

# Springville Journal

## December 3, 2009

### WVDP to release some land for public use

by Jesse Owen

*Notes from the November 18 meeting of the West Valley Demonstration Project Citizen Task Force*

The New York State Energy Research and Development Authority (NYSERDA) is considering releasing a portion of land at the Western New York Nuclear Service Center at the West Valley Demonstration Project.

At the Citizen Task Force Meeting on Wednesday, Nov. 18, Paul Bembia of NYSERDA announced that the company is requesting a release of two parcels of land owned by the demonstration project. "We're going to make the property available to the public so it can go back on the tax roll," he said.

The two parcels of land Bembia was referring to are a 345-acre parcel considered a "non-impacted" area as well as 4.5-acre parcel that is considered "impacted."



Bembia clarified that although the smaller parcel is termed "impacted," it is not necessarily contaminated. "Non-impacted land means there is no reasonable potential for residual radioactivity," he said. "Impacted land means there is some potential. That's a Nuclear Regulatory Commission (NRC) term. It doesn't mean that it's necessarily contaminated, but it does mean we're going to have to do a much more thorough evaluation of that property."

The impacted area has a bulk storage warehouse on the grounds that Bembia said operates under a separate license. The facility is a former plutonium storage facility that was used during the reprocessing operation. "In 1975 everything was cleared out, the facility was checked and the NRC license was terminated," he clarified. The Department of Energy used the warehouse to store excess equipment in from 1982 to earlier this year. Control of the warehouse was returned to NYSERDA in July 2009. "There's an area immediately behind the warehouse called the scrap material landfill," said Bembia. "There are 326 55-gallon drums in a shallow trench that were surveyed and not considered contaminated. We are going to exhume those containers prior to releasing the property."

Bembia clarified that the goals for selecting the non-impacted area were to find a location that was not impacted by reprocessing operations or West Valley Demonstration Project (WVDP) operations and that would not impact the cleanup of the center.

"The next step is to talk to the NRC in more detail about the process they will need to take," said Bembia.

Paul Piciulo, also of NYSERDA, gave the screening criteria for choosing a candidate area. "To identify the area of this site we had to look at the 3,000 acres," he said. "We have to go to the NRC with something real and show people how we did this and get input back."

Piciulo clarified that first NYSERDA looked at "unavailable" areas: WVDP facilities, potential contaminated areas that still need to be investigated, land near streams that could be potential pathways for contamination, watersheds that could exacerbate erosion, "undevelopable land" and that which has a steep slope over 22.5 percent. "We find that the leftover 342 acres that we believe is non-impacted is a good site," he said. "We don't expect this location to impact site cleanup and it looks like it will be developable land."

The NRC requires that NYSERDA prove that the land is not impacted by radioactive contamination.

"What we're proposing to do, after talking to the town board and the CTF, is to talk to the NRC about what they need," said Piciulo. "The process is to send an application for a license amendment for the release of property covering both areas." The application for license amendment will include a description of the areas for partial site release, characterization of the areas, impacts to licensed program, a demonstration of compliance with NRC dose criteria and an environmental review.

Bembia said that the release from the license will remove the regulatory restrictions on the property. "Once that's done, in order for this property to be used, NYSERDA would have to decommission the property," he said. "We will then advertise for bids at fair market value. Releasing the property from the license doesn't mean that we transfer the property over to anyone. It will still be New York state property until someone is interested in purchasing it." He continued by saying that the goal is to make the property available for unrestricted use, from housing to farmland. "This is the first piece of our property to be put through this process," said Bembia.

Ray Vaughan of the CTF commented that since this property release sets a precedence for releases to come, it is important that it is done right.

Brian Bower, director of the Department of Energy - West Valley Demonstration Project reported that the project has put in more than two million safe work hours since the last lost-time work accident. "We are accelerating decontamination of the Main Plant Process Building in preparation for demolition," he said, adding that the Demonstration Project has 10 additional new hires directly hired by West Valley Environmental Services that are expected to start work immediately.

The next West Valley Demonstration Project Citizen Task Force meeting will be held on Wednesday, Jan. 27, 2010 at the Ashford Office Complex at 9030 Route 219, West Valley.

## **Springville Journal**

Thursday, December 10, 2009



**HELPING STOP HUNGER** — WVES President and Project Manager John McKibbin (left) shakes hands with Bud Williams who runs the West Valley Food Pantry.

## **WVDP stocks local food pantries**

Over 63,000 pounds of food were recently donated by employees and friends of the West Valley Demonstration Project (WVDP). The Project fed over 900 families from eight local food pantries in West Valley, Little Valley, Franklinville, Ellicottville, Cattaraugus, Delevan and two located in Springville.

West Valley Environmental Services (WVES), U.S. Department of Energy, New York State Energy Research and Development Authority, I.A.M.A.W. Local 2401, WSMS, SLR Construction, RJR Engineering, Intomes Technical Services, Olean Wholesale, Salamanca Parkview, Seebald Security and Wymen Electric all joined together to make this year's food drive an outstanding success.

