



# THE WEST VALLEY CITIZEN TASK FORCE

May 6, 2011

Mr. Dan Sullivan  
U.S. Department of Energy  
West Valley Demonstration Project  
10282 Rock Springs Road  
West Valley, NY 14171-9799

**RE: Comments on Waste Incidental to Reprocessing Draft Evaluation for WVDP Melter**

Dear Mr. Sullivan,

Below please find the comments of the West Valley Citizen Task Force (CTF) concerning the Waste Incidental to Reprocessing Draft Evaluation for the WVDP Melter.

The CTF has maintained and continues to maintain that the ultimate solution for the site is the safe full removal of all wastes. As we have stated previously, we believe that the West Valley Demonstration Project Act contains the appropriate definition of wastes to be applied in making decisions for the site. The CTF has concerns about the proposed WIR determination because it sets precedent regarding other wastes at the site and because a determination made through a supplemental analysis does not provide the level of public input appropriate to decisions of this magnitude.

The CTF has reviewed and offers these comments on the West Valley Demonstration Project report entitled "Draft Waste Incidental to Reprocessing Evaluation for the Vitrification Melter." The report, dealing with the possible (re)classification of the West Valley melter as "waste incidental to reprocessing" (WIR), was prepared March 2011 by the U.S. Department of Energy (DOE) for public and Nuclear Regulatory Commission (NRC) review. As we understand, a WIR reclassification would allow disposal of the melter as low-level waste (LLW) by using the determination of Class C LLW.

We attach and incorporate by reference our letter to NRC dated July 28, 2006. In that letter we referred to and reiterated the "serious misgivings" that we originally expressed in December 1998 and January 1999 "about the legality of using the WIR reclassification at West Valley." We continue to question the legality of such reclassification, as explained more fully below.

DOE's March 2011 report states (pp. 2, 26, etc.) that the melter "was wetted by high-level waste (HLW)". Since 425 kg of glass were melted in that unit with the HLW, the remainder of glass is also HLW and must be treated as such. Given the definition of HLW in the West Valley Demonstration Project Act, please tell us the legal basis for reclassifying the residual HLW in the melter as "waste incidental to reprocessing" (WIR).

**West Valley Citizen Task Force**  
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We recognize that DOE has sometimes applied different waste definitions depending on whether wastes are located on the West Valley site or removed from the site. For many years, for example, DOE has used different onsite and offsite definitions of transuranic (TRU) waste. In a parallel but somewhat different context, we see that DOE's March 2011 report (p. 28) includes the statement that "the NRC West Valley decommissioning criteria policy statement...does not apply to waste shipped offsite for disposal."

Since we believe it is debatable, legal or not, to define waste simply by its source and not its radioactivity, we object to reclassifying high-level waste as low-level, as is happening with the use of the WIR classification. We also object to labeling waste differently according to locality, whether on or off-site. Therefore, we have two questions that need to be answered in writing as soon as possible.

1. What is the basis, legal or otherwise, for use of the WIR determination?
2. What is the basis for changing a definition or classification depending on the location where the material is contained?

Without answers to the above questions, the CTF cannot presently support the reclassification of the vitrification melter as WIR. We look forward to your reply.

Sincerely,

Deborah Aument *Frank Aument* *Christopher C. Scurry*

*P. J. Krans* *Allyson Kunkle* *Waven Shindler*

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