

To: West Valley Citizen Task Force
From: Bill Logue, Citizen Task Force Facilitator
Date: March 24, 2009
Subject: **Summary of the March 11, 2009 Meeting**

Next Meeting

The next Citizen Task Force Meeting will be:

Time & Date: **7:00 – 9:30 PM, March 25, 2009**
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: Rob Dallas, Judy Einach, Bob Engel, Mike Hutchinson, Paul Kranz, Lee Lambert, Joe Patti, Pete Scherer, Warren Schmidt, Bill Snyder, Ray Vaughan.

Agency Participants and Observers

Department of Energy (DOE): Bryan Bower, Ben Underwood.

New York State Energy Research and Development Authority (NYSERDA): Paul Bembia, John Kelly, Andrea Mellon, Paul Piciulo.

West Valley Environmental Services, LLC (WVES): Sonja Allen, Charles Biedermann, Steve Warren.

Observers: Joanne Hameister.

Introductions and Announcements

Bill Logue welcomed the group and reviewed the meeting documents.¹ He reminded the CTF of deadlines for comments to NRC on the Decommissioning Plan (DP) and the upcoming public meetings on the Draft Environmental Impact Statement (DEIS).

NYSERDA Briefing on SDA Cap Wind Damage

Paul Bembia of NYSERDA provided an update on wind damage to the geomembrane cap on the State-Licensed Disposal Area (SDA). He noted that the caps covering the SDA had been installed at two different times. The first in 1992-1993, with the slurry wall installation, covered trenches 12, 13 and 14. The remaining trenches were covered in 1995-1996. The materials for the two caps are different and therefore could not be sealed or “welded” together where they meet; therefore, they were overlapped and weighted with stone in such a way as to direct water into the drainage trenches. Late in the morning on March 11th, damage caused by high winds was discovered when the older cap lifted at the seam and created a tear approximately 60 feet long. It has been pulled into place and resealed with sand bags. The underlying clay cap remains dry. Relevant agencies were notified including US Environmental Protection Agency (EPA), New York Department of Environmental Conservation (NYSDEC), and New York State Department of Health (NYSDOH). NYSDEC will inspect the cap on March 12. The cover will be repaired in the coming month when ambient temperatures rise.

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

Mr. Bembia noted that the covers are intended as temporary measures and are sampled for degradation every five years and visually inspected on a routine basis. Their expected useful life is up to 30 years with limited exposure to the sun. He will provide copies of the recent degradation testing results. The older geomembrane cover is scheduled for replacement in the next few years. The replacement material will be welded to the existing cover.

DOE Briefing on Project Funding

Bryan Bower of DOE noted that the Omnibus budget bill for the remainder of the fiscal year had been signed by President Obama. The FY 2010 West Valley Demonstration Project (WVDP) budget will be released when the President sends his proposed budget to congress in the very near future.

Mr. Bower provided a brief overview of the American Recovery and Reinvestment Act (ARRA) as it applies to the DOE Office of Environmental Management (EM). WVDP has submitted a proposal for funding to the Office of Environmental Management. Meetings have been held by the Assistant Secretary, with contractors, union, employees, Tribal nations and state regulators and, on a national level, with large stakeholder organizations such as the National Governors Association. If the Assistant Secretary for EM approves a WVDP proposal, it will be proposed to the Secretary of Energy and, eventually, it could be submitted to the Office of Management of the Budget. Once that information is available, Mr. Bower will provide it to the CTF.

The total allocation for EM in the ARRA is \$6 billion. This is equivalent to the total annual appropriation for EM. The ARRA requires transparency in spending and will include regular reporting and web accessibility concerning use of funds. Any work performed will be done with appropriate safety measures, in accordance with environmental regulations and must have an economic benefit. Guiding principles in evaluating site cleanup plans include: validated cost and schedule baselines in place, contracts in place, regulatory requirements are agreed to and achievable, technologies are proven and available, and significant accomplishments can be achieved by 2011. The ARRA requires that funds be spent by 2015. WVDP, ere it to receive funds, anticipates these funds could be spent by 2011. Discussions have been held with NRC, EPA and NYSDEC to ensure that there are no regulatory obstacles.

ARRA project priorities apply to the work underway at WVDP because they reduce the footprint on site which reduces ongoing operating expenses thereby freeing funds for cleanup and decommissioning activities. Mr. Bower discussed the use of an Integrated Priority List within the Office of Environmental Management. He explained that, in general, high risk activities, such a liquid high-level waste (HLW) in tanks have priority over lower risk items, such as contaminated soils and unutilized buildings. This creates a contradiction where the sites that successfully address the higher risk items eventually receive reduced funding. Mr. Bower stated that one of the benefits of ARRA activities within EM is that the focus is on footprint reduction and work that can be accomplished in the near term. This has the potential to help sites nearing closure. Mr. Bower noted that the program manager is Cynthia Anderson, the former director of small sites for DOE EM. He provided her contact information and website address where the spending can be tracked.

