

[printer friendly format](#)**FOR IMMEDIATE RELEASE:
October 27, 2009****GOVERNOR PATERSON ANNOUNCES AGREEMENT ON FINANCIAL
RESPONSIBILITIES FOR CLEANUP OF THE WESTERN NEW YORK
NUCLEAR SERVICE CENTER**

Governor David A. Paterson today announced that New York State and the federal government have reached an agreement resolving financial responsibility for the cleanup of radioactive waste at the Western New York Nuclear Service Center, also known as West Valley Site, in Cattaraugus County. The resolution ends a decade-long dispute over the allocation of cleanup costs between the state and federal governments.

"This resolution is a significant milestone in our ongoing work to decontaminate the West Valley Site and ensure the area's long-term environmental health and safety," Governor Paterson said. "With this agreement, our state and federal governments may proceed with a clear understanding of their roles and responsibilities."

The agreement filed today, known as a Consent Decree, resolves a lawsuit filed in 2006 by New York State against the federal government, clarifies the federal government's responsibilities under a 1980 federal law, and divides costs between the two governments for other facilities at the site. The State Attorney General's Office and the federal government have signed the consent decree, along with the New York State Energy Research and Development Authority, which owns title to the land on behalf of New York State. Following a 30-day public comment period, the State will review the comments and ask the Court to approve the Consent Decree if this is appropriate in light of the comments received.

The agreement does not prescribe specific remediation actions, nor does it affect cleanup alternatives that are currently the subject of a draft Environmental Impact Statement (EIS) for the site.

Under a law passed by Congress in 1980, the U.S. Department of Energy is responsible for certain aspects of the cleanup and disposal of nuclear contamination on approximately 200 acres of the West Valley site. As directed by that law, New York State is responsible for 10 percent of the costs of the cleanup directed by Congress, with the federal government paying 90 percent. New York is the only state that contributes to the cleanup of a high-level radioactive waste site. To date, the federal and state governments have incurred more than \$2.4 billion in cleanup costs, with New York paying more than \$270 million.

In the agreement issued today, specific allocations vary by the facility, with the federal government continuing to pay 90 percent of the costs for many of the cleanup activities. Both the State and Federal Governments have, however, agreed to different percentages of the cleanup costs for some important facilities, such as the site disposal areas and the radioactive groundwater plume

The West Valley site is located approximately 30 miles south of Buffalo. It was once home to the nation's first and only privately-operated, commercial nuclear fuel reprocessing facility. The facility was located at the Western New York Nuclear Service Center, a 3,300-acre parcel currently owned by NYSERDA on behalf of New York State. The reprocessing operation separated reusable uranium and plutonium from spent fuel, which came from both commercial and federal defense-related reactors. The facility shut down in 1972 and never re-opened.

A copy of the Consent Decree is available at: <http://www.ny.gov/governor/press/pdf/>

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WEST VALLEY DEMONSTRATION PROJECT, WEST VALLEY, NEW YORK 14171-9799

DRAFT FOR APPROVAL/ EM SITE

Media Contact: Bryan Bower: 716-942-4368

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**New York State and the Department of Energy Settle Long Standing
Dispute on Cost Allocation for the Clean-up of the West Valley
Demonstration Project and the Western New York Nuclear Service
Center**

West Valley, NY -- The Department of Energy and the New York State Energy Research and Development Authority (NYSERDA) today announced the settlement of a long-standing disagreement on the allocation of costs for clean-up of the West Valley Demonstration Project (WVDP) and the Western New York Nuclear Service Center.

Under a Consent Decree that was lodged today with the Federal Court, the parties, including DOE, NYSERDA, the New York State Attorney General, the New York State Department of Environmental Conservation and the U.S. Department of Justice, have agreed on the cost allocations associated with the clean-up of the western New York site. While the Consent Decree addresses the cost allocation between the Federal Government and the State government, it does not address the actual clean-up or site end state decisions. The clean-up decisions are subject to an ongoing process required by the National Environmental Policy Act. The Final Environmental Impact Statement and a Record of Decision are scheduled for release in Spring, 2010.

