



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

January 11, 2017

Mr. Paul J. Bembia, Director
West Valley Site Management Program
New York State Energy Research and
Development Authority
9030-B Route 219
West Valley, NY 14171-9500

SUBJECT: PROPOSED ACTIVITIES IDENTIFIED IN OCTOBER 13 AND 26, 2016
LETTERS

Dear Mr. Bembia:

The U.S. Nuclear Regulatory Commission (NRC) received the New York State Energy Research and Development Authority's (NYSERDA's) letters, dated October 13, 2016, (Agencywide Documents Access and Management System [ADAMS] Accession No. ML16305A184) and October 26, 2016, (ADAMS Accession No. ML16305A051), providing two 30-day notices of the activities that NYSERDA is planning to undertake at the Western New York Nuclear Service Center (WNYNSC)-retained premises (sometimes referred to as the NYSERDA-retained premises) in areas or portions of those areas that NYSERDA has indicated are radiologically impacted or may be potentially impacted with NRC licensed material.

In its October 13, 2016, letter (ADAMS Accession No. ML16305A184), NYSERDA describes three proposed activities as 1) preparation work for Cattaraugus County culvert replacement along Rock Springs Road; 2) grass cutting and brush clearing to improve sight-lines along Rock Springs Road, and 3) barbed-wire fence repair at the north end of the WNYNSC. Also, NYSERDA states that "The radiological hazards associated with these non-soil disturbing work activities before the end of the year will be minimal" but identifies several of these activities as "time-critical" in nature because they impact health and safety. Attached to NYSERDA's October 13, 2016 letter is a map, titled, "Map of the Time-Critical Work Activities in the Areas of the Western New York Nuclear Service Center (Center) Retained Premises." Additionally, NYSERDA states that "The replacement of the culverts in 2017 will include significant soil disturbance, and NYSERDA will request further discussions with the NRC later this year as to how the county can proceed with this work during the 2017 construction season." In NYSERDA's October 26, 2016 letter (ADAMS Accession No. ML16305A051), NYSERDA describes tree cutting and brush-hogging, as depicted in an attached map, titled, "Map of the New National Grid Right-of-Way." This map shows a legend denoting "Potential Radiological Contamination" and "Potential 'Shine' Area." In both letters, NYSERDA asks whether the NRC has any questions or concerns regarding NYSERDA proceeding with these work activities.

Thank you for keeping the NRC apprised of activities that you are planning to conduct on the NYSERDA retained-premises that are under NRC regulatory oversight. These activities are subject to NRC inspection. If the NRC chooses to inspect these activities, the NRC will coordinate with you in advance of the inspection. The NRC understands that NYSERDA will conduct activities in the areas or portions of areas that NYSERDA described in its October 13 and 26, 2016 letters and any other area on the NYSERDA retained-premises under NRC regulatory oversight in a manner that is in compliance with NYSERDA's license and the applicable regulations.

If NYSERDA does not plan to do the work under its license in "restricted areas" or "potential radiological areas" then the other available options were discussed with NYSERDA previously in 2015 and 2016 teleconferences. During these teleconferences, the NRC clarified for NYSERDA its options to conduct work on the NYSERDA retained premises in areas that NYSERDA believes to be contaminated or potentially contaminated from material from operations of the reprocessing plant under NRC license No. CSF-1. These options are documented in the Enclosure as options 2 through 4.

In accordance with 10 CFR 2.390 of the NRC's "Agency Rules of Practice and Procedure," a copy of this letter will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records component of NRC's ADAMS. ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>.

If you have any questions, please contact Ms. Amy Snyder, Senior Project Manager. She can be reached at (301) 415-6822 or Amy.Snyder@nrc.gov.

