November 1, 2018

MEMORANDUM TO: Bruce Watson, Chief  
Reactor Decommissioning Branch  
Division of Decommissioning, Uranium Recovery,  
and Waste Programs  
Office of Nuclear Materials Safety and Safeguards

FROM: Amy M. Snyder, Senior Project Manager */RA/*  
Reactor Decommissioning Branch  
Division of Decommissioning, Uranium Recovery,  
and Waste Programs  
Office of Nuclear Materials Safety and Safeguards

SUBJECT: PUBLIC MEETING SUMMARY

On August 9, a Category 1 public meeting was held with the New York State Energy Research and Development Authority (NYSERDA), at U.S. Nuclear Regulatory Commission (NRC) headquarters. The associated meeting was noticed on NRC's public website and the notice is available at NRC's Agencywide Documents Access and Management System (ADAMS) Accession No. ML18218A142. The meeting agenda was included as part of the meeting notice. The purpose of the meeting was to discuss NYSERDA's approaches to potentially update its current NRC License, No. CSF-0001. A summary of the meeting is enclosed.

Docket No: 50-00201  
License No: CSF-0001

Enclosure: Meeting Summary

cc: Meeting Attendees

CONTACT: Amy Snyder, MSB/DUWP  
(301) 415-6822

SUBJECT: PUBLIC MEETING SUMMARY DATE November 1, 2018

**DISTRIBUTION:** A.Kock R.Powell/RI M.Roberts/RI K.Warner/RI

**ADAMS Accession No.: ML18255A078**

**\* via email**

OFFICE	NMSS/DUWP	NMSS/DUWP	NMSS/DUWP	OGC
NAME	ASnyder	CHolston S.Achten for	B.Watson	L.S.Clark
DATE	9/11/18 And 10/9/18	9/12/18	10/15/18	10/31/18
OFFICE	NMSS/DUWP			
NAME	ASnyder			
DATE	11/1/18			

**OFFICIAL RECORD COPY**

## MEETING REPORT

DATE: Tuesday, August 9, 2018

TIME: 1:00 p.m. – 4:00 p.m.

PLACE: U.S. Nuclear Regulatory Commission  
11545 Rockville Pike, Room T5D30  
Rockville, MD 20852

PURPOSE: For the Licensee and U.S. Nuclear Regulatory Commission (NRC) staff to discuss the licensee's approaches to potentially update its current NRC license no. CSF-0001.

ATTENDEES: See Attendees List (Attachment).

### PURPOSE:

By letter (Agencywide Access Documents and Management System (ADAMS) Accession No. ML18192C159) dated May 2, 2018, NYSERDA requested a pre-amendment meeting with staff to discuss the options for the possibility of amending its current license to discuss NYSERDA's short-term and long-term goals: site maintenance in potentially contaminated areas of the NRC retained premises and a license amendment to reflect current site conditions and licensing terms relevant to the WNYNSC going forward.

### BACKGROUND:

The New York State Energy Research and Development Authority (NYSERDA), is an NRC licensee. It currently is the sole licensee for NRC License No. CSF-0001, the only NRC-licensed nuclear reprocessing plant. NRC originally granted and issued this Title 10 Code of *Federal Register* (10 CFR) Part 50 license to both Nuclear Fuel Services, Inc. (NFS), the operator of the reprocessing plant, and NYSERDA, as the owner of the nuclear facility. Currently, parts of the license are in abeyance pursuant to License Amendment No. 31, License Condition 7.B.(2), as related to the West Valley Demonstration Project Act of 1980. Also, as a result of License Amendment No. 32, NFS was removed from the license.

It should be noted that License Condition 7.E. requires the licensee to reacquire and possess the facility upon completion of the WVDP Act Project and make a timely license amendment application submissions to the NRC to reactivate its license in anticipation of completion of the WVDP Act Project.

### DISCUSSION:

NYSERDA presented background information and its possible near-term and long-term licensing options. NYSERDA's presentation material (ADAMS Accession No. ML18219B612) was also posted to the meeting notice. A copy of the meeting attendees is attached. Highlights of the discussion from the meeting are presented below:

ENCLOSURE

- NYSERDA presented a brief history of the license and its views on why the current license may need to be updated as indicated in its presentation.
- NYSERDA requested that NRC clarify NYSERDA's health and safety responsibilities because NYSERDA believes that License Condition 7 of License Amendment No. 31 may not have transferred to NYSERDA health and safety responsibility for the NRC retained premises.
- NYSERDA presented a limited amendment option (Slide 12 of its presentation) to address its near term needs and two broader options identified as options Nos. 1 and 2. (Slides 14-16 of its presentation) with potential advantages and disadvantages, to address its long term needs.
- The staff stated that it would be up to NYSERDA to decide what path it wants to take. However, the staff noted that:
  - There are different hearing requirements between a Part 50 and the other regulatory regime options that NYSERDA presented and should be considered
  - Part 50 and Part 70 licenses have different change processes (10 CFR 50.59 and 10 CFR 70.72) that should be considered because these requirements address the process for when changes can be made without NRC approval and certain reporting requirements.
  - The fee structure and therefore fee costs are also considerations because they vary from license type.
  - Free release clearance requirements for equipment may vary based on the type of license.
  - Exemption requests may be submitted for NRC staff consideration. Such requests are separate actions from the amendment process.
  - An amendment application for the purpose of reflecting the current site conditions (Part 70 or Part 50 approaches) may likely involve many exemptions. NYSERDA would be expected to identify any exemptions that it wishes to pursue and provide justification.
  - Approximately ten years ago (between 2006 and 2011), the NRC performed a regulatory gap analysis of its current regulations to identify what the agency may need to do with regard to updating its regulatory framework if a new reprocessing plant license application were to be submitted. The analysis identified pros and cons for licensing a new reprocessing plant under 10 CFR Part 50 or under 10 CFR Part 70 and regulatory gaps were identified for both scenarios. This information may be useful to NYSERDA to consider in its decision-making process regarding updating its license in the near term or long term to reflect concurrent conditions. The NRC has a web page covering this information.
- NYSERDA noted that if it decides to submit an application for a different type of license, such as a 10 CFR Part 40 materials license, there is a possibility that New York State may have authority to regulate the West Valley site. NYSERDA indicated that it does not intend to seek to change its regulator. The staff explained that NRC would decide how to proceed and would coordinate with the appropriate regulator at such a time, as necessary.

