

To: West Valley Citizen Task Force  
From: Melinda Holland, Task Force Facilitator  
Subject: Summary of the August 23, 2006 Meeting  
Date: August 25, 2006

### **Next Meeting**

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

Date: Wednesday, September 27, 2006  
Time: 7:00 - 9:30 p.m.  
Location: Ashford Office Complex  
9030 Route 219  
West Valley, NY

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) 817-0883, or Tom Attridge at (716) 942-9960, Ext. 2453.

### **CTF Attendees**

Attending were: Pete Scherer, Ray Vaughan, Carol Sheibley (for Mike Hutchinson), Joe Patti, Lee Lambert, Bill King, Darwin John, Paul Piciulo, Pete Cooney, Bryan Bower, and Chris Pawinski (for Andrew Eszak), Eric Wohlers, and Bill Snyder (for Gary Eppolito).

CTF Members not attending (nor represented by an alternate) were: Stephen Kowalski, Tim Siepel, Mike Brisky (for Assemblyman Giglio), Warren Schmidt, and John Pfeffer.

### **Meeting Highlights**

- ★ Orientation session for newer members/alternates (at 6:00 p.m.) providing NYSERDA's views and an overview of the regulatory framework for the West Valley site (Regulations 101);
- ★ Presentation and discussion on current West Valley Demonstration Project (WVDP) site work and regulatory activities;
- ★ Update on NYSERDA activities;
- ★ Presentation on NYSERDA's views on the Preliminary Draft Decommissioning EIS; and
- ★ Discussion of next steps, action items, membership and observer comments.

## **Meeting Summary**

Tom Attridge, NYSERDA reviewed the materials distributed for this meeting<sup>1</sup>, and Melinda Holland reviewed the meeting agenda.

### *Current Developments at the WVDP*

Bryan Bower, DOE, gave a presentation on activities at the WVDP. A CTF member noted that storage of waste containers outdoors could lead to deterioration of the storage boxes and recommended that waste containers be kept in warehouses. Mr. Bower responded that he understood the concern and noted that there are no regulatory requirements to store this type of waste inside a building. Another CTF member asked if the damage to the waste storage containers could have been caused by a forklift. Mr. Bower explained that the causes of damage to containers is under investigation at this time and that the boxes were last moved in 2005. In response to questions about removing the old boilers, Mr. Bower stated that the “non-contact circulating pumps” had very low levels of contamination, and that the boilers would go to Energy Solutions in Utah for disposal.

### *NYSERDA Report*

Paul Piciulo, NYSERDA, explained that Bob VanWicklin of Representative Kuhl’s staff stated that there has been no change in the status of the pending legislation and that Representative Kuhl would meet with Committee leaders to try to have the legislation moved forward in September. He also mentioned that Congress has been in recess in August and will recess again for the elections in October.

Regarding the pending litigation by NYSERDA against DOE, Hal Brodie, NYSERDA Counsel, explained that they are preparing to file the lawsuit in the near future.

Dr. Piciulo and CTF member Bill King reviewed a new proposal for construction of an ethanol producing facility on approximately 50 acres on-site located near the Bulk Storage Warehouse and the rail line. Dr. Piciulo explained that NYSERDA’s President Peter Smith is willing to meet with the project proponent. If the project is viable, NYSERDA is willing to proceed with seeking release of the land from the NRC license and to seek approval to sell the land. In response to a CTF member question, Dr. Piciulo explained that he did not know how long this would take. A Task Force member urged speed so that this ethanol plant would not seek another location as one that was proposed previously and has been recently sited in the Town of Shelton.

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Note that presentations and materials distributed at CTF meetings may be found at the Citizen Task Force’s web site: [www.westvalleyctf.org](http://www.westvalleyctf.org)

*NYSERDA's Views on the Preliminary Draft Decommissioning EIS*

Paul Bembia, NYSERDA, gave a presentation explaining NYSERDA's views on the Preliminary Draft Decommissioning Environmental Impact Statement (EIS). In response to a Task Force member's question, Mr. Bembia explained that NYSERDA and the West Valley Performance Assessment Peer Review Group do not have confidence in the erosion modeling results proposed as part of the EIS, and that the predictions of the modeling do not correspond to the erosion activities observed at the site to date. A Task Force member asked about the present and future impact of erosion on the burial grounds. Mr. Bembia explained that currently the closest edge of the plateau is within ten feet of the fence around the burial grounds, but the actively down-cutting part of the creek is on the other side of the stream valley. He also stated that the erosion modeling is intended to predict future impacts of erosion on the site but questioned the ability of computer modeling to accurately predict erosion over thousands of years. In response to a question on how to calculate when waste would be released into the environment due to uncontrolled erosion, Mr. Bembia explained that this is the goal of the computer modeling. Another CTF member noted that the 1996 EIS took a different approach from the SIBERIA model used in the current draft EIS, that the 1996 EIS treatment of erosion also had problems, and he believes that something in between what the two models predict is the most likely outcome.

