

To: West Valley Citizen Task Force
From: Melinda Holland
Subject: Summary of January 28, 2003, CTF Meeting
Date: February 14, 2003

Next Meeting

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

Date: **Wednesday, February 19, 2003**
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 this summary, please contact Melinda Holland at (828) 894-5963, 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), Joe Patti, Paul Piciulo, Bill Kay, John Pfeffer, Mike Hutchinson, Pete Scherer, Ray Vaughan, Warren Schmidt, T. J. Jackson (for Alice Williams), and Eric Wohlers.

CTF Members not attending (nor represented by an alternate) were: Tim Siepel, John Beltz, and Mark Steffan.

Agency Attendees

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

By Teleconference: Jeanette Eng, U.S. Environmental Protection Agency (EPA); Paul Merges, Tim Rice, and Barbara Youngberg, NYSDEC; Anna Bradford, U.S. Nuclear Regulatory Commission (NRC).

Meeting Highlights

Topics discussed included:

- ▶ Discuss the Draft CTF 2003 Work Plan and Schedule
- ▶ Review of CTF Achievements and Areas for Improvement
- ▶ Discuss CTF Membership
- ▶ Review Strategy for Continued Congressional Involvement

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 Melinda Holland reviewed the agenda.

Paul Piciulo announced that William Flynn, NYSERDA's President, has been appointed by the Governor to become Chairman of the New York State Public Service Commission (PSC). As PSC Chairman, Mr. Flynn will also serve on NYSERDA Board of Directors. Mr. Flynn's replacement has not yet been announced.

Ray Vaughan mentioned that the Technical Work Group met last week to discuss the historical waste characterization data on the State-Licensed Disposal Area (SDA) and the NRC-Licensed Disposal Area (NDA). The Work Group feels that there are significant differences in the estimated amounts of radioactivity in the SDA and NDA based on the several reports they reviewed. The Task Force will be discussing these issues at its June meeting based on the proposed CTF Work Plan for 2003. A NYSERDA representative offered to share the September 2002 SDA Characterization Report with the Technical Work Group so they could review the most recent information. The Work Group has also discovered that other federal agencies (including NRC) are using probabilistic risk assessment in some of its evaluations, and the Work Group will provide more information on this subject to the CTF at a future meeting.

Status of the Negotiations

Paul Piciulo, NYSERDA, explained that his agency believes that the negotiations with DOE have reached impasse. Dr. Piciulo explained that DOE has stated that they do not feel they have legal authority to negotiate on the most significant issues to NYSERDA, which includes long-term stewardship. Dr Piciulo also stated that NYSERDA will pursue all other options to assure that DOE meets its responsibilities at West Valley.

Draft 2003 CTF Work Plan

The Agenda Work Group had presented the draft 2003 CTF Work Plan at the December meeting (copy attached) so the CTF members were prepared to talk about the plan. The Task Force began its discussion of the draft Work Plan by asking the regulatory agency representatives if they could participate in the proposed February meeting which was to focus on regulatory issues. The NRC representative stated that her agency would not be able to participate on such short notice, and offered to meet with the CTF in May to discuss all regulatory issues relating to NRC, including the implementation plan for the NRC Policy Statement. She stated that they hope to have another meeting of all the regulatory agencies on the Regulators Communication Plan before May. NRC proposed to announce the May meeting (with the CTF) in the Federal Register. CTF members expressed concern that there are too many NRC-related issues to cover in one evening and that they would prefer to address them as outlined in the schedule of meetings contained in the draft 2003 CTF Work Plan.

In response to a CTF request, NYSDEC stated that their representatives could participate in a February 19 meeting to discuss its RCRA requirements for the site and provide a brief "RCRA primer" presentation. A NYSDEC representative mentioned that they will also explain more about its recent letter to DOE on the closure of the vitrification facility. An EPA representative stated that agency travel restrictions make it difficult for them to participate in person, but participation by teleconference is workable. A meeting date was set for February 19, 2003.