The issues of cost allocation for various aspects of the site clean-up have been a subject of dispute since the Department of Energy was directed by Congress to conduct a demonstration project at the site in 1980 under the West Valley Demonstration Project Act. The dispute came to a head in 2006 when the State of New York took the Federal government to court.

“After nearly 30 years of struggling with this issue, we are happy to see that all parties were able to put their differences behind them and work toward a solution that is best for both Federal and State taxpayers,” said Bryan Bower, DOE Federal Project Director. “With the cost responsibility issues behind us, we can move forward, hand in hand, with the ongoing clean-up of the site.”

The agencies have lodged the Consent Decree with the Federal Court, where it will be held while New York State conducts a 30-day public comment period. After the public comment period, the agencies expect to move the Court to approve the Consent Decree and enter it as a binding order of the Court.

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Located about 35 miles south of Buffalo, the WVDP is a DOE environmental cleanup and waste management project that is conducted in cooperation with NYSERDA. West Valley Environmental Services (WVES) manages and operates the WVDP under contract to DOE. The WVES team is comprised of URS Washington Division, Jacobs Engineering, Environmental Chemical Corporation, and Parallax. NYSERDA manages the State Licensed Disposal Area under New York State regulations.

-DOE-



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West Valley Funding Agreement Reached

POSTED: October 29,
2009

WEST?VALLEY — New York state and the federal government have reached an agreement resolving financial responsibility for the cleanup of radioactive waste at the Western New York Nuclear Service Center, also known as West Valley Site, in Cattaraugus County. The resolution ends a decade-long dispute over the allocation of cleanup costs between the state and federal governments. “This resolution is a significant milestone in our ongoing work to decontaminate the West Valley Site and ensure the area’s long-term environmental health and safety,” said Gov. David Paterson. “With this agreement, our state and federal governments may proceed with a clear understanding of their roles and responsibilities.” The agreement filed today, known as a Consent Decree, resolves a lawsuit filed in 2006 by New York state against the federal government, clarifies the federal government’s responsibilities under a 1980 federal law and divides costs between the two governments for other facilities at the site. The state Attorney General’s Office and the federal government have signed the consent decree, along with the New York State Energy Research and Development Authority, which owns title to the land on behalf of New York state. Following a 30-day public comment period, the state will review the comments and ask the court to approve the Consent Decree if it is appropriate in light of the comments received. The agreement does not prescribe specific remediation actions, nor does it affect cleanup alternatives that are currently the subject of a draft Environmental Impact Statement for the site. Under a law passed by Congress in 1980, the U.S. Department of Energy is responsible for certain aspects of the cleanup and disposal of nuclear contamination on 200 acres of the West Valley site. As directed by that law, New York state is responsible for 10 percent of the costs of the cleanup directed by Congress, with the federal government paying 90 percent. New York is the only state that contributes to the cleanup of a high-level radioactive waste site. To date, the federal and state governments have incurred more than \$2.4 billion in cleanup costs, with New York paying more than \$270 million. In the agreement, specific allocations vary by the facility, with the federal government continuing to pay 90 percent of the costs for many of the cleanup activities. Both the state and federal governments have agreed to different percentages of the cleanup costs for some important facilities, such as the site disposal areas and the radioactive groundwater plume A copy of the Consent Decree is available at: www.ny.gov/governor/press/pdf/NoticeofLodgingFinal102709.pdf.

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► **West Valley**

Cleanup of nuclear waste site settled

By Michael Gormley
Associated Press Writer

ALBANY — Gov. David Paterson announced Tuesday that the federal government is agreeing to pay for 90 percent of the clean up of the Western New York Nuclear Service Center known as the West Valley Site, ending a decade-long dispute.

Under the agreement New York will pay 10 percent of the cost of cleaning up the Cattaraugus County site.

So far the cost to the state

and federal governments is more than \$2.4 billion in cleanup costs for the high-level waste site. New York has paid more than \$270 million.

The 3,300-acre site housed the nation's first commercial nuclear reprocessing facility from 1966 to 1972.

