

To: West Valley Citizen Task Force  
From: Melinda Holland, Task Force Facilitator  
Subject: Summary of the May 19, 2004, Meeting  
Date: June 9, 2004

### **Next Meeting**

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

Date: Wednesday, June 16, 2004  
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: Pete Scherer, Paul Piciulo, T. J. Jackson, Tim Siepel, Mark Mitskovski (for Larry Rubin), Ray Vaughan, Mike Hutchinson, Lee Lambert, Rev. Bill Kay, Bill King, Joe Patti, Warren Schmidt, and John Pfeffer.

CTF Members not attending (nor represented by an alternate) were: Eric Wohlers, Gayla Gray (for Lana Redeye), Ron Buszak, John Allan, and Nevella McNeil.

### **Agency Attendees**

Chad Glenn, Robert Johnson, NRC; Jeanette Eng, Sophia Cliffe, EPA; and Denise D'Angelo, NYSDEC.

### **Meeting Highlights**

- ▶ DOE's Proposed Approach for Public Involvement in the Development of the Decommissioning Plan;
- ▶ CTF Resolutions and Outreach;
- ▶ Proposed Legislative Language; and
- ▶ Future Meeting Topics, Observer Comments, and Next Steps.

### **Meeting Summary**

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

*DOE's Proposed Approach for Public Involvement in the Development of the Decommissioning Plan*

John Chamberlain, WVNSCO, gave a presentation on DOE's proposed approach for public involvement in the development of the Decommissioning Plan (DP) under NRC's License Termination Rule. He explained that DOE and WVNSCO are developing a brochure to describe the DP process and will share it with the CTF and public mailing list as soon as it is available. A CTF member asked what percentage of public comments, both nationally and at West Valley, result in a change to the DP or other similar documents. A WVNSCO representative stated that he did not know those statistics, and that public involvement for the DP is different from the Environmental Impact Statement (EIS) process. There is no scoping process for the DP. The West Valley site is one of the first sites to use the NRC DP process for public involvement at a site proposing to use institutional controls to restrict the future use of the site. DOE's focus for this DP is demonstrating the viability of license termination with restricted access. DOE's goal is to submit the DP to NRC by the end of 2004.

A Task Force member asked what was the working definition of institutional controls for the DP process and whether it included engineered barriers, erosion controls, or deed restrictions. He stated that the NRC regulations say that the licensee will propose the type of institutional controls to be used and that an evaluation must be made of whether the proposed institutional controls meet NRC's expectations. He asked that DOE provide adequate detail on the nature of the institutional controls to be proposed at West Valley in the DP overview so the public can provide meaningful comments. A WVNSCO representative noted the request and stated that they will be meeting with interested organizations to obtain their comments.

Another CTF member asked for a definition of "undue burden on the local community" as that phrase is used in NRC's regulations. A WVNSCO representative responded that there is no set definition, and that undue burden is based on the situation of each affected community. During the public involvement process, DOE plans to talk to the impacted communities about what constitutes an undue burden to that community. In response to a CTF member question on what NRC has done when a community asserts that it will suffer an undue burden, an NRC representative stated that they have no data on this because this is one of the first sites to consider this approach. However, DOE must explain how they considered the community's comments in the DP. A CTF member stated that the site and the uncertainty surrounding its cleanup and closure is already having a serious negative economic impact on the Town of Ashford.

Task Force members stated that they depend on NYSERDA to act in a "watchdog" role at the site and inquired why NYSERDA was not more involved in developing the DP. A NYSERDA representative responded that at the first meeting with NRC on the DP, his agency was kept in a stakeholder/observer role. Since then, DOE offered NYSERDA a review role but NYSERDA

has serious reservations about accepting this role. NYSERDA's reservations are focused on the fact that DOE has selected a Preferred Alternative before the technical analysis and stakeholder input has been completed for the EIS. It is not clear to NYSERDA how the DP and the EIS will be integrated. NYSERDA also disagrees with the preferred alternative selected by DOE. A DOE representative stated that his agency believes that DOE has the responsibility to develop the DP per the WVDP Act and acknowledged that it would be very difficult to do in partnership with NYSERDA as the two agencies disagree on the preferred alternative.

In response to a CTF member question on how the DP can be developed prior to completion of the EIS, a DOE representative stated that the DP is an evaluation of how the preferred alternative can meet NRC's License Termination Rule criteria. The DP will be submitted to NRC as part of an iterative process which may take two years to complete. NRC will conduct its own public involvement process after it receives the DP. An NRC representative stated that the EIS process must precede their decision making on the DP.

In response to a question on who will meet the financial assurance requirement of the NRC regulations, an NRC representative explained that DOE is acting in a role similar to a licensee under their regulations until NYSERDA's licence is re-instated. Site stewardship responsibilities including financial assurance will be addressed in the EIS.

A CTF member asked which agency will be implementing the institutional controls for the purpose of the DP. A WVNSCO representative stated that the DP is "government neutral" on the issue of who will implement the institutional controls, though it is assumed to be either NYSERDA or DOE. The Task Force member noted that this will make it difficult for the public to comment on this issue. Another CTF member stated that he did not believe that NYSERDA has adequate financial resources to guarantee long-term maintenance of institutional controls. A NYSERDA representative stated that his agency is not willing to be the guarantor of DOE's closure alternative which leaves waste at the site. An NRC representative noted that NYSERDA will have long-term responsibility under its NRC license which is now in abeyance unless other arrangements are established. He also stated that the DP and the EIS are linked and that the DP may need to be modified based on the final EIS decision on long-term stewardship.

