

To: West Valley Citizen Task Force
From: Melinda Holland, Task Force Facilitator
Subject: Summary of the July 21, 2004, Meeting
Date: August 12, 2004

Next Meeting

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

Date: Wednesday, August 18, 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, Bill King, Eric Wohlers, Gayla Gray, Joe Patti, Warren Schmidt, and John Pfeffer.

CTF Members not attending (nor represented by an alternate) were: Rev. Bill Kay, Ron Buszak, John Allan, and Nevella McNeil.

Agency Attendees

Anna Bradford, NRC; and Hal Brodie, NYSERDA.

Meeting Highlights

- ▶ Review of CTF Groundrules;
- ▶ Update on status of DOE's Decommissioning Plan development process;
- ▶ NYSERDA's Proposed Legislative Language;
- ▶ CTF Resolutions and Outreach; 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.

Review of CTF Groundrules

The meeting began with a review of the Task Force ground rules and a discussion of how to improve communications and foster productive relationships among participants.

Update on Development of the Decommissioning Plan

A DOE representative explained that they have met with NYSERDA to address its concerns regarding development of the Decommissioning Plan (DP). DOE has decided to remove the development of the DP from the scope of the WVNSCO contract. In order to allow incorporation of new data and cooperating agency input, the DP will probably not be completed until 2005. However, DP public involvement activities will begin this fall. In response to a question about the impact on the Environmental Impact Study (EIS) schedule, a DOE representative responded that they hope to align the DP and EIS processes more closely and are trying to speed up completion of tasks which will facilitate that goal.

NYSERDA's Proposed Legislative Language

Hal Brodie, NYSERDA Deputy General Counsel, provided an overview of NYSERDA's draft legislation (copy attached). He explained that the draft legislation was prepared by NYSERDA with the assistance of its outside counsel and substantial input from the New York State Department of Environmental Conservation (NYSDEC). He also stated that they endeavored to incorporate into the draft legislation as much as possible from the CTF's legislative principles. NYSERDA's objective is to develop legislative language that the CTF and NYSERDA both support. To that end, NYSDERA will dialogue with the CTF on its concerns and suggestions for the draft and incorporate the CTF's comments to the extent possible. With this goal in mind, Mr. Brodie and the CTF discussed various provisions in the draft. Mr. Brodie reminded the group that any changes to the draft legislation would have to be reviewed and approved at various levels of state government before they could actually be incorporated.

A Task Force member listed several concerns with the draft legislation including:

- The use of the term "remediation" vs "decommissioning";
- The findings section should identify erosion risks and stress public involvement;
- Concern over elimination of the U.S. Nuclear Regulatory Commission's (NRC) license for the site - it may be too soon and will lose the steps required to achieve license termination [including regulatory review & public involvement];
- Clarify that the EIS is not being restarted from ground zero. Keep 1996 draft viable as a starting point for the future EIS.

A NYSERDA representative responded to these points by explaining that the term “remediation” is broader than “decommissioning” which does not include hazardous and solid waste. He also stated that adding points on erosion and public involvement to the findings section, along with clarifying concerns regarding the 1996 draft EIS, might be possible. Regarding the NRC license for the site, Mr. Brodie explained that, in NYSERDA’s view, the draft legislation provides for stronger regulatory oversight than the current circumstances permit.

Another Task Force member offered language to amend the draft legislation to provide assistance to the local community, as follows:

Add to Section 10 - “The Secretary is authorized to transfer immediately to the Town of Ashford the unrestricted land without payment or terms.”

Add a new Section 12(c) “There are authorized to be appropriated to the Secretary an additional amount of five per cent (5%) or \$4,750,000 to be paid to the West Valley Central School District, in the month of September, Town of Ashford, West Valley Fire District No. 1 and Cattaraugus County in the month of January annually for an indefinite period. This payment is to offset the evident hardship brought on to this area due to the unsuccessful attempt of this nuclear reprocessing center. The different entities will share the annual amount by a formula similar to the break down of the current existing NYS PILOT law for the Center.”