- The meaning of the term “carved out” on Slide 16 of NYSERDA’s presentation was unclear to staff. NRC staff noted that NYSERDA may have to justify by analysis or evaluation any proposed change in the inventory of radioactive material that is currently represented on the license. NYSERDA said that it was not its intention to carve out or disregard the inventory.

#### QUESTIONS FROM MEMBERS OF THE PUBLIC TO THE STAFF

The Nuclear Information and Resource Service (NIRS) representative asked the staff if the Licensee will be required to analyze or account sources of contamination that remain when their license is reactivated to address such things as the status of past spills and where they are located. NIRS noted that things are changing at the site due to active decommissioning.

The staff explained that Licensees are responsible to provide in their amendment application for decommissioning a complete assessment of the current radiological status of the site. Also, licensees are required to keep track of the spill history and address how these spills were cleaned up or how they plan on addressing the residual contamination. NIRS asked how the public will know about it. The staff said that such information is a part of record keeping which the NRC inspects. The NRC makes its inspection reports publicly available. Also, such information is a part of the characterization and historical site assessment discussion in the application for amendment for decommissioning. NYSERDA will be required to submit a decommissioning plan for the NRC staff review as part of its amendment application upon WVDP Project completion.

The NIRS representative asked the staff how the public will be informed if NYSERDA submits an application or exemption request. The staff stated that information in the *Federal Register* will be noticed upon acceptance of an application for an amendment or for an exemption request for detailed staff technical review. Also if the request is approved, the staff notices that the proceeding was completed in the *Federal Register*. Finally, the public would have opportunities to attend publicly noticed meetings on the applications that were accepted for detail technical review. The NRC policy on communication is defined in Management Directive 3.5, “Attendance at NRC-Staff Sponsored Meetings” (ADAMS Accession No. ML18073A094).

The Citizens’ Environmental Coalition representative asked the staff if NYSERDA were to submit a license amendment and/or exemption request to the NRC as it indicated that it may do, would it likely impact the Supplemental Environmental Impact Statement (SEIS) for Phase II activities currently underway. The staff explained that any licensing actions or exemptions, as discussed today, are not part of the SEIS process. However if a request or application were submitted and accepted for detailed technical review, the staff would to determine whether a categorical exclusion, environmental assessment, or an environmental impact statement would be required. Without the submittal the staff cannot make a determination.

The Citizens’ Environmental Coalition representative asked that if NYSERDA submits an application for amendment or an exemption request, would it be publicly available. This was raised by the representative because she explained that she recently made a request of the Licensee to obtain a copy of the license and was told that first the Licensee has to review the information for sensitive import/export information to determine what can be publicly released.

The staff explained a public version of a submittal to the NRC would be made publicly available on the docket in the ADAMS system, after the staff reviewed the submittal for any information

that would be required to be withheld (sensitive unclassified non-safeguards information, classified, or safeguards, or proprietary information under 10 CFR 2.390). The staff noted that there is a process that a member of the public may use to obtain certain sensitive information if the member of the public can show that it has a need. The process is explained in the *Federal Register* Notice that identifies that an amendment application or exemption request has been accepted for detailed technical review.

**ACTIONS FROM THE DISCUSSION WITH NYSERDA:**

- NRC to clarify in a letter NYSERDA's current health and safety responsibilities under the current license.
- NRC to provide a publicly available meeting summary
- NRC to provide reference to NRC's reprocessing plant regulatory gap analysis to NYSERDA (SECY-09-0082- Enclosure, ADAMS Accession No. ML091520365 and NRC public Web site, <https://www.nrc.gov/materials/reprocessing.html>).

**New York State Energy Research and Development Authority (NYSERDA)**

Janice Dean

Paul Bembia

Andrea Mellon\*

Joseph Gray, Talisman International, LLC (NYSERDA Contractor)

Larry Camper, Talisman International, LLC (NYSERDA Contractor)

John Greeves\*, Talisman International, LLC (NYSERDA Contractor)

**U.S. Nuclear Regulatory Commission (NRC)**

Andrea Kock

Stephen Koenick

Amy Snyder

Diana Diaz-Toro\*

Stephen Poy

Katherine Warner\*

Sheldon Clark\*

**Others**

Moira Maloney, U.S. Department of Energy (DOE)

Audrey Seeley\*, DOE

Dr. Zintars Zadins, Restoration Services, Inc. (DOE Contractor)

Diane D'Arrigo, Nuclear Information and Resource Service

Barbara Warren\*, Citizens' Environmental Coalition

Kathy McGoldrick\*, Coalition on West Valley Nuclear Wastes

Nathan Hall, Southwest Research Institute

Timothy Rice\*, New York State Department of Environmental Conservation (NYSDEC)

Ken Martin\*, NYSDEC

Robert Dansereau\*, New York State Department of Health

Mike Keet\*\*

Lynn Winterberg\*\*

“\*” via teleconference

“\*\*” unable to obtain affiliation, but participated via teleconference