



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
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SEP 21 2000

[REDACTED]
Deputy for Programs and Project Management
U.S. Army Corps of Engineers - Buffalo District
Department of Army
1776 Niagara Street
Buffalo, New York 14207-3199

Dear [REDACTED]

The U.S. Environmental Protection Agency (EPA) provided to the U.S. Army Corps of Engineers (USACE) on July 25, 2000, preliminary comments (Enclosure A) on the draft Proposed Plan and associated documents for the Formerly Utilized Sites Remedial Action Project (FUSRAP) at the Seaway Landfill. In addition, on August 30, 2000, we provided comments (Enclosure B) on the application of Criterion 6(6) to derive benchmark doses for the Seaway Landfill. Now, please consider these comments as our final comments on the draft proposed plan. We are also in receipt of the handout material you used in your August 8, 2000, video conference briefing with the New York State Department of Environmental Conservation (NYSDEC). Similarly, we will provide our comments, if any.

It is my understanding that [REDACTED], our Division Director for Environmental Planning and Protection has discussed the Seaway matter with your commander, [REDACTED]. Subsequently, [REDACTED] and I have discussed these issues. In an effort to allow the Seaway project to move forward, we propose that we separate out the key issues from those of a technical nature. You have previously indicated to me electronically that our technical inputs have been useful. I'm confident that my staff and yours can work together to clarify, narrow, and hopefully eliminate many of those technical concerns.

You have indicated to me a concern that policy related or key issues would be more appropriately addressed if elevated to "key decision-makers." I agree with this assessment. [REDACTED] and I propose that we, along with you and your Commander, address the following key issues itemized below. From our comments sent on July 25, several issues could be considered at the policy level.

1. Chemical Constituents in the FUSRAP Waste in the Landfill - The USACE's additional work to identify all the radiological constituents to update the radiological risk is appreciated. Some additional efforts are needed in the chemical area. Although the draft Proposed Plan assumes chemical waste is present, no chemical characterization was performed and the assessment of current and future health risks did not include chemicals. The USACE should evaluate whether the chemicals from the uranium processing and from the landfill will have an impact on the performance of the onsite containment structure and on the fate and transport of FUSRAP contaminants.

2. Groundwater Protection - The USACE conclusion that groundwater is not impacted by MED-contamination is not supported. Because it concludes that groundwater is not impacted, the modeling of radiological risks does not include the groundwater pathway. An analysis of the potential for groundwater contamination now and over a thousand years should be made particularly in light of the USACE preferred alternative of onsite containment. In addition, the surface water pathway should be reexamined in light of elevated uranium detected by NYSDEC in a water sample from Rattlesnake Creek.

3. Information on Design, Maintenance, Institutional Control, and Consequence Analysis for Onsite Containment - There is insufficient information available to allow stakeholders to evaluate the long-term effectiveness of the USACE's preferred alternative of onsite containment. Information is needed on how containment will be designed, how containment integrity and water infiltration may change over time, what type of annual or periodic maintenance will be required, who will perform the maintenance, what activities constitute institutional control, and what the risks are and who will be responsible should containment fail. Each agency defines "Institutional Control" differently. Therefore, the Proposed Plan should be clear on this aspect since a number of entities including the property owner, local planning and zoning, NYSDEC, U.S. Department of Energy (DOE), and USACE are involved in varying degrees.

4. Local Support for the Preferred Alternative of Containment - One of the reasons given in the draft Proposed Plan for eliminating Alternatives 3 and 5 was the local opposition to onsite disposal. This was expressed during the public comment period and public hearing held in 1993 by the DOE on the Remedial Investigation/Feasibility Study (RI/FS) and the proposed decision for a disposal cell in Tonawanda. Although a few of the circumstances are different today, it appears from the testimony and position taken by local elected officials in 1993 (see Enclosure C) that they could not support an onsite disposal cell because there were unaddressed issues with respect to mixed waste, health and safety, and long-term financial commitment; an onsite disposal cell would conflict with redevelopment plans; and onsite disposal would not provide for unrestricted land use. It appears that many of the reasons for the opposition as expressed by the Coalition Against Nuclear Waste in Tonawanda (CANiT) have not been addressed or cannot be achieved with onsite containment. Unless the position of the local officials and the local community has changed, there may not be local support for the USACE's preferred alternative.

At this time, the EPA cannot support the USACE's preferred alternative of onsite containment because of the aforementioned issues. Simply stated, the Seaway Site has, to date, not been categorized sufficiently so as to determine which alternative originally proposed by the DOE and now the basis for your draft Proposed Plan would be effective and protective of public health and the environment.

We recognize from our discussions at all levels with your office, that the USACE - Buffalo District has had to face some formidable challenges in dealing with this matter. First, the technical data characterizing this site which was passed on to the USACE from the DOE were not sufficient. Second, the nearness of the end of the fiscal year presents challenges regarding funding availability and decisions regarding obligation of funds. And finally, as in most cases, the local community has a strong desire to have the waste, especially the radioactive waste, removed from their community as quickly as possible. We sympathize with your position because we do not believe that a preferred alternative that is protective of public health and the environment can be selected by the end of the fiscal year without additional site characterization and analysis. To complete this additional work would extend the time frame under which you have communicated you are operating.

In the end, the biggest "key issue" may be whether it is better to provide the proper characterization and assessment of the site so that an alternative can be selected that will be effective and protective or to move forward and select a remedy on insufficient technical information to utilize available funding. Clearly, the former should result in a better more cost-effective long term solution. The latter will provide an approach that stays within the limits of current financial and time constraints but may require further and greater expenditures in the future. We do not point this out to denigrate the USACE's efforts in this matter. We acknowledge that the Buffalo District has begun to take pains to assure the proper characterization is occurring at other FUSRAP sites such as the Niagara Falls Storage Site and with regard to the groundwater pathway at the Linde Site.

From the foregoing discussion contained herein it is evident that EPA would prefer the USACE to take the former approach and seek to characterize the site adequately so that a final solution can be achieved that is protective. Since this site is not on the National Priority List (NPL), EPA does not have a role in this selection process other than as an advisor. As such, this letter contains our comments to your plan and our advice. We would further advise the USACE that you should have a 60-day comment period no matter when a final proposed plan is released.

EPA recognizes the USACE's lead role in the FUSRAP program. We offer our comments on the Seaway Landfill remediation effort in an effort to share our technical expertise and remediation policy experience. If the USACE wishes to pursue the issues addressed in our comments or other related issues please contact me [REDACTED] or have the [REDACTED]

[REDACTED] We appreciate the opportunity to provide our comments.

Sincerely

[REDACTED]

Radiation and Indoor Air Branch

Enclosure A
Enclosure B
Enclosure C