

April 17, 2003

Ms. Alice C. Williams, Director
U.S. Department of Energy
West Valley Demonstration Project
10282 Rock Springs Road
West Valley, NY 14171-9799

Dear Ms. Williams:

Subject: Schedule for the Completion of the Environmental Impact Statement for the Decommissioning and/or Long-term Stewardship at the West Valley Demonstration Project and Western New York Nuclear Service Center, dated 4-7-03

On April 7, 2003, the U.S. Department of Energy (DOE) provided the New York State Energy Research and Development Authority (NYSERDA) with a schedule for the preparation of the Environmental Impact Statement for the Decommissioning and/or Long-term Stewardship at the West Valley Demonstration Project and Western New York Nuclear Service Center (Decommissioning EIS). This schedule presents a process for the completion of the Decommissioning EIS that results in the release of a Draft EIS for public review in April 2004. This is approximately one year earlier than in the 7-2-02 version of the Decommissioning EIS schedule.

After reviewing the 4-7-03 EIS schedule, NYSERDA is concerned that this accelerated schedule does not provide adequate opportunity for review and input by NYSERDA and the Cooperating/Involved Agencies, and does not realistically reflect the work required to provide a defensible document. While it is NYSERDA's continued goal to prepare the decommissioning EIS in a timely manner, our primary requirement has been, and will continue to be, that the Decommissioning EIS be a scientifically sound and technically defensible document. Because DOE's accelerated EIS schedule appears to be driven by an arbitrary completion date, rather than by a realistic examination of the remaining work activities, we are concerned that the accelerated approach for preparing the decommissioning EIS will not result in a defensible document that meets NYSERDA's needs or the needs of the Cooperating/Involved agencies.

After reviewing the accelerated schedule and after discussions with DOE and the Cooperating/Involved agencies at the EIS meeting on April 11, 2003, we believe that DOE must prepare a revised schedule for the preparation of the EIS. This revised schedule must realistically reflect the work needed to prepare a defensible document and give all lead, cooperating and involved agencies sufficient time to provide meaningful input.

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NYSERDA's specific questions and comments regarding the Decommissioning EIS schedule dated 4/7/03 are attached. We look forward to further discussions with you in regard to the process and schedule for the completion of the Decommissioning EIS.

Please contact me at (716) 942-4378 if you have any questions.

Sincerely,

WEST VALLEY SITE MANAGEMENT PROGRAM



Paul L. Piciulo, Ph.D.
Program Director

PLP/amd

Attachment:

(1) *NYSERDA COMMENTS ON THE ACCELERATED DECOMMISSIONING EIS SCHEDULE (DATED 4/7/03)*

cc: M. W. Frei, USDOE-EM (w/att.)
D. M. Gillen, USNRC (w/att.)
P. A. Giardina, USEPA (w/att.)
E. E. Dassatti, NYSDEC (w/att.)
H. Brodie (w/att.)
P. J. Bembia (w/att.)
C. L. Gerwitz (w/att.)
File (w/att.)

**NYSERDA COMMENTS ON THE ACCELERATED DECOMMISSIONING EIS
SCHEDULE (DATED 4-7-03)**

Comments On Items No Longer Included in the Decommissioning EIS Schedule

- 1) Closure Engineering Report for Alternative 2 - The Closure Engineering Report (CER) for Alternative 2 should be reinstated. DOE's current plan is to obtain information for Alternative 2 from the Alternative 1 and Alternative 3 CERs. However, in trying to extract information from various alternatives in the 1996 DEIS to assess other combinations of alternatives, we found that there were significant dependencies between facilities within an alternative (e.g. support costs, implementation schedules, sizing of supporting facilities, etc.) that made it very difficult to simply lift information from one alternative and use it in other alternatives. The CERs define the details of each alternative and provide the basis for SAIC's analysis.
- 2) Structural Geology Update - The 7-2-02 schedule included a review of the Structural Geology Update by the Cooperating/Involved agencies. This review was not included in the 4-7-03 schedule. The Cooperating/Involved agencies should be consulted as to whether they will review this report.
- 3) Seismic Hazard Curve Update - The update of the seismic hazard curve was deleted from the EIS schedule. This activity should be reinstated to ensure that the new data on the structural geology of the vicinity of the Center is properly described and analyzed. The 7-2-02 schedule included a review of the Seismic Hazard Curve by the Cooperating/Involved agencies. The Cooperating/Involved agencies should be consulted as to whether they will review this report.
- 4) Comment Resolution Meetings - Previous versions of the EIS schedule included meetings to discuss the resolution of technical comments on EIS support documents (e.g., the performance assessment appendices). The resolution of the technical comments provided by the lead and Cooperating/Involved agencies is a critical part of the process for preparing the EIS. All comments must be addressed, and each agency should be provided with an explanation of how the comments were addressed. These technical meetings should be reinstated in the schedule.
- 5) Item 91 - Update Environmental Descriptions - Previous versions of the schedule included nine specific tasks under this activity (e.g., update surface water, hydrology, geomorphology, etc.). These individual tasks are not included in the current version of the EIS schedule. Why was this detail removed from the schedule? Will all nine of these items be updated as part of the revised DEIS?
- 6) Item 92 - Update Nature and Extent of Contamination - Previous versions of the schedule included five specific tasks under this activity (Surface water/Stream Sediment Contamination, North Plateau Groundwater Plume, South Plateau Wells Trends, Air and Direct Radiation Monitoring, and Food Chain Monitoring). Why was this detail removed

NYSERDA COMMENTS ON THE ACCELERATED DECOMMISSIONING EIS SCHEDULE (DATED 4-7-03)

from the schedule? All five of these items should be updated as part of the process for preparing the revised DEIS. NYSERDA would like to review this updated information.

