

To: West Valley Citizen Task Force  
From: Melinda Holland  
Subject: Summary of January 22, 2002, Task Force Meeting  
Date: February 8, 2002

### **Next Meeting**

The next Citizen Task Force (CTF) meeting has been scheduled as follows:

Date: Wednesday, February 20, 2002  
Time: 7:00 p.m. - 9:30 p.m.  
Location: Ashford Office Complex  
9030 Route 219, West Valley, NY

Note that February 20 had previously been set as a Future Site Use Work Group meeting. It has been changed to a full CTF 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:* Bill King, Nevella McNeil, John Pfeffer, Pete Scherer, Paul Piciulo, Mark Mitskovski (for Larry Rubin), Ray Vaughan, Warren Schmidt, Alice Williams, Bridget Wilson, Eric Wohlers, and John Beltz.

*CTF Members not attending were:* Lana Redeye, Lee Lambert, Tim Siepel, Michelle Enser, Joe Patti.

### **Agency Attendees**

*Attending in person:* Ron Hayes, Congressman Quinn's office; Jack Krajewski, NYS Department of Environmental Conservation

*Attending via videoconference:* Chad Glenn, Nuclear Regulatory Commission (NRC)

### **Meeting Highlights**

- ▶ The CTF discussed goals and options for the to-be-scheduled meeting with the Western New York Congressional delegation to help resolve the negotiations between DOE and NYSERDA and to restore full funding for the West Valley site.
- ▶ The Task Force listed the key messages the CTF wants to communicate at the upcoming meeting with the Congressional delegation in Washington DC.
- ▶ Task Force members agreed to develop draft language for amending the West Valley Demonstration Project Act to help resolve the issues which are blocking agreement between DOE and NYSERDA.

### **Meeting Summary**

*DOE/NYSERDA Negotiations* - The Task Force began the meeting by exploring options for obtaining Congressional involvement to help resolve the outstanding issues in the negotiations. The two key unresolved issues were described as determining who has responsibility for long-term stewardship (if any) at the site and who pays the high-level waste (HLW) disposal fee for shipping the HLW glass

canisters to the federal repository. A Task Force member suggested that DOE should yield on the stewardship issue and NYSERDA should yield on the HLW disposal fee. He mentioned that the 1978 "Western New York Nuclear Service Center Study Companion Report" known as the "Green Report" analyzed the responsibility issues between Nuclear Fuel Services (NFS), NYSERDA, and federal government users of the site. He stated that the West Valley Demonstration Project Act (WVDPA) made a good faith attempt to decide who is responsible for what and thus assigned to DOE 90 percent of the cost of cleaning up the HLW and stated that DOE shall not take possession of the site. He questioned why NYSERDA is trying to get DOE to pay the HLW disposal fee. A NYSERDA representative responded that the Nuclear Waste Policy Act (NWPA), which created the HLW disposal fee at issue, was passed after the WVDPA. The NWPA deals with utility nuclear fuel and defense HLW, but it does not deal with mixtures of these. NYSERDA believes that if the waste is a mixture of fuel and waste from defense activities, it should be the federal government's responsibility and, if that is not the case, then cost sharing should be considered.

A CTF member stated that if part of the waste sent to the site was federal defense program waste, that the site should be a DOE site like Savannah River or Hanford. A DOE representative explained that 60 percent of West Valley's spent nuclear fuel came from the Richland N-reactor which was used for both weapons plutonium production and power generation. Another CTF member stated that this information was taken into account in the "Green Report" and the WVDPA in its 90/10 cost split. Another member asked for an explanation on why West Valley was not a defense site. A DOE representative responded that the West Valley site was the nation's only commercial nuclear fuel reprocessing facility and that DOE paid for processing of the N-reactor fuel cores during slow times to keep the facility operating. The federal government felt it had done its share on this by paying the 90 percent share of HLW cleanup under the WVDPA. The WVDPA also states that DOE shall not take title to the HLW canisters, but is responsible for transporting them to a federal repository.

Asking the Congressional delegation to consider making West Valley a DOE defense waste cleanup facility or keeping DOE here for stewardship should be considered, suggested a CTF member. Another stated that in terms of equity, the federal government (Atomic Energy Commission) encouraged New York and NFS to build the reprocessing facility. DOE also gave them fuel to reprocess, then NRC changed the rules so that it made it harder for NFS to stay in business. In response, a DOE representative stated that there are two stories out there, one as stated above, and the other that NRC bent over backwards to help NFS stay in business, but NFS really wanted to get out of the business.

