

To: West Valley Citizen Task Force
From: Tom Attridge
Subject: Summary of December 10, 2002 CTF Meeting (**Revised**)
Date: January 28, 2003

Next Meeting

The next full Citizen Task Force (CTF) meeting will be held as follows:

Date: **January 28, 2003 (CTF Annual Meeting)**
Time: 7:00 - 9:30 p.m.
Location: Ashford Office Complex
9030 Route 219, West Valley, NY

If you have questions or comments regarding the upcoming meeting or about the attached summary, please contact Melinda Holland at (864) 457-4202, or Tom Attridge at (716) 942-2453.

CTF Attendees

Attending were: Nevella McNeil, Gayla Gray (for Lana Redeye), Bill King, Lee Lambert, Mark Mitskovski (for Larry Rubin), Tim Siepel, Joe Patti, Paul Piciulo, Bill Kay, Pete Scherer, Ray Vaughan, John Beltz, Warren Schmidt, Alice Williams, and Eric Wohlers.

CTF Members not attending (nor represented by an alternate) were: Mike Hutchinson, John Pfeffer, and Mark Steffan.

Agency Attendees

Jack Krajewski, New York State Department of Environmental Conservation (NYSDEC).

Meeting Highlights

Topics discussed included:

- ▶ Status of Economic Re-Development Study;
- ▶ WVDP Performance Management Plan Presentation;
- ▶ WVDP Project Milestones Presentation;
- ▶ Status of DOE/NYSERDA Negotiations;
- ▶ Report from the CTF Agenda Work Group; and
- ▶ Report from the CTF Technical Work Group.

Meeting Summary

Administrative Announcements

Tom Attridge opened the meeting by briefly describing the written materials that were disseminated at the meeting (see the list at the end of this summary) and reviewing the agenda. A CTF member made a request to have a binder assembled of all letters the CTF has prepared and disseminated on various topics since its inception.

DOE asked if the most recent CTF letter, sent to Congressional representatives on the economic redevelopment study, had received any responses. A CTF member said that he had spoken with Bob Van Wicklin, from Congressman Houghton's Washington office, who indicated that they are still working on the budget appropriations and currently didn't know of any funding sources they could tap into to help with this request. Another CTF member said that he had received a call from a staffer at Congresswoman Slaughter's office inquiring how urgent the request was. He said that he spent a good amount of time bringing the staffer up-to-speed on the development of the study. He said that he thinks Congresswoman Slaughter is taking this request seriously.

Reverend William Kay, the CTF's newest member, was also formally introduced to the full CTF.

Status of Economic Re-Development Study

CTF member, Eric Wohlers, started the discussion by providing an update on the recent developments for funding the economic re-development study. He said that Tom Barnes (Southern Tier West) has completed the pre-application paperwork for the funding request to be submitted to the U.S. Department of Commerce's Economic Development Administration (EDA). EDA has indicated that it plans to contribute funds for completion of the study. Tom Barnes is also waiting to hear back from the U.S. Department of Energy (DOE) regarding the \$40,000 that has been committed from the WVDP. DOE responded that they would follow up on this. Tom Barnes is also starting to put together a draft Request For Proposal (RFP). Another CTF member reported that Tom Barnes recently told him that he is in the process of preparing another letter to be sent to State officials requesting assistance in funding the economic re-development study.

A discussion ensued on the status of the legislative resolutions currently being put before the Erie and Cattaraugus County legislatures to approve the expenditure of \$25,000/each for the study. The CTF member representing Erie County government said that the resolution for his County will be introduced later this week and should be approved by the legislature sometime after the first of the year. The CTF member representing Cattaraugus County government indicated that his County would like to use the same language for its resolution, to which it was noted that Tom Livak, Director of the Cattaraugus County Department of Economic Development and Tourism, had already been provided a copy of the Erie County resolution language.

