

To: West Valley Citizen Task Force
From: Bill Logue, Citizen Task Force Facilitator
Date: July 14, 2008
Subject: **Summary of the June 25, 2008 Meeting**

Next Meeting

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

Time & Date: **7:00 – 9:30 PM, July 23, 2008**
Location: Ashford Office Complex
9030 Route 219
West Valley, NY

Note: All participants must be United States citizens and must bring photo identification. If you have questions or comments regarding the upcoming meeting or about this summary, please contact Bill Logue (860-521-9122, bill@loguegroup.com).

CTF Participants

CTF Members and Alternates attending: Joe Atkinson, Mike Brisky, Rob Dallas, Judy Einach, Steve Kowalski, Paul Kranz, Lee Lambert, Kathy McGoldrick, Anthony Memmo, Joe Patti, Warren Schmidt, Bill Snyder, Ray Vaughan.

Agency Participants and Observers

Department of Energy (DOE): Bryan Bower, Moira Maloney, Craig Rieman.

New York State Energy Research and Development Authority (NYSERDA): Tom Attridge, Paul Bembia, John Kelly, Andrea Mellon, Dave Munro, Paul Piciulo, Marty Willett.

New York State Department of Environmental Conservation: Pat Concannon, Tim Rice, Lynn Winterberger.

West Valley Environmental Services, LLC (WVES): Ken Alkema, Sonja Allen, John Chamberlain, Steve Warren.

U.S. Environmental Protection Agency: Jeanette Eng.

U.S. Nuclear Regulatory Commission: Keith McConnell.

Observers: Joanne Hameister, Kathy Kellogg (Buffalo News).

Introductions and Announcements

Bill Logue welcomed the group and reviewed the agenda and meeting documents.¹ He noted that the discussion of the schedule on the draft agenda was deferred to a future meeting and that Cindy Cook had decided to pursue other work.

Paul Bembia introduced Dave Munro who has joined NYSERDA as associate counsel and will be responsible for legal aspects of the project. Hal Brodie has been appointed General Counsel of NYSERDA. Mr. Bembia also stated that there have been several instances of trespass on the retained premises. He asked CTF members to advise their constituents that, for safety and security reasons, trespassers will be prosecuted. NYSERDA will arrange for visits and access to the retained premises on request.

Follow-up From Prior Meeting Concerning Plume Source Remediation

Soil Volumes. Zintars Zadins advised the CTF by email that approximately 2,000,000 cubic feet of soil is assumed to be removed during the excavation of Waste Management Area 1 (the plume source area).

¹ The documents are listed at the end of this summary and may be found at www.westvalleyctf.org

North Plateau Plume Mitigation Proposed Barrier Wall. John Chamberlain of WVES provided additional detail about the proposed barrier wall to contain on the site the Strontium-90 in the North Plateau Groundwater Plume. The proposed 300' wall will be located near the existing road where groundwater has surfaced. On average the wall will be 18-20' deep. Considerable additional characterization of the contamination at the 10,000 picocuries/liter isopleths (where the wall is expected to be placed) will need to be performed prior to final design of wall width, depth and placement. The design will be peer reviewed. The goal is to use filter media in the wall to capture the Sr-90 in this leading edge and to remove the source beneath the Main Process Plant Building. Cleanup actions concerning contamination between those locations will be determined later as part of the Environmental Impact Statement process. In response to questions about surface contamination levels, Mr. Chamberlain noted that Strontium-90 is omnipresent from above ground nuclear testing; that NY State regulations limit drinking water to 8 picocuries/liter; that the contamination at the swale where the plume surfaces varies seasonally based on rainfall with an average of 1,900 picocuries/liter and peaks of 4,000-5,000 picocuries/liter. Levels are indistinguishable from background levels at the edge of the Western New York Nuclear Service Center in Cattaraugus Creek. One CTF member noted that, unless it is removed, the wall would remain contaminated for 300 years. Another member noted that the level and area of contamination is considerably larger because the agencies could not agree on responsibility and NRC did not have a clear regulatory role.

NY State Department of Environmental Conservation Radiation Program

Tim Rice of the New York State Department of Environmental Conservation (NYSDEC) made a presentation on the agency's role in regulating radiation at the site. As an Agreement State, the federal government has relinquished to New York authority over certain radioactive materials. The federal government, through NRC and DOE, has retained authority for fuel cycle and defense facilities. New York State radioactive materials regulatory authority is limited to the State Licensed Disposal Area (SDA). The New York State Department of Health (NYSDOH) is the lead agency for emergency response and for worker and public health. NYSDEC oversees permits for discharges and transporters of radioactive materials and low-level radioactive waste (LLRW) site requirements and operations. It also must adopt standards at least as restrictive as the NRC license termination rule (LTR) for facilities it permits. Mr. Rice reviewed the regulatory history of the SDA as part of the presentation.