"This resolution is a significant milestone in our ongoing work to decontaminate the West Valley Site and ensure the area's long-term environmental health

Please see **West Valley**, page A-2

► **WEST VALLEY**

Continued from page A-1

and safety," Paterson said. "With this agreement, our state and federal governments may proceed with a clear understanding of their roles and responsibilities."

The agreement filed Tuesday ends a 2006 lawsuit filed by the state under former Gov. George Pataki against the federal government. A court still needs to provide final approval of the agreement, following a

30-day comment period.

The agreement doesn't cite specific ways the site is to be cleaned up, a major issue for activists in the area.

A report funded by the New York Legislature esti-

mated the cost of complete excavation at \$9.9 billion, and put the expense of maintaining the site over the next 1,000 years at \$13 billion to \$27 billion — more if waste leaks.

SOUTH BUFFALO

Robert Kirkham/Buffalo News



Family members at Friday's ceremony pay homage to those who died after working in local plants involved with the atomic weapons program during the Cold War.

Atomic site workers commemorated

By Harold McNeil

NEWS STAFF REPORTER

October 31, 2009, 7:50 AM /

Deceased Bethlehem Steel, Linde Air and West Valley workers who were exposed to radiation while working on materials for atomic weapons during the Cold War were remembered by their families as home front patriots in a solemn ceremony held Friday night in St. Thomas Aquinas Catholic Church in South Buffalo.

The remembrance service was organized by the Bethlehem Steel Action Group. For nearly a decade, members of the organization have been seeking monetary compensation from the U. S. government for their loved ones, who they said were exposed to lethal radiation without their knowledge in the course of doing their jobs.

"They were victims," said Tino Franco of Lancaster, whose father and father-in-law both worked at Bethlehem Steel beginning in the late 1940s and early 1950s.

Members of the Bethlehem Steel Action Group said the government, following the release of a study in 2000, had promised such workers and their families around the country that they would be justly compensated for repeated exposure to cancer-causing chemicals but has kept its promise to less than half of those who were exposed.

“The first requirement is that you admit what you did, that you placed these innocent people that were going to work every day, faithfully, in a vulnerable position without any opportunity to protect themselves,” Franco said.

About 70 people attended Friday’s ceremony, which including a reading of the names of 70 deceased workers. A candle was lit and a bell rung in honor of each.

The Rev. Art Smith, who delivered the homily at the ceremony, noted that many of the names read were familiar to him.

“Many of these people were the fathers of my brothers’ and sisters’ friends. I recognized at least 20 names from this list,” Smith told those gathered. “So, it’s amazing, just by being here tonight, it has awakened in me the names of people that I never would have suspected were involved in what all of your family members have gone through.”

Participants also recognized the work of Edwin A. Walker, a former Bethlehem Steel bricklayer who led the charge locally to get compensation under the 2001 Energy Employees Occupational Illness Compensation Program for former workers still alive and the families of those who have died. Walker died of cancer in January.

“He did all of the extreme leg work,” Franco said. “The sacrifices he endured, all of the hardships with respect to the nay-saying part of the government agencies that were opposed to even questioning. But as he began to accumulate the evidence, the evidence became more and more overwhelming.”

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WV Demonstration Project officials say, 'The media got it wrong!'

Reports from the West Valley Citizen Task Force Meeting on October 28



David Munro of the New York State Energy Research and Development Authority (NYSERDA) announced at the West Valley Demonstration Project Citizen Task Force meeting on Wednesday, Oct. 28 that the media has wrongly portrayed the settlement of litigation between New York state and the federal government.

Munro broke down the reasons for the original lawsuit and presented the terms of the settlement to the Citizen Task Force (CTF). Before going into the details, Munro clarified that the settlement only related to the breakdown of financial responsibilities and not to the cleanup alternatives or storage options.

Munro stated that there have been long-standing disputes between New York state and the federal government regarding the distribution of financial responsibilities and the scope of the West Valley Demonstration Project Act, or WVDPA. According to the United States Nuclear Regulatory Commission, this act is Congress's directive to the U.S. Department of Energy to "take the lead role in solidifying the liquid high-level waste and decontaminating and decommissioning the facilities at West Valley."