NYSERDA shared that they recently facilitated a meeting with representatives from the Empire State Development Corporation (ESD), Buffalo Niagara Enterprise (BNE), Erie County, Cattaraugus County IDA, and Southern Tier West to talk about the funding needs of the study. ESD seemed very interested in being involved, however, they need to have a written scope of work before they could commit to providing any funds. Another CTF member said that Tom Barnes is currently working on a written scope of work for the RFP, which would likely satisfy ESD needs. A CTF member who was also at the meeting, said that ESD “burrowed into” the issues and is reacting positively to the study. Regarding BNE’s potential involvement, it was thought that they would be more of a resource in helping to create the RFP and implementing the study.

One CTF member then shared his views about site redevelopment and technology. He said that it was not only important to reuse the site facilities, but also to keep the site work force. He offered that the site could be reused as a volunteer-based research center and, over time, develop into a larger, more recognized research institution. He also feels that any redevelopment of the site should not focus totally on waste and the waste management industry. **In his view, waste management practices generally (not just at West Valley) tend to be examples of “yesterday’s technology” being used to cleanup “yesterday’s wastes.”** ~~He said that he sees much of the current waste management practices using “yesterday’s technology” to clean up “yesterday’s waste.”~~ He believes the focus should be on “tomorrow’s technology.” Top-notch research organizations **that have this kind of focus are frequently presented in *Technology Review*, a magazine published by** ~~like~~ the Massachusetts Institute of Technology, ~~have this kind of focus.~~ When questioned by another CTF member about his specific vision, he suggested establishing an incubator designed to encourage the growth of a skilled research and development organization, adding that it would be important to look carefully at how you could build a critical mass of technical expertise.

Another CTF member cautioned that the initial study will likely take a broad brush approach to find out what’s here and what’s possible. Focusing on specific technologies at this point in time, he added, may be premature. A CTF member agreed that the study shouldn’t attempt to pinpoint specific technologies, but should have some vision of where it wants to end up. He said that he has not heard many inspirational messages regarding reuse of the site. Another CTF member said she recently met with Dr. Robert E. Baier of the Industry/University Cooperative Research Center for Biosurfaces at University of Buffalo. She said they talked about the current economic redevelopment issue and that he was quite interested in coming to talk with the CTF. She said that he is an “out-of-the-box” thinker, which may provide additional inspiration to the study. Dr. Baier is an associate of Ron Palmer (WVNSCO) and works on the Calspan Research program. The CTF agreed that it would be worthwhile to invite Dr. Baier to a CTF meeting to hear his perspectives on the issue.

A CTF member said that he was recently approached by a company that expressed interest in using some of the West Valley site land to conduct its work. He said that he told the company representatives that because negotiations were still up in the air, they probably shouldn’t expect to consider this a possibility. DOE suggested that every idea should be considered regardless of

the status of negotiations. NYSERDA agreed, saying it is willing to entertain ideas about other uses of the site land, though they can't promise anything. The CTF member said that businesses don't want uncertainty and if things can't be worked out quickly, they may decide on other avenues. He then offered to get back to this company and have them contact NYSERDA or DOE (or both) to discuss this further.

WVDP Performance Management Plan

Alice Williams, DOE, presented information on the DOE WVDP Performance Management Plan for Accelerating Cleanup (PMP) (presentation handouts were provided to the CTF). She explained that the basic premise of the PMP is to accelerate cleanup by staging work more efficiently. DOE will be conducting facility decontamination work over the next two years with the focus on meeting the NRC criteria set forth in its Final Policy Statement for West Valley, assuming in-place closure of facilities. This will help ensure that decommissioning activities can begin in 2005, as currently planned, in parallel with waste disposition. Successful implementation of this plan would allow DOE to meet its commitments at West Valley by the year 2012, cutting approximately ten years off the current schedule.

A CTF member inquired about funding assurances. DOE responded that the West Valley Demonstration Project is expected to be funded through 2004 at \$90M, with an additional \$2.2M for security, plus NYSERDA's 10 percent. Other factors, such as involvement in military action in the Middle East, could affect funding. DOE anticipates that, at that level of funding, by the end of 2004, the Remote-Handled Waste Facility will be operational and processing waste, corridors will be open for shipping Transuranic and Class B&C wastes to off-site facilities, the spent fuel will be shipped to the Idaho National Engineering and Environmental Laboratory, the Fuel Receiving and Storage facility pool will be empty and decontaminated, the Head-End Cells in the Main Plant Building will be decontaminated to the point of meeting NRC criteria (assuming in-place closure), initial characterization work will be completed, and the draft Environmental Impact Statement (EIS) for Decommissioning will have significantly progressed toward its completion.

