



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

SEP 08 2009

Michelle Rhodes
U.S. Army Corps of Engineers, Buffalo District
1776 Niagara Street
Buffalo, NY 14207

Dear Ms. Rhodes:

The purpose of this letter is to provide an update to my original letter dated July 27, 2009, concerning EPA's input on Applicable or Relevant and Appropriate Requirements (ARARs) for the Niagara Falls Storage Site (NFSS).

Upon further consideration we would modify our ARAR recommendation contained in Recommendation 1 in that letter as follows:

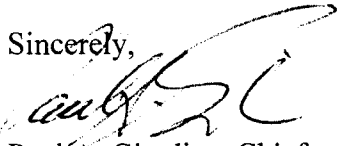
The U.S. Army Corps of Engineers (USACE) should evaluate and implement radiation protection criteria for the NFSS. Radioactive wastes located at the site require a level of protection equivalent to that which would have been provided at a designated storage or disposal site for spent nuclear fuel and high-level radioactive waste. For wastes remaining on the site for periods longer than 10,000 years, the only precedent is the standard mandated by Congress through the Energy Policy Act of 1992, developed by the EPA pursuant to the Act, and documented in 40 CFR Part 197. The 40 CFR Part 197 standards are site-specific and are applicable solely to the proposed Yucca Mountain Geologic Repository. As such, we recommend that 40 CFR Part 191 now be considered as the equivalent of ARARs for the NFSS site and that further studies contain a discussion of this standard.

We would also modify Recommendation 2 in that letter as follows:

Similar to 40 CFR Part 191 ground water protection requirements, the USACE should consider the Safe Drinking Water Act when evaluating contamination in on-site and off-site groundwater.

Should you have any questions or would like to discuss the content of this or the previous July 27, 2009 letter in more detail, do not hesitate to contact me at 212-637-4010.

Sincerely,


Paul A. Giardina, Chief
Radiation and Indoor Air Branch