CTF members provided additional feedback on the draft 2003 CTF Work Plan as summarized below:

- ▶ The Draft Waste Management EIS should be scheduled for March;
- ▶ It is difficult to have a meaningful discussion of long-term stewardship when it is not clear who will be responsible for stewardship at West Valley;
- ▶ Many of the stumbling blocks at the site are regulatory in nature, thus the CTF needs to hear more on these issues;
- ▶ Regulators and site managers need to explain how all the pieces fit together, what the regulators expect, and how the issues and disagreements will be resolved;
- ▶ NRC participation is needed at the April meeting which will include a primer on "radiation" and potentially affected populations;
- ▶ Don't go back over topics the CTF has already covered, focus on topics that help move site clean up forward;

- ▶ Education of new members and re-education of ‘old’ members is important and necessary to prepare the CTF to review the technical/regulatory components of the decommissioning EIS and supporting reports;
- ▶ Leave time at each meeting to deal with current issues which come up;
- ▶ The WVDPA act language on waste disposal and “applicable license requirements” can be covered at the February meeting;
- ▶ Take each of the 12 waste management areas and have meetings on how the various regulations apply to closure of each one;

The Agenda Work Group agreed to hold another meeting via conference call to incorporate suggestions and develop a revised draft of the 2003 CTF Work Plan to be distributed at the next Task Force meeting.

2002 Accomplishments of the Task Force

As part of the CTF Annual Meeting, Ms. Holland reviewed the accomplishments of the CTF in 2002:

- ▶ Future Site Use Work Group acted in support of the Economic Re-Development Study;
- ▶ Formed the Agenda Work Group, which developed a draft 2003 CTF Work Plan;
- ▶ Formed a Technical Work Group, which began reviewing technical documents;
- ▶ Performed oversight of and took actions regarding the NYSERDA - DOE negotiations;
- ▶ Worked with the WNY Congressional Delegation, including:
 - February 13, 2002, meeting with the Western New York Congressional delegation in Washington, DC.;
 - In August, Congressional staff attended the CTF meeting; and
 - Wrote numerous letters.
- ▶ Drafted comments on DOE’s Accelerated Cleanup Plan for West Valley;
- ▶ Reviewed Regulator’s Communication Plan; and
- ▶ Reviewed and commented on NRC Policy Statement.

CTF Membership

The current CTF ground rules provide that “members who fail to attend half of the scheduled meetings in a calendar year may be removed from the CTF by consensus of CTF members present at the first scheduled meeting of the calendar year.” Ms. Holland reviewed attendance records for the year and announced that Mark Steffan failed to attend at least half of the scheduled meetings in 2002. The CTF agreed that Ms. Holland should send a letter to Mr. Steffan informing him of his removal from the Task Force. She was also asked to search for a replacement from the Town of Concord or Springville government.

Congressional Involvement

Next, the CTF discussed the ways and means of increased Congressional involvement with West Valley issues, particularly the stalled negotiations. Discussion is summarized below:

- ▶ CTF must be clear on what actions they want the delegation to take;
- ▶ Local government elected bodies should pass resolutions to be sent to the Congressional delegation;
- ▶ The first step is to notify the delegation that DOE and NYSERDA have reached impasse in their negotiations, then ask them for specific help in resolving the impasse;
- ▶ Seek resolution of the main issue in dispute: what Congress intended in certain provisions of the West Valley Demonstration Project Act (WVDPA);
- ▶ Interpretation of relevant provisions of the Nuclear Waste Policy Act is also needed;
- ▶ Ask Congressional bill-drafting experts to help interpret the language and legislative history of the WVDPA;

- ▶ A CTF committee could work with Congressional staff to develop a consensus report on the interpretation of the Act as its goal (with the assistance of a lawyer);
- ▶ Legislation or litigation offer the only binding resolution on the differences in interpretation - both carry significant risks;
- ▶ If legislation is to be proposed, the CTF should meet with the delegation about its contents;
- ▶ Review the GAO report on West Valley, which suggested legislative solutions;
- ▶ Stan Lundine, and others who were involved during passage of the WVDPA, could speak to the CTF;
- ▶ Investigate environmental justice/civil rights or Superfund vehicles to move resolution forward; and
- ▶ Ask Congressional representatives to talk to senior DOE management.

