



January 27, 2014

Nuclear Information & Resource Service
Diane D'Arrigo

Sierra Club, Niagara Chapter
Lynda Schneekloth

Citizens' Campaign for the Environment
Brian Smith

Concerned Citizens of Cattaraugus County
Kathy Boser, President

Hudson River Sloop Clearwater
Manna Jo Greene

Beyond Nuclear
Mr. Kevin Kamps, Radioactive Waste Watchdog

Bruce Peninsula Environmental Group
Ziggy Kleinau, Outreach Director
Lion's Head, Ontario, Canada

Citizens for Alternatives to Chemical Contamination
Victor McManemy, Chair
Lake, MI

Dorothy Shaw
West Valley, NY

Center for Health Environment and Justice
Anne Rabe, Lois Gibbs

Coalition on West Valley Nuclear Wastes
Joanne Hameister

Citizens' Environmental Coalition
Barbara Warren

New York Public Interest Group
Laura Haight

Home for Peace and Justice
Joan McCoy, Coordinator
Saginaw, MI

Lone Tree Council
Terry Miller, Chair
Bay City, MI

Solender Services LLC
Suzie Rivo Solender
Williamsville, New York

Erik Hahn
Buffalo, NY

Pat, Tom and Graeme Lawson
Canada

Dear Ms. D'Arrigo et al.:

SUBJECT: March 30, 2013 Request to Add Dr. David Carpenter to the West Valley Independent Scientific Panel

The U.S. Department of Energy (DOE) and New York State Energy Research and Development Authority (NYSERDA) would like to thank you for your request to add Dr. David Carpenter to the Independent Scientific Panel (ISP) that was convened by DOE and NYSERDA as part of the Phase 1 Studies process.

As you know, two levels of scientific experts are actively engaged in the Phase 1 Studies - Subject Matter Experts (SME) who are examining the details of the technical issues and recommending studies to address those issues, and the ISP, which provides independent scientific guidance during the identification and scoping of scientific studies identified by the SME, and reviews study plans and activities. The ISP was initially convened with three members – Dr. B. John Garrick, Dr. James Clarke and Dr. Chris Whipple. These individuals were chosen because of their extensive experience and nationally recognized accomplishments in science and engineering.

In April 2011, we received a letter from you and several other organizations that recommended replacing the three ISP members identified by the agencies with three individuals identified in your letter. While DOE and NYSERDA were confident in the scientific and professional credentials of Drs. Garrick, Clarke and Whipple and their ability to fulfill the responsibilities of the ISP, we added Dr. Kristen Schrader-Frechette to the ISP, one of the individuals identified in your April 2011 letter.

This past March, we received your letter requesting that Dr. David Carpenter also be added to the ISP. Your letter stated that a medical professional is needed on the ISP to provide a medical and public health perspective to the Phase 1 Studies. In considering the need for a public health specialist on the ISP, we wish to stress that the public health aspects of the decommissioning and cleanup work at West Valley are being addressed through compliance with cleanup criteria that are set by federal and state regulatory agencies. Those radiological criteria are based on extensive scientific work on human health effects from exposure that have been conducted by numerous organizations and scientists over many years. DOE and NYSERDA do not have the authority to set or to modify these cleanup criteria.

The role of the DOE and NYSERDA is to demonstrate that the criteria will be met by the decommissioning approach implemented at the site, and it is certain aspects of this demonstration, such as erosion, engineered barriers, and exhumation, that are the subject of the Phase 1 Studies currently being implemented. Since the public health considerations are addressed through the cleanup criteria prescribed by the regulatory agencies, and the cleanup criteria themselves are not being evaluated in the Phase 1 Studies, DOE and NYSERDA believe that the ISP has the expertise needed to fulfill their responsibilities in the Phase 1 Studies process. As such, we will not be adding any additional members to the ISP at this time.