In the ensuing discussion over the possible transfer of all or part of the site’s 3,300 acres, Mr. Brodie explained that until the EIS and the DP are completed, it is not possible to determine how much of a buffer area needs to remain around the contaminated portions of the site (based on the nature of the remedy selected). Thus, it is uncertain how much of the 3,300 acres might be available for reuse in the future. He explained that NYSERDA’s draft legislation currently proposes to transfer the entire 3,300 acre site to DOE, but the agency is open to discussion on this provision. A Task Force member expressed reservations about transferring any of the site to DOE, and suggested a federal agency with a better cleanup record might be preferable.

In response to a CTF member question about the meaning of Section 6(f), Mr. Brodie explained that under the “Agreement State Program” the NRC may relinquish some of its authority to regulate certain areas to state programs. Section 6(f) would allow an increase in delegation of authority from NRC to the state of New York. He noted that the NYSDEC is interested in having more regulatory authority over the site. He referred the CTF question about the current level of NYSDEC regulatory authority over low-level waste to NYSDEC.

A CTF member questioned NYSERDA’s decision to shift all future costs of site cleanup and closure to DOE. He also stated that perhaps some of this significant cost savings could be used to compensate local governments for the negative impacts the site has had on the Town’s economy. Mr. Brodie explained that the suggestion of using cost savings to compensate local governments would have to occur through state legislation which would be separate from the effort to develop the federal legislation under discussion today. A CTF member suggested that

the state of New York should acknowledge some responsibility for the site, whether financially or morally. Mr. Brodie responded that if the CTF is in consensus with this suggestion that his agency would take it into consideration.

A CTF member expressed concern over how to control amendments to the draft legislation after it is introduced. He suggested that the CTF set up a meeting with U.S. Representative Tom Reynolds to discuss this before he would feel comfortable supporting the legislation. He also stated his concerns over repeal of the existing West Valley Demonstration Project Act (WVDPA), especially if the new law is not as protective.

A Task Force member suggested that Section 9 be changed to give equal weight to public comments as is given to an independent review panel. Another CTF member suggested that the independent review panel's recommendations be given greater weight than envisioned in this draft.

A CTF member noted that Section 10, regarding disposition of property, is confusing. A NYSERDA representative explained that the intent of the section is to preclude DOE from bringing additional waste to the site, while allowing a future owner of the land to have the option of using the site for waste storage or disposal, subject to all applicable regulatory requirements.

In response to a question about how the legislation addresses environmental contamination in on-site soil/sediment, a NYSERDA representative explained that radioactive contamination is regulated under NRC's License Termination Rule, and hazardous or solid waste is regulated under the Resource Conservation and Recovery Act (RCRA).

A Task Force member asked why the legislation does not deal with the Waste Incidental to Reprocessing (WIR) issue. The NYSERDA representative explained that his agency was concerned that including a provision on a controversial national issue like WIR would likely kill the legislation.

A CTF member asked when the CTF should provide its comments on the draft legislation. NYSERDA representative stated that they would prefer to submit a draft as soon as possible, in a form agreed to by both the CTF and NYSERDA. He explained that Congress reconvenes after Labor Day for approximately one month, then they are out of session during October until after the elections. Thus, he stated that the optimal time to submit the draft legislation could be in early September. Discussion ensued about the feasibility and desirability of producing a mutually agreeable draft by September. Some CTF members noted that they needed to work with their constituent group in developing comments or a position. A NYSERDA representative acknowledged that it may take the state several weeks to review and decide on the suggestions submitted by the CTF.

In response to a question about Congressional sponsors for the Bill, a NYSERDA representative explained that his agency has spoken to the legislative delegation about their legislative principles and sent them a copy of this draft legislation with a notation that NYSERDA was

discussing it with the CTF and that there might be future changes to the draft. CTF members disagreed over the chances of such a Bill passing before the end of this session and over the desirability of rushing to develop comments.

