

To: West Valley Citizen Task Force  
From: Melinda Holland  
Subject: Summary of April 23, 2003, CTF Meeting  
Date: May 12, 2003

### **Next Meeting**

The next full Citizen Task Force (CTF) meeting will be held as follows:

Date: **Thursday, May 22, 2003**  
Time: 7:00 - 9:30 p.m.  
Location: Ashford Office Complex  
9030 Route 219, West Valley, NY

If you have questions or comments regarding the upcoming meeting or about this summary, please contact Melinda Holland at (828) 894-5963, or Tom Attridge at (716) 942-2453.

### **CTF Attendees**

*Attending were:* Eric Wohlers, John Allan, Joe Patti, Paul Piciulo, Mike Hutchinson, Pete Scherer, Lee Lambert, Tim Siepel, Bob Potter (for Bill King), Ray Vaughan, Warren Schmidt, Alice Williams, Nevella McNeil, John Pfeffer, and John Beltz.

*CTF Members not attending (nor represented by an alternate) were:* Larry Rubin, Bill Kay, and Lana Redeye.

### **Meeting Highlights**

Topics discussed included:

- ▶ Presentation on the status of the Waste Management Draft EIS for the West Valley Demonstration Project;
- ▶ Update on the House Bill 6 (Energy Conservation), Senate Bill S 615, and House Bill HR 576;
- ▶ CTF Strategy for Continued Congressional Involvement; and
- ▶ Topics for the May 22 CTF meeting with the regulatory agencies.

### **Meeting Summary**

#### **Administrative Announcements**

Tom Attridge, NYSERDA, opened the meeting by briefly describing the written materials that were disseminated at the meeting (see the list at the end of this summary) and Melinda Holland reviewed the agenda. Melinda Holland introduced the new Task Force member, John Allan, who is a member of the Town of Concord Council.

#### **Presentation on the Waste Management Draft EIS**

Dan Sullivan, DOE, gave a brief presentation on DOE's Waste Management Draft Environmental Impact Statement (DEIS) for the West Valley Demonstration Project. The Waste Management DEIS is expected to be published in the federal Register on May 9, which will open the public comment period. A presentation will be made on the DEIS at the WVDP Quarterly Public Meeting on May 13 – CTF members were encouraged to attend this meeting to learn more about the DEIS. Public comment meetings on this document are scheduled for June 11 at the Ashford Office Complex, 9030 Route 219,

West Valley, NY. If the NOA is published in the Federal Register by May 9, the 45-day public comment period will run from May 9-June 23.<sup>1</sup>

A CTF member questioned why there was no discussion of removal of the high-level waste (HLW) tanks in the Waste Management DEIS outline. Mr. Sullivan explained that disposition of the tanks and other decommissioning activities are dealt with in the Draft EIS for Decommissioning and/or Long-Term Stewardship of the West Valley Demonstration Project and WNY Nuclear Service Center. Another Task Force member raised concerns the fact that the Waste Management DEIS does not address the ability to cut up, contain and ship the HLW Tanks. He urged the Task Force to comment on issues related to the interim closure of the HLW Tanks with grout, which he regards as contrary to the CTF's Recommendations Report.

The Task Force selected May 19 as a possible conference call date to discuss the Waste Management DEIS and whether the CTF wants to prepare and submit comments on this document.

### Congressional Involvement

CTF members discussed the status of the West Valley related bills. House Bill 6 - The Energy Policy Act, passed the House with an attached amendment (Number 12) dealing with West Valley issues. A Task Force member spoke with Ryan McConaghy of Senator Schumer's staff, who stated that the Senate Energy Policy Bill is in the Senate Energy and Natural Resources Committee and is expected to move to the Senate floor for a vote in May. Mr. McConaghy also said that Senator Schumer hoped to have the West Valley amendment added to the Senate Energy Policy Bill in the same way it was added to the House bill. Senate Bill S. 619 and House Bill H.R. 576 are still in committee but are viewed as not likely to move out of committee any time soon.

