THE WEST VALLEY CITIZEN TASK FORCE

May 27, 2009

Ms. Catherine Bohan, EIS Document Manager
West Valley Demonstration Project
U.S. Department of Energy
P.O. Box 2368, Germantown, MD 20874

RE: West Valley Citizen Task Force Comments on the Revised Draft Environmental Impact Statement for Decommissioning and/or Long-Term Stewardship at the West Valley Demonstration Project and Western New York Nuclear Service Center – November 2008.

Dear Ms. Bohan,

These comments on the Revised Draft Environmental Impact Statement for Decommissioning and/or Long-Term Stewardship at the West Valley Demonstration Project and Western New York Nuclear Service Center – November 2008 (DEIS) have been prepared by the West Valley Citizen Task Force.

The West Valley Citizen Task Force supports all Phase 1 activities being accomplished without delay. Further, the CTF supports the full site-wide removal alternative. In the event that the Phased Decisionmaking Alternative is selected, the CTF would support a Record of Decision for Phase 1 and insists that a supplemental EIS be required for Phase 2.

Background

After being convened by NYSERDA and DOE, the West Valley Citizen Task Force (CTF) held its first meeting on January 29, 1997. At that meeting we approved and adopted our Ground Rules. Those Ground Rules include, as a major purpose, for the CTF to "*assist in the development of a preferred alternative for the completion of the West Valley Demonstration Project and cleanup, closure and/or long-term management of the facilities at the site.*"

The CTF met for approximately 18 months and, on July 29, 1998, issued a Final Report setting forth our Policies and Priorities and Guidelines for the Preferred Alternative. We draw your attention to the Final Report which is attached. Some elements of the Final Report have been implemented, such as vitrification, emptying the drum cell, and removal and shipment of the spent fuel assemblies. We stand by the conclusions reached in our Report for the elements which have not yet been implemented.

West Valley Citizen Task Force
c/o The Logue Group
PO Box 270270 – West Hartford, CT 06107
860-521-9122

Since the issuance of the Report, we have met monthly with DOE and NYSERDA to stay apprised of the progress on cleanup activities and planning at the West Valley Demonstration Project (WVDP) and the Western New York Nuclear Service Center and to provide input on the development of a preferred alternative. We believe this level of active and ongoing involvement provides us with a unique and informed perspective to comment on the DEIS.

Below and attached are our comments. The General Comments, immediately following, set forth broad philosophical principles and additional examples or support for our concerns. Also attached are a number of specific comments on particular parts of the document.

The CTF appreciates the progress to date and the work of the Core Team agencies in arriving at a Preferred Alternative, something that was missing from the 1996 DEIS. The Core Team agencies are to be commended for overcoming significant differences and for working together. The CTF appreciates that DOE and NYSERDA are planning to accomplish cleanup work at the Site that the CTF deems essential including the removal of the source area of the North Plateau Groundwater Plume and a significant number of the contaminated facilities. However, for the reasons stated below we contend that further analysis will result in the sensible conclusion of the need for site-wide removal.

General Comments

There are a number of themes which run through our comments and which, if addressed, would result in changes we would like to see reflected in the Final EIS and Record of Decision.

Concerns with Phased Decision Making and Future Public Engagement

Fundamental concerns with the conclusions and assumptions in the DEIS include:

- The Phased Decisionmaking Alternative is tantamount to an Interim Remedial Action. A determination of impacts for issuance of a FINAL EIS for Phase 2 is not possible without a comprehensive determination of action and subsequent impacts. Therefore, if the Phased Decisionmaking Alternative is selected, a FINAL EIS and ROD cannot be issued for other than Phase 1 activities.

- The Phased Decisionmaking approach contained in the Preferred Alternative postpones the ultimate decision as to the level of cleanup and disposition of the wastes at the Site for an unnecessarily long time which is unacceptable. The CTF expects:
    a. Studies should be conducted starting immediately and the final decision should be made as soon as practicable but no later than ten years.
    b. The opportunity for public review and comment contained in this DEIS may be sufficient for the Phase 1 decisions. However, any future decisions that will result in the full cleanup and closure of the WVDP and the cessation of DOE involvement or in the possible long-term storage or disposal of wastes at the Site must be subject to additional NEPA/SEQRA public review and comment.

c. If an ongoing assessment period occurs, there will be many interim decisions and site work which will have far reaching impacts on human health and the environment, these decisions and the planning for the work should be subject to regular ongoing consultation with the public.