New York state filed suit in December 2006. The legal claims presented by the state in that lawsuit are as follows:

- The extent of the Department of Energy's duties under the WVDPA.
- The Federal Superfund Law - recovery of costs incurred in responding to releases of hazardous substances.
- The Federal Superfund Law - claimed damages to the State's natural resources.
- Nuclear Waste Policy Act - who pays for off-site disposal of the high level radioactive waste?

Munro said that the terms of settlement presented allocations for each facility and area including whether or to what extent that facility was covered by the WVDPA, the source of wastes, the ownership of that site, which government operated the facility and when, each government's involvement in contamination of the facility and other various factors.

Several medium including a major area newspaper, several television stations and Web sites had previously reported that the federal government would shoulder 90 percent of the West Valley site cleanup costs and the state would pay the remaining 10 percent. Munro stated that this is not necessarily the case.

He said, "We looked at the major facilities and said, 'Who is responsible for what percent regarding the cleanup?' " The financial breakdown of the various sites are as follows:

- State-licensed disposal area: Federal government responsible for 30 percent, New York state responsible for 70 percent.
- Nuclear Regulatory Commission-licensed disposal area: Federal government 50 percent, New York state 50 percent.
- Main process plant: Federal government 90 percent, New York state 10 percent.
- North Plateau groundwater plume: Federal government 50 percent, New York State 50 percent.
- Lagoons: Federal government 90 percent, New York state 10 percent.

Springville Journal, Thursday, November 5, 2009

- Waste tank farm: Federal government 90 percent, New York state 10 percent.

Munro stressed, "If we manage the site in place forever as it is, those allocations stay. If we dig it up, the allocations stay. Both parties agreed this was a fair allocation of settlement."

This consent decree was filed on Tuesday, Oct. 27 but the court will not take any action now. The New York State Attorney General's office will be accepting public comments on the decree for a period of 30 days.

For more information contact Munro at NYSERDA at 518-862-1090 ext. 3361; to comment on the decree call the New York State Attorney General's office at 1-800-771-7755.

The next regular meeting of the Citizen Task Force is tentatively scheduled for Wednesday, Nov. 18 at 7 p.m. at the Ashford Office Complex in Ashford Hollow.

Springville Journal

November 5, 2009

Posted: 2009-11-04

By: [Natalie Condor](#) Member Since: 2009-01-29

Ashford requests taxable acreage from WVDP

Some 375 acres may be available to the town

The Ashford Town Board has made a request to the New York State Energy Research and Development Authority (NYSERDA) to find town property that can be returned to Ashford's tax rolls so the town can receive revenue from the taxation of the property.

The town board listened to a presentation at the WNY Nuclear Service Center on Oct. 27 from several representatives of NYSERDA on how this can be accomplished.

Paul Bembia, program director of NYSERDA said that approximately 375 acres of land in the town of Ashford have been identified as possibly being available including a warehouse on an additional 4.5 acres. However, before any property could be returned to the tax rolls, an application has first to be made to the Nuclear Regulatory Commission (NRC) which, if approved, will release the property from the existing NRC license.

"We wanted to come here first to get your initial input and this is the first step in talking about this publicly," said Bembia. "This has been a long-standing request from the Ashford board and CTF (Citizen Task Force) members."

The area being considered for release includes the BSW (bulk storage warehouse) which was used by the WVDP to store excess equipment from 1982 to 2009. The facility, which measures 80 feet x 163 feet, was also used to store plutonium during reprocessing operations in the 1970s. When the facility was cleaned out in 1975, a total of 326 empty and clean plutonium overpack containers were disposed of in a shallow trench immediately south of the warehouse in a scrap material landfill. The plan is to exhume these containers.

The remainder of the property, 345 acres, is considered non-impacted by nuclear operations

It was noted that a requirement for releasing the property is that the release cannot affect the cleanup of the West Valley Demonstration Project.

Lee Gordon, associate project manager for NYSERDA, gave an overview of the process utilized by NYSERDA to identify non-impacted areas for release from the NRC license. NYSERDA's application to the NRC must include a description of the area, maps, characterization data, the effect if any on the Environmental Impact Statement; a demonstration of compliance with NRC dose criteria, soil samples, and an environmental impact review for releasing the property. "We expect there to be no contamination," said Gordon, "but we have to prepare that environmental review."

