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**FORMERLY UTILIZED SITES REMEDIAL ACTION
PROGRAM ENVIRONMENTAL COMPLIANCE
ASSESSMENT FINDINGS**

**FOR
NIAGARA FALLS STORAGE SITE**

**Prepared for
UNITED STATES DEPARTMENT OF ENERGY
OAK RIDGE OPERATIONS OFFICE**

**Prepared
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TABLE OF CONTENTS

	<u>Page</u>
LIST OF ACRONYMS	iv
LIST OF TABLES	v
LIST OF FIGURES	v
1. EXECUTIVE SUMMARY	1
1.1 BACKGROUND	1
1.2 SUMMARY OF FINDINGS	1
2. BACKGROUND AND SCOPE	4
2.1 BACKGROUND	4
2.1.1 Objectives	4
2.1.2 Site History and Description	5
2.1.3 Management Structure	9
2.2 ACTIVITY REVIEW	9
2.2.1 Hazardous Waste	9
2.2.2 PCB Management	10
2.2.3 Air Emissions	10
2.2.4 Water Discharges	11
3. ENVIRONMENTAL COMPLIANCE STATUS	12
3.1 FINDINGS	12
3.1.1 Hazardous Waste Management	12
3.1.2 PCB Management	12
3.1.3 Air Emissions	13
3.1.4 Water Discharges	13
4. OBSERVATIONS AND RECOMMENDATIONS	14
4.1 GENERAL OBSERVATIONS AND RECOMMENDATIONS	14

TABLE OF CONTENTS (CONTINUED)

	<u>Page</u>
4.2 SPECIFIC OBSERVATIONS AND RECOMMENDATIONS	14
4.2.1 Hazardous Waste	14
4.2.2 PCB Management	15
4.2.3 Air Emissions	16
4.2.4 Water Discharges	18
5. ACTION PLAN	19
5.1 RESPONSES TO GENERAL OBSERVATIONS AND RECOMMENDATIONS	19
5.2 RESPONSES TO SPECIFIC DEFICIENCIES, OBSERVATIONS, AND RECOMMENDATIONS	20
5.2.1 Hazardous Waste Management	20
5.2.2 PCB Management	20
5.2.3 Air Emissions	21
6. REFERENCES	29

LIST OF ACRONYMS

Acronym	Definition
AEC	Atomic Energy Commission
BNI	Bechtel National, Inc.
CERCLA	The Comprehensive Environmental Response, Compensation, and Liability Act of 1980
CFR	Code of Federal Regulations
DOE	U.S. Department of Energy
DOT	U.S. Department of Transportation
EPA	U.S. Environmental Protection Agency
FR	<i>Federal Register</i>
FUSRAP	Formerly Utilized Sites Remedial Action Program
IWCF	Interim Waste Containment Facility
MED	Manhattan Engineer District
NESHAPS	National Emission Standards for Hazardous Air Pollutants
NFSS	Niagara Falls Storage Site
NPDES	National Pollutant Discharge Elimination System
NY	New York
NYDEC	New York Department of Environmental Conservation
NYCRR	New York Code of Rules and Regulations
ORO	DOE Oak Ridge Operations Office
PCBs	Polychlorinated biphenyls
PPM	Part per million
RCRA	The Resource Conservation and Recovery Act of 1976
SPDES	State Pollutant Discharge Elimination System
TSCA	Toxic Substance Control Act
TSDF	Treatment, storage, and disposal facility

LIST OF TABLES

Table 1. Environmental Compliance Summary	3
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LIST OF FIGURES

Figure 1. Location of the Niagara Falls Storage Site	6
Figure 2. Map of the Niagara Falls Storage Site	7

SECTION 1

EXECUTIVE SUMMARY

1.1 BACKGROUND

This report presents the results of an environmental assessment conducted at Niagara Falls Storage Site (NFSS) in Lewiston, New York, in accordance with the Formerly Utilized Sites Remedial Action Program (FUSRAP) Environmental Compliance Assessment Checklists. The purpose of this assessment was to evaluate the compliance of the site with applicable federal and New York state environmental regulations. Assessment activities included the following:

- review of site records, reports, and files;
- inspection of the NFSS storage facility and the adjacent grounds; and
- interviews with project office and onsite personnel.

This assessment was conducted on August 2 by Dr. Kaye Sigmon of the Department of Energy's Oak Ridge National Laboratory. Assisting in the assessment were the following scientists and engineers who work within the FUSRAP program: Mr. David Adler, Dr. Jas Devgun, Mr. Larry Jensen, Mr. Steve Oldham, and Ms. Jamie Wright. Mr. Bill Goldkamp of the Weldon Spring Remedial Action Project also assisted. Mr. Bill Seay, Department of Energy-Oak Ridge Operations (DOE-ORO), served as Team Leader. The assessment covered four management areas as set forth in the Checklist: (1) Hazardous Waste Management, (2) Polychlorinated Biphenyls (PCBs) Management; (3) Air Emissions; and (4) Wastewater Discharges. No samples were collected. The report reflects conditions existing at the time of the site visit.