A CTF member stated that it was disingenuous for DOE to be initiating plans to be completed by 2012 and at the same time say it has not decided on a preferred alternative for decommissioning. The 2012 date requires predetermination of the EIS outcome, which appears to be in-place closure. The CTF member believes that DOE cannot have it both ways: committing to 2012 and saying all options are still being considered. DOE responded that several assumptions have to be made for planning purposes, adding that a moderate decommissioning approach (i.e., in-place closure) is being used in the plan (neither slowest or fastest). DOE said that in order to plan, they have to start with something, adding that such a plan is meant as a living document subject to adjustments over time.

A CTF member asked about the projected costs for completing the decommissioning work after 2004. DOE said that if they were to implement the PMP, annual funding levels would need to increase gradually to about \$150 M, then would ramp down as they get closer to 2012. DOE

stated that they are now required to develop five-year budget plans as part of a new DOE budget initiative. This five-year budgeting allows for better forecasting of annual funding requests to Congress.

WVDP Project Milestones

Alice Williams, DOE, presented information on the WVDP milestones over the next two years. She said that WVNSCO has been awarded an incentive-based contract extension to complete work through December 2004. The contract will be re-competed through an open bid process for the work starting in 2005. Over the next two years, characterization work will be the single most important work to be completed. DOE believes that if WVNSCO can determine and defend what is here at the site, then DOE has gotten what it needs out of this contract extension. DOE also said that the data generated from the characterization work will feed EIS decision making. The RFP for the post-2004 contract is expected to be released in December of 2003.

A CTF member inquired about the plans for shipping Class B&C wastes within the next two years. DOE responded that getting the Waste Management EIS out soon would help make sure this could happen. The CTF member suggested that if shipping of this waste is being planned, discussions between DOE and SNI on the shipping corridors should start soon. DOE agreed. The CTF member also inquired about the proposed completion of all Waste Incidental to Reprocessing determinations, specifically inquiring about the HLW tank heel. DOE responded that the tank heel WIR will be addressed in the Decommissioning EIS because the U.S. Nuclear Regulatory Commission wanted it that way.

Status of DOE/NYSERDA Negotiations

Paul Piciulo, NYSERDA, reported that there has not been a negotiations meeting between NYSERDA and DOE since October 2, 2002. He added that the next meeting will likely not be held until after the first of the year (2003). A CTF member suggested setting a deadline to complete the negotiations, adding that if NYSERDA and DOE don't have an agreement by that date, they'll agree to pursue a legislative fix. NYSERDA responded that they aren't ready to say they can't come to terms with DOE. He added that the CTF could write to their elected representatives about a legislative fix, if that's what they feel is warranted, but NYSERDA is going to continue to pursue an agreement that ensures DOE stays at the site if they leave waste closed in-place.

A DOE representative said she is not as optimistic as NYSERDA that a complete agreement will be reached, since no significant progress toward resolution on the two primary issues - payment of the high-level waste fee and long-term stewardship - has yet been made. However, though the issues remain difficult, she indicated that it is still important to attempt to reach resolution. With regard to the question of a deadline to complete the negotiations, DOE suggested that the CTF needs to make up its own mind on whether to wait for NYSERDA and DOE to work this out or whether it thinks it is time to try something different. DOE also suggested that the CTF might be interested in reading the legislative history of the WVDP Act, adding that the same issues that

are being discussed in negotiations were discussed before the Act was passed. The legislative history may provide the CTF with an appreciation for how the issues were discussed and the effort that went into getting WVDP Act passed.