Mr. Bower noted that, if WVDP receives ARRA funds, it will accelerate planned work but would not put pressure to close the Project without it being fully clean. While Mr. Bower did not want to speculate on ARRA funding, he stated that ARRA money could possibly be used for work that might be performed to remove more radioactive waste in the Main Process Plant Building (MPPB) and to study options for moving the HLW canisters. In response to a question he stated that if the preferred alternative becomes the Record of Decision (ROD) the plan would be to remove the source area of the North Plateau Ground Water Plume (NPGP) in Phase 1 but not the non-source area of the plume, which would be a Phase 2 decision.

A CTF member expressed concern that if the funding accelerates work for Phase 1 it could create an employment gap while awaiting decisions on Phase 2. This would negatively impact the local economy. He asked if the funds could be used for additional work beyond Phase 1. Mr. Bower noted that, because there is no ROD in place, he cannot speculate on this. However, if the Preferred Alternative becomes the ROD, there have been discussions about how to address a possible employment gap. He noted that the decision under this scenario would be made within 30 years and would be reviewed at 5-year intervals. He also stated that, while the CTF would like unrestricted release for the site, the existing information does not support that as having the least impact. Mr. Bower did state that more analyses could be performed as proposed in the Preferred Alternative.

Mr. Bembia stated that NYSERDA agreed that more analyses and studies are necessary which is why it supports the Preferred Alternative. He believes that further analysis on issues such as options for containment structures and volumes of disposal of low-level waste (LLW) in soils covering the burial grounds could significantly revise estimates of cost and risk impacts. Several CTF members commented on the conundrum of desiring a final decision soon and needing time to gather and assess information that would support the CTF's desire for a full cleanup.

Clarification on the Supplement Analysis Process

DOE provided a copy of the written guidance on the Supplement Analysis Process. (Available with meetings materials at www.westvalleyctf.org) Ben Underwood, counsel for DOE, explained how the Supplement Analysis process is used to determine the extent of any additional analysis that may be needed in situations where the ROD calls for phased decision making. He noted the flow chart on page 12 of the materials and stated that the primary question is: is the initial EIS analysis adequate for a decision when it is being made? The flow chart indicates the factors in assessing the need for additional NEPA process. Where it is unclear whether a supplemental EIS is required, the NEPA Compliance Officer prepares a supplement analysis to determine if a supplemental EIS is necessary. The analysis is made available to the public.

Mr. Underwood noted that in some circumstances an initial draft EIS is released and DOE determines that it should not be finalized and they revise or rewrite the draft EIS. A CTF member asked if the Phase 2 decision necessarily indicated that a second EIS be performed. Mr. Underwood noted that it does not because, depending upon the gaps in time and additional information or circumstances, the original EIS may be adequate. Typically, the longer the gap in time and greater the significance of any new

information or changed circumstances, increases the likelihood that more substantial NEPA analysis will be necessary. He also noted that there was no obligation to have a preferred alternative in an EIS.

Mr. Bembia stated that, under the State Environmental Quality Review Act (SEQRA), NYSERDA intends to perform a second EIS on the Phase 2 decision. A CTF member encouraged NYSERDA to make this an explicit statement as part of the Phase 1 ROD. Mr. Bembia also noted that NYSDEC could require specific work or studies as part of its Part 373 RCRA permit.

CTF Discussion Concerning Comments on Decommissioning Plan & DEIS

Ray Vaughan quickly reviewed his preliminary draft Decommissioning Plan (DP) comments and asked the CTF to consider if they wanted to join in some or all of the comments. To date his comments addressed primarily procedural issues and he anticipated adding technical comments in the near future. CTF members were encouraged to note any concerns or additional comments and send them to Bill Logue to compile before the next meeting. Lee Lambert suggested that CTF members review pages 17 and 18 of the DP Executive Summary concerning the Dose Concentration Guideline Levels.

Due to time spent on earlier business the CTF devoted only a few minutes in general discussion concerning the March 11 revised discussion draft.

Bill Logue was asked to draft and circulate to the CTF a press release and brief comments to be read at the upcoming DEIS public meetings.

March 25 Meeting. The CTF will finalize the press release/public hearing comments and comments on the Decommissioning Plan for NRC. As time allows, they will work on additional comments on the DEIS.

April Meetings. The CTF agreed to hold April 7 and 8 as potential meeting dates with a preference for the 7th.

Observer Comments

An observer commented that the DEIS should articulate the procedures for decision making during Phase 2 and asked how comments on the DEIS would be incorporated in the Final EIS. DOE responded that all comments would be tracked and a response noted in the Final EIS. A CTF member noted that the CTF's Final Report had influenced the drafting of the 2008 DEIS.

Action Items

| Action | Assigned To | Due Date |
|--|-------------|-----------|
| NYSERDA geomembrane periodic degradation report. | NYSERDA | 3/25/2009 |
| Draft press release/public hearing comments | Logue | 3/20/2009 |
| Additional comments on DEIS & DP | CTF | Ongoing |

Documents Distributed

| Document Description | Generated by; Date |
|---|--------------------|
| NYSERDA Presentation on geomembrane cap damage | NYSERDA; 3/11/2009 |
| ARRA EM Presentation | DOE; 3/11/2009 |
| DOE Supplement Analysis Guidance | DOE; 2005 |
| 3-11-2009 Draft CTF Overarching Goals and Core Response to DEIS | Logue; 3/11/2009 |