



IN REPLY REFER TO:

United States Department of the Interior

NATIONAL PARK SERVICE

Gateway National Recreation Area

210 New York Avenue

Staten Island, N.Y. 10305-5019

L76 (GATE-S)

June 12, 2015

Mr. Larry W. Camper, Director
Division of Decommissioning, Uranium Recovery, and Waste Programs
Office of Nuclear Material Safety and Safeguards
United States Nuclear Regulatory Commission
Washington, D.C. 20555-0001

RE: Role of the United States Nuclear Regulatory Commission at the Great Kills Park Site,
Staten Island, New York

Dear Mr. Camper:

This letter is in response to your letter to Kathleen Cuzzolino of my staff dated April 7, 2015, seeking the views of the National Park Service ("NPS") as to how NPS and the U.S. Nuclear Regulatory Commission ("NRC") can best coordinate our respective jurisdiction and responsibilities regarding radium-226 contamination at Great Kills Park ("Park"). The Park is located within the Staten Island Unit of Gateway National Recreation Area, which is a unit of the national park system. NPS appreciates the opportunity to work collaboratively with the NRC as we conduct a comprehensive investigation of contamination at the Park and evaluate remedial alternatives to protect human health and the environment from such contamination. NPS believes that this collaboration can best be achieved through a letter of agreement consistent with the Memorandum of Understanding ("MOU") approach described in your letter.

Section 104 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA"), 42 U.S.C. § 9604, authorizes the President to investigate and respond to any release or threatened release of a hazardous substance into the environment when necessary to protect the public health or welfare or the environment. The President has delegated this authority to the Secretary of Interior to address hazardous substances released on property under the Department of the Interior's jurisdiction. The Secretary has re-delegated this authority to NPS with respect to hazardous substances released on land under the jurisdiction of NPS. Thus, the NPS acts with the President's CERCLA response authority to investigate and respond to hazardous substances released on or from land managed by the NPS. This CERCLA response authority with respect to NPS managed land is the same as the Environmental Protection Agency ("EPA") CERCLA Section 104 response authority to investigate and respond to hazardous substances released on private property.

Since 2007, NPS has exercised this CERCLA response authority to investigate and undertake interim action to protect human health and the environment from potential risks associated with radium-226, which has been detected throughout an area of approximately 265 acres ("Site") that was filled with waste material by the New York City Sanitation Department in the 1940s. With the assistance of the U.S. Army Corps of Engineers, and in consultation with staff from the NRC, EPA, and New York State, NPS recently completed a "time critical removal action" ("TCRA") in which 37 "hotspots" with elevated levels of radioactivity were excavated and properly disposed of at NRC agreement state licensed facilities in Idaho and Utah. The TCRA Completion Report will be issued in the near future and I will ask Ms. Cuzzolino to forward it to your staff as soon as it is issued.

This summer NPS will initiate a CERCLA remedial investigation ("RI") and feasibility study ("FS"). The RI will fully characterize the nature and extent of the contamination released at or from the Site, including radiological and chemical constituents, and assess potential risks to human health and the environment associated with exposure to the contamination. Conducted in phases, the RI will comprise the collection of field sampling data necessary to fully delineate soil, sediment, surface water, and groundwater contamination for the purpose of developing and evaluating effective remedial alternatives. Data collection activities will be tailored to characterize actual and potential threats posed by hazardous substances at the Site, actual and potential exposure pathways, and other factors to support the development of human health and ecological risk assessments. In addition, NPS will identify substantive federal, and more stringent state, "applicable or relevant and appropriate requirements" ("ARARs") in consultation with other appropriate federal agencies and the State of New York. Any final remedial action for the Site will attain all identified Site ARARs.

