

To: West Valley Citizen Task Force  
From: Melinda Holland, Task Force Facilitator  
Subject: Summary of the November 17, 2004 Meeting  
Date: November 26, 2004

### **Next Meeting**

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

Date: Wednesday, December 15, 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: Paul Piciulo, T. J. Jackson, Ray Vaughan, Lee Lambert, Bill King, Eric Wohlers, John Allan, Gayla Gray, Mark Mitskovski (for Larry Rubin), Joe Patti, John Pfeffer, Tim Siepel, and Warren Schmidt.

CTF Members not attending (nor represented by an alternate) were: Pete Scherer, Mike Hutchinson, Rev. Bill Kay, Ron Buczak, and Nevella McNeil.

### **Agency Attendees**

Hal Brodie, New York State Energy Research and Development Authority (NYSERDA), Pat Concannon, New York State Department of Environmental Conservation (NYSDEC), and Chad Glenn, Nuclear Regulatory Commission (NRC) (via video conference).

### **Meeting Highlights**

- ▶ Presentation and Discussion on current West Valley Demonstration Project (WVDP) site work and regulatory activities;
- ▶ Southern Tier West's consultant gave an overview of their West Valley Demonstration Project (WVDP) Redevelopment Study;
- ▶ Overview of NYSERDA's revised draft legislation and discussion; and
- ▶ Discussion of next steps, action items and observer comments.

### **Meeting Summary**

#### *Current Developments at the WVDP*

T. J. Jackson, DOE, gave the CTF an update on recent activities at the WVDP such as further dismantling of the vitrification cell including removal and packaging of the melter, processing and shipping low-level waste. He also announced that a public meeting will be held on December 2<sup>nd</sup> at the Concord Town Hall from 7:00 to 9:30 p.m. to discuss the current and future hazardous and mixed waste

management activities at the WVDP.

### *Southern Tier West Redevelopment Study*

Next, Tom Barnes of Southern Tier West (STW) introduced their consultant, Cheryl Baxter of Economics Research Associates who is managing the WVDP redevelopment study. Ms. Baxter gave a brief overview of the goals and process to be followed in this study. She mentioned that they would like to meet with the CTF in January to hear the Task Force's thoughts on economic redevelopment of the WVDP. She also asked CTF members to email ideas to her at [cheryl.baxter@econres.com](mailto:cheryl.baxter@econres.com).

### *Draft Legislation*

Hal Brodie, NYSERDA, was next on the agenda and gave the CTF an overview of the changes to NYSERDA's draft legislation. Mr. Brodie explained in general terms how this draft responds to the CTF's comments on the legislation.

In response to a CTF member's question, Mr. Brodie explained that NYSERDA removed the dollar amount to be paid to local government from "Section 11 - Appropriations" because the amount of money appropriated to cleanup the site may vary over time. Another Task Force member asked if this provision might make the legislation difficult to pass. Mr. Brodie explained that it may be difficult for Congress to enact this provision, but NYSERDA understands how important this is to the community so they kept most of the language suggested by the CTF.

A Task Force member asked for an explanation of the term "possession" as contrasted to "ownership" as used in the latest draft of the legislation. Mr. Brodie explained that the old "Section 3 - Transfer of Site Title" was deleted in response to the CTF's and Seneca Nation of Indian's comments. He explained that instead of transferring ownership of the entire Center to DOE as proposed in the prior draft, this draft only transfers "possession" of the Center along with the responsibility to perform the cleanup. After 20 years, DOE would take title to any portions of the Center which have not been cleaned up, apply for a NRC licence, and perform any needed long-term stewardship activities. The existing NRC license would continue to be held in abeyance, but license termination could be sought for parcels which have been cleaned up to NRC's standards for unrestricted release. If during the 20 year period, portions of the land are sought for re-use and are clean enough for unrestricted release, the state of New York would decide whether to release/transfer that parcel for redevelopment. Mr. Brodie agreed to work on clarifications to this section in response to a CTF member's observation that the language, as written, might make this process confusing. In response to another question, Mr. Brodie explained that the term "possession" is also used in the existing Cooperative Agreement between DOE and NYSERDA.