Part 380 Discharge Permit. The SDA formerly had three permits under Part 380 of the New York Code of Rules and Regulations. The only active permit is for monitoring and maintenance of the SDA and it is currently under renewal for a period of 5 years. NYSDEC technical staff review and update the draft permit as conditions dictate, share the draft with NYSED for review, as required by law, and transmit the draft to the Division of Environmental Permits Region 9 staff for finalization and issuance. Required environmental sampling programs for this permit are being coordinated with the State Pollutant Discharge Elimination System (SPDES) permit environmental sampling requirements.

In general, Part 380 establishes guidance on discharge limits on a statewide basis and sets site-specific permit conditions based on the specific conditions at each site to minimize potential risk to the environment. The SDA Part 380 Permit requirements address: site security; emergency response plan; environmental monitoring plan; inspection of stream, slopes and the cap; quarterly and annual reports; and reporting of non-routine events. The draft permit is being reviewed and includes enhancements for records retention and maintenance; stormwater runoff analysis; formal reporting of erosion impacts; an

erosion monitoring plan; and an erosion control and maintenance plan. Part 380 does not require closure of the SDA, and NYSEDA may continue to maintain the site as long as all appropriate protections are in place and all requirements are met. Parts 382 for site requirements and Part 383 for site operations do not apply directly to the SDA but conditions from these regulations can and have been added as conditions to the Part 380 Permit; an example would be boundary postings. Part 384, the DEC's approach to adoption of the LTR, is still under development and will apply to the SDA when it is issued. If the NRC Part 50 license returns to NYSEDA, thereby placing the retained premises under NRC jurisdiction, then the NRC LTR would apply to the retained premises. NYSDEC and NYSDOH will examine public health and environmental impacts, and cooperate in the federal NEPA process and in the Core Team meetings to make any concerns about potential public health or environmental impacts known.

Public Involvement through UPA and SEQRA. The public involvement process for Part 380 permits is through the Uniform Procedures Act (UPA) and the State Environmental Quality Review Act (SEQRA). The UPA establishes time limits for the permit and permit renewal process that agencies must meet. It requires public participation for new permits and allows for participation for modifications and renewals. If significant changes, a "major action", were being considered for the SDA, this might require the site permit to be treated as a new permit for public participation purposes. A definition of major action may be found by permit type at <http://www.dec.ny.gov/public/6461.html>. SEQRA requires an evaluation of potential environmental impacts of state and local government actions. For the SDA, NYSEDA is the lead agency and SEQRA review is required under certain conditions. Currently no public involvement is required for the existing Part 380 permit; however, in the future it might be required for a material change or major project such as complete or partial exhumation, or for a pilot exhumation action.

NYSDEC Hazardous Waste Program

Lynn Winterberger of NYSDEC made a presentation concerning the agency's hazardous waste program and regulation of the West Valley Site. She provided a brief overview of the state's adoption and implementation of the Resource Conservation and Recovery Act (RCRA).

The West Valley Demonstration Project (WVDP) and the Western New York Nuclear Service Center (WNYNSC) filed separate Part 373 Part A applications in 1990 gaining interim status for the storage and treatment operations for mixed wastes (hazardous and radioactive wastes) which had become subject to regulation. Part 373 permits for these sites will be issued for 5-year periods. DOE, NYSEDA and their contractors are subject to Part 373/RCRA program components including: manifest requirements, fees, hazardous waste reduction, permits, corrective action and inspections.

Under Part 373/RCRA a facility assessment (RFA) is conducted to assess existing information on environmental conditions and actual or potential releases. This generally includes preliminary review, visual site inspection and a sampling visit resulting in a report. A Facility Investigation (RFI) ascertains the nature and extent of contamination for releases identified during the RFA. A Corrective Measures Study (CMS) identifies alternatives for remedial action and Corrective Measures Implementation (CMI) is detailed design, construction and operation, maintenance and monitoring of the final selected remedy. For a permitted facility, CMI is handled under a permit or its renewal, both of which are subject to public notice and comment. This is the case for West Valley since the RCRA 3008(h) order does not contain requirements for implementation of the CMS.