A draft timeline schedule was presented of various events that have to take place including discussion of the project with the NRC; public participation; collection of data; NRC reviews and a final status survey plan; and the submission of the application for license amendment. It is anticipated that all being well, the property could be approved for delicensing from the NRC during the second half of 2011.

"This is really the most confusing site on the planet," said John Pfeffer, board member and also a member of the CTF.

Bembia said that once the property is released from the license, NYSERDA must also conform with the requirements of the New York State Public Authorities Accountability Act for the sale of public property.

According to Bembia, the next step will be to arrange talks with the NRC and CTF. He said he does not anticipate any objections from the NRC. Bembia also offered a tour of the property to the members of the board.

"None of this is set in stone," concluded Bembia. "If you have concerns or comments, we will be happy to come back and address them."





LEGAL NOTICES

Notice of Lodging of Consent Decree pertaining to the West Valley Site, Cattaraugus County, NY

Notice is hereby given that on October 27, 2009, a proposed Consent Decree in State of New York et. al. v. United States et. al., 06-CV-810 (JTC), was lodged with the United States District Court for the Western District of New York. The Consent Decree has been approved by all parties to the litigation and has been furnished to the Court pending the public comment period that is being announced today. The Consent Decree has not yet been entered by the Court as an Order.

The Consent Decree pertains to the Western New York Nuclear Service Center, located in West Valley, Cattaraugus County, New York (the "Site"). The Consent Decree does not select or advocate the selection of any particular cleanup program for the Site, but pertains only to the apportionment between the parties of costs arising from or in connection with certain cleanup actions that may be conducted by the parties.

Background. The New York State Energy Research and Development Authority ("NYSERDA"), a public benefit corporation, holds title to the approximately 3,340 acre Site on behalf of the State of New York and operates a portion of the Site. The Site has been used since approximately 1962 for various purposes involving the processing, treatment and storage of spent nuclear fuel and radioactive waste. From 1962 until 1975, Nuclear Fuel Services, Inc., ("NFS"), a private business, conducted nuclear fuel reprocessing and radioactive waste disposal activities on the Site. In 1980, Congress enacted the West Valley Demonstration Project Act ("WVDP Act"), Pub. L. 96-368, directing the United States Department of Energy ("DOE") to conduct a high level radioactive waste demonstration project, known as the West Valley Demonstration Project (the "Project") "for the purpose of demonstrating solidification techniques which can be used for preparing high level radioactive waste for disposal." Since 1982, DOE has conducted the Project on approximately 200

acres of the Site, and has engaged in the solidification and storage of certain liquid high level radioactive waste left at the Site by NFS. NYSEDA and DOE have each taken a number of actions to decontaminate the Site and remediate the release or threatened release of hazardous substances at the Site.

Remedy Selection Process. The State, NYSEDA, and DOE are engaged in certain public processes, including a process to develop an Environmental Impact Statement (EIS) pursuant to the National Environmental Policy Act and the State Environmental Quality Review Act. DOE and NYSEDA issued a draft EIS last December, and accepted comments from the public until September 8, 2009 on the draft EIS. The governments expect to issue a final EIS early next year. See <http://www.wv.doe.gov>. **The EIS process, among other processes, not the terms of the Consent Decree, will determine the appropriate steps to be taken in the remediation and decommissioning of the Site.** The Consent Decree comment period has an entirely different purpose and is outlined below.

The State's Lawsuit. The State of New York, NYSEDA and the New York State Department of Environmental Conservation filed a complaint against the United States and DOE on December 11, 2006. The complaint: (a) asserted claims for cost reimbursement and damages to the State's natural resources under section 107 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. 9601 et. seq. ("CERCLA"); (b) sought a delineation by the court of DOE's responsibilities under the WVDP Act; and (c) requested a ruling under the Nuclear Waste Policy Act ("NWPA"), 42 U.S.C. 10107, that the federal government must pay the fee for offsite disposal of the high level radioactive waste stored at the Site. The complaint did not seek an order requiring the federal government to perform any cleanup measures. The State concluded then that it had no legal basis for such a claim and it continues to be the State's view that it has no such claim at this time.