Your letter also expressed several other concerns about the Phase 1 Studies process, and we wish to clarify several important issues, as follows:

First, with regard to opportunities for public participation, you raised concerns about the DOE-NYSERDA “Guidance” document for the Phase 1 Studies, which you described as “4 pages of rules with which the public must comply but had no role in creating.” We would like to clarify that the Phase 1 Studies Guidance is the framework by which the *agencies* will jointly conduct the Phase 1 Studies. In regard to public participation, the Guidance says:

“DOE and NYSERDA will meet with the public throughout the Phase 1 Study process. DOE and NYSERDA will provide updates on the progress of the Phase 1 Study process, including study results, reports, and interpretations and the recommendations of the SME and ISP. DOE and NYSERDA will attempt to have SME and ISP members available at the meetings, either in person or on the telephone. The public will have the opportunity to ask questions of DOE and NYSERDA, and provide comments. DOE and NYSERDA will consider this input and will make

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this available to the SME and ISP as they evaluate a particular PAS. DOE and NYSERDA will respond to comments."

This language was included in the Guidance to ensure that there *would* be opportunities for public participation in the Phase 1 Studies. We value the input we receive from the public, and we have made a number of changes to the Phase 1 Studies based on the input we have received to date. The current opportunities for the public to discuss, comment on, and influence the Phase 1 Studies exceed the public involvement opportunities that were available during any previous data collection and investigative activity at the site, including the preparation of the 2010 Decommissioning EIS.

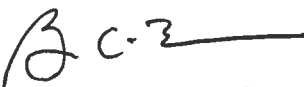
You also raised a concern about the ISP being in an "overseer role" for the studies. Please note that DOE and NYSERDA are overseeing the studies, not the ISP. The ISP was convened to provide independent scientific guidance during the identification and scoping of scientific studies identified by the SME, and to review study plans and activities. The ISP's role is well demonstrated by the January 2013 input they provided to the agencies on the July 2012 recommendations from the Erosion SMEs. The ISP identified several concerns with regard to whether the recommended erosion studies would help to resolve the open issues. The input from the ISP assisted the agencies to provide more focused direction to the SMEs on future Phase 1 Studies.

Another concern you raise is that the Phase 1 Studies are "geared to Agency agreement, rather than objective information in the best interest of the public, environment, and economic realities." We believe you are raising this concern because DOE and NYSERDA have stated that the purpose of the Phase 1 Studies is to "facilitate interagency consensus to complete decommissioning of the remaining facilities." This language was used by the agencies simply as a general way to state that the Phase 1 Studies are intended to help the agencies resolve areas of disagreement as we move toward the Phase 2 decisions. As you can see from the studies recommended to date by both the Erosion SME group and the Exhumation SME group, the issues being addressed in the Phase 1 Studies are technical in nature, and we wish to clearly state that both agencies remain committed to using objective information in the Phase 2 decisions based upon recognized scientific principles.

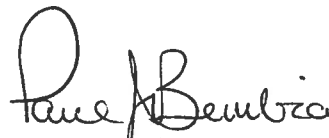
Finally, we want to stress that the Phase 1 Studies are *information-gathering activities*, and do not constitute the Phase 2 *decision-making process*. The Phase 2 decisions will be made by DOE and NYSERDA in accordance with NEPA and SEQRA, and there will be *additional* public participation opportunities as part of the Phase 2 decision process as afforded by NEPA and SEQRA and as detailed in the 2010 Decommissioning FEIS Record of Decision and Statement of Findings. We want to assure you that when DOE and NYSERDA make the Phase 2 decisions, they will be made with full consideration of public input.

Thank you for your continued interest in the Phase 1 Studies process.

Sincerely,



Bryan C. Bower, Director
U.S. Department of Energy
West Valley Demonstration Project



Paul J. Bembia, Director
West Valley Site Management Program
New York State Energy Research & Development
Authority

PJB/BB/amd

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Dr. Chris Whipple, [REDACTED]
Dr. James Clarke, [REDACTED]
Dr. Kristin Shrader-Frechette, [REDACTED]
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