

WILMER CUTLER PICKERING
HALE AND DORR LLP

Replace w/
original

August 13, 2004

**VIA TELECOPIER (314) 260-3941 AND
CERTIFIED MAIL RETURN RECEIPT REQUESTED**

Ms. Sharon R. Cotner
FUSRAP Program Manager
U.S. Army Corps of Engineers
8945 Latty Avenue
Berkeley, MO 63134

BUILDING
ENUE, N.W.

WASHINGTON, D.C. 20004
+ 202 942 8471
+ 1 202 942 8464 fax
james.votaw@wilmerhale.com

Re: Second Request for Extension of Comment Period – "Derivation of Site Specific DCGLs for North County Structures" (June 25, 2004)

Dear Ms. Cotner:

This letter is to ask the Corps to reconsider its determination to reject our request to extend the public comment period on the DCGL for structures document by an additional seven days – until August 24, 2004.

As you know, by letter dated July 20, 2004, on behalf of the General Investment Funds Real Estate Holding Company ("GIFREHC"), we requested a 45-day extension of the public comment period respecting the document, "Derivation of Site Specific [Derived Concentration Guideline Levels]" (June 25, 2004) (the "DCGLs"), as announced in the Corps' notice of availability mailed to stakeholders and dated July 6, 2004. By return letter, you indicated that the Corps was willing to extend the comment period, but only by 12 days (until August 18, 2004) with the aim of providing GIFREHC 30 actual days to prepare and submit comments after allowing for some delay between the official start of the comment period and the date when the notice of availability was mailed out to stakeholders. We appreciate this courtesy and have been working diligently to work with the limited additional time allowed by the Corps to review the document and obtain the views and input of qualified health physics professionals in respect of the highly technical matters addressed in the DCGL documents. We plan to submit substantive comments, likely including the results of additional RESRAD modeling runs that take into account additional considerations which may not have been considered by the Corps in the modeling underlying the proposed DCGLs.

Despite our best efforts to date, we project that it may not be possible to complete our work and complete and submit the written documents clearly communicating our comments by August 18th, and for that reason, by telephone yesterday to Jacqueline Mattingly (CEMVS-PM-R), we requested a slight further extension of the comment period by seven days to August 24th. I spoke with Ms. Mattingly today and, unfortunately, she reported that the Corps has elected not to grant our request for this short additional extension because it would interfere with the scheduled issuance of the ROD.

BALTIMORE BERLIN BOSTON BRUSSELS LONDON MUNICH
NEW YORK NORTHERN VIRGINIA OXFORD PRINCETON WALTHAM WASHINGTON

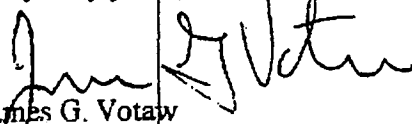
Ms. Sharon R. Cotner
August 13, 2004
Page 2

We ask the Corps to reconsider this determination. As indicated, we are preparing substantive technical comments with the assistance of health physics professionals which we believe should be considered by the Corps before any determinations regarding the DCGLs are finalized. We do not know but, given the resources required, we expect that our comments may well be the only substantive technical comments that will be submitted, at least by any non-governmental organization. As the owner of perhaps the most affected North County vicinity property (VP2L), the building and improvements on which the DCGL document itself acknowledges as having been impacted, GIFREHC has a vital interest in the outcome of the Corps' decision process. Although we are well into the development of comments, and people have been working through otherwise scheduled leave to meet the deadline, 30 days will not be enough as a practical matter to mobilize a review team, review and consider the substance of the document, and to prepare and submit complete written comments. However, given the current state of our work, we are confident that our comments can be completed by the 24th (i.e., seven additional days).

While this short extension may well impact the ROD issuance schedule, as Ms. Mattingly represented, that schedule is not mandated by any legal obligation on the Corps that we are aware of and, in our view, should not trump the public's opportunity to provide meaningful comment. Given the DOE's and later the Corps' repeated deferral in issuing the North County ROD - now extending over several years - forestalling a final decision for another seven days would represent only an insignificant postponement, and would not prejudice human health or the environment.

For these reasons, we request that the Corps reconsider its determination and extend the comment period on the proposed DCGLs by an additional seven days to and through August 24, 2004. We thank you for your courtesies and attention to this matter.

Very truly yours,



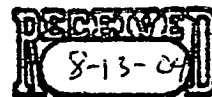
James G. Votaw

cc: John Katkish
Jeffrey J. Davidson

THE WILLARD OFFICE BUILDING
1455 PENNSYLVANIA AVENUE, N.W. • WASHINGTON, D.C.
20004-1008
202-942-8400 • FAX 202 942-8484

**WILMER CUTLER
PICKERING HALE AND
DORR LLP**
COUNSELORS AT LAW

Fax



To: Ms. Sharon Cotner
Program Manager
U.S. Army Corps of Engineers
St. Louis District
8945 Latty Avenue
Berkeley, MO 63134

From: James G. Votaw, Esq.

Fax: (314) 260-3941

Pages: 3 (including cover)

Phone: (202) 942-8471

Date:

CC: Jacqueline Mattingly (CEMVS-PM-R),
Jeffrey J. Davidson, Esq.
Utokia Langley

Re: Second Request for Extension of Comment Period – "Derivation of Site Specific DCGLs for North County Structures" (June 25, 2004)

Dear Ms. Cotner:

The attached letter is to ask the Corps to reconsider its determination to reject our request to extend the public comment period on the DCGL for structures document by an additional seven days – until August 24, 2004. We thank you for your courtesies and attention to this matter.

Very truly yours


James G. Votaw

FUSRAP Document Management System

Year ID
00 4299

Further Info?
☐

Operating Unit
North County

Site

Area

MARKS Number
FN:1110-1-8100g

Primary Document Type
Public Affairs/Community Relation

Secondary Document Type
Correspondence

Subject or Title

Fax subject: Second Request for Extension of Comment Period for Document Entitled "Derivation of Site-Specific DCGLs for North County Structures"

Author/Originator

James Votaw

Company

Wilmer Cutler Pickerin

Date

8/13/2004

Recipient(s)

Sharon Cotner; cc Jackq

Company (-ies)

FUSRAP; FUSRAP;

Version

Final

Original's Location

Central Files

Document Format

paper

Confidential File?

☐

Comments

SAIC number

Bechtel ID

Include in which AR(s)?

- ☒ North County
- ☐ Madison
- ☐ Downtown
- ☐ Iowa

ETL

0801

Filed in Volume

01

