

To: West Valley Citizen Task Force  
From: Melinda Holland, Task Force Facilitator  
Subject: Summary of the September 27, 2006 Meeting  
Date: October 12, 2006

### **Next Meeting**

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

Date: Wednesday, October 25, 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, Mike Hutchinson, Joe Patti, Lee Lambert, Bill King, Darwin John, John Pfeffer, Paul Piciulo, Tim Siepel, Mike Brisky (for Assemblyman Giglio), Pete Cooney, Bryan Bower, Warren Schmidt, and Chris Pawinski (for Andrew Eszak), and Bill Snyder (for Gary Eppolito).

CTF Members not attending (nor represented by an alternate) were: Stephen Kowalski and Eric Wohlers.

### **Meeting Highlights**

- ★ Presentation and discussion on current West Valley Demonstration Project (WVDP) site work and regulatory activities;
- ★ Update on NYSERDA activities;
- ★ Presentation and discussion on DOE and NYSERDA's perspectives on the differences between these agencies; and
- ★ Discussion of next steps, action items, membership and observer comments.

## **Meeting Summary**

Tom Attridge, NYSERDA reviewed the materials distributed for this meeting (footnote #1), and Melinda Holland reviewed the meeting agenda.

### *Current Developments at the WVDP*

Bryan Bower, DOE, gave a presentation on current activities at the WVDP. In response to CTF member questions, Mr. Bower explained that “aquasorb” (an absorptive material) was discovered at the rear of a truck outside low-level waste shipment containers which were en-route for disposal. Mr. Bower further explained the time line of discovery of the material and investigations by local responders and DOE’s transportation response teams. Mr. Bower noted that there were no leaks from the containers or radioactive substances released.

A Task Force member asked why the recently released Environmental Assessment (EA) had to be revised and Mr. Bower explained how the process works. First a draft EA is released for public review, then DOE considers the public comments and may revise the EA to reflect recommendations made by those who submitted comments. In response to another question, Mr. Bower stated that DOE believes that sufficient buildings/facilities will be left on-site to support any of the alternatives proposed in the Decommissioning Environmental Impact Statement (EIS). A CTF member asked about the risks of air-borne contamination during demolition of these structures. Mr. Bower explained that water mist and other containment methods will be used to control the air-borne contaminants.

In response to another question, Mr. Bower explained that while a preferred alternative has not been selected, some future response actions might require the construction of new facilities. However, DOE believes that they are retaining any existing facilities which might be of use in future remediation activities.

A CTF member asked if there was an incentive payment in the site cleanup contract for building removal. Mr. Bower responded that the contract incentives or award fees are for shipping and disposing waste off-site. He further explained that under this contract higher incentives are available for shipment and disposal of waste which is more difficult to dispose.

### *NYSERDA Report*

Dr. Paul Piciulo, NYSERDA, explained that the legislation has not moved and will probably need to be re-introduced in the next session of Congress. Hal Brodie, NYSERDA Counsel, explained that NYSERDA plans to file suit against DOE during the next few months. Dr. Piciulo noted that Peter Smith, President, NYSERDA, plans to meet with the proponent of the

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<sup>1</sup> 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)

proposed ethanol plant in October.

### *Explanation of Differences Between NYSERDA and DOE*

Brief presentations were given to provide some history and context for the CTF discussion on a draft CTF letter to DOE and NYSERDA upper management. Bryan Bower, DOE, gave a presentation on the challenges facing DOE and NYSERDA and the context provided by the West Valley Demonstration Project Act (WVDPA). Hal Brodie, NYSERDA, reviewed prior efforts at negotiation, the draft legislation, and NYSERDA's desired outcomes.

In response to CTF member questions, Mr. Bower explained that the 'facility credit' is outlined in the Cooperative Agreement between DOE and NYSERDA, and provides that DOE will give NYSERDA credits for the use of site facilities during DOE's activities under the WVDPA. He also explained that the High-Level Waste (HLW) waste disposal fee is based on the Nuclear Waste Policy Act, and that DOE does not believe it is responsible for that fee as the WVDPA states that DOE does not take title to the HLW.

A CTF member noted that the WVDPA language, "facilities used in connection with the West Valley Demonstration Project," is vague and subject to interpretation. He urged DOE to adopt a broad interpretation of its responsibilities under the WVDPA. Another CTF member asked about past amendments to the Cooperative Agreement and whether that agreement could be amended to incorporate new agreements which could resolve the differences between the agencies. He also asked that a copy of the Cooperative Agreement be posted on the CTF's web site.

A Task Force member asked NYSERDA representatives what would the state of New York do if it was responsible for the entire remaining cleanup. Mr. Brodie responded that NYSERDA has thought about this and would make the same recommendations for the north and south plateau facilities if New York was responsible for the entire cleanup. A CTF member asked if the agencies could agree on 'the right thing to do' regarding cleanup separate from who pays for what activities. Mr. Brodie explained that the agencies have been unable to reach agreement on what the right thing to do is, as risk vs. cost and long-term vs. short-term risks must be considered.

