

M-275
108458 01

Formerly Utilized Sites Remedial Action Program (FUSRAP)

ADMINISTRATIVE RECORD

for Maywood, New Jersey



U.S. Department of Energy



Department of Energy

93.728

108458

Oak Ridge Operations
P.O. Box 2001
Oak Ridge, Tennessee 37831-8723

September 13, 1993

Mr. William Muszynski
Acting Regional Administrator
U. S. Environmental Protection Agency
Region II
Jacob K. Javits Federal Building
New York, New York 10278

Mr. Joe La Grone
Manager
Oak Ridge Operations Office
U. S. Department of Energy
P. O. Box 2001
Oak Ridge, Tennessee 37831-8501

Members of the Senior Executive Committee:

MAYWOOD SITE - DOE STATEMENT OF POSITION REGARDING THE DISPUTE ON CLEANUP CRITERIA

M-273 The Dispute Resolution Committee, consisting of George Pavlou of Environmental Protection Agency Region II (EPA II), and myself, has been unable to resolve the dispute regarding cleanup criteria at the Maywood, New Jersey, site. EPA II, as the disputing party, has forwarded its statement of dispute to you. This letter forwards the DOE statement of position (Enclosure 1) and M-260 supplementary information (Enclosure 2), both of which have been previously provided to EPA II during dispute negotiations.

The key issues that underlie this dispute are fundamental. In summary, they are:

Protectiveness - EPA considers that the Superfund risk target of 10^{-4} to 10^{-6} must be met to be "protective", whereas DOE guidance [based on the Nuclear Regulatory Commission (NRC), the National Council on Radiation Protection and Measurements (NCRP) and the International Commission on Radiological Protection (ICRP) recommendations] is that 100 millirem/year (mrem/yr) dose to the general public is "protective". Using the prescribed EPA guidelines for converting dose to risk, 100 mrem annual dose is equivalent to a risk of approximately 10^{-3} . Alternatively, an annual dose of 10 mrem/yr must be achieved to equate to a 1×10^{-4} risk level. Based on the site-specific exposure assumptions, predicted dose levels at Maywood would be typically 20-40 mrem/yr, following remediation to the levels proposed by DOE. The alternative cleanup standard proposed by EPA is not supported by site-specific risk analysis.

Standard-Setting Process - DOE has used 40 CFR 192, "EPA Standards for Protection Against Uranium Mill Tailings" as the relevant and appropriate cleanup standard for Maywood, having determined the protectiveness of these standards as discussed above. During the rulemaking process and subsequent legal challenges, EPA also successfully defended the protectiveness of these standards. DOE, EPA, and NRC are each currently engaged in rulemaking processes that will

Mr. William Muszynski
Mr. Joe La Grone

2

September 13, 1993

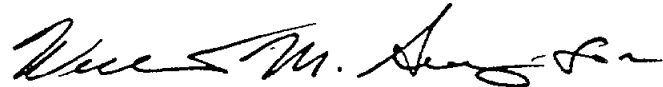
reexamine these values, but in the meantime, DOE is justified and prudent in using the established guidelines, which have been effectively utilized at more than 4,500 properties.

Cost Benefit Considerations - The benefits in risk reduction between the 15 picocuries per gram (pCi/g) standard and the 5 pCi/g standard currently requested by EPA for Maywood are minimal compared to the cost impacts. While perhaps "affordable" (\$30-50 million) for Maywood, the impacts of similar criteria for the Formerly Utilized Sites Remedial Action Program overall could be in excess of \$1 billion. The Comprehensive Environmental Response, Compensation, and Liability Act does not demand that the 10^{-4} risk range be met when the cost of doing so is prohibitive.

The Dispute Resolution Committee recognized early on that these are clearly issues that bear upon radiological cleanup projects throughout DOE. For a while it appeared that we could agree that site-specific conditions at Maywood were such that additional calculations, based on more reasonable but not overly conservative exposure assumptions, would lead to risks that met the target range without reducing the cleanup guidelines. There was excellent communication and cooperation between our technical staffs throughout this intense effort and we came close, but not quite close enough.

I understand that the Senior Executive Committee has 21 days to resolve this dispute, after which the EPA II Regional Administrator will write his decision. If the Regional Administrator's decision were to favor EPA's current position, then it is our understanding that DOE intends to elevate the dispute to the Administrator of EPA. Because of the significance of the outcome of this dispute to the DOE Environmental Restoration Program, we have been urged by DOE Headquarters to expedite a final decision by quickly elevating the matter to the Administrator.

Please contact me at (615) 576-0948 if I can be of further assistance.



Lester K. Price, Director
Former Sites Restoration Division

Enclosures See Administrative Record Document # M-260 and M-273