- Even if full site cleanup is selected in the FEIS and ROD, important decisions remain concerning implementation. If the Phased Decisionmaking Alternative is selected even more significant decisions about the future of the Site are deferred. In either of these events, the public should not only be involved but should actively participate in influencing agency decisions. The agencies should:

    - Commit to continuing public engagement through the CTF,
    - Allow for a public representative on the Core Team, and
    - Commit in the FEIS to an appropriate EIS and NEPA process for any Phase 2 decision, if the Phased Decisionmaking Approach is selected.

- DOE and NYSERDA should make commitments in preparing for and conducting regulatory reviews, permitting and licensing processes overseen by other appropriate agencies to seek and incorporate the views of the community in making decisions regarding the future of the Site.

Long Term Risks and Site Suitability

- Site Suitability. Underlying the CTF's goal that the cleanup result in unrestricted release of the Site is the assertion that the Site is not suitable for the long-term storage of long-lived radionuclides. In the years since the Site was selected and the facilities constructed, the government and the public has come to more clearly understand the dangers associated with radioactive wastes and the conditions and criteria that will maximize protection of human health and safety and the environment during the handling, management, reprocessing, storage and disposal of radioactive materials. The Western New York Nuclear Service Center Site does not meet existing NRC licensing criteria. Because the Site does not meet current licensing criteria, a logical assumption is that it is not safe for the long-term storage or disposal of wastes. Therefore, the CTF maintains as a goal the release of the Site for unrestricted future use of the land. The Site should not be used for long-term waste storage.

- There is significant risk associated with radionuclides remaining at the Site in their present state for a prolonged period. A more thorough analysis of risks, erosion modeling, volumes of waste and transportation methods will: a) revise the current analysis, b) require revision of the EIS, and c) indicate that removal of wastes is the most prudent option. We contend;

    - Institutional controls likely may not endure for as long as projected,
    - Dose modeling seems understated compared to earlier estimates,
    - Erosion estimates seem understated,

- The impacts of climate change and extreme weather events have not been adequately addressed,
- Impacts to engineered barriers are unpredictable,
- There is an inherent danger when dealing with radionuclides, chemical and other hazardous materials,
- Any event that causes a major release of material from the Site will contaminate the Lower Great Lakes which are a priceless natural resource, and
- Any event that causes a major release of material from the Site will contaminate one of the largest bodies of freshwater in the world, which presently serves as the water supply of Buffalo and many other communities in Western New York, as well as Ontario and other downstream communities in the United States and Canada.

- The Policies and Priorities articulated in the CTF 1998 Final Report support the *work* in the proposed Preferred Alternative Phase 1. The CTF strongly encourages that this work be completed without further delay and in a manner that facilitates and does not impede future complete cleanup of the Site. The CTF desires that performance measurements for this work be clearly articulated and adhered to.

- The CTF stands by the Policies and Priorities articulated in its 1998 Final Report. Including, among others:
  - Protection of long-term human health and safety and of the environment is paramount.
  - Given the CTF's knowledge of the geologic, hydrologic and climate conditions, the Site does not appear to be suitable for long term, permanent storage or disposal of long-lived radionuclides. The level of risk from exposure is such that reliance on institutional controls over a prolonged period, hundreds or thousands of years, is not feasible.

- Analyses and studies should be performed during Phase 1 which assess the best methods of site decommissioning. Based on other studies and information available to us, we expect that the new studies will support the eventual goal of a full cleanup of the Site.

Need for Studies and Evaluations to Support Phase 2 Decisions

- The CTF understands that not all critical information, characterizations, studies and technologies may exist at this time to make a conclusive decision on the procedures and methodologies for removal of wastes. The CTF also understands that no long-term storage or disposal solution exists for orphan and Transuranic wastes at this time. The CTF further understands that technological advances may increase the safety of waste retrieval processes with potentially lower costs. As its name implies, the West Valley Demonstration Project, because of its small size and special circumstances as a commercial and government facility, is a suitable site to develop and pilot new and emerging technologies to remove onsite buried waste and the High Level Waste Tanks. As with the vitrification process, those new techniques and technologies will

be valuable in facilitating a proper cleanup and could serve as a stimulus for similar action elsewhere.