In response to a Task Force member's question, Mr. Brodie explained that NYSERDA removed the term "decommission" from the draft legislation to avoid the possibility that the disposal areas would be required to be decommissioned under NRC's License Termination Rule (LTR) requirements (which could require a level of cleanup for unrestricted or restricted release). NYSERDA believes that the decision on the cleanup of the disposal areas should be made through the Environmental Impact Statement process, not in the legislation. He explained that this draft of the legislation would require remediation and compliance with the LTR, but not mandate the level of cleanup. Some CTF members expressed concern over this concept and asked for clarification in the legislation. A Task Force member suggested that the legislation be clarified to make it clear that the entire Center (including the disposal areas) is required to comply with the LTR. Mr. Brodie further explained that the remediation of the entire Center would be DOE's responsibility if this legislation passes. In response to a question, Mr. Brodie stated that the concern over decommissioning the disposal areas derives from the potential cost, the technical challenges, and the lack of waste disposal options.

A Task Force member expressed the concern that including language from the existing WVDP Act in this legislation could perpetuate the disagreements between DOE and NYSERDA over what falls within the decommissioning mandate. She used the North Plateau Groundwater Plume as an example, where DOE could say they only need to remediate the plume, not decommission the source. Mr. Brodie acknowledged this possibility, noting that one interpretation of the LTR would allow for continued NRC licencing if it can be shown that it is not beneficial to terminate the license.

A CTF member stated that she would prefer to see the legislation address all of the Seneca Nation's comments and delineate the regulatory responsibilities of all involved agencies. Mr. Brodie stated that NYSERDA will meet with the Seneca Nation's representatives to work on ways to address their comments. He also explained that NYSERDA did not favor including a listing of all regulatory agency responsibilities regarding the WVDP and Center. In response to a question regarding the U.S. Environmental Protection Agency's (USEPA) past concerns regarding drinking water, a NYSERDA representative explained that NYSDEC now has jurisdiction over drinking water in New York State.

A Task Force member asked who would be responsible for paying the Waste Disposal Fee under this draft legislation. Mr. Brodie explained that "Section 4 (c)" would make DOE responsible for paying that fee. Another CTF member disagreed with NYSERDA over the language in "Section 1 - Findings and Purposes" and offered to discuss that language with NYSERDA outside of the CTF meeting. A Task Force member reminded the CTF that February 15<sup>th</sup> is the usual deadline for legislation to be introduced for the current year's Congressional legislative session, thus he recommended that NYSERDA and the CTF need to reach agreement on a draft by early February. In response to a CTF member's question, Mr. Brodie explained that NYSDEC suggested removing the provision regarding NRC transferring regulatory authority to the State of New York because they concluded that the federal government would not agree to this at West Valley. This portion of the meeting concluded with CTF members praising the efforts made by NYSERDA to incorporate so many of the Task Force's suggestions into the latest draft and for finding creative solutions to issues.

### **Next Steps**

*Thank-You Letters* - A Task Force member suggested, and the CTF agreed, to send thank-you letters to departing Congressmen Houghton and Quinn, thanking them for their years of service and assistance to the communities regarding the WVDP. He also suggested that a similar letter be sent to Congressman John Kuhl and Congressman Higgins welcoming and inviting them to participate in the CTF process. Thank-you letters to Congressman Reynolds, Congresswoman Slaughter, Senator Clinton and Senator Schumer could also be sent. Tim Siepel agreed to draft the letters with production and mailing assistance from Melinda Holland.

*Legislative Work Group* - The Legislative Work Group will meet via conference call on December 1<sup>st</sup> at 7:00 p.m. to develop comments and recommendations regarding NYSERDA's recent draft legislation for the full CTF to consider at its December 15<sup>th</sup> meeting.

*Agenda Work Group* - The Agenda Work Group agreed to meet via conference call to develop a draft CTF Work Plan for 2005 as soon as DOE and NYSERDA provide them with information on the site-related work scheduled for 2005.

*Resolutions* - John Pfeffer offered to prepare a first draft of a letter for the CTF to send to the local government organizations which have not yet responded to the CTF's previous request that those entities adopt the CTF's Resolution regarding site cleanup and closure. This letter would ask the local government organizations what the CTF can do to make it easier for those entities to adopt such a Resolution and attempt to clarify some of the issues. The letter would give a late January deadline for submitting Resolutions, after which the CTF will package and mail all Resolutions received to the

Congressional Delegation.

*Web Site* - John Pfeffer explained that he has been investigating possible web site hosts and will make a recommendation on the host company to the agencies and the CTF before the December 15<sup>th</sup> meeting. John also agreed to circulate a draft outline of the web site contents to the CTF for comments by November 30<sup>th</sup>.

