

To: Citizen Task Force
From: Melinda Holland, Holland and Associates
Subject: Summary of the November 30, 1999, Task Force Meeting
Date: December 9, 1999

Next Meeting:

The next Citizen Task Force (CTF) meeting is scheduled for:

Date: February 15, 2000
Time: 7:00 p.m. - 9:30 p.m.
Location: Ashford Office Complex
9030 Route 219, West Valley, NY

A meeting announcement and draft agenda for the next meeting will be circulated before that meeting. If you have questions or comments regarding the upcoming meeting or about this summary, please contact Melinda Holland at (864) 457-4202 or Tom Attridge at (716) 942-2453.

CTF Attendees:

Attending were: John Pfeffer, Larry Smith, Gayla Gray (for Lana Redeye) Ray Vaughan, Murray Regan, Barbara Mazurowski, Lee Lambert, Paul Piciulo, Rich Tobe, Warren Schmidt, Bridget Wilson, Bob Potter (for Bill King), and Eric Wohlers. Not attending were: Tim Siepel, Pete Cooney, Nevella McNeil, Pete Scherer, Bill King, Lana Redeye, and Joe Patti. Attending via video conference was Jack Parrott of the U.S. Nuclear Regulatory Commission (NRC). Other regulatory attendees included Tim Rice and Jack Krajewski of the New York State Department of Environmental Conservation (NYSDEC).

November 30 Meeting Summary:

Tom Attridge and Melinda Holland, began the meeting by reviewing administrative issues and the agenda. The primary focus for this meeting was to discuss the NRC's draft Policy Statement for the West Valley site.

The meeting began with Paul Piciulo giving a brief summary of a workshop he attended at the DOE Oak Ridge site on long-term stewardship. Two days of the workshop focused on soliciting input on long term stewardship concerns from representatives of Site Specific Advisory Boards from nine DOE facilities. The workshop participants developed a list of key items that they want DOE to address regarding long-term stewardship, which Paul distributed to CTF members during the meeting. Also, Paul Piciulo described how Jim Werner, a DOE Headquarters official, led a scoping session on the long-term stewardship study that DOE must conduct under the terms of its settlement agreement with the Natural Resources Defense Council (NRDC). Paul said that a Work Plan for the study will be out for public comment soon.

Jack Parrott, NRC's Project Manager for the West Valley site, opened the discussion on the draft NRC Policy Statement by stating that the draft will be published in the Federal Register on Friday, December 3, 1999¹, and that the public meeting on the Policy Statement will be held the evening of January 5, 2000, at the Ashford Office Complex. NRC will be represented at the public meeting by Larry Camper, Robert Nelson, Jim Lieberman, and Jack Parrott. The meeting will be transcribed by a stenographer and transcripts will be available soon after the meeting. Mr. Parrott stated that the format for conducting the public meeting has not yet been decided, but NRC will inform the CTF on the format as soon as it is determined. In response to a question, he stated that the public comment period would run for 60 days from the day of publication in the Federal Register. Mr. Parrott explained that the draft sent to the CTF by Ms. Holland is the same as the published versions with the exception of the availability of documents section, which was changed to reflect NRC's new electronic public document room.

Mr. Parrott then agreed to answer any clarifying questions from the CTF about the draft Policy Statement. In response to a question, Mr. Parrott stated that after the public meeting and comment period, NRC will address public comments and issue the final Policy Statement. Then DOE and NYSERDA are responsible for addressing NRC's criteria through the environmental impact statement process. Another CTF member asked for NRC's definition of "institutional controls." Mr. Parrott referred the CTF to *NRC's Statement of Considerations* which was published with the final License Termination Rule and to the draft guidance documents which support that rule - specifically *Draft Regulatory Guide #4006*. CTF members requested that they be provided with copies of this document.

A Task Force member asked how NRC will determine if wastes remaining at the site are incidental waste or high-level waste (HLW), and whether incidental wastes will require permanent isolation. Mr. Parrott responded that incidental waste is handled differently than HLW. For example, the Hanford site removed waste from tanks and NRC wrote guidance for declaring the waste removed from the tanks as incidental waste. Now NRC is considering the incidental waste designation for Savannah River Site (SRS) tank closure (i.e. for residual waste left in the tanks). The SRS situation is similar to West Valley's in-ground tank closure, thus the decision for SRS will set the direction for West Valley. He stated that NRC hopes to have its SRS response out before the January 5 public meeting at West Valley. Site representatives agreed to provide the CTF members with a copy of the NRC response as soon as it becomes available.

A Task Force member questioned NRC's intent behind the Commission's application of the LTR to the WVDP as a two step process, where the second step happens after

"...completion of DOE/NYSERDA's Environmental Impact Statement (EIS) and selection of their preferred alternative, the NRC will verify that the specific criteria

¹The draft NRC Policy Statement was issued in the Federal Register on December 3, 1999.

identified by DOE is within the LTR and prescribe the use of this specific criteria for the WVDP.”

The CTF member was specifically concerned with the use of the word “prescribe” in this context because it suggests a somewhat vague prescription by NRC to endorse what DOE and NYSERDA are planning to do. He prefers that NRC use a different word here.

