

APPENDIX Q
CONCURRENCE LETTERS

October 14, 2008

James A. Rispoli
Asst. Secretary for Environmental Management
EM-1/Forrestal Building
U.S. Department of Energy
1000 Independence Ave., S.W.
Washington, DC 20585

SUBJECT: Acknowledgment of Agency Concurrence to Release the *Revised Draft Environmental Impact Statement for Decommissioning and/or Long-Term Stewardship at the West Valley Demonstration Project and Western New York Nuclear Service Center (DOE/EIS-0226-R)* to the Public

Dear Mr. Rispoli:

The U. S. Department of Energy prepared the *Draft Environmental Impact Statement for Decommissioning and/or Long-Term Stewardship at the West Valley Demonstration Project and Western New York Nuclear Service Center (DOE/EIS-0226-R)* (DEIS) for issuance to the public after receiving extensive comments from the New York State Energy Research and Development Authority (NYSERDA) and other governmental agencies. NYSERDA strongly supports the preferred cleanup alternative identified in the DEIS because it calls for near-term removal of significant site facilities and areas of contamination such as the Main Plant Process Building, the low-level waste treatment system lagoons, and the source area of the North Plateau groundwater plume. As you know, NYSERDA has expressed concerns about the long-term performance assessment contained in the DEIS. Given our agreement that NYSERDA's "View" statement¹ will be published in the Foreword to the Revised DEIS, NYSERDA recommends issuance of the Revised DEIS for public review.

We look forward to working with you as our agencies proceed toward a final EIS.

¹"The View of the New York State Energy Research and Development Authority on the Draft Environmental Impact Statement for Decommissioning and/or Long-Term Stewardship at the West Valley Demonstration Project and Western New York Nuclear Service Center"

PJB/08end083.end

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Messr. James A. Rispoli
Page 2
October 14, 2008

Sincerely,

WEST VALLEY SITE MANAGEMENT PROGRAM

A handwritten signature in black ink that reads "Paul J. Bembia". The signature is written in a cursive style with a large initial "P".

Paul J. Bembia, Director

PJB/end

cc: C. M. Borgstrom, DOE-HQ, GC-20/FORS.
E. B. Cohen, DOE-HQ, GC-20/FORS.
B. M. Diamond, DOE-HQ, GC-51/FORS.
J. E. Loving, DOE-HQ, GC-20/FORS.
F. Marcinowski, DOE-HQ, EM-10/FORS.
B. C. Bower, DOE-WVDP, AC-DOE
C. M. Bohan, DOE-WVDP, AC-DOE
M. N. Maloney, DOE-WVDP, AC-DOE
File #60416



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

October 15, 2008

Mr. James Rispoli, Assistant Secretary
Office of Environmental Management
EM-1/Forrestal Building
U. S. Department of Energy
1000 Independence Ave., S.W.
Washington, D.C. 20585

**SUBJECT: ACKNOWLEDGMENT OF AGENCY CONCURRENCE TO RELEASE THE
REVISED DRAFT ENVIRONMENTAL IMPACT STATEMENT FOR
DECOMMISSIONING AND/OR LONG-TERM STEWARDSHIP AT THE WEST
VALLEY DEMONSTRATION PROJECT AND WESTERN NEW YORK NUCLEAR
SERVICE CENTER (DOE/EIS-0226-R) TO THE PUBLIC**

Dear Mr. Rispoli:

The U.S. Department of Energy and the New York State Energy Research and Development Authority have been jointly preparing the *Draft Environmental Impact Statement for Decommissioning and/or Long-Term Stewardship at the West Valley Demonstration Project and Western New York Nuclear Service Center (DOE/EIS-0226-R)* (EIS) for release to the public. As a cooperating agency on this EIS, the U.S. Nuclear Regulatory Commission (NRC) has participated in multi-agency concurrence meetings related to the development of the draft EIS for the West Valley project. Based on the agency's participation in this process, the NRC concurs in release of the draft EIS for public comment.

NRC appreciates the opportunity to be involved in this EIS, and reserves the right to further comment on the draft EIS during the public comment period. We look forward to working with you as you proceed toward a final EIS.