At the WVDP there are Interim Status Units which currently include:

- High Level Waste Tanks (Tanks 8D-1 - 8D-4)
- Integrated Radioactive Waste Treatment System (STS, LWTS, and CSS)
- High Level Waste Vitrification Treatment Facility
- LAG Storage Building (LSB); LSAs #1 - #4
- Hazardous Waste Storage Lockers #1 - #4
- Fuel Receiving and Storage/High Integrity Container Area
- Contact Size-Reduction Facility
- Remote Handled Waste Facility

The Part 373/Part B permit application for the WVDP was filed in 2004 and deemed by NYSDEC to be administratively inadequate in February 2005. This administrative inadequacy will be addressed when the draft EIS is released for public comment. There are currently no interim Status Units at the WNYNSC because the mixed wastes stored in the regulated units became conditionally exempt from regulation in 2005.

To close Interim Status Units the facility notifies NYSDEC of the intent to close and provides a closure plan. NYSDEC reviews and comments on the plan and the facility addresses comments and revises the plan as necessary. Once the plan is complete it is noticed for public review and comment. NYSDEC receives and responds to comments. After approval, the plan is implemented by the facility. When implementation is complete, the facility provides Closure Certification documentation to NYSDEC for approval. Once the closure certification is approved the unit is deemed closed. A number of units will be closed under Interim Status, as was the Interim Waste Storage Facility in April 2008.

There are currently 46 Solid Waste Management Units (SWMUs) at the WVDP subject to corrective action. This includes all of the Interim Status treatment and storage operating units as well as the SDA and NDA, which are disposal facilities. Most of the SWMUs require either no further action or only ongoing groundwater monitoring. Five require a CMS; these include the NRC-Licensed Disposal Area (NDA), Lagoon 1, the Construction Debris Demolition Landfill (CDDL), Low-Level Waste Treatment System (Lagoons 2-5) and the Sludge Demineralizer Ponds. There are 6 SWMUs at the WNYNSC; two require no further action and four require a CMS. Those four include SDA-1 (14 inactive LLRW disposal trenches) SDA-2 (inactive lagoon), SDA-3 (northern filled lagoon, and SDA-4 (southern filled lagoon). In response to a question as to why the SDA and WVDP had different monitoring frequencies, Paul Bembia noted that each well was monitored for different parameters which would establish the schedule.

In the future, site cleanup will continue with the closure of interim status units and performance of necessary Corrective Action work (ICMs). In addition to the anticipated release of the Environmental Impact Statement, site permits will be renewed during the ongoing assessment period. For WVDP the Part 373 operating permit will include corrective action (specifically corrective measure implementation), needs and requirements for the on-going assessment period and a 30-year decision requirement. For the WNYNSC the Part 373 Corrective Action permit will include needs and requirements for the on-going assessment period and a 30-year decision requirement. Paul Bembia noted that NYSERDA is making an affirmative decision to manage the SDA in place for up to 30 years.

There are a number of opportunities for public participation including:

- Public Notice of Interim Status Closure Plans
- Public Notice of DEIS/FEIS
- Public Notice of Record of Decision
- Public Notice of SEQRA Findings
- Public Notice of Draft Permits
- Public Hearing on Draft Permits (if held)
- Public Notice of Renewal Permits

Other Business

Air Monitoring. Bill Snyder reported and expressed appreciation that Ken Alkema and John Chamberlain of WVES met with the Concord Town Council to answer questions concerning the removal of off-site air monitoring stations.

Future Agendas. Ray Vaughan suggested that seismic issues relating to future site integrity be a topic of a future meeting. He noted that a DOE study five years ago found faults near the WVDP and that two other projects in the area might be able to provide additional information. The first is a study on slumping problems at the Route 219 bridge over Cattaraugus Creek that may have been caused by an earthquake 10,000 years ago. The other is a fast track coal fired power plant proposed in the Jamestown area which is exploring the sequestration of liquefied carbon dioxide in wells in the Springville area.

Joe Patti suggested a presentation on the status of the DEIS release. Ken Alkema stated that WVES could present in the near future on the concurrent timelines of the decommissioning plan, DEIS, and RCRA.

Bill Logue will inquire about the availability of seismic experts from the Route 219 bridge and Jamestown power plant projects to present at a future meeting. He will schedule an Agenda Work Group call in the near future.

Action Items

Action	Assigned To	Due Date
Call NYDOH to determine what regulatory exemptions the SDA received	Logue	7/11/08
Flow chart of the RCRA process	Winterberger	7/11/08
Study & data for zeolite wall when study is conducted	DOE/WVES	TBD

Documents Distributed

Document Description	Generated by; Date
Agenda	Logue; 6/25/2008
NYSDEC Radiation Program Regulation of the West Valley Site	NYSDEC; 6/25/08
NYSDEC Hazardous Waste Program Regulation of the West Valley Site	NYSDEC; 6/25/08
Compilation of News Articles	NYSERDA; 6/25/2008