- The CTF insists that no additional wastes will be brought to WVDP for treatment or storage.

- The CTF recognizes a number of the decisions for the Site are impacted by national considerations and political decisions concerning the long-term disposition of high-level radioactive wastes. Consequently, some wastes could remain at the Site for a period of several decades after exhumation while awaiting relocation to a high-level radioactive waste repository. The CTF expects that all decisions regarding such wastes will be guided by the conclusion that the only appropriate, final action with regard to these wastes is for them to be removed from the Site.

  During such time as this larger question of a national high-level waste repository or the ability of other facilities within the DOE complex to store wastes awaiting a determination on a national repository, the CTF insists that the WIR determination not be used and that wastes on the Site will be exhumed and temporarily stored in a manner that allows for its monitoring to readily, safely and regularly determine if the materials are leaking or migrating.

  The CTF expects that all wastes be excavated and placed in a structure for temporary storage where monitoring and retrieval for repackaging and recontainment, if necessary, will be relatively easy. Short term studies should be conducted to ensure that this temporary storage can be accomplished safely.

  The CTF expects that any structures built to contain wastes in the ground or above the ground at the Site will be constructed to withstand severe natural events such as tornadoes, earthquakes, and the hazards of flooding and erosion. The CTF expects that such structures also have the ability to withstand intentionally destructive acts. The CTF expects that all wastes that remain at the Site will be stored in such a way that they can be retrieved if the containment system and/or packaging fail. The CTF expects that an alternative storage system will be developed so as to be readily available should the primary containment system fail.

- Specific Commitments to Assessments and Pilot Studies. The CTF encourages DOE and NYSERDA to conduct assessments studies and pilot projects with the purpose of assessing technologies and processes for safely removing the high-level waste tanks, the NRC-Licensed Disposal Area and the State-Licensed Disposal Area. These activities should be initiated at the outset of Phase 1 so as to ensure timely planning and decision making. The public should be fully informed and consulted in these efforts.

  As part of the ongoing permitting process for the Part 373/RCRA program, the New York State Department of Environmental Conservation (NYSDEC) may require mechanisms for assessments and continuation of work. Such permitting requirements might include activities such as pilot exhumation studies and projects. The CTF encourages DOE and NYSERDA to commit to such

projects in the EIS and not simply through what may be required by NYSDEC. In addition, the CTF understands that the RCRA process has public participation components; nonetheless, the CTF strongly encourages NYSDEC, DOE and NYSERDA to make these processes robust and ensure public participation beyond the minimally required processes.

Other Comments

- The CTF has expressed concerns with past decreases in environmental monitoring and expects that environmental monitoring will be increased commensurate with Phase 1 and other work performed at the Site.
- Although the CTF understands that Nuclear Regulatory Commission decommissioning criteria are used to evaluate alternatives in relation to doses to a human receptor, the lack of discussion of environmental impacts associated with non-dose related radioactive releases fails to acknowledge the potential harm to other species or the cumulative impacts of slow releases.
- We acknowledge and concur with NYSERDA comments contained in the NYSERDA View.