Sincerely,

A handwritten signature in black ink, appearing to read "Larry W. Camper". The signature is stylized and fluid, with a large initial "L" and "C".

Larry W. Camper, Director
Division of Waste Management
and Environmental Protection
Office of Federal and States Materials
and Environmental Management Programs

cc: See next page

cc:

C. M. Borgstrom, DOE-HQ, GC-20/FORS.
E. B. Cohen, DOE-HQ, GC-20/FORS.
B. M. Diamond, DOE-HQ, GC-51/FORS.
J. E. Loving, DOE-HQ, GC-20/FORS.
F. Marcinowski, DOE-HQ, EM-10/FORS.
B. C. Bower, DOE-WVDP, AC-DOE.
C. M. Bohan, DOE-WVDP, AC-DOE
M. N. Maloney, DOE-WVDP, AC-DOE
G. Baker, NYSDOH
P. Bemba, NYSERDA
P. Giardina, USEPA
E. Dassatti, NYSDEC
M. John, Seneca Nation of Indians



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2
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James Rispoli, Assistant Secretary
Office of Environmental Management
EM-1/Forrestal Building
U. S. Department of Energy
1000 Independence Ave., S.W.
Washington, D.C. 20585

SUBJECT: Acknowledgment of Agency Concurrence to Release the *Revised Draft Environmental Impact Statement for Decommissioning and/or Long-Term Stewardship at the West Valley Demonstration Project and Western New York Nuclear Service Center* (DOE/EIS-0226-R) to the Public

Dear Mr. Rispoli:

The U. S. Department of Energy and the New York State Energy Research and Development Authority have been jointly preparing the revised *Draft Environmental Impact Statement for Decommissioning and/or Long-Term Stewardship at the West Valley Demonstration Project and Western New York Nuclear Service Center* (DOE/EIS-0226-R) (DEIS) for release to the public. As a cooperating agency on this DEIS, the U.S. Environmental Protection Agency (EPA) has reviewed the concurrence draft of this document. EPA concurs that the draft represents an adequate compilation of relevant information, has not ignored pertinent data, and that the information has been analyzed reasonably. Therefore, EPA recommends release of the revised DEIS for public review.

However, we want to point out that our participation as a cooperating agency and our recommendation to release the DEIS neither precludes our review under the National Environmental Policy Act nor negates our comment authority under Section 309 of the Clean Air Act.

EPA thanks you for the opportunity to be involved in the preparation of this DEIS. We look forward to working with you as you proceed toward a final EIS.

Sincerely yours,

A handwritten signature in cursive script that reads "John Filippelli".

John Filippelli, Chief
Strategic Planning Multi-Media Programs Branch

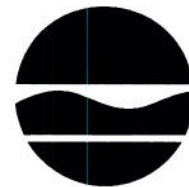
New York State Department of Environmental Conservation

Division of Solid and Hazardous Materials, 9th Floor

625 Broadway, Albany, New York 12233-7250

Phone: (518) 402-8651 • FAX: (518) 402-9024

Website: www.dec.ny.gov



Alexander B. Grannis
Commissioner

OCT 14 2008

Mr. James Rispoli
Assistant Secretary, Office of Environmental Management
EM-1/Forrestal Building
U.S. Department of Energy
1000 Independence Ave., S.W.
Washington, D.C. 20585

Dear Mr. Rispoli:

RE: Concurrence Meeting Letter for the Revised Draft Environmental Impact Statement for Decommissioning and/or Long-Term Stewardship at the West Valley Demonstration Project and Western New York Nuclear Services Center (DEIS)

At the end of August, the New York State Departments of Environmental Conservation and Health (the Departments) received your letter inviting their management and technical staff to the West Valley DEIS Concurrence Review Meeting at the U.S. Department of Energy (DOE) Headquarters in Washington, D.C., from October 6-10. While we regret that we were not able to physically attend the meeting, staff from the Departments did participate via teleconference.