Terms of the Consent Decree. The Consent Decree resolves many of the long-standing disagreements between New York and the Federal government regarding their respective financial responsibility for the cleanup. It identifies a specific cost share for each government for specified facilities and known areas of contamination, and sets forth a process for determining cost shares for contamination that may be identified in the future. It also requires NYSEDA and DOE to develop detailed plans to assure continued consultation between the agencies during the remainder of the cleanup. The Consent Decree does not resolve either the State's CERCLA natural resource damages claim or its Nuclear Waste Policy Act claim. The State reserves its right to pursue those claims, and the federal government may dispute them, in further litigation.

Notably, the settlement reached between the state and federal governments relates only to allocation of financial responsibility and **does not affect in any way the cleanup alternatives that are being or may be developed in the ongoing EIS process or any other process.** Thus, for example, the Consent Decree states that each government will pay 50% of the long-term costs of remediating the NRC-licensed Disposal Area, one of two landfills at the Site, regardless of whether the final remedy involves exhumation of landfill wastes, maintenance of the wastes in place or some other remedy. The federal and state governments have similarly reached allocation agreements regarding other facilities at the Site, as stated in the Consent Decree. **The EIS process, among other processes, will decide the appropriate remedy for each of these facilities. Comments on how the Site should be cleaned up are not sought at this time- the court has no legal authority in this case to decide cleanup issues.**

Public Comment Process. The New York Attorney General's Office ("NYOAG") will receive comments relating to the Consent Decree for a period of thirty (30) days from the date of this publication. Comments on the Consent Decree should be addressed to Assistant Attorney

General Linda E. White, and either (1) e-mailed to her at linda.white@oag.state.ny.us, or (2) mailed to her at New York State Department of Law, Main Place Towers, 350 Main Street, Suite 300A, Buffalo, New York 14202.

During the public comment period, the Consent Decree as well as New York's complaint may be examined on the following NYOAG Web Site, www.oag.state.ny.us. A copy of the Consent Decree and complaint may also be obtained by mail or e-mail from AAG Linda White, see contact information above. The Consent Decree and exhibits total 48 pages. The complaint consists of 38 pages. Copying costs are 25 cents per page.

11-10-2009

Obama's Climate Change Dilemma

By **ALAN STEINBERG**

Last Thursday, Lisa Jackson, Administrator of the U.S. Environmental Protection Agency (EPA) announced the appointment of my successor as Regional Administrator of Region 2 EPA, Judith Enck, who had been serving as Deputy Secretary of the Environment under New York Governors Eliot Spitzer and David Patterson. Simultaneously, Lisa also announced the appointment of other Regional Administrators in Regions 1, 3, 6, and 9.

It is most interesting that three of the five new Regional Administrators, including Judith Enck, have deep roots in the environmental advocacy community. I do not say this in any negative way. President Obama is deeply committed to climate change policies along the lines of those advocated by former Vice President Al Gore. The Regional Administrator appointments reflect the ideology of not only President Obama and Lisa Jackson but also that of White House Climate Change Czar Carol Browner.

The difficulty facing Obama and Lisa Jackson is that the present cap-and-trade legislation being considered by the United States Senate is now intertwined with the same political considerations impeding the progress of the President's health care package. The final outcome of both legislative proposals is not yet predictable, and the results in both cases will depend upon the decision of Connecticut Senator Joseph Lieberman as to whether to cast the 60th vote for cloture needed to end a Republican filibuster.

I wrote extensively and critically about the version of cap-and-trade legislation passed by the U.S. House of Representatives in my July 1, 2009 column in this space. My major criticism of this legislation was its woefully inadequate provisions to encourage nuclear power.

As Regional Administrator of Region 2 EPA, I encouraged the expansion of clean and safe nuclear energy. My involvements in the cases in New York of the Indian Point Nuclear Power Plant and the former **West Valley Reprocessing Facility** were focused on ensuring safe disposal of both low and high level nuclear waste. At Indian Point, I also injected into the license review process a demand that the facility be secure against any terrorist threat in the post 9-11 world. In the case of the Oyster Creek, New Jersey facility, in addition to the usual safety and waste concerns, a major additional priority was the avoidance of destruction of fish.