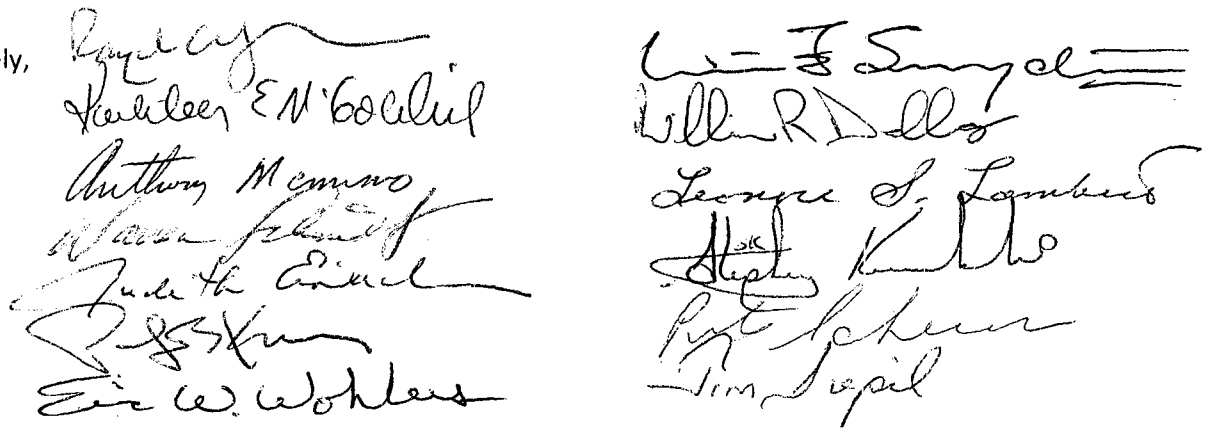
Conclusion

Additional specific comments on the DEIS are attached, as is our 1998 Final Report. In conclusion, we reiterate the following key points:

1. We support the *proposed work* associated with the Phase 1 decision.
2. We support the Site-Wide Removal Alternative.
3. We consider the Phased Decision Making Alternative to be tantamount to an interim remedial action. In the event that the Phased Decision Making Alternative is selected, the CTF would support a Record of Decision for Phase 1 and insists that a supplemental EIS be required for Phase 2.
4. We stand by the conclusions and recommendations of our 1998 Final Report.
5. We expect that additional assessments, analyses and studies will be performed, especially with respect to long-term erosion modeling, the transportation analysis and waste volume exhumation disposal estimates, and risk assessments. We anticipate that these will result in significant recalculations of both cost and risk that will likely show full site cleanup and unrestricted release as the preferred final decision. Further, we expect that these efforts could begin immediately and a final decision made within 10 years.

6. We expect that the public and local communities will be consulted and that meaningful methods of public engagement will be continued or established throughout the time period when decisions are made and work is performed.

Sincerely,



The West Valley Citizen Task Force

Attachments – Specific Comments on:

- DEIS Chapter 1
- DEIS Chapter 2
- DEIS Chapter 4
- Appendices
- West Valley Citizen Task Force Final Report – July 29, 1998

Copy:

Senator Charles E. Schumer
Senator Kristen E. Gillibrand
Representative Eric J.J. Massa
Representative Brian M. Higgins
Representative Louise M. Slaughter
Representative Chris Lee
Governor David A. Paterson
New York State Senator Catharine M. Young
New York State Assemblyman Joseph Giglio

New York State Assemblyman Jack Quinn, Jr.
Bryan C. Bower, Director WVDP, DOE
Paul J. Bembia, Director, WVSMP, NYSERDA
Paul A. Giardina, EPA
Timothy Rice, NYSDEC
Gary H. Baker, NYSDOH
Rebecca Tadesse, NRC

General comments

Comment
The DEIS regularly mentions that the impacts for the Preferred Alternative lie somewhere between the Close in Place and Sitewide Removal alternatives. Basically, it assumes that the possible range of impacts have been identified and defined by the two extremes. However, on page 2-45, under the heading of Evaluations to Determine the Phase 2 Approach, the first bullet states that the approach will be based upon "The results of analysis to estimate the impacts of residual radioactivity that would remain after completion of the Phase 1 activities." It may be academic, or just a bad choice of wording, but there seems to be an inherent contradiction in assuming that all the possible impacts have been identified while saying that the direction of Phase 2 is based upon some future impact analysis.
We are concerned that, if the Phased Decisionmaking Alternative is selected and the Phase 1 work is completed, the DEIS states that DOE will only be required only to perform "operations, monitoring and maintenance....lesser in magnitude to what is currently in place at the site." (Page C-115, Paragraph C.3.3.) The DEIS regularly refers to the "Close in Place Alternative" impacts as either the upper or lower limit for impact assessment. We are unable to find where the document specifically states that any WMA's not addressed in Phase 1 will be addressed, as a minimum, as specified in the Close in Place alternative. While existing laws may dictate that course, given the unknowns for final disposition of certain waste streams, and the uncertainties associated with the passage of 30 years time, the document should specifically state that "Close in Place", and not "No Further Action", will be the default Phase 2 option should other options involving more cleanup actions not be selected. That being said, the CTF does not support the Close in Place option.
WMA-4 contains the CDDL which should be exhumed. There is a disposal path for this waste, stimulus funds are available for this project and would show a commitment of working toward unrestricted release of the site. This would also make a wonderful pilot project.