Task Force members spent some time discussing their concerns regarding the pending legislation (the amendment). Those concerns included:

- ▶ Why Amendment 12 to the House Energy Policy Bill was not mentioned to the CTF during the April 21st conference call with Congressional staff, which occurred just three days before Amendment 12 was introduced;
- ▶ The need for public discussion on the issues raised by Amendment 12;
- ▶ Why the language of Amendment 12 to the House Energy Policy Bill is significantly different from the language in S. 619 and H.R. 576:
  - Amendment 12 of the House Energy Policy Bill only requires that DOE prepare a plan for transfer, instead of mandating the actual transfer of nuclear materials or property,
  - Amendment 12 of the House Energy Policy Bill requires a plan to transfer the entire 3,300 acres while H.R. 576 and S. 619 only transferred title to the wastes (but excluded the State Licensed Disposal Area, [SDA]),
  - Amendment 12 of the House Energy Policy Bill requires DOE and NYSERDA to jointly develop the plan, which could result in impasse as have the prior negotiations between these agencies, and
  - Amendment 12 omits any discussion of the HLW waste disposal fee.
- ▶ If the Federal government takes title to the entire 3,300 acres the existing "checks and balances" between NYSERDA and DOE will be lost;
- ▶ With Federal ownership of the site, the risk of DOE deciding to leave all wastes on-site or to use the West Valley site for additional waste storage, reprocessing, or disposal will increase;
- ▶ With Federal ownership, the opportunity for economic re-development on the 3,300 acres is highly unlikely;

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<sup>1</sup> The Waste Management EIS Notice of Availability will be published in the May 16 edition of the Federal Register. The 45-day public comment period will run from May 16-June 30, 2003.

- ▶ Because DOE is self-regulating, federal ownership of the site may limit NRC oversight;
- ▶ Federal ownership of the site may find that DOE will claim it does not need to go through the NRC license termination process, the license termination process provides a useful public review opportunity; and
- ▶ If the site was transferred to DOE with the NRC Part 50 license in abeyance, it could allow opportunity for new activities such as waste reprocessing, under the existing license.

Some Task Force members noted that Congress may feel that they did what the CTF asked them to do, and now the Task Force has “cold feet,” but others felt Congress had not done what the Task Force requested. A CTF member expressed continued misgivings about any legislation, stating that the existing West Valley Demonstration Project Act, plus clear-cut decommissioning requirements from NRC, are all that is needed. Another member reminded the group that Amendment 12 states that it does not change existing law, and only requires DOE to sit down with NYSERDA and develop a plan to transfer the site to DOE - additional legislation would be needed to implement any plan.

CTF members appeared to be in agreement that they do not want additional wastes/nuclear materials brought to the West Valley site.

Ms. Holland asked each Task Force member to state what next steps or actions they wanted the CTF to take regarding the pending legislation (Amendment 12). The action supported by all members was to contact Bob Van Wicklin, of Congressman Houghton’s staff, to request clarification on a number of issues as listed below. Eric Wohlers volunteered to contact Mr. Van Wicklin for clarification on the following issues:

- ▶ Why the amendment wording is different from the wording in both H.R. 576 and S. 619. Was there an intended purpose behind the change in wording of the Energy Bill amendment? Why wasn't the exact same language from H.R. 576 used?
- ▶ The amendment no longer calls for the actual transfer of the responsibility for the radioactive waste by Sept. 30th, but rather only transmittal of a plan to Congress by December 31st. With the amendment calling for the Secretary of Energy to "consult with the President of NYSERDA," doesn't this put us right back in the impossible situation of the two parties having to negotiate an agreement?
- ▶ The amendment included a new reference to the transfer of title to the "property" at the "WNY Nuclear Services Center." The CTF does not believe anyone has ever advocated the transfer of ownership of the actual land from NYS to the Federal government, only title to the waste. This is a monumental change in the proposal. Was it intended? If so, by whom? (Reference Note: If someone refers to the WNY Nuclear Services Center property, they refer to the entire 3,300 acres owned by NYS. If someone mentions the WV Demonstration Project premises, this is the 200 acre portion of the site which the DOE was granted control of by the WVDP Act.)
- ▶ If the property actually changed hands, this would present a whole host of serious new questions concerning the former NRC license, loss of future license related proceedings, possible loss of re-development opportunities on the 3,300 acre site, possible loss of any State or local input in decision making over the future of the site (checks and balances) or final disposition of the various radioactive waste units, etc.
- ▶ H.R. 576 wording correctly excluded the transfer of wastes disposed of in the State-Licensed Disposal Area. The Energy bill amendment does not. Was this an oversight, or intended?
- ▶ With the present action on the Energy Bill, are H.R. 576 and S.619 effectively dead?
- ▶ Would a letter to the rest of the NY Delegation asking for their formal support of H.R. 576 be useful at this time?
- ▶ The CTF recommends that Congressional staff contact appropriate parties at NYSERDA to see whether the State is supportive of the Energy Bill amendment as worded.
- ▶ The Task Force also suggests that when future legislation concerning West Valley is drafted, that the specific wording be run past a designated site representative to ensure that no unintended meaning is lent to the legislation.