1.2 SUMMARY OF FINDINGS

Most of the regulations defined in the Environmental Compliance Assessment Checklists do not apply to the NFSS, which is primarily a radioactive waste management site. PCB management was the primary area out of compliance with applicable regulations (see Section 3.1.2). The findings were largely administrative in nature.

Deficiencies in environmental compliance can be identified as significant, major, or minor. A significant deficiency is one that poses or is likely to pose a direct and immediate threat to human health and safety or to the environment. It requires immediate action. Certain administrative deficiencies are also categorized as significant (e.g., failure to ensure that hazardous waste is going to a permitted facility, failure to report when required, and failure to meet a compliance schedule). A major deficiency may pose a future threat to human health and safety or the environment and can result in a notice of violation from a regulatory agency. It requires

action, but not necessarily immediately. Minor deficiencies are mostly administrative and/or related to housekeeping requirements (e.g., lack of signs or labels or faulty record keeping). They may also result in temporary or occasional instances of noncompliance.

Table 1 and the following descriptions summarize the findings for each of the four management areas (see Section 3 for detailed discussions).

- HAZARDOUS WASTE - Hazardous waste is not managed at the NFSS. No regulatory deficiencies were noted for hazardous waste management.
- PCB MANAGEMENT - Two major deficiencies related to storage and one minor deficiency in labeling were noted.
- AIR EMISSIONS - One minor deficiency associated with reporting were noted.
- WATER DISCHARGES - No deficiencies were noted.

TABLE 1. ENVIRONMENTAL COMPLIANCE SUMMARY

COMPLIANCE AREA	DEFICIENCIES		
	SIGNIFICANT	MAJOR	MINOR
<u>HAZARDOUS WASTE MGMT</u>	<u>0</u>	<u>0</u>	<u>0</u>
<u>PCB MANAGEMENT</u>	<u>0</u>	<u>2</u>	<u>1</u>
STORAGE	0	2	0
LABELING	0	0	1
<u>AIR EMISSIONS</u>	<u>0</u>	<u>0</u>	<u>1</u>
<u>WATER DISCHARGES</u>	<u>0</u>	<u>0</u>	<u>0</u>
TOTALS	0	2	2

SECTION 2

BACKGROUND AND SCOPE

2.1 BACKGROUND

In 1974, the United States Congress instituted the Formerly Utilized Sites Remedial Action Program (FUSRAP) and directed that the program be managed by the U.S. Department of Energy (DOE). The objectives of FUSRAP are to identify, cleanup, or otherwise control sites where residual radioactive contamination (exceeding current guidelines) remains from activities carried out under contract to the Manhattan Engineer District (MED) and the Atomic Energy Commission (AEC) during the early years of the nation's atomic energy program, or from commercial operations causing conditions that Congress has mandated DOE to remedy. Under FUSRAP, DOE is also responsible for any chemical contamination on DOE-owned FUSRAP sites, regardless of whether such contamination is mixed with radioactivity. Finally, DOE is responsible for chemical contamination on non-DOE-owned FUSRAP sites and their vicinity properties to the extent that such chemicals are mixed with radioactive contamination or can be shown to have been derived from MED-contracted activities (BNI, 1989). Currently, 31 sites in 13 states are addressed under the FUSRAP.

The types of remediation and decontamination activities that occur at FUSRAP sites come under the purview of both federal and state environmental regulations. Under Executive Order 12088 (43 FR 47707, October 13, 1973), "Federal Compliance with Pollution Control Standards," DOE facilities must comply with all applicable federal, state, and local pollution regulations. To verify compliance with such regulations at FUSRAP sites, the FUSRAP Environmental Compliance Assessment Program was developed.

2.1.1 Objectives

The purpose of the environmental compliance assessment is to verify compliance with those regulations whose attendant liabilities are typically the focus of operating rather than remedial action sites such as Niagara Falls Storage Site (NFSS). These regulations tend to receive less attention at remedial sites than does CERCLA, which is the primary regulatory driver for remedial activities. This report presents the results of the August 2 assessment of the NFSS in Lewiston,

New York. Compliance of NFSS was assessed based on appropriate sections of federal and New York State regulations associated with the following statutes:

- the Resource Conservation and Recovery Act (RCRA), Hazardous Waste Management;
- the Toxic Substances Control Act (TSCA), PCB Management;
- the Clean Air Act (CAA), Air Emissions; and
- the Clean Water Act (CWA), Water Discharges.

The assessment program also addressed those sections of final DOE Orders that are associated with these statutes.

The compliance assessment does not encompass CERCLA, compliance with which is monitored by DOE Headquarters through the Office of the Assistant Secretary for Environment, Safety, and Health and by the U.S. DOE Oak Ridge Operations Office (ORO). Similarly because radioactive wastes are addressed under CERCLA, this assessment program excludes the management and disposal of radioactive waste, unless that radioactive waste is mixed with a hazardous waste as defined by Resource Conservation and Recovery Act (RCRA). The assessment of compliance with CERCLA is driven by site-specific conditions and agreements. A compliance assessment program for CERCLA could be developed in the future, if deemed to be useful.