DEIS Chapter 1-

Page	Paragraph / Section	Comment
1-5	Para 2 Line 2	"DOE also determined that the *Waste Management EIS* would be a new EIS, and that the *Decommissioning and/or Long-Term Stewardship EIS* would instead be considered the revised draft of the 1996 *Cleanup and Closure Draft EIS*." 1) Splitting the original EIS jeopardizes the intent of the original EIS for the entire site and potentially slows work because such a decision is open to legal challenge. 2) The title change from "*Cleanup and Closure*" to "*Decommissioning and/or Long-Term Stewardship*" indicates no intention to clean up and close the site. See also: p. 11 Section 1.6.1 which explains the rationale behind the decision to "revise and reissue the 1996 *Cleanup and Closure Draft EIS*", changing the title to "*Decommissioning and /or Long-Term Stewardship EIS*". Why did DOE decide not to title the 2008 DEIS the "Revised Cleanup and Closure EIS"?

1-5		The flexibility in allowable public dose criteria under the License Termination Rule is disturbing The public should be able to clearly understand from the document the various possible outcomes and exposures when taking into account the per year TEDE (total effective dose equivalent) beyond 25 millirem per year plus ALARA ("as low as reasonably achievable"). The public also needs to understand the implications of language concerning the failure of institutional controls (something that the Citizen Task Force believes likely over the long term) and the latitude available to DOE in the language if "technically not achievable or prohibitively expensive." Both of these could result in significantly higher TEDE than one might assume. Under some of these circumstances, DOE could apply for alternate criteria and the TEDE may be as high as 500 millirem per year. This is not indicative of the protection of human health and safety as we understand it. Although DOE has indicated that there is no intention to apply for alternate criteria, we cannot assume in the DEIS that such an application will not be made. Ambiguity exists in the application and interpretation of the License Termination Rule and the West Valley Project Demonstration Act. These should be clarified. Would decommissioning of the High-Level Waste Tanks in the ground constitute a "disposal" decision?
1-6		• How can the tanks be decontaminated and decommissioned in the ground? • If the material inside is dried, would it not still be radioactive? • Does the LTR apply to that material? • "Such requirements as NRC will prescribe"... What determines the end of NRC involvement in the site? • Will the disposal requirements specified under the West Valley Demonstration Project Act apply and under what circumstances?
1-8		Can NRC disapprove of the DOE plan at some later point?
1-8		As it deals with non-DOE, non-Project and non-SDA waste, can NRC, in resuming its regulatory role, exercise any authority to force parties to take action? i.e. take any action once the West Valley Demonstration Project Act is completed?
1-10	1-5	Decisions... "...to complete WVDP and either close or manage..." Cleanup is not mentioned.

DEIS Chapter 2-

Page	Paragraph / Section	Comment
2-1	2.1	Line 2 should read "Review Act (SEQR), this *revised draft* environmental impact statement (*D*EIS) document should use "DEIS" universally.
2-1	2.1	3rd bullet - remove "the Preferred Alternative" by identifying the preferred alternative in the body of the document, especially in the introduction; it infers a pre-determination prior to the presentation of impacts.
2-1	2.1	Last paragraph: The DEIS refers to the Final EIS and Record of Decision. If the Phased Decisionmaking Alternative is selected, a FINAL EIS and ROD can only

		be issued for the Phase 1 decision; otherwise the Phased Deciosnmaking Alternative would be tantamount to an Interim Remedial Action. A determination of impacts for issue of a FINAL EIS is not possible without a comprehensive determination of action and subsequent impacts.
2-18	2.3.2.2 Lagoon 1 paragraph	It is not clear what the "Old Hardstand" is? The term "hardstand" should be defined in context in the document.
2-27	2.3.2.11	No activity is planned for WMA 11. Is the Scrap Material Landfill to be closed in place?
2-31	2.4	4th paragraph - delete (the Preferred Alternative) per the comment above
2-32	Para 2	The document should clearly describe the conditions or situations where a Supplemental EIS would be prepared.
2-43	Section 2.4.3.1	Second bullet, the term "defense determination" and its implications should be clearly defined. Fifth bullet should explain why the cleanup of contamination greater than 0.5 meters is deferred to Phase 2.
2-46	2.4.3.2 2nd bullet	This text should be clarified to indicate what measures in addition to the downgradient barrier wall will be taken to minimize infiltration of groundwater into the excavation needed for the below grade structure and soil removal work. DOE has indicated verbally that a sheet piling wall will be installed upgradient, this should be clarified in writing in the DEIS.
2-60	2.6.4	1st bullet - Should read: The Sitewide Removal Alternative would ultimately result in a complete release of site land available for unrestricted reuse. While it would incur the greatest....., it would provide the least long term radiological dose.