The Departments have received and reviewed the proposed resolutions provided by DOE in response to comments made by the Departments during the "Fatal Flaw" review of the DEIS. Based on these responses and proposed resolutions, the Departments agree that the DEIS is acceptable for release to the public. This does not constitute the Departments' concurrence with the DEIS, but that it is sufficiently complete for release for public review and comment. As staffs have repeatedly stated, in person during Core Team meetings, in writing in our August 22 letter, and during our Concurrence meeting opening remarks, the full and detailed review of the DEIS by both Departments will take place during the public comment period.

If you have any questions, please do not hesitate to contact either Robert Phaneuf or Lynn Winterberger, of the New York State Department of Environmental Conservation (518-402-8594), or Gary Baker, of the New York State Department of Health (315-477-4884).

Sincerely,

Edwin Dassatti, P.E.

Director

Division of Solid and Hazardous Materials
New York State Department of
Environmental Conservation

G. Anders Carlson, Ph.D.

Director

Division of Environmental Health Investigation
New York State Department of Health

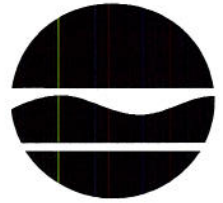
cc: C. M. Borgstrom, DOE-HQ, GC-20/FORS
E. B. Cohen, DOE-HQ, GC-20/FORS
B. M. Diamond, DOE-HQ, GC-51/FORS
J. E. Loving, DOE-HQ, GC-20/FORS
F. Marcinowski, DOE-HQ, EM-10/FORS
B. C. Bower, DOE-WVDP, AC-DOE
C. M. Bohan, DOE-WVDP, AC-DOE
M. N. Maloney, DOE-WVDP, AC-DOE
V. Washington, NYSDEC Central Office
A. Crocker, NYSDEC Central Office
K. McConnell, NRC
P. Bembia, NYSERDA
J. Reidy, US EPA
P. Giardina, US EPA
S. Gavitt, NYSDOH
G. Baker, NYSDOH

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Alexander B. Grannis
Commissioner

November 30, 2009

Dr. Inés R. Triay, Assistant Secretary
Office of Environmental Management
EM-1/Forrestal Building
U.S. Department of Energy
1000 Independence Ave., S.W.
Washington, D.C. 20585

Dear Dr. Triay:

Re: Concurrence Review Meeting Letter for the Final Environmental Impact Statement (FEIS) for Decommissioning and/or Long-Term Stewardship at the West Valley Demonstration Project and Western New York Nuclear Service Center

The New York State Departments of Environmental Conservation and Health (Departments) appreciate the opportunity for our managerial and technical staff to participate in the Concurrence Review Meeting at the U.S. Department of Energy (DOE) Headquarters, in Washington D.C., from November 17-20. While we regret that we were not able to physically attend the meeting, staff from the Departments were able to participate via teleconference.

The Departments recognize the efforts put forward by the stakeholders and all agencies involved in this EIS process, and applaud the progress made to date toward the decommissioning of the Western New York Nuclear Service Center (WNYNSC). The Departments have received and reviewed the draft of the FEIS and participated in discussions during Core Team Meetings, Interagency Roundtable Meetings and during the Concurrence Review Meeting, and provided written comments during the public comment period. We continue to support the Phased Decommissioning Alternative; however, we are unable to concur with all aspects of this FEIS and are concerned for the pressures that may be imposed by the accelerated Phase 2 decision timeline. We strongly encourage making the Phase 2 decision by the end of Phase 1 in order to allow site remedial work to continue uninterrupted, as a goal of the Preferred Alternative. However, understanding the scope of this project and the long history involved in finally getting an FEIS to this point, we would hope that the schedule does not overtake events and force inappropriate remedial or decommissioning decisions at this important site.

