

To: West Valley Citizen Task Force  
From: Melinda Holland, Facilitator  
Subject: Summary of the October 21, 2003, Meeting  
Date: November 13, 2003

### **Next Meeting**

The next Citizen Task Force meeting will be held as follows:

Date: Tuesday, November 18, 2003  
Time: 7:00 - 9:30 p.m.  
Location: West Valley Demonstration Project Site  
10282 Rock Springs Road  
West Valley, NY

**NOTE:** All participants must bring photo identification to enter the site.

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: Elizabeth Lowes, Tim Siepel, Pete Scherer, Leonore Lambert, Bill Kay, Warren Schmidt, Paul Piciulo, Mark Mitskovski (for Larry Rubin), Bill King, Nevella McNeil, Gayla Gray (for Lana Redeye), John Beltz, Ray Vaughan, and Eric Wohlers.

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

### **Agency Attendees**

Peter Smith, Acting President, NYSERDA; Hal Brodie, NYSERDA; Bob Warther, Manager, DOE Ohio Field Office

### **Regulatory Agency Attendees**

Chad Glenn and Claudia Craig, NRC (via phone) and Denise D'Angelo, New York State Department of Environmental Conservation (NYSDEC)

### **Congressional Staff Attendees** (via telephone)

Scott Sroka, Senator Schumer's office

### **Meeting Highlights**

- ▶ Presentations on DOE's Preferred Alternative for Decommissioning;
- ▶ Presentations on NYSERDA's Vision for the site; and
- ▶ Discussion of Congressional Developments and Next Steps.

### **Meeting Summary**

Tom Attridge, NYSERDA, reviewed the documents distributed at this meeting, then Melinda Holland reviewed the agenda.

## **DOE's Preferred Alternative for Decommissioning**

Dan Sullivan, DOE, gave a presentation on the concept and status of the Decommissioning Environmental Impact Statement (EIS). Bob Warther, DOE Ohio Field Office Manager, followed with a presentation on DOE's path forward and preferred alternative for evaluation during the EIS process. Mr. Warther described DOE's preferred alternative as including additional decontamination of the Process Building. The Process Plant cells would be decontaminated to remove equipment and components but the building would remain in place to continue storing the high-level waste (HLW) canisters. Once the repository is available the canisters would be shipped there for disposal and the Process Building would be removed. Mr. Warther described this decommissioning approach as "SAFSTOR-like" in that the project facilities would be placed in a low-cost, low-maintenance mode following Process Plant decontamination while awaiting repository availability. DOE's preferred final decommissioning endstate is restricted site release pursuant to NRC requirements. Elizabeth Lowes, DOE, presented a comparison of the DOE preferred alternative and the CTF's recommendations report.

## **NYSERDA's Vision**

Peter Smith, NYSERDA Acting President, outlined his agency's vision for the site and identified areas of disagreement with DOE over their preferred alternative approach. He also explained that NYSERDA plans to continue active management of the State-Licensed Disposal Area (SDA) unless problems arise which would require another approach. Mr. Smith also shared that the State of New York will file a brief in Federal Court in support of the Natural Resources Defense Council (NRDC) and states which have sued DOE over its Waste Incidental to Reprocessing (WIR) policy. Paul Piciulo, West Valley Site Management Program Director, NYSERDA, presented an overview of NYSERDA's cleanup vision. This vision includes decommissioning all Project facilities without creation of any new disposal areas; and long-term management of the existing disposal areas (SDA and the NRC-Licensed Disposal Area [NDA]).

## **CTF Discussion on the Preferred Alternative/Vision**

In response to a Task Force question about the impact of DOE's preferred alternative on future employment at the site (both before and after reaching the SAFESTOR-like condition), a DOE representative responded that he did not have that information, but would provide it to the CTF<sup>1</sup>. Another CTF member questioned whether DOE would be willing to accept long-term stewardship (LTS) responsibilities for the NDA as proposed by NYSERDA. A DOE official responded that they interpret the WVDP Act as not authorizing DOE to decommission or perform LTS for the NDA as it was a pre-existing, operating disposal area. NYSERDA representatives disagreed with DOE's interpretation stating that although DOE is not required, under the WVDP Act, to decommission the waste placed in the NDA prior to the Act, they are required to decommission waste disposed of as part of the Project.