---

## Springville Journal, Thursday, January 21, 2010

### **Ashford asked for help from Concord dog control officer**

*Puppy mill is linked to others in Concord and Springville*



*ASHFORD TOWN BOARD — Front row, from left: Chris Gerwitz, town supervisor, Councilman Charles Davis, Councilwoman Beverley Hess. Back row, from left: Town Clerk Patricia Dashnaw, Councilman William Heim, Councilman John Pfeffer. Photo by Natalie Condor.*

According to Town of Concord Dog Control Officer Carolyn Robinson, there is most likely a connection between the now closed-down puppy mill at 222 Elm Street in Springville, a recently active puppy mill at 9366 Cattaraugus Street in Concord, a currently inactive puppy mill at 9857 Rock Springs Road in Ashford and an address at the Perkins Trailer Park on Middle Road in Concord.

At its meeting on Wednesday, Jan. 13, the Ashford Town Board was told by Robinson that on the same day, January 13, she, four sheriff's deputies and the Erie County SPCA seized 10 unlicensed adult dogs and five puppies from the Cattaraugus Street address. While the dogs appeared well fed, they were unlicensed and there was no documentation proving they had received the appropriate medical care. "Because they needed veterinary care, the SPCA took them all," said Robinson. "There was also a horse that looked like bones walking."

Robinson said that the dogs' owner has been frequently seen at the address of the puppy mill on Elm Street which was closed down before Christmas. Following this, the gentleman who operated the illegal puppy mill there moved his dogs to the Rock Springs Road address. Because there is no electricity or running water there, he then moved them to the Middle Road address. "He and the puppy mill operator on Cattaraugus Street are in cahoots," said Robinson. "The dogs on Cattaraugus Street were the same [breeds] as those taken away from the Elm Street address."

Robinson further stated that the animals are now housed in a trailer at the Perkins Trailer Park on Middle Road. She said her concern is that once the weather improves they will be taken to the Rock Springs Road address and she would like the help from the town of Ashford. "All I am asking from the town is that if this gentleman again is breeding dogs in the town of Ashford, that it will be addressed," she said. "Dogs over four months of age need to be licensed, which is state law and I would simply ask the law to be enforced."

Code Enforcement Officer Gary Perkins said that the dogs were removed from the Rock Springs Road address. He went there because of a complaint he had received and when he returned two weeks later the dogs were gone. Robinson said that the Cattaraugus SPCA had recently visited the premises and also found no animals there.

Supervisor Chris Gerwitz thanked Robinson for the information she had given the board and said he would pass it on to the Town of Ashford Animal Control Officer Jim Boberg.

In other matters:

- Mark Burr, director of engineering for the Cattaraugus County Department of Public Works, addressed the board with a status report on the bids received for engineering studies for the Fox Valley Road project. Following the August 2009 floods, a section of the road, approximately 80 to 90 feet long and a sluice underneath, were washed away. He advised that, following requests for proposals, four engineering companies had responded with recommendations for surveying, environmental work and preliminary design, with prices ranging from \$44,048 to \$73,000. "It is a major capital investment," said Burr. "A large portion will be paid by FEMA." The board agreed to accept the bid received from E&M Engineers and Surveyors PC of Springville in the sum of \$44,048, following which bids will be requested from building contractors. Burr said that the final cost would be in the region of half a million dollars and perhaps up to \$1 million.

- Paul Bembia of **New York State Energy Research and Development Authority** said that a project to dispose of some liquid waste that had been stored at the State Licensed Disposal Area has been completed. Eight thousand gallons of contaminated water, which had been stored in an above-ground tank, was shipped from the site in November by truck to a licensed facility in Tennessee.

- The completion of the installation of some erosion control work on the north end of the SDA was completed in November following the August storm flooding.

- Work at Buttermilk Creek following the August storm will commence as soon as weather permits. This relates to a large berm that was washed away.

- The Environmental Impact Statement is on schedule to be issued to the public at the end of January. The Department of Energy will then issue its Record of Decision in March as will NYSERDA.

- With respect to the release of a warehouse and 400 acres, progress is continuing on this. The Nuclear Regulatory Commission has requested a Letter of Intent from NYSERDA. The NRC is a fee-based organization and review of this kind of project is typically charged to the licensee, NYSERDA and the current rate is \$257 an hour. "We will put an application in to the NRC maybe as early as fall," said Bembia.

The next Ashford Town Board meeting will be held at 7.30 p.m. on Wednesday, Feb. 10 at the community center.

## FEDERAL GOVERNMENT

# Final West Valley impact statement released

January 22, 2010, 7:06 AM /

The U. S. Department of Energy announced Thursday that it has released the final environmental impact statement for the West Valley Demonstration Project cleanup and indicated that it prefers a gradual return to normal for the nuclear fuel reprocessing facility.

