Congress of the United States
Washington, DC 20510

July 17, 2015

The Honorable Ernest Moniz
Secretary
U.S. Department of Energy
1000 Independence Ave SW
Washington DC 20585

Dear Secretary Moniz,

As you are aware there is continuing concern over the West Lake Landfill site in North St. Louis County and how that site and the radiologically impacted material (RIM) it contains can best be managed. West Lake is only one of numerous sites in the St. Louis region that remains impacted by wastes generated by the United States government as part of the early Manhattan Project in the 1940s. The people of St. Louis have had to live with this burden for generations and we believe it is incumbent upon the federal government to find a clear path forward for all the sites either through removal of the RIM or effective containment.

We understand that in making its initial determination, that the West Lake site did not qualify for inclusion in the Formerly Utilized Sites Remedial Action Program (FUSRAP), DOE relied upon the fact that an intermediate commercial entity, Cotter Corporation, had purchased the radiological material that was placed at the West Lake site and that therefore it had not been under the direct control of DOE or its precursors. This determination was made despite the fact that DOE retains liability for the site as a Potentially Responsible Party (PRP) under Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)'s strict liability regime. We are concerned that this determination is inconsistent with other FUSRAP determinations in the region, including the Latty Avenue haul roads, which were contaminated by a commercial owner hauling wastes from the St. Louis Airport Site.

Additionally new concerns have been raised by a PRP that non-Cotter affiliated material may be present at the West Lake and Bridgeton sites, including material that was possibly under the jurisdiction of the DOE and its precursors when it was placed at the site. Should such material in fact be present, a renewed inquiry into the sites inclusion in the FUSRAP would be merited.

Given these issues, we request that DOE, in consultation with the Army Corps pursuant to the 1997 Memorandum of Understanding, reevaluate whether inclusion of the West Lake site into FUSRAP is appropriate. In conducting such a review we would also request that DOE engage with the surrounding community, the current owner of the site, the Environmental Protection Agency, the Missouri Department of Natural Resources, and other PRPs.

As part of this reconsideration we would also request estimates of how a FUSRAP designation could potentially impact the timeline for full remediation of the site, recognizing that there remain a wide range of potential remediation actions that have yet to be determined.

Further, in consultation with the cooperating federal agencies, we request that you provide an explanation of the differences between FUSRAP's authorities and obligations under CERCLA in comparison with the EPA's under CERCLA including mechanisms for appropriate cost recovery from PRPs.

We look forward to your consideration.

Sincerely,

Claire McCaskill
U.S. Senator

Roy Blunt
U.S. Senator

Wm. Lacy Clay
Member of Congress

Ann Wagner
Member of Congress

CC:
Jo Ellen Darcy, Assistant Secretary of the Army (Civil Works)
Gina McCarthy, Administrator, Environmental Protection Agency

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