A Task Force member noted that DOE's reluctance to create a precedent for the Savannah River and Hanford sites by removing tanks at West Valley is likely to be a major barrier. Another CTF member noted the argument 'why remove the HLW tanks when you want to leave the burial grounds which have much higher amounts of contamination'. The CTF member disagreed with the "EPA alternative" if it recommends exhuming the HLW tanks while leaving the burial grounds - he would prefer that both these sources of contamination be removed. He also suggested using the West Valley site as a demonstration project for HLW tank removal and burial ground exhumation, thus avoiding the precedent issue. The CTF member further

recommended that the state cleanup the North Plateau Ground Water Plume and its source, then sue to recover its costs.

In response to a question about responsibility for the State-Licensed Disposal Area (SDA), Mr. Brodie explained that his agency agrees that they must manage the SDA but believe that DOE has substantial responsibility for wastes buried in the SDA under the Superfund law. A Task Force member noted that the SDA is more at risk from erosion than the HLW tanks. Mr. Brodie explained that they do not believe they can close the SDA in-place and walk away, instead NYSERDA proposes to actively manage the SDA and revisit decommissioning options on a periodic basis. NYSERDA offered to provide the CTF with a presentation on the SDA at the November 22<sup>nd</sup> meeting.

In response to a CTF member question about where the wastes that were reprocessed at West Valley originated, Mr. Brodie stated that 66% of the waste was Hanford reactor fuel and that much of the remainder came from power plants under contract with DOE. Mr. Bower responded that the fuel which came from Hanford was part of the commercial fuel cycle and came under contract to National Fuel Services (NFS) at West Valley for reprocessing. A Task Force member briefly explained the Superfund law and process and questioned why it had not been used at West Valley. It was noted that this would be a good topic for a future CTF orientation session. The CTF member also asked why EPA does not take enforcement action regarding the site and offered to prepare a first draft of a letter to EPA on this topic.

A Task Force member asked for a definition of decontaminate and decommission (D&D). Mr. Bower explained that the WVDPA states that the Nuclear Regulatory Commission (NRC) will set the criteria for D&D. Chad Glenn, NRC, explained that NRC's West Valley Policy Statement provides the D&D criteria. He noted that the dose limits in the License Termination Rule (LTR) are the goals for D&D. In response to a CTF member question, Mr. Glenn explained that it is not a dictionary definition of "cleanup" (e.g. total cleanup), rather the goal is to meet the cleanup standards set in the LTR. Mr. Glenn offered to provide the CTF with an overview of the NRC's Policy Statement and role at the WVDP site at a future CTF meeting. Mr. Glenn responded to a CTF member question regarding cleanup levels for the HLW tanks by explaining that the LTR cleanup standard applies collectively to all radioactive sources at the site (except the SDA). Mr. Glenn disagreed with a CTF member statement that the SDA could be regulated by NRC under the provisions for "residual radioactivity," since the NRC's criteria only applies to areas licensed by the NRC and the SDA is not licensed by the NRC. Mr. Glenn referred CTF members to the NRC Policy Statement (footnote 2) for more information.

In response to a question about whether the use of engineered barriers will satisfy the Policy Statement and LTR requirements, Mr. Glenn explained that the Policy Statement is clear that one cannot just rely on barriers over the site, they must demonstrate that they have done all that

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<sup>2</sup> The NRC Policy Statement may be found on NRC's web site at:  
<http://www.nrc.gov/reading-rm/doc-collections/commission/policy/67fr5003.html>

is economically and technically feasible to meet the dose limits in decommissioning the site. A CTF member asked NRC to define “technically and economically feasible” when they provide the CTF with an orientation session. In response to another question, Mr. Glen explained that his references to the site means the NRC licensed area (3,300 acres). Mr. Glenn further explained that portions of the site could be available for “free release”, portions could be “restricted release” and other portions could remain under NRC license. A CTF member noted that at some point if you add enough engineered barriers the site may become subject to the disposal regulations.

### **Observer Comments**

An observer stated that NYS Senator Young has given \$54,000 to the Coalition on West Valley Nuclear Wastes (through the Citizens Environmental Coalition) to do a full-cost accounting study. In October, the consultant, William Steinhurst of Synapse Energy, will be in the West Valley area conducting interviews.

### **Next Steps**

Discussion of the CTF’s draft letter regarding resolution of the differences between DOE and NYSERDA was postponed until the October 25<sup>th</sup> CTF meeting. The background presentation on the North Plateau Ground Water Plume and the related draft CTF letter to NRC was also postponed until October 25<sup>th</sup>. CTF members were encouraged to continue to refine the draft letters prior to October 25<sup>th</sup>.