A Task Force member asked about the risks of short-term catastrophic erosion events. Mr. Bembia explained that the entire site is monitored for erosion impacts on a regular basis and a yearly survey is conducted to measure increases in erosion. He also explained that repairs or preventative measures are taken as needed to control and prevent erosion (such as the re-engineering of storm water flow which was done to stop erosion in the State-Licensed Disposal Area [SDA]).

In response to a CTF member question about cost predictions for erosion control, Mr. Bembia explained that the Closure Engineering Reports portion of the EIS analyzed these costs. The CTF member recommended that the government set aside money now to pay for future erosion control.

A CTF member asked if the site's prior erosion expert (Dr. Willgoose) had looked at the application of the SIBERIA model to the WVDP data. A DOE representative explained that Dr. Willgoose was the author of the SIBERIA computer model. The DOE representative also stated that consultation with Dr. Wilgoose has been limited as he resides out of the country and that the EIS contractor has a new consulting agreement with Dr. Gary Tucker for additional erosion modeling issue resolution.

In response to a question about impacts of corrosion of the metal containers buried in the SDA, Mr. Bembia explained that the EIS assumes that these containers disintegrate over time, and no credit is taken for the container in the EIS analysis. He also stated that he is not aware of any detrimental chemical reaction between the dissolving iron from the containers and the wastes in

the SDA. Mr. Bembia answered another question by explaining that NYSERDA re-engineered the gully which had been threatening the SDA and have not seen any further erosion in that area. A CTF member asked why DOE and NYSERDA don't just go out and install erosion controls on Buttermilk Creek. Mr. Bembia explained that a large erosion control project in Buttermilk Creek would probably require an EIS. Another NYSERDA representative explained that the agency can respond to an emergency situation without having to conduct an EIS.

A CTF member asked if the North Plateau Ground Water Plume was not considered critical. Mr. Bembia explained that NRC performed an in-depth review of the plume this spring and that a recommendations letter from NRC is expected soon. Mr. Bembia also stated that NYSERDA questions whether NRC would regulate a groundwater contamination plume in the same way at another site under its jurisdiction. He further stated that NYSERDA would like to see more active management of the plume. A DOE representative said that NRC has stated that they see no immediate threat from this plume. A CTF member offered to draft a letter for the CTF to send to NRC asking for action on the plume.

In response to another question, Mr. Bembia explained that the geology of the North Plateau (where the plume is located) is different from the South Plateau (where the SDA is located). He stated that the North Plateau is comprised of sand and gravel which would require a lot of engineered barriers to control release of contamination, but the South Plateau is composed of an impermeable clay. A DOE representative noted that the SDA does have an engineered barrier and that erosion will likely impact the SDA in the future. Mr. Bembia responded that DOE hopes to decommission and walk away the facilities on the North Plateau while NYSERDA proposes to continue to actively manage the SDA. A Task Force member reminded the agencies that engineered barriers only last a short time and that the costs of maintaining and rebuilding these barriers must be considered. Another CTF member expressed concern that the SDA trenches are like bathtubs filled with contaminated liquid which could pose a long-term risk if the wastes are not removed. A NYSERDA representative explained that exhumation of the burial grounds is still an alternative in the EIS and that they understand that the SDA must either be dug up or actively maintained under the NRC license. A Task Force member noted that the NRC-Licensed Disposal Area (NDA) is licensed by NRC, unlike the SDA, and that this may create regulatory uncertainty.

A Task Force member asked about the impact of forest fire and other natural disasters on institutional controls and engineered barriers such as the SDA cap. A NYSERDA representative explained that the agencies have contingency plans for such disasters. A NYSERDA representative also explained that NRC regulations require them to assume the loss of institutional controls if they were to "walk away" from the site, or they need to provide active management if institutional controls are relied upon.

A CTF member asked if DOE planned to do a follow-up presentation on this draft EIS. A DOE representative explained that they do not plan on giving a presentation to the CTF at this time. He further stated that DOE is trying to work with all the agencies, including NYSERDA, to

resolve issues with the draft EIS so a revised draft may be developed. A CTF member asked if another meeting among the DOE and the regulatory agencies was planned. A DOE representative explained that such a meeting would be held as part of the EIS comment resolution process. A NYSERDA representative stated that there are still fundamental differences between NYSERDA and DOE regarding the preferred alternative and responsibilities at the site. Another NYSERDA representative stated that the agency is considering withdrawing from the joint EIS process and this issue will be addressed by the NYSERDA Board in September. CTF members expressed dismay at the continued impasse between DOE and NYSERDA. CTF members suggested drafting a letter to DOE and NYSERDA upper management to again urge resolution of differences between the agencies.