The FS will develop and evaluate appropriate remedial alternatives to address potential risks to human health and the environment and attain ARARs related to the hazardous substances at the Site. As specified by the National Contingency Plan ("NCP"), CERCLA's implementing regulations; alternatives will be developed and screened based on a preliminary assessment of each alternative's short and long term effectiveness, implementability, and cost. Following this preliminary screening, NPS will conduct a detailed comparative evaluation of alternatives that withstand the screening process, using the nine remedy selection criteria established by the NCP. At the completion of the FS, NPS will issue a Proposed Plan identifying NPS's preferred remedial action alternative for public review and comment before making a final decision selecting a final remedy through the issuance of a Record of Decision.

As you may know, in 2012 EPA added the Site to the Federal Agency Hazardous Waste Compliance Docket ("Docket"). NPS is working collaboratively with EPA and will continue to provide EPA the information EPA needs to meet its statutory responsibilities related to the Docket. NPS believes that listing the Site on the National Priorities List is unnecessary given that the Site is already being addressed through the CERCLA remedial action process, and that

listing the Site would delay the selection of a permanent Site remedy and unnecessarily increase costs with no resulting environmental benefit.

NPS intends to establish a Consultative Working Group ("CWG") made up of federal, state, and local agencies with jurisdiction or technical expertise relevant to the Site investigation and cleanup to ensure that NPS decision-making is fully informed and to promote transparency among government stakeholders. Ms. Cuzzolino has contacted staff from interested government agencies, including the NRC, regarding their agency's participation on the CWG. The CWG will provide a forum for information sharing among interested agencies on all aspects of the RI/FS process. Through the CWG, NRC and other agencies will be able to remain fully informed and provide their technical expertise and viewpoints so that the investigation and final remedy decision satisfy all applicable requirements.

NPS has a robust CERCLA response program that has managed many CERCLA cleanups across the country. The Site has been identified by NPS and the Department of the Interior as a priority for Departmental funding. In order to preserve this funding source, NPS is required to manage the Site investigation and cleanup under its CERCLA response authority. In fulfilling its CERCLA lead agency and resource stewardship responsibilities at the Site, NPS will take all actions necessary to identify and mitigate risks posed to public health and the environment and comply with applicable federal and State requirements associated with the investigation and cleanup of hazardous substances at the Site.

As the investigation and cleanup move forward within the CERCLA framework, NPS is also prepared to move forward with discussions with NRC on the terms of an agreement consistent with the MOU approach adopted by NRC and the Department of Defense to coordinate the agencies' concurrent jurisdiction at military sites remediated under CERCLA at which contamination has occurred from the disposal of byproduct material. As we understand it, such an MOU approach would establish a consultation process between NPS and NRC for managing the jurisdictional overlap under radiological and environmental cleanup laws in a manner that avoids duplication of regulatory requirements and associated cost and schedule impacts. Establishing the framework of a cooperative relationship in a MOU will allow both agencies to meet their respective objective of ensuring that the remedial action is implemented effectively and that it fully protects public health and safety and the environment. In addition, NPS has requested that its service providers handling radioactive materials during the investigation and cleanup of the Site obtain licenses from the State of New York.

NPS appreciates NRC's interest in the Site and your willingness to work collaboratively to determine how the two agencies can satisfy their respective jurisdictional requirements and statutory responsibilities. If NRC agrees that pursuing an agreement consistent with the MOU approach discussed above is the appropriate path forward, staff from both agencies can begin discussions regarding the specific terms and conditions.

Please have your staff contact Ms. Cuzzolino at 718-354-4609 or via email at Kathleen_Cuzzolino@nps.gov to discuss this matter in greater detail.

Sincerely,

A handwritten signature in black ink, consisting of a large, stylized 'J' followed by a horizontal line and a small loop.

Jennifer T. Nersesian
Superintendent

cc:

Shawn Mulligan, NPS

Kathleen Cuzzolino, NPS

Casey S. Padgett, Office of the Solicitor

Sean Joyner, Office of the Solicitor

Nathalie Doherty, Office of the Solicitor