DEIS Chapter 4–

Page	Paragraph / Section	Comment
	General	The Analysis of Impacts appears to focus on non-radiological impacts from the proposed site activity according to the various alternatives. The analysis of exposures is discussed in terms of Human Health and Safety and does not address the threat to the environment in general or the impacts on other species except in the context of human consumption. The analysis should include a discussion of potential environmental impacts in terms of ecological and cumulative impacts, outside of human exposure, to current and future possible uncontrolled radiological releases.
	General	The analysis should include economic impacts from contamination to the environment. For example, limitations on fishing that would have a detrimental economic impact on business and tourism associated with recreational fishing.
	General	Will radiological releases below criteria be considered and impacts analyzed?
4-11	Table 4-3	Do the traffic volume impacts in Table 4-2 mesh with shipment projections in

		Table 4-52 on page 4-105? If these address different analyses that should be made more clear and, if appropriate. The units of analysis should be comparable.
4-12	Para 2 Line 3	"All shipments ...assumed to be by truck" this paragraph should be clarified to reflect that the assumption of shipment by truck is for purposes of roadway impacts only. How is this assumption carried through into the calculation of risk?
4-22	Para 2 Line 2	This paragraph should be clarified, if this is in fact the case, to reflect that only non-radiological releases are being considered in this section. The document should also more clearly articulate the difference between a high risk event (we assume a radiological release) and a higher likelihood event (sedimentation). Is sedimentation the greatest risk to local surface water quality?
4-22	Para 6	Long term negative surface water impacts would be improved..... (mitigated and/or eliminated?)
4-23	Para 2 Line 2	Shouldn't the line read "implementation of the Sitewide Removal Alternative"?
4-23	Section 4.1.4.2 Para 2 line 4	Typo: "exposure surfaces" should read "exposed surfaces"
4-26	Section 4.1.4.4	This section infers that No Action would result in no impacts. While the "No Action Alternative" is not viable, wouldn't an evaluation of the long term, potentially critical impacts be more appropriate?
4-87	4th paragraph	The paragraph concerning integration of groundwater and erosion models should be revised. Because no state-of-the-art model exists to integrate ground water and erosion models, the assumption that the impacts are cumulative is not necessarily a conservative approach. The analysis should examine the possibility of exponential or other impacts from the combined interaction of groundwater flow and erosion.

DEIS Appendices–

App.	Page/Paragraph / Section	Comment
C	Section C.2 Page C.1 et Seq	Under C.2, the DEIS provides Tables showing Estimated Chemical Contamination in kilograms. Does this represent soil, ground water or materials of construction in each facility? To report these numbers in kilograms does not provide any meaningful information to the reader. In addition, the DEIS in Table C-2, page C-5, reports 187 kg of lead in the Main Process Plant Building. Page C-50 reports 10,000 kg of lead in the leaded glass Viewing windows of the Main Process Plant Building. This inconsistency is also seen in the report for the Vitrification Facility (66kg vs. 1,360 kg in the windows) The tables showing chemical contamination show "contaminant" and "contamination" as in Table C-2, then "chemical" and "amount" as in C-13. These tables should be consistent.

West Valley

CITIZEN
TASK
FORCE

West Valley
Citizen Task Force
Final Report

July 29, 1998

West Valley
Citizen Task Force
Final Report
July 29, 1998

TABLE OF CONTENTS

Section I Introduction 1

Section II Background 2

Section III CTF Policies and Priorities 2

Section IV CTF Guidelines for Preferred Alternative 5

Appendix 1 CTF Membership

Appendix 2 Seneca Nation of Indians Resolution

Acknowledgments

The West Valley Citizen Task Force members wish to acknowledge the participation of two members who were unable to remain with the Task Force until the completion of these recommendations.