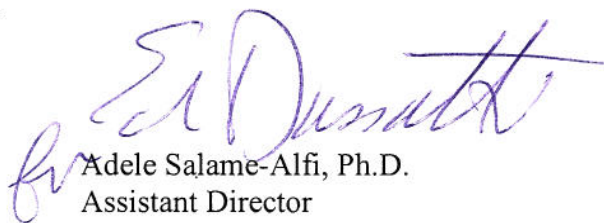
The Departments want to emphasize that the ultimate Phase 2 decision will need to be supported by technologically and scientifically defensible data. Furthermore, we strongly recommend that both the DOE and the New York State Energy Research & Development Authority (NYSERDA) should begin immediately to compile and analyze the necessary information for the Phase 2 decision. Additionally, due to the contiguous nature of the DOE and NYSERDA sites at the WNYNSC, we also strongly encourage the agencies to make a coordinated decision for all units/areas at the site by the end of Phase 1. The Departments will continue to exercise their regulatory authorities to ensure protection of the environment and public health and safety.

If you have any questions, please do not hesitate to contact either Robert Phaneuf, of the New York State Department of Environmental Conservation (518-402-8594), or Robert Snyder, of the New York State Department of Health (518-402-7550).

Sincerely,



Edwin Dassatti, P.E.
 Director
 Division of Solid & Hazardous Materials
 New York State Department
 of Environmental Conservation



Adele Salame-Alfi, Ph.D.
 Assistant Director
 Division of Environmental Health Investigation
 New York State Department of Health

ecc: B. C. Bower, DOE-WVDP, AC-DOE
 C. M. Bohan, DOE-WVDP, AC-DOE
 K. McConnell, NRC
 P. Bembia, NYSERDA
 P. Giardina, USEPA
 R. Snyder, NYSDOH



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Dr. Inés R. Triay, Assistant Secretary
Office of Environmental Management
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U.S. Department of Energy
1000 Independence Ave., S.W.
Washington, DC 20585

COPY

SUBJECT: Acknowledgement of Agency Concurrence to Release the Final Environmental Impact Statement of Decommissioning and/or Long-Term Stewardship at the West Valley Demonstration Project and Western New York Nuclear Service Center (DOE/EIS-0226) to the Public.


Dear Dr. Triay:

The U.S. Department of Energy (DOE) and the New York State Energy Research and Development Authority (NYSERDA) have finalized the Environmental Impact Statement for Decommissioning and/or Long-Term Stewardship at the West Valley Demonstration Project and Western New York Nuclear Service Center (DOE/EIS-0226) for release to the public. As a cooperating agency on the Final Environmental Impact Statement (FEIS), the U.S. Environmental Protection Agency (EPA) has reviewed the concurrence draft of this document. While EPA is concerned that NYSERDA, a co-lead agency, has several points of disagreement with the DOE and some of the findings within the document, we can concur that the FEIS can be released to the public.

I am also taking this opportunity to note that EPA's participation as a cooperating agency and our recommendation to release the FEIS neither precludes Agency review under the National Environmental Policy Act nor negates our authority to comment on the FEIS as mandated by Section 309 of the Clean Air Act. Accordingly, EPA will prepare a comment letter on the document during the review period following its release.

We appreciate the opportunity to work with the DOE, NYSERDA, and the other cooperating agencies involved in this effort.

Sincerely,


John Filippelli, Chief
Strategic Planning and Multi-Media Programs Branch

December 3, 2009

Dr. Inés R. Triay
Asst. Secretary for Environmental Management
EM-1/Forrestal Building
U.S. Department of Energy
1000 Independence Ave., S.W.
Washington, DC 20585

Dear Dr. Triay:

SUBJECT: Release of the *Final Environmental Impact Statement for Decommissioning and/or Long-Term Stewardship at the West Valley Demonstration Project and Western New York Nuclear Service Center* (DOE/EIS-0226-R) to the Public

The U. S. Department of Energy is now in the final stages of preparing the *Final Environmental Impact Statement for Decommissioning and/or Long-Term Stewardship at the West Valley Demonstration Project and Western New York Nuclear Service Center* (DOE/EIS-0226-R) (FEIS) for issuance to the public. As part of the process for completing the FEIS, DOE has requested each participating agency, including NYSERDA, the joint lead, provide a letter of concurrence in regard to issuance of the FEIS. While we do concur with issuing the FEIS to the public, we do wish to make you aware of some important issues surrounding the FEIS.