A Task Force member stated that he agreed with NYSERDA that DOE's proposal would result in creation of a new disposal area on-site which must comply with applicable license requirements. He also noted that while the community has not yet identified a desired future use for the site, DOE has done little to assist this process. A DOE representative responded that the prior DOE site director obtained a \$40,000 grant for a future use study, but because the site is not a Defense site, it is not eligible for the re-use funds available to other DOE facilities. Another DOE representative urged the community to take a grass-roots approach to developing agreement on a preferred future use for the site.

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<sup>1</sup>With regard to the CTF's request for employment estimates beyond 2004, specific work plans for 2005-2008 are still under development. The number of employees needed during these years will be matched to the work scopes and will necessarily be within the available funding. It is reasonable to expect that given the type and amount of work currently projected that a smaller work force would be appropriate.

A CTF member listed a number of concerns with DOE's proposed preferred alternative, including: cleanup is needed as soon as possible and should remove as much contamination as possible; the existing knowledgeable staff should be retained and used to accomplish cleanup; DOE should not use the "end-state" process and risk-assessment without adequate information; and that DOE should accept LTS responsibility for the NDA. He also stated that Erie County may challenge DOE if DOE does not conduct a complete cleanup.

In response to a question about DOE's plans to close the HLW Tanks in-place with grout, a DOE representative explained that DOE's goal is to close these tanks under the Nuclear Regulatory Commission (NRC) criteria for license termination with restrictions. Once DOE meets those criteria, they interpret the WVDP Act and the Cooperative Agreement with NYSERDA to allow DOE to return the land to New York State as the landowner. She acknowledged that there are issues that need to be resolved (e.g., completion of the EIS, resolution of the WIR issue) before this occurs. Until these issues are resolved, DOE plans to follow a SAFSTOR-like approach.

Another DOE representative clarified that DOE plans to remove as much from the site as they are legally allowed to do. He noted that the vitrified HLW glass canisters cannot even get in line for shipment to the Yucca Mountain repository until the HLW Fee is paid; who pays this fee is one of the issues in dispute between DOE and NYSERDA. In response to a question, he clarified that the fee is approximately \$230 million. DOE and NYSERDA representatives explained the legal complexities of their differing interpretations of the Nuclear Waste Policy Act which is the basis for payment of the HLW fee; each agency believes that the other agency is responsible for paying the fee.

A Task Force member commented that now the CTF is discussing the same issues that DOE and NYSERDA have been unable to agree on for years. The only solutions he sees are legislation to clarify legal responsibilities between the agencies and/or litigation.

In response to questions about the schedule for the EIS for Decommissioning and Long-Term Stewardship, a DOE representative explained that they are working on the schedule with the regulatory agencies and hope the draft EIS can be released in the fall of 2005.

A CTF member stated that since the site is not suitable for a new low-level waste (LLW) disposal area, it should not be suitable to leave HLW residues grouted in the tanks. She reminded DOE that the CTF has written letters on both the WIR and Risk-Based End States policy implementation issues detailing these and other concerns. She suggested that the HLW canisters be moved from the Process Building into the decontaminated Vitrification Cell for storage, allowing complete decontamination and removal of the Process Building. She stated that removal of the Process Building would also allow cleanup of the source of the North Plateau groundwater plume. A DOE representative responded that the Process Building is adequate for storage of the HLW canisters to protect health and safety and the environment, and DOE prefers not to add the risk to workers of moving the HLW canisters again.

A CTF member asked how NYSERDA's participation in legal action would speed up the EIS process. A NYSERDA representative responded that it would not, the point of the legal action is to prevent DOE from redefining HLW. Another Task Force member questioned how clean the buildings would be before they are reduced to rubble and whether they would be clean enough for reuse. A DOE representative responded that they will remove all that can be removed but there may be a small amount of residual contamination which cannot be removed, which is why they are recommending rubbleizing the buildings and filling with grout in an integrated closure with the HLW Tanks. He also stated that DOE will meet NRC requirements for this process, and he thought there would be less than one mrem/yr. above the cap, which might require deed restrictions regarding future use of the area. He also stated that NRC will be looking at this and DOE will have to meet NRC requirements for this approach. He thought that the receptor doses would be small, but might require deed restrictions regarding future use of the area. The CTF was reminded that the performance assessment calculations are still a work in progress and that the EIS needs to present the whole analysis.