The Task Force dedicates this Report to the memory of Elaine Belt, who passed away in June 1998. Elaine Belt contributed greatly to the success of the Task Force; her enthusiasm and dedication to the community will be remembered.

The Task Force also extends its appreciation to Richard Timm, former Supervisor of the Town of Concord, for his participation and support.

This page left intentionally blank.

West Valley
Citizen Task Force
Final Report
July 29, 1998

I. INTRODUCTION

This report has been prepared and submitted by the West Valley Citizen Task Force ("CTF") to the New York State Energy Research and Development Authority ("NYSERDA") and the United States Department of Energy ("USDOE"), the Site Managers, so as to provide direction and advice on the development of a Preferred Alternative for the completion of the West Valley Demonstration Project and cleanup, closure and/or long-term management of the facilities at the Western New York Nuclear Services Center (hereafter referred to as the Center[1]).

The CTF acknowledges that the vitrification process, which is more than half completed, is of great importance to the overall safety of the Center, human health and the environment. Converting the liquid wastes to a solid and emptying the high level tank will remove a grave risk that has threatened the health and safety of the entire area. The CTF commends the Site Managers and all those who have made this possible.

The CTF expects that the Site Managers will develop a Preferred Alternative which complies with the Policies and Priorities contained in Section III and responds to the Guidelines in Section IV.

The CTF expects the Site Managers to recommend policies and criteria that will offset, ameliorate, or replace the losses to the community from the reduction in economic activity at the Center.

Upon selection of the Preferred Alternative, the CTF expects for the Site Managers to present such alternative to the CTF and the public with all supporting information. Such presentation to the CTF may precede the commencement of a formal public participation process but is not a substitute for full formal public participation and the development of a Record of Decision.

The CTF also expects that the Site Managers will continue to actively manage and monitor the Center during the development of the Preferred Alternative. The CTF further expects that the Site Managers will immediately take any steps necessary to prevent the further spread of wastes.

---

[1]The term "Center" refers to the 3300 acres of the Western New York Nuclear Services Center, including the West Valley Demonstration Project (WVDP) premises and the State-licensed Disposal Area (SDA). The term "Site" refers to the 200 acre-WVDP premises and SDA only.

II. BACKGROUND

On January 29, 1997, the CTF held its first meeting at the Ashford Office Complex. The CTF was convened by NYSERDA and USDOE. The CTF has met twice a month since January 1997, except for short recesses. The members of the CTF are listed in Appendix One.

The CTF was formed to *"assist in the development of a preferred alternative for the completion of the West Valley Demonstration Project and cleanup, closure and/or long-term management of the facilities at the site."*[2]

Presentations were made to the CTF regarding:

- Center history,
- applicable law, rules and regulations, administrative policies, governmental agreements, and court decisions,
- the draft environmental impact statement and the five alternatives which it considered,
- radiation hazards,
- the twelve waste management areas into which the Center was divided
- licensing issues,
- new or alternative technologies,
- institutional controls, and
- special concerns such as the North Plateau Plume.

III. CTF POLICIES AND PRIORITIES

1. The CTF expects that the Preferred Alternative will protect human health and the environment from all risks associated with the Center. Because proximity to the Center increases potential risk, the CTF believes that special attention should be paid to the long-term health and safety of people residing in the adjacent towns.

2. The Seneca Nation is an indigenous, distinct, sovereign Nation of People whose past and future existence is dependent upon, among other things, the protection and preservation of its natural resources. Closure options that may contaminate these resources to any extent (i.e., animal and fish life, herbs, plants and forest areas, water, air, and soil, including viable land for home sites), are of overwhelming concern to the Nation and its people. The CTF recognizes this concern.