This report addresses conditions present during the site visit and may not reflect typical operating conditions. It may not include all potential deficiencies at the site. As stated in EPA's Environmental Auditing Policy (51 FR 25004), "Environmental audits are only part of a successful environmental management program and thus should not be expected to cover every environmental issue or solve all problems."

2.1.2 Site History and Description (from BNI 1989)

The NFSS, which is a part of the DOE Surplus Facilities Management Program, is used for the interim storage of radioactive residues, contaminated soils, and rubble. The site, which covers approximately 77.4 ha (191 acres), is located in northwestern New York about 6.4 km (4 mi) south of Lake Ontario and 16 km (10 mi) north of the City of Niagara Falls (Figure 1). NFSS is bordered by waste disposal facilities to the north and east and by vacant land to the south and west. The site is generally level and drains poorly. The soils at NFSS are largely silt

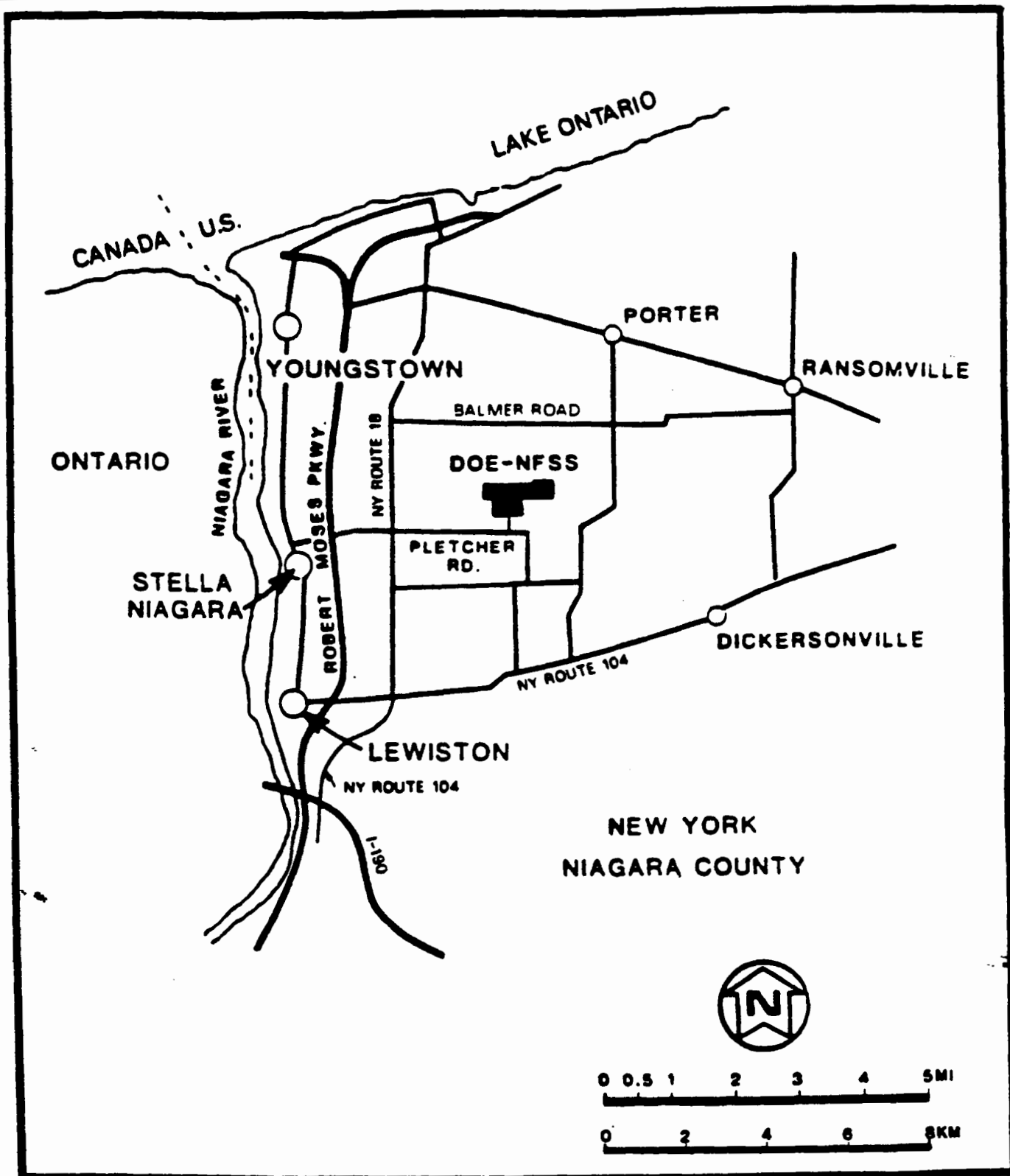


FIGURE 1 LOCATION OF THE NFSS

loams underlain by clayey glacial till and a lacustrine clay. Queenstone shale lies approximately 9 to 14 m (30 to 50 ft) beneath the surface. Surface water from the site discharges into Fourmile Creek, which is northwest of the site, through the Central Drainage Ditch (Figure 2). The primary groundwater systems beneath the site occur in a sand-gravel zone above bedrock, in fractures in the bedrock, and in saturated clay at depths of 1.5 to 6.1 m (5 to 20 ft). Groundwater flows to the north-northwest and probably discharges into the northern reaches of the Niagara River. The typical temperature range is -3.9 to 24.4 °C (25 to 76 °F) with a meanannual temperature of 8.9 °C (48 °F). Mean annual precipitation is 80 cm (32 in.) and the mean snowfall is 140 cm/yr (56 in./yr), which constitutes 10% of the total annual precipitation.