Possible topics for the October 25<sup>th</sup> Task Force meeting were discussed including:

- Overview of the site’s history, waste management areas and cleanup progress;
- Background presentation on the North Plateau Groundwater Plume;
- CTF draft letter to NRC on the ground water plume; and
- CTF draft letter to DOE and NYSERDA upper management asking for resolution of impasse between the agencies.

Possible topics for the November 29<sup>th</sup> CTF meeting include:

- NYSERDA presentation on the SDA;
- Seneca Nation of Indians orientation presentation (at 6:00 p.m.); and
- Waste Classification 101.

Possible future meeting topics:

- NRC presentation on the Policy Statement and NRC role at West Valley; and
- An update on erosion modeling.

A conference call with the CTF Agenda Work Group will be held as soon as possible to finalize the agenda for future meetings. Darwin John offered to give a presentation on the Seneca Nation as a 6:00 p.m. orientation session at the November 29<sup>th</sup> CTF meeting. Chad Glenn, NRC,

offered to provide the CTF with an overview of the NRC's Policy Statement and role at the WVDP site at a future CTF meeting.

Warren Schmidt announced his resignation from the CTF due to a change in employment. CTF members expressed their regret and appreciation to Warren for his ten years of service to the CTF. NYSERDA and DOE agreed to contact NYS Senator Young about a replacement for Warren. Melinda Holland reminded CTF members to suggest candidates for the other vacancy created by Dave Wilcox's resignation.

In response to a question about the CTF facilitation contract, Tom Attridge explained that the request for proposals should be issued soon and the contracting process completed by the end of the year.

### **Action Items**

<b>Action</b>	<b>Assigned To</b>	<b>Due Date</b>
Suggest candidates to replace Dave Wilcox on the CTF	CTF, DOE, NYSERDA	10/25/06
Interview candidates for CTF membership	Holland	as available
Contact NYS Senator Young regarding a replacement for Warren Schmidt on the CTF	NYSERDA, DOE	10/20/06
Thank you letter to Warren Schmidt and Dave Wilcox	T. Attridge	10/20/06
Place the Cooperative Agreement between DOE & NYSERDA on the CTF web site	Holland & Pfeffer	10/20/06
Schedule an orientation presentation on NRC's Policy Statement and role at West Valley	C. Glenn	as soon as available
Draft letter to EPA asking them to take enforcement action regarding the site	M. Hutchinson	10/20/06

### **Documents Distributed**

<b>Document Subject</b>	<b>Document Description</b>	<b>Generated By &amp; Date</b>
9/27/06 Meeting Agenda	Agenda	Holland; 09/27/06
CTF 2006 Work Plan	Work Plan	Holland; 09/25/06
Summary of the 08/23/06 WV CTF Meeting	Summary	Holland; 08/30/06
"Project Update", DOE Presentation	Presentation	Bower; 09/27/06

“Finding of No Significant Impact”	FONSI	DOE; 09/14/06
Environmental Assessment for the Decontamination, Demolition and Removal of Certain Facilities at the WVDP”	Final E.A. [may be viewed at: <a href="http://www.wv.doe.gov/pdf/Final%20EA%209-11-06.pdf">http://www.wv.doe.gov/pdf/Final%20EA%209-11-06.pdf</a>	DOE; 09/14/06
“Challenges”, DOE Presentation	Presentation	Bower; 09/27/06
U.S. NRC Letter to DOE & Report; “US NRC Monitoring Visit 2006-002”	Letter	U.S. NRC; 09/01/06
Revised Draft CTF Letter to DOE & NYSERDA	Draft Letter	Lambert; 09/25/06
Memorandum from NYSERDA to the CTF	Memo	Piciulo; 09/25/06
Revised Draft Letter, CTF to NRC Re: N. Plateau GW Plume	Draft Letter	Lambert; 09/25/06
Summary of the 09/05/06 Agenda Work Group Conference Call	Summary	Holland; 09/06/06
NYSERDA Memo to CTF; “Plutonium in the SDA”	Memo & Attachment	Piciulo, 09/27/06
NRC Letter to NYSDEC; “Response to Concerns on Decommissioning of the West Valley Facility”	Letter	NRC, 03/07/02
DOE Letter to NYSERDA	Letter	DOE; 03/31/04
NYSERDA Letter to DOE	Letter	NYSERDA; 02/13/04
DOE Letter to NYSERDA	Letter	DOE; 09/02/06
NYSERDA Letter to DOE	Letter	NYSERDA; 09/25/06
DOE Letter to NYSERDA	Letter	DOE; 09/14/06

DOE Letter to NYSERDA	Letter	DOE; 09/20/06
NYSERDA Letter to DOE	Letter	NYSERDA; 08/28/06
Resignation Letter	Letter	McCauley; 09/06/06