



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

March 14, 2006

SECRETARY

COMMISSION VOTING RECORD

DECISION ITEM: SECY-06-0035

TITLE: PROCESS FOR RELEASING NON-IMPACTED AREAS OF
THE WESTERN NEW YORK SERVICE CENTER BEFORE
THE COMPLETION OF SITE DECOMMISSIONING

The Commission (with Chairman Diaz and Commissioners Merrifield and Lyons agreeing) approved the subject paper as recorded in the Staff Requirements Memorandum (SRM) of March 14, 2006. Commissioners McGaffigan and Jaczko disapproved this paper.

This Record contains summaries of the Commission's actions on this matter, together with the individual votes of the Commissioners.

VOTING SUMMARY - SECY-06-0035

RECORDED VOTES

	APRVD	DISAPRVD	ABSTAIN	NOT PARTICIP	COMMENTS	DATE
CHRM. DIAZ	X					2/27/06
COMR. McGAFFIGAN		X			X	2/28/06
COMR. MERRIFIELD	X				X	2/16/06
COMR. JACZKO		X			X	3/6/06
COMR. LYONS	X				X	3/2/06

COMMENT RESOLUTION

In their vote sheets, Chairman Diaz and Commissioners Merrifield and Lyons approved the subject paper. Commissioners McGaffigan and Jaczko disapproved the paper. Subsequently, the comments of the Commission were incorporated into the guidance to staff as reflected in the SRM issued on March 14, 2006.


NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary


FROM: CHAIRMAN DIAZ

SUBJECT: **SECY-06-0035 - PROCESS FOR RELEASING
NON-IMPACTED AREAS OF THE WESTERN
NEW YORK SERVICE CENTER BEFORE THE
COMPLETION OF SITE DECOMMISSIONING**

Approved xx  Disapproved _____ Abstain _____

Not Participating _____

COMMENTS:



SIGNATURE

March 8/05

Entered on "STARS" Yes ___ No ___

* I originally voted by telecon on 2/27/06.

NOTATION VOTE

RESPONSE SHEET

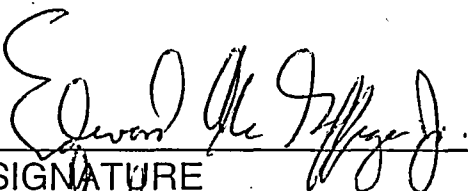
TO: Annette Vietti-Cook, Secretary
FROM: COMMISSIONER MCGAFFIGAN
SUBJECT: **SECY-06-0035 - PROCESS FOR RELEASING
NON-IMPACTED AREAS OF THE WESTERN
NEW YORK SERVICE CENTER BEFORE THE
COMPLETION OF SITE DECOMMISSIONING**

Approved _____ Disapproved ^{w/comments} Abstain _____

Not Participating _____

COMMENTS:

See attached comments.



SIGNATURE
February 28, 2006

DATE

Entered on "STARS" Yes No _____

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COMMISSION DETERMINES
OTHERWISE

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary
FROM: COMMISSIONER MERRIFIELD
SUBJECT: **SECY-06-0035 - PROCESS FOR RELEASING
NON-IMPACTED AREAS OF THE WESTERN
NEW YORK SERVICE CENTER BEFORE THE
COMPLETION OF SITE DECOMMISSIONING**

Approved Disapproved Abstain

Not Participating

COMMENTS:

1 comments.

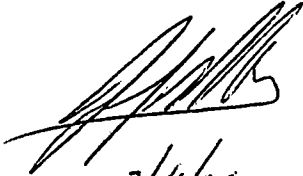

SIGNATURE

DATE

2/16/06

Comments from Commissioner Merrifield on SECY-06-0035:

I approve the staff recommended option 1 as described in SECY-06-0035. I am a strong proponent of returning our former sites to productive use as early as possible as long as such an action can occur in a manner which properly protects public health and safety. The process proposed by the staff not only achieves this objective but also does it in a manner which seeks appropriate public input.



2/16/06

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary

FROM: COMMISSIONER JACZKO

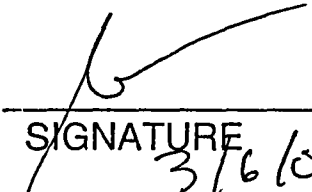
SUBJECT: **SECY-06-0035 - PROCESS FOR RELEASING
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NEW YORK SERVICE CENTER BEFORE THE
COMPLETION OF SITE DECOMMISSIONING**

Approved _____ Disapproved x Abstain _____

Not Participating _____

COMMENTS:

See attached comments.



SIGNATURE
3/6/06

DATE

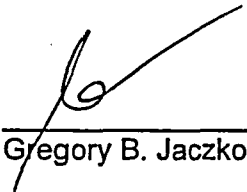
Entered on "STARS" Yes x No _____

**Commissioner Jaczko's Comments on SECY-06-0035
Process for Releasing Non-impacted Areas of the Western New York Service
Center Before Completion of Site Decommissioning**

I disapprove the staff recommendation for the Commission to approve the use of the 10 CFR 50.83 process to consider future requests for the release of non-impacted portions of the Western New York Nuclear Service Center during the period of DOE cleanup activities. I disapprove for the following two reasons: the staff has not provided a meaningful opportunity to engage the public in this process (as Commissioner McGaffigan noted in his vote), and the current licensee, the New York State Energy Research and Development Authority (NYSERDA), has not indicated which portions of the licensee land will be released.

The Commission will be involved in decommissioning this facility for many years. To be successful, the Commission should engage stakeholders about possible efforts to release portions of the site using 10 CFR 50.83, especially since 10 CFR 50.83 was not envisioned, during the recent rulemaking effort, to cover non-power reactor part 50 licensees. Because NYSERDA has not made the Commission aware of any specific plans for site development activities, I see no need to decide this issue without the benefit of stakeholder feedback. In the meantime, if NYSERDA requests the release of *specific* portions of the West Valley site, the Commission could consider reviewing each case separately.

In addition, the Commission should make this paper publicly available.



Gregory B. Jaczko

3/6/06

Date

NOTATION VOTE


RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary
FROM: COMMISSIONER LYONS
SUBJECT: **SECY-06-0035 - PROCESS FOR RELEASING
NON-IMPACTED AREAS OF THE WESTERN
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COMPLETION OF SITE DECOMMISSIONING**

Approved X Disapproved Abstain

Not Participating

COMMENTS:



SIGNATURE
 3/2/06

DATE

Entered on "STARS" Yes Y No

Commissioner Lyons Comments on SECY-06-0035

I approve the Staff's recommendation to use the 10 CFR 50.83 process as described in Option 1 to consider future requests for the release of non-impacted portions of the Western New York Nuclear Service Center (Center) during the period of DOE cleanup activities. While I appreciate Commissioner McGaffigan's preference to publicly discuss the use of the 50.83 process before proceeding, I believe the Staff's recommendation is in keeping with NRC's goal of openness. In this respect, part of the recommendation specifies that the NRC would conduct a public meeting in the vicinity of the site in order to obtain public comment on the release of the property. Certainly, at that time, should the public identify unique concerns regarding the Center that cannot be adequately resolved using the 50.83 process alone, the staff will consider whether that process should be supplemented, if necessary.

Although 10 CFR 50.83 applies to licensees of operating and decommissioning power reactor plants, and not to a former reprocessing facility such as the Center, I approve its use with

respect to future release requests since no approved NRC process currently exists for releasing