Sincerely,

/RA/

Theodore Smith, Acting Chief
Materials Decommissioning Branch
Division of Decommissioning, Uranium Recovery,
and Waste Programs
Office of Nuclear Material Safety
and Safeguards

Docket No. 050-00201
License No. CSF-1

cc: w/enclosure:
B. Bower, DOE-WV
A. Iglesias, EPA
T. Rice, NYSDEC
D. Samson, NYSDOH

Thank you for keeping the NRC apprised of activities that you are planning to conduct on the NYSEDA retained-premises that are under NRC regulatory oversight. These activities are subject to NRC inspection. If the NRC chooses to inspect these activities, the NRC will coordinate with you in advance of the inspection. The NRC understands that NYSEDA will conduct activities in the areas or portions of areas that NYSEDA described in its October 13 and 26, 2016 letters and any other area on the NYSEDA retained-premises under NRC regulatory oversight in a manner that is in compliance with NYSEDA's license and the applicable regulations.

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Sincerely,
/RA/

Theodore Smith, Acting Chief
Materials Decommissioning Branch
Division of Decommissioning, Uranium Recovery,
and Waste Programs
Office of Nuclear Material Safety
and Safeguards

Docket No. 050-00201
License No. CSF-1

cc: w/enclosure:
B. Bower, DOE-WV
A. Iglesias, EPA
T. Rice, NYSDEC
D. Samson, NYSDOH

DISTRIBUTION:

ADAMS Accession No.:

ML16315A395

OFC	DUWP	DUWP	DUWP	OGC	DUWP
NAME	ASnyder	CHolston	DMisenheimer (Acting)	SClark	TSmith
DATE	11/21/16	11/22/16	11/21/16	12/06/16	01/11/17

OFFICIAL RECORD COPY

Options for Performing Work on the Western New York Nuclear Service Center/NYSERDA-Retained Premises in Contaminated or Potentially Contaminated Areas

1. If the New York State Energy Research and Development Authority (NYSERDA) proposes to use its U.S. Nuclear Regulatory Commission (NRC) license CSF-1:
 - The NYSEDA should use the 10 CFR Part 50.59 process and evaluate its proposed actions; and
 - After the NYSEDA performs its 10 CFR Part 50.59 evaluation and if NYSEDA determines that an amendment is necessary, then as communicated to the NYSEDA on May 20, 2015, and July 30, 2015:
 - NYSEDA has the option to voluntarily request the pre-amendment or readiness review process, if the NYSEDA wishes to pursue an amendment. Meetings in this process would be publicly noticed; and
 - An opportunity for hearing would be noticed in the *Federal Register* upon submittal of the amendment application.
2. If the NYSEDA elects to use a New York State Service Provider Licensee to perform the proposed work in radiologically contaminated or potentially radiologically contaminated areas on site, the NRC Region I staff would perform a reciprocity review of the New York State Department of Health license to ensure that it covers such things as the scope of work (trenching, foundation, or pole removal and installation), possession of the appropriate type material (radionuclides likely to encounter), sampling, analysis, and waste management controls (radiological controls). Also, the NRC Region I staff would need to know the duration of the proposed work. The NRC Region I staff would confer with the NRC Project Manager for West Valley.
3. If the NYSEDA elects to use a NRC Service Provider Licensee to perform the proposed work, the NRC Region I staff would review the license for the same items identified above but there is a time constraint for the NRC Service provider contractor to contact the NRC. A licensed contractor has 14 days to notify the NRC before performing such work.
4. NYSEDA proposed a different option in which NYSEDA would basically be responsible for industrial hygiene health and safety and U.S. Department of Energy (DOE) perform radiological monitoring coverage for the work on the NYSEDA-retained premises in radiologically contaminated or potentially radiologically contaminated areas. NRC informed NYSEDA that this option proposed by NYSEDA would only be acceptable if the DOE would take all responsibility for the work activity and the associated radioactive material under the West Valley Demonstration Project or under Section 4.12 of the Cooperative Agreement between DOE and NYSEDA for any radiologically impacted or potentially impacted areas of property.

ENCLOSURE