The CTF agreed to reserve judgement on whether it could support H.R. 6 or not (given the significant wording changes of Amendment 12), until Mr. Van Wicklin answers the Task Force’s questions. After the above points are clarified, the CTF discussed writing or contacting Senator Schumer and Clinton’s offices to urge that no mention of transfer of the entire 3,300 acre property at West Valley be included in any Senate Energy Bill amendment. Task Force members suggested that the Senate use the language of S. 619 to amend the Senate Energy Policy Bill, then the Conference Committee could resolve the differences.

**Topics for the May 22<sup>nd</sup> Task Force Meeting**

The Agenda Workgroup relayed a request from the regulatory agencies that the full CTF prioritize the proposed topics for the May 22 Task Force meeting. The CTF used “dot voting” to prioritize the May meeting agenda topics and the results are listed below. The May 22 agenda will reflect this prioritization.

- (1) Regulators Communication Plan (1 vote)
- (2) NRC Implementation Plan (2 votes)
- (3) Communications (letters) between NYSDEC and NRC over NYS requirements relevant to decommissioning (1 vote)
- (4) Recent Memorandum of Understanding (MOU) between NRC and EPA regarding EPA involvement in decommissioning of NRC-licensed sites (1 vote)
- (5) Waste Incidental to Reprocessing (WIR) (7 votes)
- (6) Recent NRC guidance on decommissioning (8 votes)
- (7) WVDP Act language about “...applicable licensing requirements for disposal of radioactive waste...” (13 votes)

Next Steps

The CTF will meet on May 22, June 18, July 16, and August 20, 2003.

Observer Comments

There were no observer comments.

Action Items

<b>Action</b>	<b>Assigned to</b>	<b>Due Date</b>
Contact Bob Van Wicklin for clarification of issues	Eric Wohlers	April 28
Possible conference call to discuss the Waste Management DEIS & need for CTF to prepare comments	CTF (to be coordinated by M. Holland or T.Attridge)	May 19

Documents Distributed

<b>Document Subject</b>	<b>Document Description</b>	<b>Generated By - Date (if applicable/known)</b>
CTF Meeting Draft Agenda	April 23, 2003 CTF Meeting Agenda	M. Holland - 04/15/03
CTF Meeting Summary	March 25, 2003 CTF Meeting Summary	M. Holland - 04/15/03
Amendment 12 of the House Energy Policy Act of 2003	Bill language and House floor debate transcript	
Amendment 12 of the House Energy Policy Act of 2003	Press release - issued by Amo Houghton	Amo Houghton - 04/11/03
Amendment 12 of the House Energy Policy Act of 2003	Press release - issued by NYSERDA	NYSERDA - 04/12/03
DEIS Public Scoping Sessions	News article - "West Valley hearings start Wednesday"	Olean Times Herald - 04/08/03
DEIS Public Scoping Sessions	News article - "Meeting on West Valley raises objections"	Buffalo News - 04/10/03
DEIS Public Scoping Sessions	News article - "Citizens group to sue over West Valley cleanup"	Olean Times Herald - 04/11/03
Amendment 12 of House Energy Policy Bill of 2003	News article - "Energy bill includes West Valley, Great Lakes items"	Buffalo News - 04/12/03
Amendment 12 of House Energy Policy Bill of 2003	News article- "Reaction mixed to bill on West Valley"	Buffalo News - 04/14/03
Waste Management DEIS	Proposed Schedule	DOE
Waste Management DEIS	Fact Sheet - describes background, alternatives, and public comment plans	DOE
CTF Meeting Draft Agenda	April 23, 2003 CTF Meeting Agenda - REVISED	M. Holland - 04/15/03
CTF 2003 Work Plan	REVISED Work Plan for Calendar Year 2003	M. Holland - 03/24/03
Negotiations Between DOE and NYSERDA	Draft Fact Sheet - describes background, GAO report recommendation, and chronology	CTF
Consolidation of NRC's decommissioning plans and guidance	Short write-up describing the contents and objectives of NUREG-1757	NRC
CTF Agenda Work Group Conference Call	April 21, 2003 CTF Agenda Work Group Conference Call Draft Summary	M. Holland - 04/23/03

For copies of any of the above documents, please contact Sonja Allen at (716) 942-2152.