### **Observer Comments**

An observer asked if NYSERDA knew where the 12 pounds of plutonium is buried in the SDA trenches. A NYSERDA representative stated that the best information available is in the SDA Characterization Report and he would have to check that document to get an answer. A CTF member stated that based on conversion of pounds to curies, the 1996 EIS indicates that there is more than 12 pounds of plutonium in the SDA.

Another observer asked if NYSERDA accepted the prediction of another ice age in this area. A NYSERDA representative said he could not answer that question as there are many factors which impact global weather during this time of climate change.

An observer expressed concern over the proposed legislation introduced by Representative Kuhl due to the fact that the bill would transfer responsibility for the entire site to DOE after a set number of years. She stated that this possibility is even more frightening if the burial grounds will be left in place.

Another observer stated that while there are many good things in the proposed legislation, that her organization is concerned about the possible DOE take over of the site as they have seen what DOE is doing at its other waste sites.

An observer asked if Congress is aware of the nature of the disagreements between DOE and NYSERDA, a NYSERDA representative explained that Congress members and staff have been briefed on these issues and that NYSERDA is still supporting passage of the legislation.

A NYSERDA representative noted that the concerns about the draft EIS which were raised tonight had been given to DOE two years ago, yet were not considered in the most recent draft EIS.

### **Next Steps**

Possible topics for the September 27<sup>th</sup> Task Force meeting were discussed including:

- Overview of the site's history, waste management areas and cleanup progress;
- Inviting the Congressional delegation to participate;
- Waste classification;
- CTF draft letter to NRC on the ground water plume;
- CTF draft letter to DOE and NYSERDA upper management asking for resolution of impasse between the agencies.

A conference call with the CTF Agenda Work Group will be held as soon as possible to finalize the agenda for the September and future meetings. No additional 6:00 p.m. orientation sessions have been planned or suggested to date.

Melinda Holland announced that Dave Wilcox has resigned from the CTF and asked CTF members to suggest candidates for his replacement.

### **Action Items**

<b>Action</b>	<b>Assigned To</b>	<b>Due Date</b>
Draft a letter to NRC on the ground water plume	Lambert	9/18/06
Draft a letter to DOE and NYSERDA upper management asking for resolution of impasse between the agencies	to be determined	9/18/06
Schedule an Agenda Work Group conference call	Holland	9/1/06
Suggest candidates to replace Dave Wilcox on the CTF	CTF, DOE, NYSERDA	9/18/06
Interview candidates for CTF membership	Holland	as available
Review the SDA Waste Characterization Report, re: Plutonium in the SDA, and report back to interested parties	Bembia	9/27/06

### **Documents Distributed**

<b>Document Subject</b>	<b>Document Description</b>	<b>Generated By &amp; Date</b>
Meeting Agenda	Agenda	Holland; 8/23/06
Summary of July 26, 2006 CTF meeting	Summary	Holland; 8/15/06
Presentation "Regulations 101"	Presentation	Gerwitz; 8/23/06

“West Valley Performance Assessment Peer Review Group Summary of Member Qualifications”	Summary	NYSERDA; 8/23/06
“Regulations 101 - Relevant Regulatory Citations”	List	NYSERDA; 8/23/06
“Regulations 101 - Acronym List”	List	NYSERDA; 8/23/06
Presentation “WVDP Progress Update”	Presentation	Bower; 8/23/06
Presentation “NYSERDA’s Views on the Preliminary Draft Decommissioning EIS”	Presentation	NYSERDA; 8/23/06
8/4/06 Letter from NYSERDA to NRC, “NYSERDA Requests Revision of West Valley Policy Statement”	Letter	NYSERDA; 8/23/06
“Various Comments on the U.S. NRC’s Standard Review Plan”	Compilation of Comments	Various; 8/23/06
WVCTF Letter to Bryan Bower, DOE providing comments on the Draft Environmental Assessment	Letter	CTF; 7/28/06
DOE Letter to NRC Providing Comments on the SRP	Letter	DOE; 7/31/06
NYSDEC Letter to DOE Providing Comments on the Draft EA	Letter	NYSDEC; 8/2/06
NRC Letter to DOE Providing Comments on the Draft EA	Letter	NRC; 7/27/06

NYSERDA Letter to NRC Providing Comments on the Draft SRP	Letter	7/27/06
CTF 2006 Work Plan	Work Plan	Holland; 8/23/06
CTF Letter to NRC Providing Comments on the SRP	Letter	CTF; 7/28/06