- 7) Item 163 - Short-Term Impact Analysis - Previous versions of the schedule included a number of specific tasks under this activity. The 4-7-03 schedule does not include these activities. Why were these activities removed from the schedule?
- 8) Item 169 - Affected Environment (Chapter 4) - Previous versions of the schedule included a number of specific tasks under this activity, including lead agency and Cooperating/Involved Agency reviews. The 4-7-03 schedule does not include any of these activities. Why were these activities removed from the schedule? The "lead agency review" of the Affected Environment's chapter should be reinstated, and the Cooperating/Involved Agencies should be consulted as to whether they will review this information.
- 9) Item 173 - Impact Analysis Appendices - Some of the appendices included in previous versions of the schedule are not included in the 4-7-03 schedule (e.g., Socioeconomic Impact, Occupational Injuries/Fatalities). Where will this information be presented in the revised EIS? The socioeconomic impact analysis is a requirement of SEQRA and must be included in the EIS.
- 10) Regulatory Packages - The "Regulatory Packages" have been removed from the EIS schedule, along with the associated stand-alone performance assessment documents for the Process Building, Vittrification Facility and HLW Tanks, and the preliminary and final integrated performance assessments. If SAIC is providing analyses for the regulatory packages, SAIC's work should be made available for review as part of the EIS process.

Comments on Items in the 4-7-03 Decommissioning EIS Schedule

- 11) General Comment - Document Revision - There are numerous instances in the schedule where documents are reviewed by NYSERDA, DOE, and the Cooperating/Involved Agencies, but the schedule does not reflect a revision to the document following the review. As was discussed during the EIS meeting on April 10, 2003, this could present a significant challenge in regard to tracking, documenting, and defending the information analyzed in the EIS. The schedule should include time for the revision of the support documents.
- 12) General Comment - Concurrent Document Reviews - The accelerated schedule shows that multiple documents are to be reviewed concurrently. NYSERDA recommends that concurrent document reviews be avoided. In cases where documents need to be reviewed concurrently, review periods should be extended.

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- 13) Item 44 - DOE and NYSERDA Determine Final Alternatives Including Preferred Alternative - SAIC's recent performance assessment work has focused on the WVDP facilities on the North Plateau area of the site. The updated performance assessment information for the SDA and Retained Premises must be completed before the preferred alternative is selected. This should be reflected in the schedule.
- 14) Item 140 - Coop/Involved Agency Review (of the SDA Characterization Report) - The SDA Characterization Report was previously sent to the Cooperating/Involved Agencies for their information, not for their review. This report defines the radionuclide inventory that will be used in the performance assessment for the SDA. The review period for this document should be rescheduled to allow the Involved/Cooperating Agencies to conduct a review of this report.
- 15) Item 147 - Coop/Involved Agency Review (of the HLW Tank Farm Characterization Report) - The HLW Tank Characterization reports were previously sent to the Cooperating/Involved Agencies for their information, not for their review. These reports define the radionuclide inventory that will be included in the performance assessment for the HLW Tanks. The review period for these document should be rescheduled to allow the Involved/Cooperating Agencies to conduct a review of these reports.
- 16) Item 142 Tank Farm Characterization, Item 149 Vit Facility Characterization, Item 154 Process Building Characterization - There is no NYSERDA review identified for these documents. Since these documents are being sent to the Cooperating/Involved Agencies for review, these documents should be provided to NYSERDA for review prior to transmittal to the Cooperating/Involved agencies.
- 17) Item 154 Process Building Characterization - In a previous version of an accelerated EIS schedule, the final Process Building characterization information was not available until after the DEIS was prepared and issued for public comment. Using that earlier proposed approach, the DEIS was to be prepared using "preliminary" Process Building Characterization information, and the FEIS was to be updated to include the "final" Process Building characterization information. The current version of the accelerated schedule does not identify "preliminary" and "final" Process Building Characterization information, although the WVDP Milestone schedule continues to show that characterization information from some of the cells in the Process Building won't be available until late 2004. The schedule should clearly reflect whether DOE intends to use preliminary or final Process Building characterization data for the DEIS and FEIS analyses.
- 18) Item 157 Transmit Vit Facility Char info to Coop/Involved Agencies for Review - This title is incorrect. It should say "Transmit Process Building Characterization info to Coop/Involved Agencies for Review."

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SCHEDULE (DATED 4-7-03)**

- 19) Item 185 Site Review of the DEIS - The schedule provides 10 working days to review this document. Based on our review of the 1996 DEIS, 10 days is not a reasonable time period to review and comment on the completed DEIS. NYSERDA believes it can provide comments in 30 working days.
- 20) Item 190 - Agency Sign Off - What is this item? How is it different from Item 187? If changes are made to the document during this "agency sign off," how will the changes be coordinated with NYSERDA and the Cooperating/Involved Agencies?
- 21) Item 194 - 45 Day Public Comment Period - The schedule shows a 45-day public comment period for the DEIS. A 45-day comment period may be inconsistent with the Stipulation of Compromise Settlement DOE signed with the Coalition on West Valley Nuclear Wastes and may be vulnerable to legal challenge. NYSERDA urges DOE to reinstate the six-month comment period.
- 22) Item 197 Revise FEIS to include new information (facility, site char) - What is this item? What new facility and site characterization information will be included in the FEIS?