A CTF member stated that three years to negotiate an agreement makes him uncomfortable. He suggested the CTF may want to lobby for total cleanup of the site (i.e., unrestricted release) so at least they would be assured the funding up front and not have to worry about a negotiated agreement, one that may never be realized. Another CTF member suggested that if the threat of budget cuts still loomed over the site, as it did earlier in the year, DOE and NYSERDA would likely be at the negotiating table working hard to get an agreement. DOE responded by saying that even when there were greater concerns about potential budget cuts, DOE and NYSERDA had taken an approach to first attempt to reach some agreement on the less difficult issues and were not hopeful, at the time, that agreement on all issues was possible within a short time period. To that, another CTF member suggested that DOE and NYSERDA be more candid about its optimism in reaching an agreement on the two major issues, adding that he thought the CTF's trip to Washington, D.C. last February helped provide some breathing room for the agencies to resolve the difficult issues. Now the CTF is being told they didn't expect those two issues to be worked out. DOE responded that its recollection was that the focus of the CTF's efforts at the time was to discuss all the near-term work that needed to be performed that was not linked to negotiations, and that sufficient funding should be provided to allow the site to conduct work while the longer-term issues were being discussed. Another CTF member asked what were the shorter-term issues DOE and NYSERDA have agreed on. NYSERDA responded that most of the shorter-term issues were based on the work that is currently being planned for over the next two years.

A CTF member said that he could not imagine the amount of pressure it would take to force one of the agencies to step forward and commit to the long-term stewardship responsibilities. He added that, without enough pressure, the negotiations could go on forever. NYSERDA said that if the State-Licensed Disposal Area (SDA) is eventually closed in-place, they are committed to the long-term stewardship responsibilities for that facility. NYSERDA does not, however, believe it should take on long-term stewardship responsibilities for WVDP wastes that are closed in-place by DOE. That would be part of DOE's job. Another CTF member offered that if the NRC truly enforces the License Termination Rule (LTR) at West Valley, it would not likely allow waste to remain closed in-place ~~without long-term stewardship responsibilities worked out~~. A CTF member suggested that resolving the major issues first would seem to be the most prudent approach to take, then the shorter-term issues would be easy to work out. NYSERDA responded that the major issues were really not holding anything up, adding that work is continuing at the site.

DOE stated that it is not always a case of what the Department wants to do, but rather what the Department can do under the legislation that is in place. A CTF member asked if the State could sue the Federal government, to which NYSERDA replied affirmatively, though added that a lawsuit may be best considered as a last resort. Another CTF member reported that he recently came across information that NYSERDA is now seeking to hire a legal consultant for West

Valley, which NYSERDA acknowledged.

A CTF member inquired about the possibility of the federal government taking over the entire site. DOE said that if by some miracle the federal government were to take over the entire site, it would simplify the regulatory framework. NYSERDA stated that there is a mechanism under the Nuclear Waste Policy Act, Part 151, that would allow the federal government to assume ownership of the site. NYSERDA stated that Congress could also amend the WVDP Act. When asked if the federalization of the entire site would solve the issues for New York State, NYSERDA responded affirmatively .

Following up on an earlier suggestion to review the legislative history of the WVDP Act, DOE suggested the CTF invite Stan Lundine to a future meeting to understand better how the Act was passed. DOE said that Mr. Lundine has an interesting perspective on what it took to get the Act passed. A CTF member reported that right after the WVDP Act was passed, two letters were written: one from the Senate and the other from the House. The letters offered **their own particular conflicting** interpretations of the Act. He said that, in general, caution should be used in looking at such post-legislation correspondence as it may not reflect what Congress was thinking in passing the Act. He suggested that if Mr. Lundine were to be invited to talk with the CTF, it would be of benefit to invite others who were involved with the legislation at that time.

A CTF member asked about the status of the facilitator, Barry Lawson, who was hired to help with the negotiations process. NYSERDA indicated that Mr. Lawson is no longer involved in the process. DOE added that mediation had been discussed as a possible tool in helping to resolve the more difficult issues, but movement in that direction had not taken place, so far. Several CTF members expressed their frustration with the amount of time it has taken and the current lack of an agreement, which NYSERDA and DOE acknowledged.