The Task Force agreed to draft a letter to the Congressional delegation informing them that the DOE/NYSERDA negotiations have reached impasse and to ask for help. Eric Wohlers agreed to prepare the first draft for CTF review. The CTF agreed to revisit these issues at the February 19 meeting.

Observer Comments

A representative for NYSDEC stated that the letter on the RCRA Closure Plan for the Vitrification Facility was a status report. The representative stated that NYSDEC and DOE need to have additional discussions on the Closure Plan for the Vitrification Facility. An observer commented that the CTF should find out who has authority to decide the issues at impasse and get them to make a decision. Another observer reminded the CTF that they represent the community and its citizens - need to focus on what you want for West Valley.

Next Steps

The CTF will hold its next meeting on February 19, 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 copies of the recent SDA Characterization Report to the Technical Work Group.	Tom Attridge	02/19/03
Agenda Work Group to schedule conference call and revise the 2003 CTF Work Plan	Melinda Holland	02/18/03
Send letter to Mark Steffan regarding his removal from the Task Force	Melinda Holland	02/11/03
Interview candidates to replace Mark Steffan	Melinda Holland	02/19/03
Draft letter to Congressional delegation	Eric Wohlers	02/11/03
CTF members send Melinda Holland the best dates for scheduling monthly CTF meetings	CTF members	02/19/03

List of Documents Distributed at Meeting

DOCUMENT SUBJECT	DOCUMENT DESCRIPTION	GENERATED BY - DATE (if applicable/known)
12/10/02 CTF Meeting	Meeting Summary (9 pp)	Tom Attridge (NYSERDA) - 12/20/02
1/28/03 CTF Meeting	Meeting Agenda - Revised (1 pg)	Melinda Holland - 1/27/03
CTF Draft Work Plan for 2003	Monthly Meeting Schedule - covering various topics the CTF would like to discuss in 2003 (4 pp)	Melinda Holland - 12/10/02
Index of Documents Distributed at CTF Meetings	Index - covering calendar years 1997 and 1998 (21 pp)	Melinda Holland
RCRA Stable-State Hazardous Waste Closure Plan	Letter (1 page letter with 1 page attachment)	Stephen Hammond (NYSDEC) to Alice Williams (DOE) - not dated
Draft DOE Policy - Cleanup Driven by Risk- Based End States	Letter - soliciting public comments on policy (2 pp)	Alice Williams (DOE) to CTF Members - 01/03/03
Development of Risk- Based End State Visions	Guidance Document - predecisional draft (10 pp)	DOE - 11/29/02
Cleanup Driven by Risk- Based End States	Draft Policy Statement (3 pp)	DOE
Draft DOE Policy - Cleanup Driven by Risk- Based End States	Letter - comments on draft Policy Statement (1 page letter with 2 pg attachment)	Paul Piciulo (NYSERDA) to David Geiser (DOE) - 01/21/03
CTF Correspondence - January 1998 - October 2002	Compilation of Letters - sent to various individuals (80 pp)	WVDP
Budget Support for West Valley Demonstration Project	Letter (6 pp)	Bill Flynn (NYSERDA) to WNY Congressional Delegation - 12/12/02
Bill Flynn Leaving NYSERDA	Press Release - describing Bill Flynn's departure from NYSERDA to become Chairman of NYS Public Service Commission (1 pg)	State of New York Executive Chamber - 01/24/03
Various Estimates of Radioactivity in NRC- Licensed Disposal Area and State-Licensed Disposal Area	Table - showing estimates from various reports published in the recent past (1 page)	Ray Vaughan

DOCUMENT SUBJECT	DOCUMENT DESCRIPTION	GENERATED BY - DATE (if applicable/known)
Use of Probabilistic Risk Assessment in Plan-Specific, Risk-Informed Decision-making	Standard Review Plan (3 pp)	NRC - 11/02
Update of Analysis of Long-Term, Unmitigated Erosion for the West Valley EIS	Presentation (11 pp)	Joe Price (SAIC) - 09/18/01

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