An apparent inconsistency was pointed out by a CTF member where the paper states that the decommissioning criteria applies to the NDA (NRC Licensed-Disposal Area) but does not apply to the SDA (State-Licensed Disposal Area), but the following section says that the LTR will apply to the termination of NYSERDA’s NRC license. Mr. Parrott explained that the LTR does not apply to NYSERDA’s state permit, only its NRC license.

Another Task Force member suggested that, even though this is the case, the Policy Statement should be clarified to state that all residual radioactivity at the site, including residual radioactivity in the SDA, should be considered when calculating site doses. Mr. Parrott agreed in concept.

At this point Mr. Parrott signed off and the Task Force began its internal dialogue by going around the table to hear each member’s reaction to the draft Policy Statement. All CTF members present were generally pleased with the draft but had some specific concerns or changes to recommend. Specific individual concerns raised are provided below:

- ◆ Consider the residual radioactivity in the SDA when calculating site doses (as discussed above).
- ◆ Use of the word “prescribe” (as discussed above).
- ◆ The Policy Statement should not paraphrase the LTR because it’s confusing. For example, which document will govern if a question of interpretation arises? The Policy Statement should either quote the LTR or just reference the sections of the LTR.
- ◆ Definition of “institutional controls” is a key issue and should include the protective features.
- ◆ The paragraph referring to the CTF’s report should also state that the CTF wants any wastes left on site to be retrievable.
- ◆ Frequency of inspection and monitoring to detect failure of institutional controls (e.g. 5 years seems like a long time between inspections).
- ◆ The Policy Statement should prioritize the options available under the LTR, with the highest priority being meeting the 25 mrem per year or ALARA limit.
- ◆ Don’t rely on institutional controls. Institutions do not last for thousands of years. Do rigorous cleanup now.

Task Force members spent additional time discussing concerns over the definition of institutional controls. A member reminded the group that in the previous CTF comments on the NRC draft, the CTF asked NRC to define “institutional controls” more clearly and this is still a short-coming of the draft Policy Statement. Are engineered protective features included as institutional controls or is it only the legal controls? A NYSERDA

representative noted that Russell Edge of DOE (who spoke on long-term stewardship at a prior CTF meeting) suggested that protective features like engineered barriers could be considered institutional controls. What constitutes failure of institutional controls for NRC's process is a concern. If the CTF's support of the Policy Statement is based on understanding what "institutional controls" are, then the term needs to be clearly defined. The CTF needs to look carefully at the documents Jack Parrott referred to on institutional controls, then draft their comments. For example, if it is feasible that an event such as an earthquake could breach all systems resulting in a radiation exposure greater than 500 mrem, will NRC say the site closure satisfies the LTR? Site representatives responded that part of closing the site properly is making sure the preferred closure scenario can withstand events like earthquakes. However, a DOE representative said that the SDA and NDA may not be able to meet the LTR limits, upon which a NYSERDA representative indicated that the site's license could not be terminated. After a question arose from the CTF regarding how some units might exit the licensing process, a DOE representative referred back to prior NRC comments (at a past meeting) which focused on the possibility of "shrinking the footprint" of the licensed portion of the site by removing the units from the license that meet the LTR criteria, adding that if the SDA and NDA remain, there may still need to be a license. A CTF member stated that this issue needs further clarification from the NRC.

CTF members discussed preparation of Task Force written comments and testimony at the public meeting. The group agreed to develop and submit specific written comments before the January 5 meeting. The first draft of the comments will be developed jointly by Rich Tobe and Ray Vaughan and circulated to the CTF members on December 13. A conference call to discuss the draft will be held on December 16 at 7 p.m. A second conference call date was set for January 3, 2000, in case additional work remains. Rich Tobe summarized the topics to be covered in the draft comments to include:

- ◆ Thanking the Commissioners;
- ◆ ALARA (go as low as possible);
- ◆ Incidental Waste;
- ◆ SDA Doses Included in Overall Performance Assessment;
- ◆ Use of the Term "Prescribed";
- ◆ Paraphrasing of LTR;
- ◆ Definition of the term "Institutional Controls"; and
- ◆ Accuracy of References to the CTF's Report (look at the CTF report in its entirety).

At the meeting it was suggested that local officials, the Seneca Nation, local interest groups, the CTF and public attend and provide oral comments at the NRC's January 5, 2000 public meeting. A CTF member stressed that local officials and other groups need to keep their remarks brief to allow time for the general public to speak.

Next Steps

- ◆ CTF Conference Call scheduled for December 16, 1999 at 7:00 p.m. to discuss draft CTF comments on NRC Policy Statement.

- ◆ CTF Conference Call scheduled for January 3, 2000 at 7:00 p.m. to finalize CTF comments on NRC Policy Statement.
- ◆ CTF Meeting scheduled for February 15, 2000 to discuss cost/benefit analysis and NYSDEC regulation of closure of the SDA.

Observer Comments

One observer commented that they agreed that the CTF should request from the NRC a clear and concise definition of “institutional controls” in regards to the West Valley site.

Action Items

- ◆ Site staff to send CTF members NRC’s draft Regulatory Guidance #4006 which defines the term “institutional controls”. [included with this summary]
- ◆ Site staff to send CTF members the NRC’s SRS response on Incidental Waste when it becomes available.