Report from CTF Agenda Work Group

CTF member Gayla Gray provided a report on the recent activities of the CTF Agenda Work Group. She said that the Work Group had met several times since the last meeting in an effort to develop a plan to cover important topics in future meetings. A draft Work Plan for Calendar Year 2003, detailing proposed topics for monthly meetings, was distributed to CTF members to review. Gayla talked about the contents of the draft Work Plan and asked that the CTF members review it prior to the CTF Annual Meeting on January 28, 2003. She said that the Work Plan will be finalized at that meeting.

Reports From CTF Technical Work Group

CTF member Ray Vaughan reported that the CTF Technical Work Group met on December 4, 2002 and discussed three issues. First, the Work Group discussed the waste characterization reports for the SDA and NDA, including the history of the reports and the assumptions used. He added that this topic will be covered in June (as per the draft Work Plan for Calendar Year 2003

mentioned above) so they may have more details to talk about at that meeting. He said the Work Group also briefly discussed erosion. He specifically asked for a copy of the most recent SAIC presentation on erosion given by Joe Price to the CTF (about a year ago). The last topic the Work Group focused on was contamination measured downstream of the WVDP, primarily resulting from pre-project activities.

Observer Comments

Carol Mongerson of the West Valley Coalition on West Valley Nuclear Wastes stated that she thinks the idea of Federal ownership of the site would be one of the worst things that could happen to this area. She added that although it may seem like the easy thing to do to resolve differences between New York State and the Federal government, it would be the quickest way to ensure in-place closure of the wastes, an approach the Coalition is not in favor of.

Next Steps

The CTF will be holding its Annual Meeting on January 28, 2003.

Action Items

Action	Assigned to	Due Date
Provide CTF members with an index of all the documents which have been previously given to the CTF.	Tom Attridge (at 10/29/02 CTF Mtg.)	01/28/03
Provide CTF members with a bound copy of all letters the CTF has written since its inception.	Tom Attridge/Sonja Allen	01/28/03
Follow-up with DOE-HQ regarding status of \$40K funding for economic redevelopment study.	Alice Williams	
Invite Dr. Robert Baier to a future CTF meeting to talk about economic redevelopment issues.	Nevella McNeil	
Provide CTF with legislative history documentation for WVDP Act.	John Chamberlain	01/28/03
Facilitate communication between NYSERDA/DOE and the company that is currently interested in using NYSERDA property for business purposes.	Mark Mitskovski	
Set up discussions between DOE and SNI regarding the shipping corridors for Class B&C and TRU wastes.	Alice Williams	
Provide a copy of the most recent SAIC presentation on erosion to CTF Technical Work Group members.	Tom Attridge/Sonja Allen	01/28/03

List of Documents Distributed at Meeting

- ▶ Meeting Agenda
- ▶ Letter from CTF to Western New York Congressional Representatives, Re: Re-Development Strategy for West Valley Area (October 29, 2002)
- ▶ Copy of a business card: Robert E. Baier, Ph.D., Industry/University Cooperative Research Center for Biosurfaces
- ▶ WVDP Performance Management Plan for Accelerating Cleanup - PREDECISIONAL DRAFT (July 23, 2002)

- ▶ Presentation Slides - Draft WVDP Performance Management Plan
- ▶ Letter from NYSERDA to DOE, Re: Comments on WVDP Performance Management Plan for Accelerating Cleanup (August 19, 2002)
- ▶ Letter from DOE to NYSERDA, Re: Response to NYSERDA's comments on WVDP Performance Management Plan for Accelerating Cleanup (September 20, 2002)
- ▶ Handout - WVDP Project Milestones Chart
- ▶ CTF Draft Work Plan for Calendar Year 2003 (December 10, 2002)
- ▶ Proposed CTF Meeting Topics for Calendar Year 2004 (December 10, 2002)
- ▶ Memorandum of Understanding Between U.S. Nuclear Regulatory Commission and U.S. Environmental Protection Agency: Consultation and Finality on Decommissioning and Decontamination of Contaminated Sites (November 7, 2002)
- ▶ Table of Contents: List of WVDP Documents available at Public Reading Rooms (October 19, 2002)

For copies of any of the above documents, please contact Sonja Allen at (716) 942-2152.