The NFSS is the remainder of a larger site used during World War II by the MED and was a part of the Department of Army's Lake Ontario Ordnance Works (LOOW). From 1944 to the present, NFSS has been used for storing radioactive residues produced as by-products of uranium production during the MED project and subsequent Atomic Energy Commission (AEC) projects. The first materials stored at the site were low-grade residues and by-products from the Linde Air Products Division in Tonawanda, New York, and from the Middlesex Sampling Plant in Middlesex, New Jersey. Residues stored outside were subject to environmental transport processes that resulted in contamination via surface-water pathways of other portions of the site and of off-site drainage pathways. In 1949, pitchblende residues from uranium extraction conducted at a St. Louis plant were transported to the LOOW in drums. From 1950 to 1952, these residues were transferred to a renovated concrete water tower.

Since 1980, measures have been taken to minimize radiological risks and contaminant transport at the site. From approximately 1983 to 1986 much of the radioactively contaminated waste was transferred to the Interim Waste Containment Facility (IWCF), which covers Buildings 409-414. Asbestos removed from these buildings prior to their demolition was disposed of in an on-site asbestos landfill. In 1986, the cap over the IWCF was completed. Remediation of the site has been completed except for a localized area that may be both radiologically and chemically contaminated. This area will be addressed in future studies. The IWCF could be opened in the future to receive additional waste from remediating the site.