When the Draft EIS was issued for public review in December 2008, it was issued with a NYSERDA-prepared "Foreword" that documented eight major concerns with the analyses presented in the DEIS. While NYSERDA and DOE have reached agreement on one of these concerns (the analytical approach for calculating rail transportation fatalities), the remainder of NYSERDA's concerns are unresolved and now carry over into the FEIS. Although we continue to have significant technical concerns with the FEIS, NYSERDA recommends issuance of the FEIS to the public because: 1) DOE and NYSERDA have agreed that NYSERDA's view on the FEIS will be published in a "Foreword" to the FEIS; 2) DOE and NYSERDA have agreed to work together to identify a suite of additional studies that will be targeted to address the outstanding technical concerns; and 3) implementation of the Preferred Alternative does not hinge on the analyses that we believe to be problematic. Both agencies have also agreed that the additional technical studies will be conducted concurrently with the Phase 1 decommissioning work, allowing the cleanup to move directly from Phase 1 to Phase 2. This will allow us to maintain funding, momentum on the cleanup, and our trained workforce.

PJB/09amd055.pjb

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Buffalo

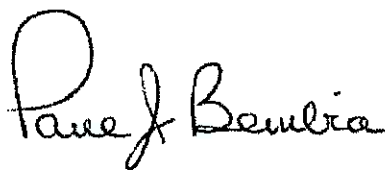
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Dr. Inés Triay
Page 2
December 3, 2009

We look forward to working with DOE on the remainder of the West Valley Demonstration Project.

Sincerely,

WEST VALLEY SITE MANAGEMENT PROGRAM

A handwritten signature in black ink that reads "Paul J. Bembia". The signature is written in a cursive style with a large initial "P".

Paul J. Bembia, Director

PJB/amd

cc: C. M. Borgstrom, DOE-HQ, GC-20/FORS.
B. M. Diamond, DOE-HQ, GC-51/FORS.
F. Marcinowski, DOE-HQ, EM-10/FORS.
B. C. Bower, DOE-WVDP, AC-DOE
C. M. Bohan, DOE-WVDP, AC-DOE
H. Brodie, NYSERDA-Albany
D. A. Munro, NYSERDA-Albany
J. C. Kelly, NYSERDA-WV
L. M. Gordon, NYSERDA-WV
File #60416



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

December 3, 2009

Dr. Inés R. Triay, Assistant Secretary
Office of Environmental Management
EM-1/Forrestal Building
U. S. Department of Energy
1000 Independence Ave., S.W.
Washington, D.C. 20585

SUBJECT: PUBLIC RELEASE OF FINAL ENVIRONMENTAL IMPACT STATEMENT FOR
DECOMMISSIONING AND/OR LONG-TERM STEWARDSHIP AT THE WEST
VALLEY DEMONSTRATION PROJECT AND WESTERN NEW YORK
NUCLEAR SERVICE CENTER (DOE/EIS-0226-R)

Dear Dr. Triay:

The U.S. Department of Energy (DOE) and the New York State Energy Research and Development Authority (NYSERDA) have prepared a Final Environmental Impact Statement (DOE/NYSERDA EIS) for Decommissioning and/or Long-Term Stewardship at the West Valley Demonstration Project and Western New York Nuclear Service Center (DOE/EIS-0226-R) for release to the public. As a cooperating agency on this DOE/NYSERDA EIS, the U.S. Nuclear Regulatory Commission (NRC) has participated in multi-agency concurrence meetings related to the development of the final DOE/NYSERDA EIS. Based on the agency's participation in this process, NRC concurs that the DOE/NYSERDA EIS as modified by NRC comments is acceptable for publication.

Sincerely,

A handwritten signature in red ink, appearing to read "Larry W. Camper", with a long horizontal flourish extending to the right.

Larry W. Camper, Director
Division of Waste Management
and Environmental Protection
Office of Federal and States Materials
and Environmental Management Programs

cc: See next page

cc:

C. M. Borgstrom, DOE-HQ, GC-20/FORS.

E. B. Cohen, DOE-HQ, GC-20/FORS.

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J. E. Loving, DOE-HQ, GC-20/FORS.

F. Marcinowski, DOE-HQ, EM-10/FORS.

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G. Baker, NYSDOH

P. Bembia, NYSERDA

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