A Task Force member asked how NRC can accept the DP with a preferred alternative which proposes to leave high-level waste in the tanks, given the court ruling that makes this illegal. An NRC representative responded that he could not answer the question without an NRC attorney, but he expects that issue to be addressed and resolved during the EIS process.

A CTF member asked that the maps used to show the waste management areas also indicate how much waste is being proposed to be left in place. He also suggested that the agencies use tonight's CTF discussion as part of the CTF's comments on the DP.

Task Force members expressed their frustration that the agencies appear to be ignoring the CTF's recommendations and comments in selecting the preferred alternative.

### *CTF Resolutions and Outreach*

Mike Hutchinson distributed a copy of a draft press release he prepared and asked CTF members to provide comments to Melinda Holland by May 25th. A CTF member suggested adding language on the need for adequate funding to complete the cleanup work and to retain the skilled work force at the site.

John Pfeffer shared a draft cover letter to accompany the CTF Resolution adopted at the April meeting. CTF members noted that the Ashford Town Board had passed a similar resolution which should be attached to the CTF Resolution for mailing. A copy of the Resolution sponsored by NYS Senator Pat McGee and adopted by the legislature was also circulated. CTF members expressed gratitude to Senator McGee for moving this resolution forward. John Pfeffer agreed to attempt to acquire Senator McGee's mailing list to use for distribution of the CTF's resolution. He also offered to prepare a final draft cover letter incorporating CTF comments. CTF members provided suggestions for groups to add to the CTF's mailing list, including the eight WNY counties, WNY municipalities, the Fire Districts, Seneca Nation, School Boards, Ontario & Toronto governments, Great Lakes United, Friends of the Buffalo River, Sierra Club, and other Non-Governmental Organizations (NGOs).

The CTF also discussed the possibility of holding a press conference but the idea was tabled for future consideration when a CTF volunteer for media coordination is found.

John Pfeffer explained the information he found on possible costs of developing and hosting a CTF web site. John also offered to keep the site up to date after it is created. When asked about funding for the web site, a DOE representative responded that he would consult with DOE management and reply to the CTF at its next meeting. He noted that 73% of the costs related to the CTF are paid by DOE and 27% is paid by NYSERDA. NYSERDA offered to contribute its share of the costs of the web site but asked that the CTF obtain 3 price quotes.

### *Proposed Legislative Language*

A NYSERDA representative stated that they have drafted legislative language which is being reviewed within the agency and will be sent to the Governor's office for review. CTF members asked that NYSERDA provide the CTF with this language prior to the June 16<sup>th</sup> CTF meeting to allow time for review.

### *Future Meeting Topics, Observer Comments, and Next Steps*

The Southern Tier West consultant's participation in a CTF meeting was moved to the July 21<sup>st</sup> meeting. The June 16<sup>th</sup> meeting will focus on the Decommissioning Plan and NYSERDA's draft legislative language. Melinda Holland will prepare and circulate a revised CTF 2004 Work Plan.

An observer who is a member of the newly formed Cattaraugus Creek Watershed Task Force

asked about the process of becoming a CTF member. He also stated that releasing a DP now makes the EIS process seem meaningless. He suggested that the CTF add additional background information to its Resolution cover letter for those who are not familiar with the issues and that it be distributed to anti-nuclear organizations. He also recommended that a list of the groups which have passed similar resolutions be attached to the letter.

A NYSERDA representative mentioned that a SPDES permit for the SDA is out for public comment and made copies available.

**Action Items**

<b>Action</b>	<b>Assigned To</b>	<b>Due Date</b>
Provide comments on the draft press release to Melinda Holland	CTF	5/25/04
Prepare final draft cover letter for the CTF Resolution	John Pfeffer	5/25/04
Develop mailing list for the CTF Resolution	John Pfeffer & CTF	5/31/04
Investigate DOE funding part of CTF web site costs	DOE	6/16/04
Prepare and circulate a revised CTF 2004 Work Plan.	Melinda Holland	6/16/04

**Documents Distributed**

<b>Document Subject</b>	<b>Document Description</b>	<b>Generated by–Date (if applicable/known)</b>
Draft Agenda	Agenda	Holland; 5/19/04
4/21/04 CTF Meeting Summary	Summary	Holland; 5/12/04
WVDP Decommissioning Plan Public Involvement	Presentation	Chamberlain, 5/19/04
WNY Web Sites Development Services	Price Quote & Description	Pfeffer; 5/19/04
Draft CTF Press Release	Press Release	Hutchinson; 5/19/04
Draft CTF Cover Letter	Letter	Pfeffer; 5/19/04
CTF Resolution 1-2004	Resolution	5/19/04

<b>Document Subject</b>	<b>Document Description</b>	<b>Generated by–Date (if applicable/known)</b>
Town of Ashford Resolution	Resolution	5/12/04
NYS Senate Resolution	Resolution	5/11/04
Governor Pataki’s letter to Chairman Warner	Letter	Gov. Pataki; 5/6/04
Revised CTF 2004 Workplan	Work Plan	Holland; 5/19/04
ECA Bulletin, April ‘04	Bulletin	ECA; May, 2004
Sen. Schumer’s Press Release	Press Release	Sen. Schumer’s Office; 5/6/04