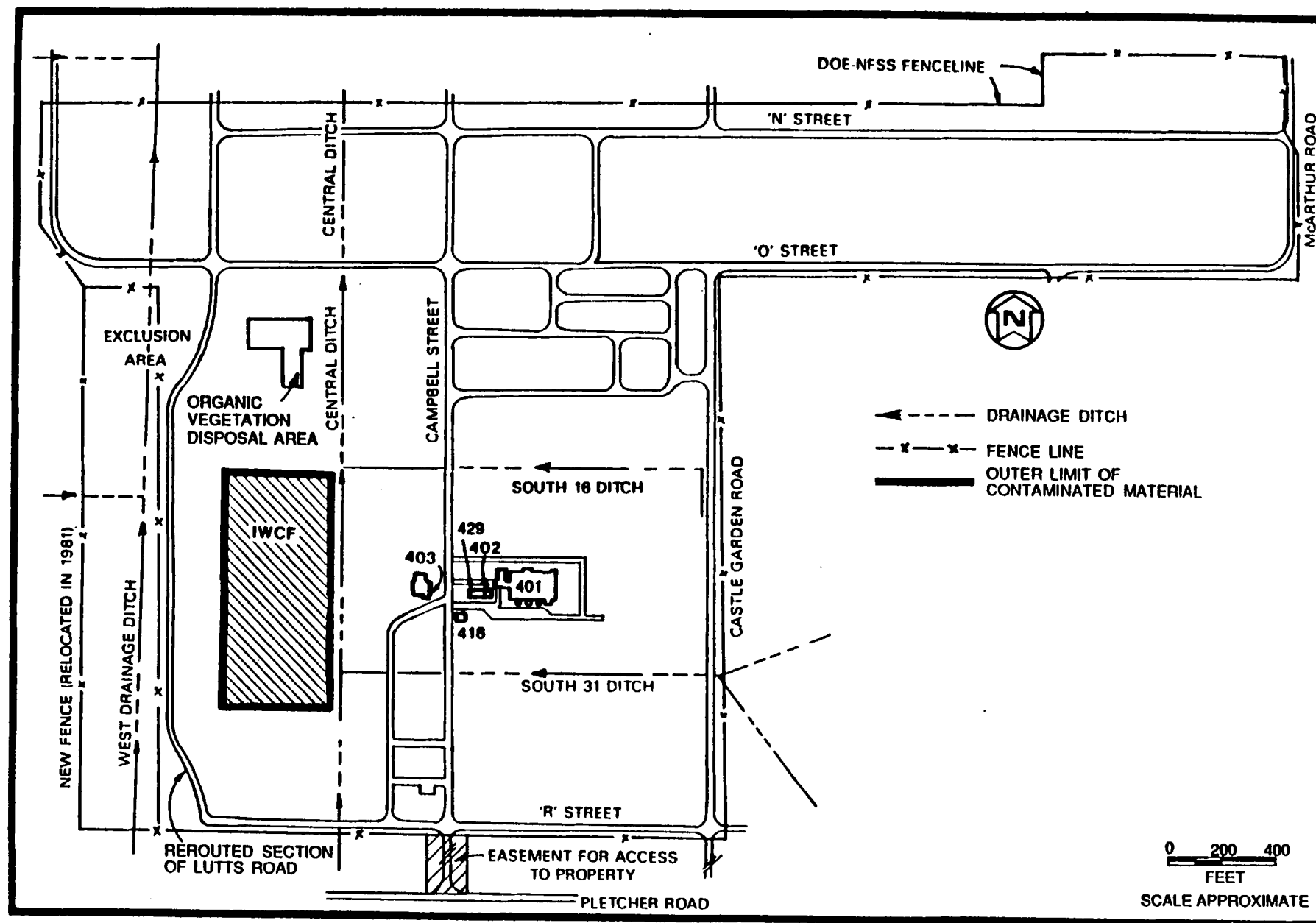


FIGURE 2 PRESENT CONFIGURATION OF THE NFSS

2.1.3 Management Structure

The DOE Oak Ridge Operations Office, Technical Services Division, manages FUSRAP with policy guidance from the DOE Office of Remedial Action and Waste Technology, Division of Facility and Site Decommissioning. Bechtel National, Inc. (BNI) provides project management support to FUSRAP. Project office personnel at BNI, Oak Ridge, include a project manager and his team for NFSS, and the onsite management organization at NFSS includes the superintendent and the site maintenance personnel.

2.2 ACTIVITY REVIEW

Dr. Kaye Sigmon of the Oak Ridge National Laboratory, assisted by the compliance assessment team, conducted the assessment of NFSS. The following team members are scientists and engineers working within the FUSRAP program: Mr. David Adler, Dr. Jas Devgun, Mr. Larry Jensen, Mr. Steve Oldham, and Ms. Jamie Wright. Mr. Bill Goldkamp of the Weldon Spring Remedial Action Program (WSSRAP) also assisted. Mr. Bill Seay, DOE-ORO, served as Team Leader. The assessment included the following activities:

- review of records, reports, and files;
- inspection of the NFSS storage facility and adjacent grounds; and
- interviews with project office and onsite (field) personnel.

No samples were collected.

2.2.1 Hazardous Waste Management

NFSS is not a hazardous waste generator. The site serves as a radioactive interim waste storage facility and has never managed hazardous waste. Some soils considered potentially hazardous have, however, been excavated from the site. When excavated the soils produced an odor similar to that of a volatile organic. Analysis of the soils resulted in hydrocarbon profile consistent with that of natural sources rather than chemical waste. Thus, a definitive determination of the status with regard to RCRA of these potentially hazardous soils has been made, and the soil is non-hazardous by RCRA's definitions.

The RCRA (42 USC §§ 6901 to 6991i) is the principal federal statute governing the management of hazardous waste. EPA's regulations implementing RCRA are outlined in 40 CFR

Parts 260 through 271. As an authorized state, New York has adopted the EPA regulations and added a few more stringent requirements. Article 27 of the New York Environmental Conservation Law governs hazardous waste. New York hazardous waste regulations are contained in Title 6 of the New York Code of Rules and Regulations (NYCRR), Parts 370 to 374.

The assessment of hazardous waste management at NFSS was based on:

- interviews with BNI project office and onsite (field) personnel;
- review of wastes analysis data

2.2.2 PCB Management

PCB management involves monitoring of in-service equipment; storage and disposal of equipment removed from service; and recordkeeping and reporting. Ten transformers, six of which are small pole-mounted units, are located on the site. Of these, one larger transformer containing 150 ppm PCBs and three non-PCB, pole-mounted transformers are in service. Two PCB-Contaminated Transformers located on the ground by Building 401, containing 100 and 140 ppm PCBs, and one large non-PCB transformer are out of service and not intended for reuse. The large non-PCB transformer has leaked oil onto its metal support but not onto the ground. Three large capacitors, which because of their age are assumed to be PCB-containing, are also in service.

PCBs are covered by the federal TSCA (15 USC §§ 2601 to 2654). EPA regulations regarding the production, use, storage, handling, and disposal of PCBs are codified in 40 CFR Part 761. Under New York regulation (6 NYCRR 371.4(e)), seven categories of wastes containing PCBs are listed hazardous wastes. Therefore, PCB wastes at NFSS are regulated under both the TSCA and RCRA regulatory programs.

PCB management at NFSS was evaluated using the following assessment activities:

- interviewing BNI project office and onsite personnel whose management area included PCBs; and
- inspecting transformers and capacitors and the areas in which they were used or stored.

2.2.3 Air Emissions

No point sources for air emissions are present at NFSS, and the site has no air permits. In addition, Building 401 contains asbestos, which is regulated under the National Emission

Standards for Hazardous Air Pollutants (NESHAPs) under the CAA. The asbestos in the building is subject to the NESHAP requirement for no visible emissions, and will be subject to the NESHAP requirements for demolitions when it is removed from the building. The entrances to the building are marked to warn of the presence asbestos and the dangers of asbestos inhalation. Radionuclide emissions may occur from the IWCF and the temporary radioactive waste piles that are located at the former site of Building 430. The primary federal legislation governing air emissions is the CAA (42 USC §§ 7401 through 7642), as amended. Federal regulations governing air pollution are contained in 40 CFR Parts 50 through 87 and 29 CFR Part 1910. New York regulates air pollution under the Air Pollution Control Act (NY Environmental Conservation Law, Article 19) and its associated regulations (6 NYCRR Parts 200 to 211).