A Task Force member noted that the impacts of erosion were not mentioned tonight, but those impacts must be taken into account in the License Termination Rule (LTR) calculations. He also stated that the LTR may prevent leaving the NDA and SDA in place as it requires combining all sources of radioactivity on the site in calculating exposure which may make the numbers too high to qualify for license termination. A NYSERDA representative explained that they also have the option of a partial site release with restrictions. He also explained that removal of the disposal areas would cost several billion dollars, adding that NYSERDA will maintain active erosion controls at the SDA for as long as necessary. A CTF member noted that may be over 1,000 years, which is longer than any civilization has endured.

A CTF member urged DOE to work to rebuild lost trust with the community and to meet with local officials more often.

### **Legislative Update**

Scott Sroka of Senator Schumer's office, stated that he would ask the Senator's Washington D.C. staff to get back to the Task Force with an update on the status of the Energy Bill and the West Valley amendment. He said that the latest word he had was that the West Valley language was being taken out of that Bill. He also stated that Senator Schumer is working on the WIR issues and is aware of the CTF's concerns on that issue.

The CTF expressed its regrets that Elizabeth Lowes is leaving West Valley and commended her for her past involvement with the Task Force.

### **Observer Comments**

An observer noted that none of the proposals tonight will prevent potential public exposure and that the cleanup decisions will be based on estimates derived from computer modeling which is not based on reality. She also noted that the proposed Energy Bill which provides for new nuclear power/ reprocessing plants, is an indication that Congress does not seem to have learned anything from the past problems with reprocessing at West Valley. She stated that New York should never have released Getty from responsibility for the site in the 1980s. She stated that, under DOE's regulations, some of the wastes (concrete, etc.) from West Valley would be considered below regulatory concern and may be sent to unlicensed disposal sites as uncontaminated.

Another observer asked how long the public comment period will be for the Decommissioning EIS and DOE explained that it will be six months.

### **Next Steps**

Future CTF meetings:

- ▶ November 18 - Risk assessment, performance assessment
- ▶ December 16 - Long Term Stewardship and Risk-Based End States
- ▶ The CTF's annual meeting is tentatively scheduled for January 14, pending confirmation with absent CTF members.

Melinda Holland will schedule a conference call for the Agenda Work Group to draft a 2004 CTF Work Plan.

### **Action Items**

Action	Assigned To	Due Date
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Provide an estimate of the impact of DOE's preferred alternative (both before and after reaching the SAFESTOR-like condition) on future employment at the site.	DOE	Complete
Provide an update on the current status of the West Valley amendment to the Energy Bill.	Scott Sroka	11/18/03
Schedule a conference call for the Agenda Work Group.	Melinda Holland	11/7/03
Confirm January 14 as the CTF Annual Meeting date.	Melinda Holland	11/18/03

### Documents Distributed

<b>Document Description</b>	<b>Generated by–Date (if applicable/known)</b>
Revised Meeting Agenda	10/20/03
Presentation “Decommissioning EIS Status,” by Dan Sullivan, DOE	10/21/03
Presentation “DOE Strategic Path Forward - End States,” by Bob Warther, DOE Ohio Field Office Manager	10/21/03
Presentation “NYSERDA Cleanup Vision,” but Paul Piciulo, NYSERDA	10/21/03
NYSERDA Press Release	10/21/03
Summary of the 9/23/03 CTF Conference call	10/21/03
Letter from the Western NY Congressional Delegation to Senator Pete Domenici on DOE's WIR legislation	10/8/03
WVNSCO memoranda responding to CTF questions raised at the September meeting	10/6/03, 10/2/03
Article from <i>Journal of Health Physics</i> “Very High Background Radiation Areas of Ramsar, Iran”	January 2002
Letter from WVNSCO to Alice Williams, DOE regarding 2003 ALARA performance goals	12/2/02
DOE Fact Sheet “WVDP - Approach to Project Completion”	10/15/03
Letter from WV CTF to Representative Dennis Hastert regarding DOE proposed legislation on WIR	9/18/03
Letter from WV CTF to David Geiser, DOE regarding Draft Implementation Plan for DOE's Risk Based End States Policy	9/26/03
Letter from NY Attorney General to Senator Pete Domenici regarding DOE's proposed WIR legislation	10/2/03
Summary of the 9/17/03 CTF meeting	10/8/03