

June 7, 2004

Mr. Jack R. Strosnider, Director
Office of Nuclear Material Safety
and Safeguards
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Dear Mr. Strosnider:

I am writing in response to Martin Virgilio's letter of March 5, 2004, regarding the Kirtland Air Force Base (Kirtland AFB) located in Albuquerque, New Mexico. The March 5 letter notified EPA that the Kirtland AFB site would have triggered an NRC consultation with EPA in accordance with the 2002 Memorandum of Understanding (MOU) entitled: "[Consultation and Finality on Decommissioning and Decontamination of Contaminated Sites](#)" (OSWER No. 9295.8-06, signed by EPA on September 6, 2002, and NRC on October 9, 2002). This letter responds to the notification in accordance with Section V.D.1 of the MOU, when NRC requests EPA's consultation on a decommissioning plan or a license termination plan, EPA is obligated to provide written notification of its views within 90 days of NRC's notice.

Mr. Virgilio's letter does not constitute a Level 1 consultation as specified in the MOU because a License Termination Plan (LTP) had already been issued for the site. NRC initiated the consultation on this site in the spirit of the MOU. EPA is providing its views in a manner equivalent to what we expect to provide for in future Level 1 consultations, similarly, in keeping with the spirit of the MOU.

The views expressed by EPA in this letter regarding NRC's decommissioning are limited to discussions related to the MOU. The comments provided here do not constitute guidance related to the cleanup of sites under Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) authority.¹ EPA's views on the matters addressed by this letter were developed from information furnished by NRC in the March 5 letter, other materials provided by NRC, and staff discussions.

EPA Consultation Views

Today's response is limited to those matters that initiated NRC's request for consultation in its letter of March 5. NRC initiated this consultation because the derived concentration guideline levels (DCGLs) in the Decommissioning Plan (DP) exceed the MOU trigger values for thorium-232 for soil. It is also our understanding that the remediation activities associated with

¹Please see the memorandum entitled: "Distribution of Memorandum of Understanding between EPA and the Nuclear Regulatory Commission" (OSWER No. 9295.8-06a, October 9, 2002) which includes guidance to the EPA Regions to facilitate Regional compliance with the MOU and to clarify that the MOU does not affect CERCLA actions that do not involve NRC (e.g., the MOU does not establish cleanup levels for CERCLA sites). This memorandum may be found on the Internet at: <http://www.epa.gov/superfund/resources/radiation/pdf/transmou2fin.pdf>.

NRC's decommissioning process are likely to significantly decrease below the DCGLs the residual levels of those radionuclides that are present, and since the DCGL value of 5.7 pCi/g is only slightly higher than the MOU value of 5 pCi/g, it is highly unlikely that a Level 2 consultation will occur for this site.

Conclusion

EPA staff will remain available to NRC for consultation as further plans are developed for needed remediation at the site. If you have any questions regarding this letter, please contact Stuart Walker of my staff at (703) 603-8748.

Sincerely,

/S/ mbc

Michael B. Cook, Director
Office of Superfund Remediation and
Technology Innovation