The environmental compliance assessment for air emissions included interviews with project office and onsite personnel and an inspection of the exterior of Building 401. No asbestos removal requiring notification under 40 CFR § 61.145 has been conducted at NFSS. No removals were being conducted during the site visit.

2.2.4 Wastewater Discharges

NFSS has no point discharges and holds no National Pollutant Discharge Elimination System or State Pollutant Discharge Elimination System (SPDES) permits. The site held a SPDES permit that expired in 1988. Because the wastewater discharge for which the permit had been issued was discontinued, the permit was not renewed. Stormwater runoff enters the Central Drainage Ditch and flows into Fourmile Creek.

Wastewater discharges are regulated under the federal CWA, as amended (33SC §§ 1251 to 1387) and its associated EPA regulations (40 CFR Parts 122, 136, 403, and 405-471).

The assessment of water discharges involved interviews with project office personnel and review of the 1988 Annual Site Environmental Report.

SECTION 3

ENVIRONMENTAL COMPLIANCE STATUS

3.1 FINDINGS

This section describes the affirmative findings and deficiencies noted in each of the four management areas. Applicable regulatory citations are included for the deficiencies. Deficiencies can be classified as significant, major, or minor. A significant deficiency is one that poses or is likely to pose a direct and immediate threat to human health and safety or to the environment. It requires immediate action. Certain administrative deficiencies are also categorized as significant (e.g., failure to ensure that hazardous waste is going to a permitted facility, failure to report when required, and failure to meet a compliance schedule). A major deficiency may pose a future threat to human health and safety or the environment and can result in a notice of violation from a regulatory agency. It requires action, but not necessarily immediately. Minor deficiencies are mostly administrative and/or related to housekeeping requirements (e.g., lack of signs or labels or faulty record keeping). They may also result in temporary or occasional instances of noncompliance.

3.1.1 Hazardous Waste

Affirmative Findings

- Personnel made a special effort to identify and provide relevant information and timely responses to questions.

Deficiencies

No deficiencies were noted.

3.1.2 PCB Management

Affirmative Findings

Personnel were responsive to the need for additional information on the electrical equipment at the site and attempted to obtain that data during the site assessment and to determine disposal options and scheduling possibilities.

Deficiencies

Major findings:

1. Two PCB-Contaminated Transformers located outside Building 401 were removed from service and stored without intending to reuse them; hence, they are stored out of compliance with requirements for storage prior to disposal. These transformers were stored at NFSS beyond the one year limit designated by 40 CFR § 761.65(a).
2. Contrary to 40 CFR § 761.65(c), the two PCB-Contaminated Transformers were stored for longer than 30 days in an area that does not meet the requirements for facilities storing waste for disposal.

Minor findings:

3. The PCB-Contaminated Transformers were not marked with the date when they were placed in storage, as is required by 40 CFR § 761.65(c)(8).

3.1.3 Air Emissions

Affirmative Findings

The current site environmental monitoring report provides a starting point for addressing the reporting requirements under the NESHAP for radionuclides.

Deficiencies

Minor findings:

1. EPA-approved models must be used for calculating dose equivalents to members of the public (40 CFR § 61.93). The NFSS annual site environmental report does not state that EPA-approved models are used.

3.1.4 Wastewater Discharges

Deficiencies

No deficiencies were noted.

SECTION 4

OBSERVATIONS AND RECOMMENDATIONS

This section of the report contains observations on the deficiencies identified in the previous section and recommendations for addressing these deficiencies. If the remedy to a deficiency is obvious, however, it is not repeated in this section. Observations and recommendations are numbered to match the findings in the corresponding management area in Section 3. This section also includes additional observations regarding management issues, comments on future liabilities based on pending legislation, and recommendations based on good management practices. Because corrective actions are constrained by site-specific conditions, examples of appropriate actions rather than specific recommendations are provided. Personnel who are liable for the consequences of these actions should also be responsible for decisions regarding them.

4.1 GENERAL OBSERVATIONS AND RECOMMENDATIONS

Results of the FUSRAP Environmental Compliance Assessment at NFSS indicate that most of the regulations identified in the FUSRAP Environmental Compliance Assessment Checklists do not apply to the site. The greatest current liabilities occur in the area of PCB management.

Personnel at the site observed evidence that unauthorized personnel climb the fence and gain access to the site. Although posting warning signs along the fence is not required, posting "Danger--Unauthorized Personnel Keep Out" at intervals of 100 feet along the fence line is recommended. The signs may provide additional protection against personal injury liability should a trespasser suffer injury at the site.

4.2 SPECIFIC OBSERVATIONS AND RECOMMENDATIONS

4.2.1 Hazardous Waste Management

Under RCRA, generators must obtain a detailed chemical and physical analysis of a representative sample of waste prior to treating, storing, or disposing of any hazardous waste (40 CFR § 265.13). During site remediation in August 1988, soils contaminated with a volatile

unknown were encountered. Although hazardous waste had not been managed at the site, the possibility that the soils were contaminated with hazardous waste, as noted in Section 3.2.1, could not be disregarded. Samples were taken in November 1988, but definitive conclusions regarding the status of the waste relative to RCRA requirements could not be made. Additional samples taken in April 1989 indicated that the waste pile comprised of the contaminated soil is not hazardous waste. Had the waste been hazardous under RCRA, NFSS could have been out-of-compliance with RCRA for 10 months following removal of the soil. In order to ensure that RCRA requirements are met and wastes are managed appropriately, a more timely schedule for characterization of wastes is needed.