My view continues to be that if the waste issue is effectively resolved, nuclear power is indeed the most “green” form of energy. Nuclear power plants are virtually emission free in terms of criteria pollutants, air toxics, and greenhouse gases.

Additionally, both in terms of job creation and cost per unit of energy produced, nuclear power is far more efficient and effective than solar and wind. While as Regional Administrator I encouraged wind and solar projects as well, particularly the placement of solar panels on closed landfills, I believe it is utopian to believe that wind and solar projects alone could meet the increasing baseload needs for clean and safe energy in New York and New Jersey.

In the Senate, there are currently negotiations underway between Senators Lindsey Graham (R-South Carolina) and John Kerry (D-Massachusetts) to insert provisions into the legislation that would promote nuclear power as an efficient low greenhouse gas emission energy alternative. Another proposal of Senator Lamar Alexander (R-Tennessee) would promote the building of 100 new nuclear power plants.

It appears doubtful that any climate change bill that does not significantly promote nuclear power can pass the Senate. In fact, if the House-passed legislation is not significantly amended, the Republican Senate minority may filibuster the cap-and-trade bill.

Joe Lieberman is very much a supporter of nuclear power. Despite his history of sponsorship and support for climate change legislation, it is highly unlikely that he would vote for cloture to cut off a Republican filibuster unless the legislation was amended to meet his objectives in promoting nuclear energy.

The dilemma the Obama administration faces is that the same environmental advocacy organizations that support Obama’s climate change initiatives also, for the most part, take a dim view of nuclear power. If the legislation that passes the Senate in their view excessively promotes nuclear power, they will pressure the White House and the House of Representatives to reject the Senate legislation. They will not be mollified by the fact that the Obama administration appointed Regional Administrators who have deep roots in these very same environmental advocacy organizations.

If Congress does not pass climate change legislation, the EPA has the power to issue greenhouse gas regulations, pursuant to the U.S. Supreme Court holding in the 2007 *Massachusetts v. EPA* case. In fact, the EPA is currently developing such regulations.

The regulatory difficulty for the EPA, however, is in defining what constitutes an “emission source”. Federal agencies are not immune from Congressional influence, and individual key Representatives and Senators will pressure the EPA to carve out exclusions and exceptions for emission sources in their respective states. This will lead to litigation challenging the regulations from states and special interests who do not receive special treatment from the EPA in the regulatory process. In fact, it is highly unlikely that the regulations could become effective before 2012 even in the absence of litigation.

Accordingly, the Obama administration has a definite preference for legislation. In this regard, in negotiating with the House and Senate leadership of both parties, Lisa Jackson will play a key role.

As Regional Administrator of Region 2 EPA, I worked very closely with Lisa Jackson while she served as Commissioner of the New Jersey Department of Environmental Protection. Despite the differences in our political philosophies and affiliations, we actually together achieved significant accomplishments, particularly with regard to the remediation of the Passaic River, the nation’s most polluted waterway.

Lisa is a person of exceptional scientific and technical knowledge, but it was her people skills and strong pragmatism that enabled us to have a good working relationship. These attributes should serve her well as she seeks a legislative solution to the Obama administration’s climate change dilemma.

Alan J. Steinberg served as Regional Administrator of Region 2 EPA during the administration of former President George W. Bush. Region 2 EPA consists of the states of New York and New Jersey, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, and seven federally recognized Indian nations.

Alan Steinberg can be reached via email at Asteinberg613@comcast.net.

Springville Journal

Thursday, November 12, 2009

WEST VALLEY DEMONSTRATION PROJECT QUARTERLY PUBLIC MEETING

Tuesday, November 17, 6:30 p.m.

Ashford Office Complex

9030 Route 219

West Valley, NY 14171

The Department of Energy and the New York State Energy Research and Development Authority will hold a public meeting on Tuesday, November 17, at the Ashford Office Complex in West Valley, New York.

**For further information, please contact
John Chamberlain at
JohnChamberlain@wves.org
or (716) 942-4610**