*December CTF Meeting Agenda* - The CTF agreed that the December 15<sup>th</sup> Task Force meeting should focus on the draft legislation. A Task Force member requested an opportunity to hear from other groups which have comments on the latest draft of the legislation. Lee Lambert and Ray Vaughan agreed to contact the environmental groups which had expressed prior interest to inform them of the recent revised draft of the legislation and to invite their comments.

### **Observer Comments**

An observer questioned why NYSDEC had requested the language on transfer of regulatory authority from NRC to DEC in the first draft of the legislation. Mr. Brodie explained that the federal government holds the authority to regulate nuclear waste/material but can delegate authority to "Agreement States". New York has an agreement with NRC, which gives the state some authority over nuclear material. The initial draft of the legislation provided that NRC could delegate authority to regulate DOE activities at West Valley to the state, but after further consideration the state decided that such delegation would never happen.

Pat Concannon, NYSDEC, introduced himself as newly assigned to cover the WVDP. He told the CTF that NYSDEC's central office has worked closely with NYSERDA on the draft legislation and is satisfied with the current draft. Mr. Concannon's email address is: [pwconcan@gw.dec.state.ny.us](mailto:pwconcan@gw.dec.state.ny.us) and his telephone number is 716-851-7220.

Chad Glenn, NRC, told the CTF that NRC has not reviewed the draft legislation and usually does not do so until a bill is introduced in Congress and NRC is requested to review it. In response to a Task Force member's question, Mr. Glenn stated that Bob Prince of NRC is at the WVDP today, and that his report on his last two inspections at West Valley will be posted on NRC's web site.

### **Action Items**

<b>Action</b>	<b>Assigned To</b>	<b>Due Date</b>
Write thank you letters to the departing legislative delegation members and welcome letters to the new members.	Drafting assigned to Tim Siepel; production & mailing assistance from Melinda Holland	12/10/04
The Legislative Workgroup will hold a conference call to discuss NYSERDA's latest draft legislation on December 1st at 7:00 p.m. [a "800" number will be provided].	Melinda Holland & Legislative Work Group	12/1/04
Prior to Dec. 1st, the Legislative Work Group members [or any CTF member] should circulate their suggestions/comments on NYSERDA's draft to the other Work Group members.	Legislative Work Group members	11/30/04

Draft a follow-up letter to those municipal organizations who did not respond to the CTF's original request for supporting Resolutions.	John Pfeffer to draft, M. Holland to circulate to the CTF for comments	11/30/04
Circulate a draft outline of the CTF web site contents to the full CTF for comment. Make recommendation on web site host company.	John Pfeffer	11/30/04
DOE, NYSERDA, WVNSCO to provide the CTF Agenda Workgroup and Melinda Holland with suggestions for 2005 CTF meeting topics.	DOE, NYSERDA, WVNSCO	12/10/04
Package and send all resolutions received to date to the Congressional delegation.	John Pfeffer & M. Holland	1/28/04
Contact the environmental groups which had expressed prior interest to inform them of the recent revised draft of the legislation and to invite their comments	Lee Lambert & Ray Vaughan	11/30/04

### **Documents Distributed**

<b>Document Subject</b>	<b>Document Description</b>	<b>Generated by–Date (if applicable/known)</b>
Agenda	Agenda	M. Holland; 11/17/04
Summary of the 10-20-04 CTF Meeting	Meeting Summary	M. Holland; 11-1-04
Presentation “WVDP Work Status”	Presentation	T.J. Jackson; 11-7-04
West Valley Remediation Act (compared to CTF version)	Draft Legislation	NYSERDA; 11-15-04
West Valley Remediation Act (compared to NYSERDA’s 7/20/04 version)	Draft Legislation	NYSERDA; 11-15-04
West Valley Remediation Act	Draft Legislation	NYSERDA; 11-15-04
Energy Communities Alliance Bulletin	ECA Newsletter	ECA; 10-04
Enhanced Transportation Security for Radioactive Materials	NRC Memorandum	NRC; 11/3/04
Brownfields Grant Support Letter Request	Memorandum	Cattaraugus County Dept. Of Economic Development, Planning & Tourism; 11-04
Town of Leon Resolution	Resolution	Town of Leon; 9-28-04
Lewiston-Porter Central School District Resolution	Resolution	LPCSD; 10-19-04