PCBs are hazardous waste under New York regulation and should be labeled as such.

4.2.2 PCB Management

The two PCB-Contaminated Transformers identified at NFSS were taken out of service when the facility ceased operation and will not be returned to service. Consequently, the transformers are in storage for disposal. These transformers are improperly stored and labeled. Measures should be taken as quickly as possible to remove these transformers and dispose of them. BNI personnel have been extremely responsive to the liabilities associated with these transformers and are already exploring disposal options.

The following actions are recommended while awaiting disposal:

- label the storage area;
- inspect the transformers daily for leaks and document the inspections;
- label the transformers.

Even if these suggestions are implemented, NFSS will still be out of compliance with the time limit for storing waste prior to disposal. Alternatively, if fluid is drained from the transformers and stored in an area meeting the requirements of 40 CFR § 761.65(b), the transformer carcass is not subject to the requirements for storage prior to disposal [40 CFR 761.65(c)(2)].

An additional observation relates to the three capacitors, which are assumed to contain PCBs. As totally enclosed articles, capacitors are not sampled for their PCB content. Presence of PCBs is determined by nameplate analysis. Because the capacitors at NFSS are mounted on poles, such an analysis could not be done readily. TSCA prohibits the use of PCB Large High

and Low Voltage Capacitors after 1 October 1988 unless they are used in restricted access electrical substations or within restricted-access indoor installations [40 CFR § 761.30(l)]. The outdoor substation is defined as a "fenced or walled-in facility that restricts public access and is used in the transmission or distribution of electric power." Although the capacitors are not in an area typically thought of as a substation, they are used in an area that meets those requirements.

4.2.3 Air Emissions

Following the remanding of the vinyl chloride NESHAP by the DC Circuit Court, EPA moved the Court for a voluntary remand of the radionuclide NESHAPs for elemental phosphorus plants, DOE facilities, NRC-licensees, and underground uranium mines. The Court granted EPA's motion and established a schedule on 8 December 1987 for EPA to propose regulatory decisions (54 FR 9615). Although EPA voluntarily moved to remand the NESHAP, the regulations were not vacated and therefore are enforceable. The NESHAPs are undergoing revision and are scheduled to be finalized October 1989. In Subpart Q of the proposed NESHAP, EPA also addresses radon, which was excluded in the existing regulation. The proposal specifically designates NFSS as a storage site to which these provisions apply (54 FR 9655). Therefore, planning should be initiated to develop a strategy for complying with these new provisions.

DOE currently monitors external gamma radiation and radon levels at the NFSS site. The results of this monitoring are combined with the results of monitoring of other environmental media and used to calculate an annual external exposure to a maximally-exposed member of the public (BNI, April, 1989). This monitoring does not, however, meet the requirements imposed by the radionuclide NESHAPs (40 CFR § 61.93). The current regulations (40 CFR § 61.92) require that the dose equivalent to any member of the public be less than or equal to 25 millirem per year based on air emissions only and based on EPA-approved models. Therefore, a strict interpretation of the regulations deems NFSS to be out of compliance with the radionuclide NESHAPs.

Two uncertainties regarding the need to comply with the existing radionuclide NESHAPs, however, affect the findings. First, EPA has verbally transmitted to DOE its interpretation that the radionuclide NESHAPs apply before remedial action begins and once remedial action is completed, but not during remediation (e.g., FUSRAP and National Priorities List sites; personal communication, September 18, 1989, DOE Office of Environmental Guidance). According to this

FINAL

interpretation, NFSS would be in compliance with the emissions monitoring and dose calculation requirements, if it is deemed to be in the remedial action phase. One could argue that the NFSS is still in the remedial phase because waste that could be placed in the IWCF remain at the site, and the IWCF could be opened in the future to receive such waste generated by cleaning up the site. Because a verbal interpretation from EPA, however, fails to provide any legal protection in the face of an EPA enforcement action, deficiencies in emissions monitoring and dose calculations were deemed to be a finding.

Second, EPA has never published in the FR a notice that the Office of Management and Budget has approved the reporting requirement under the radionuclide NESHAPs, and consequently this requirement is not legally enforceable (personal communication, September 18, 1989, DOE Office of Environmental Guidance). Hence, the lack of an annual report submission is not deemed to be a finding. DOE has decided on its own to submit the required annual reports to EPA, but the agency has not done so for remedial sites.

DOE has requested that the final rule for the radionuclide NESHAPs explicitly states when the standard applies to remedial action sites (personal communication, September 18, 1989, DOE Office of Environmental Guidance). If this is done as requested, then NFSS would be exempt from the radionuclide NESHAPs until remedial action at the site is completed. If the final rule is not so explicit, then DOE may be able to receive a variance from the radionuclide NESHAPs when they become final. Further, an August 18, 1989 telephone conversation with James Hardin of the EPA Office of Radiation Programs indicated that the proposed radionuclide NESHAPS were not intended to govern facilities in which all radioactively-contaminated materials are enclosed (e.g., in containers, under covered, indoor waste piles) since no airborne emissions would occur from these facilities.