The impact statement outlines three alternatives for the cleanup — complete removal of everything that is contaminated, leaving everything in place, and what the agency calls “phased decision-making, allowing partial to unrestricted land release in two phases.”

The Department of Energy indicated that the first phase, which could take eight to 10 years, would involve decommissioning of the main plant process building, the vitrification facility, the remote handled waste facility and the lagoon area.

The underground high-level waste tanks and the licensed nuclear disposal area would be maintained as they are, under management of the New York State Energy Research and Development Authority.

While the first phase is being carried out, the Department of Energy and NYSERDA would conduct a number of studies to determine the best way to decommission the remaining facilities.

Within 30 days of the publication of the final environmental impact statement, the Department of Energy will publish a record of decision to announce what its course of action will be, based on the impact statement.

Copies of the final environmental impact statement are available in Concord Public Library, 18 Chapel St., Springville, and the West Valley Demonstration Project Reading Room in the Ashford Office Complex, 9030 Route 219, West Valley. It also can be read online at [www.westvalleyeis.com](http://www.westvalleyeis.com) and [www.gc.energy.gov/NEPA](http://www.gc.energy.gov/NEPA).

citydesk@buffnews.com

## ► West Valley

# Final EIS issued for Demonstration Project

By Rick Miller  
Olean Times Herald

**WEST VALLEY** — A three-volume, 2,500-page Final Environmental Impact Statement for the Decommissioning and Long-Term Stewardship at the West Valley Demonstration Project was issued last week by the U.S. Department of Energy.

Phased Decision-making was identified as the preferred alternative in a three-year procedure that started with "The Way Forward" that brought state and federal officials together to hash out an acceptable alternative to move ahead with a cleanup.

The preferred alternative calls for removing most facilities and cleans up a radioactive plume in the groundwater — but defers any decision on removing underground tanks that held highly-radioactive liquid or the state and federal low-level radioactive waste disposal areas for at

least 10 years. Initially, the Department of Energy (DOE) and New York State Energy Research and Development Authority (NYSERDA) had proposed to take up to 30 years to make a decision on what to do with the huge underground tanks and the waste disposal areas.

Joanne Hameister, chairman of the Coalition on West Valley Nuclear Wastes, which has been bird-dogging the project for more than three decades, said putting off decisions of what to do with the underground tanks and the disposal areas, makes it seem like it is less than a full cleanup of the former commercial spent nuclear fuel reprocessing center that operated in the town of Ashford from the mid 1960s to the early 1970s.

Mrs. Hameister, who just received the FEIS on Friday, was just starting to read the summary and declined extensive comment until after she had read the documents and

Coalition members had a chance to discuss the outstanding issues. She's interested, however, in how DOE treated the Coalition's comments. "I felt somewhat dismissed on some of them (comments)," she said in a telephone interview Saturday. "I wish they'd start listening to us."

The Coalition also commented on the consent decree NYSERDA and DOE agreed to last year that spells out what actions each will take and how much the state and federal governments will pay of the cleanup costs at West Valley, she said. "As long as we commented on some part of it we have the option to go forward legally or with intervener status."

Mrs. Hameister said, "I can't tell you how frustrated we feel over this. The DEIS only dealt with 2 percent of the contamination at the site."

Mrs. Hameister said the Coalition will meet soon to

review its options with its attorney, but she wants to give members an opportunity to begin reading the summary. The final EIS is almost twice as many pages as the draft EIS. It weighed 18 pounds and cost almost \$20 to deliver. The Coalition several years ago agreed to a stipulation of compromise with the Department of Energy that gives the group federal court status in the case. "We're simply not going to go away," she added.

The West Valley Citizens Task Force will meet Wednesday night at the Ashford Office Complex to discuss its reaction to the final Environmental Impact Statement.

The EIS preferred option — Phased Decision-making — would involve two phases. In the first phase, DOE would decommission the Main Plant

Process Building, Vitrification Facility, Remote handled Waste Facility and lagoon areas. No decommissioning would be undertaken involving the high-level underground waste tanks or the disposal areas.

A notice of availability of the final EIS is expected to be published in the Federal register on Jan 29. That would begin a 30-day period before publication of the record of decision to announce the final action based on the EIS.

The final EIS will be available at the Concord Library in Springville, the WVDP reading room at the Ashford Office Complex on Route 219 in Ashford Hollow, and online at [www.westvalleyeis.com](http://www.westvalleyeis.com) and [www.gc.energy.gov/NEPA](http://www.gc.energy.gov/NEPA).

(Contact reporter Rick Miller at [rmiller@oleantimesherald.com](mailto:rmiller@oleantimesherald.com))

**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.

**750 Legal/Public Notices**

**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"), 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

**750 Legal/Public Notices**

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 de-commissioning 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; 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.

**750 Legal/Public Notices**

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

**750 Legal/Public Notices**

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](mailto: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](http://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.