The CTF agreed to form a work group to develop draft comments and edits for the legislation which will be submitted to the full CTF. Those who volunteered for this work group included: Ray Vaughan, Mark Mitskovski, Pete Scherer, Lee Lambert, Tim Siepel, Mike Hutchinson, Gayla Gray, and Bill King. The work group agreed to meet on July 29th.

CTF Resolutions and Outreach

The Task Force offered edits to a draft press release prepared by Lee Lambert. Lee will proceed with the press release process, with assistance from Melinda Holland. The CTF also edited and approved a draft response to questions submitted by the Village of Westfield regarding the CTF Resolution. The CTF noted the positive response thus far by other local governments adopting the CTF Resolution.

Regarding a possible CTF web site, a DOE representative stated that his agency could contribute funds towards creation and maintenance of the web site, provided that its usage followed some guidelines. He agreed to provide the CTF with a draft of these guidelines.

Future Meeting Topics, Observer Comments, and Next Steps

The August 18th CTF meeting will focus primarily on the draft legislation.

An observer explained her reservations about having the federal government take control of the site. She encouraged the CTF to ask many questions and to look at what leverage the community would have over the site if it was in federal control. She suggested that the CTF look into the other sites owned by DOE before deciding. She also stated that she does not believe the NRC regulations are protective enough to be relied upon in this draft legislation. Another observer stated that he worked for a company which is decommissioning a site in France, and they hope to be able to apply their expertise at West Valley in the future.

Action Items

Action	Assigned To	Due Date
Legislative work group meet, develop draft edits, and submit to the full CTF	Legislative work group	8/9/04
Arrange a meeting between CTF representatives and Representative Reynolds	Legislative work group	8/9/04

Complete and issue CTF press release	Lee Lambert, Melinda Holland	8/9/04
Revise and send answers to the Village of Westfield	John Pfeffer	7/29/04
Provide CTF with draft guidelines for web site content and usage	T. J. Jackson	8/9/04

Documents Distributed

Document Subject	Document Description	Generated by–Date (if applicable/known)
Draft Agenda	Agenda	Holland; 7/21/04
Draft reply to the Village of Westfield	draft reply	Lambert; 7/04
West Valley Remediation Act	Draft legislation	NYSERDA; 7/04
Mission and Ground Rules of the West Valley Citizen Task Force	Ground Rules	Holland
Draft CTF Press Release	Press release	Lambert; 7/04
CTF 2004 Work Plan	work plan	Holland; 7/04
NRC 6/30/04 Information Notice	Notice	NRC; 6/30/04
Friendship Central School Resolution	Resolution	Friendship NY; 6/04
Town of Cambria Resolution	Resolution	Cambria, NY; 7/04
North Collins Central School Resolution	Resolution	N. Collins, NY; 7/04
West Valley Central School Resolution	Resolution	West Valley, NY; 7/04
Town of Collins Resolution	Resolution	Collins, NY; 7/04
Town of Sheridan Resolution	Resolution	Sheridan NY; 7/04
Town of Great Valley Resolution	Resolution	Gr. Valley, NY; 7/04
Town of Middlebury Resolution	Resolution	Middlebury, NY; 7/04
Olean City School District Resolution	Resolution	Olean, NY; 7/04
Town of Perrysburg Resolution	Resolution	Perrysburg, NY; 7/04

Document Subject	Document Description	Generated by–Date (if applicable/known)
Energy Communities Alliance Bulletins, May & June '04	Bulletin	ECA; May/June, 2004
Town of Ashford proposed legislative language edits	Edits	Wm. King; 7/04
Memo regarding proposed legislation	Memo	D. D'Arrigo; 7/04
Article "Cleanup - Addressing Nuclear Weapons' Environmental Legacy"	Article	Alliance for Nuclear Accountability
Resolution regarding WIR Amendment	Resolution	League of Women Voters; 7/7/04