Given that the new radionuclide NESHAPS will soon be finalized, it is unclear to what extent compliance with the current NESHAPS will be a priority with EPA. To address the finding, DOE may want to consult with the DOE Office of Environmental Guidance and Compliance, ORO's Environmental Protection Division, and EPA Region II regarding their compliance status with the current radionuclide NESHAPS. The recommended corrective action for uncertainties regarding the radionuclide NESHAPS is for DOE to develop consistent internal policy based on

documented discussions with EPA and/or states. Because a new regulation is forthcoming, this action should be taken to comply with the new regulation.

An additional observation not addressed in the findings is the need to identify the old asbestos disposal site in documents that would be reviewed prior to digging in the area. The information should also be recorded on the property deed so that subsequent owners would be aware of the disposal site. In addition, copies of notifications of intent to demolish should be kept to document compliance with reporting requirements.

4.2.4 Wastewater Discharges

Although no current compliance deficiencies were noted at NFSS regarding wastewater discharges, DOE should be alerted that they may be required in the future to apply for a NPDES permit for stormwater discharges. Failure to apply would be a deficiency. EPA proposed in a December 7, 1988 FR notice (53 FR 49416) to regulate stormwater discharges, which heretofore have been exempt from regulation. This rule is to be finalized in April, 1990. Under the proposal, EPA or a NPDES-authorized state may require a permit for stormwater discharges associated with industrial activity. This includes stormwater discharges from (1) hazardous waste TSDF, and (2) active or inactive landfills or land application areas that have received any industrial wastes.

5.0 ACTION PLAN

This section describes the actions required to address each deficiency outlined in Section 3 and the general observations and recommendations discussed in Section 4 of this report. Actions undertaken to respond to general observations and recommendations are included in Section 5.1. Section 5.2 discusses actions that have been, or will be taken, to address specific deficiencies in Section 3.1.

5.1 RESPONSES TO GENERAL OBSERVATIONS AND RECOMMENDATIONS

Three observations provided by Section 4 are addressed by this section, specifically: the need for additional signs along the fence, the potential for future regulation of stormwater discharges, and identification of the asbestos disposal site.

Site personnel have observed evidence of unauthorized persons gaining access to the site, therefore, posting of additional signs was recommended. Signs are currently posted on the perimeter fence indicating that no trespassing is allowed on the NFSS. Additional signs will be posted on the fence to reduce the distance between warning signs.

The second concern indicated that NPDES permits may be required in the future for stormwater discharges at NFSS. At this time, such a permit is not required, however, to ensure compliance, relevant Clean Water Act rulemaking will be tracked and appropriate permits obtained as required.

Asbestos is buried in the portion of the site referred to as the New Naval Area. The asbestos is from the roof of building 410, which is now part of the containment facility. The burial of the asbestos is documented in FUSRAP's files and if this portion of the property is released from DOE custody, the location of the burial area will be indicated on the property deed and new owners notified of its existence.

5.2 RESPONSES TO SPECIFIC DEFICIENCIES, OBSERVATIONS, AND RECOMMENDATIONS

5.2.1 Hazardous Waste Management

No deficiencies were noted in the area of hazardous waste management.

5.2.2 PCB Management

The following responses are keyed to the numbered findings in Section 3.1.2 and recommendations in Section 4.2.2:

1. The two PCB-contaminated transformers stored for disposal adjacent to Building 401 and 3 PCB in-service capacitors were shipped for disposal January 13, 1990. In addition, the PCB-contaminated transformer in use has been flushed to remove PCBs. The oils were shipped to ENSCO in Eldorado, Arkansas where they were received November 13, 1989. Six transformers (non-PCB contaminated) were removed from the poles on September 26, 1989 and placed into storage.
2. Evidence of leakage from the PCB-contaminated transformers has not been found and moving the transformers to an acceptable storage area prior to disposal would present more hazards than leaving the transformers where they are for short-term storage, since they are not leaking. These two transformers were shipped for disposal January 13, 1990.
3. The date the transformers were removed from service and placed into storage for disposal is not known as it was prior to active management of the site by FUSRAP. However, the transformers have definitely been in storage for over one year, and were shipped for disposal January 13, 1990.

5.1.3 Air Emissions

The following response is keyed to the numbered finding in Section 3.1.3 and recommendations in Section 4.2.3:

1. NESHAPs regulations are currently under review and a strategy to attain compliance with Subpart H and Subpart Q will be developed. It is anticipated available information will be entered in COMPLY or AIRDOSE to determine compliance with Subpart H and radon flux sampling will be initiated to determine compliance with Subpart Q. The strategy should be developed and implemented by March 1, 1990. Compliance will be attained during FY 1990.

SECTION 6

REFERENCES

**Bechtel National Incorporated (BNI), April 1989, Niagara Falls Storage Site Annual Site
Environmental Report - Calendar Year 1988, DOE/OR/20722-197.**