

October 15, 1998

COMMISSION VOTING RECORD

DECISION        SECY-98-201

ITEM:

TITLE:            DEFERRAL OF REGULATORY OVERSIGHT OF CERTAIN PORTIONS OF THE LAKE CITY ARMY  
                      AMMUNITION PLANT TO THE U.S. ENVIRONMENTAL PROTECTION AGENCY

The Commission (with all Commissioners agreeing) approved the subject paper as recorded in the Staff Requirements Memorandum (SRM) of October 15, 1998.

This Record contains a summary of voting on this matter together with the individual vote sheets, views and comments of the Commissioners, and the SRM of October 15, 1998.

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John C. Hoyle  
Secretary of the Commission

Attachments: 1. Voting Summary  
                  2. Commissioner Vote Sheets  
                  3. Final SRM

cc:     Chairman Jackson  
          Commissioner Diaz  
          Commissioner McGaffigan  
          OGC  
          EDO  
          PDR  
          DCS

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VOTING SUMMARY - SECY-98-201

RECORDED VOTES

	<b>APRVD</b>	<b>DISAPRVD</b>	<b>ABSTAIN</b>	<b>NOT PARTICIP</b>	<b>COMMENTS</b>	<b>DATE</b>
CHRM. JACKSON	X				X	9/11/98
COMR. DIAZ	X				X	9/29/98
COMR. MCGAFFIGAN	X				X	9/25/98

COMMENT RESOLUTION

In their vote sheets, all Commissioners approved the staff's recommendation and provided some additional comments. Subsequently, the comments of the Commission were incorporated into the guidance to staff as reflected in the SRM issued on October 15, 1998.

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## Commissioner Comments on SECY-98-201

### Chairman Jackson's comments on SECY-98-201:

I approve the staff's recommendations to defer a portion of the oversight of remediation activities involving radioactive contamination of specified portions of the Lake City Army Ammunition Plant in Independence, Missouri, to the U.S. Environmental Protection Agency.

Since the site is already on EPA's National priorities List, deferring to the EPA is consistent with NRC's desire to reduce dual regulation and to not become unduly burdensome on the parties conducting the site remediation when EPA's actions would be adequate to protect the public health and safety and the environment from risks associated with radioactive contamination.

### Commissioner Diaz's Comments on SECY-98-201:

Although I support this deferral of regulatory oversight to EPA, the staff should continue to seek Commission approval for such deferrals. Additionally, consistent with the Commission's direction in March 1997, referral of stalled sites to EPA should be a last resort.

### Commissioner McGaffigan's Comments on SECY-98-201:

I approve the staff proposal to defer a portion of the oversight of remediation activities at the Lake City Army Ammunition Plant (LCAAP) to the U.S. Environmental Protection Agency. I recognize that in this instance, because the site is listed on NRC's Site Decommissioning Management Plan (SDMP) for radiological contamination and EPA's CERCLA National Priorities List for non-radiological contamination, it is beneficial to sort out which agency will oversee remediation at various portions of the site. The staff has worked out a rational division of labor that will minimize duplication of federal agency efforts, save NRC resources and promote efficiency. While the Department of the Army is willing to accept the possibility that EPA may require a stricter cleanup standard than NRC for the portions of the radiological remediation EPA will oversee, this site appears to be one where application of EPA's CERCLA guidance and NRC's SDMP criteria plus the ALARA principle yield essentially equivalent results.

I agree with the staff's plan to remove the LCAAP site from the SDMP list once Area 10, Building 3A and the 600-yard bullet catcher are remediated. Consistent with previous Commission direction to the staff on "de-listing" SDMP sites, the staff should provide the Commission, if at all possible, with an assessment of the dose to the average member of the critical group as a result of residual contamination of the NRC-regulated portions of the site. The staff could utilize the DandD code under development as a bounding tool and provide the Commission with a dose range if necessary. As an additional precaution, I understand that NRC will not remove the LCAAP site from the Army's license until NRC has reviewed EPA's basis for its determination that remediation at the remaining portions of the site is complete and has determined that the residual contamination is compatible with NRC's decommissioning criteria. The staff should inform the Commission of its decision on this matter.

While I support this particular deferral, I continue to support the Commission's previous direction to the staff that proposed deferrals to EPA should be submitted to the Commission and that referrals should be a last resort for stalled sites. I do not consider the approach used in this case to be inconsistent with the earlier Commission direction. Rather, in providing its March 31, 1997 direction to the staff, the Commission probably had sites in mind where the contamination is predominantly radiological and our license termination process should be able to bring about satisfactory remediation. Assuming that deferral of a portion of the LCAAP is granted, the Commission will be showing a willingness to consider deferral in similar cases (where non-radiological contamination predominates, the site is already a Superfund site, etc.) without removing the general presumption against deferral except for stalled sites where NRC authorities are inadequate to bring about remediation.