In response to a question, Chad Glenn, NRC, stated that the NRC Policy Statement had not yet been released but is very close to being final. He agreed to notify the Task Force as soon as the document becomes available.

The Task Force next discussed options for meeting in Washington DC with the Congressional delegation. A Task Force member stated that Mr. Bob Van Wicklin of Amo Houghton's office, has taken on the responsibility of organizing a meeting with the Senators, Representatives, their staff, DOE, NYSERDA, and the CTF delegation in Washington DC sometime in February. Mr. Van Wicklin stated that he did not think Congressional hearings, as suggested in the CTF's letter, would be useful. Ron Hayes, from Congressman Quinn's staff, stated that Representative Quinn is very concerned and aware of what is going on in West Valley and is willing to meet with the CTF.

The next topic of discussion was the messages the CTF wants to communicate to Congress at the upcoming meeting. A Task Force member suggested that the list of requests be shared with the delegation before the meeting. CTF suggestions of what to request from Congress for the West Valley site included:

- ▶ The likelihood of constructive Congressional action regarding resolution of negotiations.

- ▶ Stable funding at full funding levels.
- ▶ Educate the delegation on the fact that the funding cut or “hammer” created by the Appropriations Committee will not work and will ultimately result in higher cleanup costs.
- ▶ Ongoing decontamination work should continue with full funding from 2003 forward.
- ▶ Legislative resolution of the issues which are blocking an agreement between NYSERDA and DOE - resolve the HLW fee and stewardship issues.
- ▶ Re-examine the issue of “defense waste” at West Valley and whether it should result in greater DOE responsibility for the site.
- ▶ Take the actions recommended in the GAO report on West Valley.
- ▶ Clarify what Congress meant in the appropriations language “final scope of Federal activities at West Valley.”

A CTF member stated that the language used in the 2002 Appropriations Bill requiring DOE to notify Congress “that agreement has been reached with the state of New York on the final scope of Federal activities at the West Valley site and on the respective Federal and State cost shares for those activities;” could indicate that they are looking for a Record of Decision (ROD) and final costs. Site representatives explained that they feel Congress probably did not understand the Project at that depth, but agrees that the language “final scope” is open to interpretation. They hope the language can be satisfied by an agreement on who is responsible for what, and that GAO would support this interpretation.

Asking Congress to make decisions on long-term stewardship was of concern to one member who stated that DOE’s “vision” for site closure is not legal under the WVDPA and that leaving low-level waste or transuranic waste on site is considered disposal, which would require an NRC license.

A CTF member questioned whether either party has any motivation to reach agreement and whether delay or reduced funding is favored by the agencies. Others agreed that there does not appear to be any incentive to settle. The agencies were urged to use “superhuman” efforts to resolve the impasse before Congress takes further action. Other CTF members expressed concern that a large number of site workers are already leaving the West Valley site, which has a negative impact on site cleanup and on the community.

Ray Vaughan and Mark Mitskovski agreed to draft language for possible amendment of the WVDPA by January 31, 2002, which will then be circulated to the Task Force before the February 5, 2002, CTF meeting. The Task Force asked if the agencies could pay for travel expenses for some CTF members to visit Washington. The agencies agreed to pay for travel for two members (as they have in the past), but reminded the Task Force that this cannot be a lobbying trip.

Members of the Future Site Use Work Group shared the outcomes of their last meeting. Bill King said he had spoken with the new Supervisor of the Town of Concord, Mark Steffan, and Steffan had agreed to join the Task Force (replacing Murray Regan the past Supervisor).

Melinda Holland summarized the results of the year end evaluation forms submitted by Task Force members and the top six priority activities listed by the CTF at its last meeting.

### **Next Steps & Action Items**

- ▶ Provide the CTF with a copy of the relevant sections of the NWPA on who is responsible to pay the disposal fee
- ▶ Provide a copy of the 1978 “Western New York Nuclear Service Center Study Companion Report” (the green report)
- ▶ Draft language for possible amendment of the WVDPA by January 31, 2002 (Ray Vaughan and Mark Mitskovski). Circulate this draft to the Task Force before the February 5, 2002, CTF meeting (M. Holland)
- ▶ Check with Bob Van Wicklin on the status of the meeting with the Congressional delegation (Warren Schmidt)

### **Observer Comments**

There were no observer comments.