3. The CTF does not believe (based on currently available information) the Site is suitable for the long term, permanent storage or disposal of long-lived radionuclides (such as carbon-14 with a half life of 5,730 years, uranium-238 with a half life of more than 4 billion years, plutonium-239 with a half life of 24,100 years, and Technetium-99 with a half life of 217,000 years). The site is in an area that has an average rainfall of 40 inches, has a relatively

[2] Ground Rules of the Citizen Task Force, as revised and approved on January 29, 1997.

high and mobile water table which is hydrologically connected to the surface and perhaps in the future to subsurface aquifers, has sand lenses that are irregularly distributed through the clay on which the site sits, is on or near active earthquake faults and is located on a tributary of Lake Erie. The population density in the area and the large number of people who rely on Cattaraugus Creek, Lake Erie, the Niagara River, and Lake Ontario for drinking water (over one million people for Lake Erie alone), fishing, recreation, etc. is of great concern. The height of the water table, the discharge of groundwater at the site, the surface geological processes at the site (such as erosion) would preclude, under current criteria, the siting of a new nuclear waste storage or disposal facility at this location[3].

4) The CTF recognizes that portions of the Center are not fully characterized and therefore cannot be judged with certainty to be either suitable or unsuitable for long-term, permanent storage or disposal of wastes under current regulations. Under present conditions, the CTF does not believe that any portion of the Center can be considered suitable for long-term, permanent storage or disposal of wastes. The CTF may reconsider its opinion of site suitability if new evidence based on site characterization is presented to the CTF in the near future.

5. The CTF recognizes that some wastes will remain at the Site for a prolonged period of time. The CTF expects that all decisions regarding such wastes will be guided by the belief that the only appropriate, final action with regard to these wastes is for them to be removed from the Site. The CTF does not believe any solution should be chosen which makes retrieval significantly harder. Thus, for instance, the CTF does not support any alternative in which a large solid, permanent "monolith" would be created.

6. The CTF expects that the logs and remaining fuel rods will be removed from the Site as soon as possible.

7. The CTF expects that, other than to the extent necessary to manage the Center safely and to achieve the Policies and Priorities of the CTF, all wastes that remain at the Site will be managed in a manner to ensure that contamination does not spread and that uncontaminated soils and other materials will be protected from contamination. The CTF does not want to have the amount of material contaminated increase, thus increasing the expense and problems associated with clean up of the Site.

8. The CTF expects that all wastes that remain at the Site, whether stored above or below ground, will be stored in a manner that allows for its monitoring to readily, safely and regularly determine if the materials are leaking or migrating .

9. The CTF expects that all wastes that remain at the Site will be stored in such a way that they can be retrieved if the containment system and/or packaging fails. Retrieval may be

[3] For instance, see comments of Center for Nuclear Waste Regulatory Analyses, August 1996, *Review of DEIS For Completion of the West Valley Demonstration Project and Closure or Long-Term Management of the Facilities at the Western New York Nuclear Service Center,* beginning at page 3-1.

necessary as part of the ultimate disposal plan or due to a gradual (slow erosion) or dramatic (earthquake or rapid erosion from a flood) reduction in the integrity of the containment or packaging system. The CTF expects that an alternative storage system will be developed so as to be readily available should the primary containment system fail.

10. The CTF expects that all wastes will be isolated from ground water. In order to achieve this goal, the CTF acknowledges the slightly higher risk to intruders (trespassers) and site personnel that accompanies the storage of wastes above ground in structures.

11. The CTF prefers that all wastes be excavated and placed in a structure where monitoring and retrieval for repackaging and recontainment, if necessary, will be relatively easy. The CTF recognizes that for some wastes excavation and storage may not be appropriate in the near term. For such wastes the CTF expects that the Preferred Alternative shall describe when and how such wastes shall be excavated.

12. The CTF expects that any structures built in the ground or above the ground at the Site to contain wastes will be constructed to withstand severe natural events such as tornadoes, earthquakes, and the hazards of flooding and erosion.

13. The CTF expects that the risks and costs associated with the Center will be borne in large part by our generation. The CTF wants to limit, as much as possible, the extent to which future generations bear the risks and costs of the Center, and its monitoring and cleanup.

14. The CTF expects that the Preferred Alternative will comply with all applicable local, state, and federal laws, rules, and regulations including the provisions of the West Valley Demonstration Project Act (Public Law 96-368) , Article 29 of the New York State Environmental Conservation Law and subparagraph a of paragraph 1 of Section 1854-a of the New York State Public Authorities Law which prohibits the location of a low level waste repository at the Western New York Nuclear Services Center.

15. The CTF expects that the Preferred Alternative will not rely upon man made structures over a long period of time. The CTF believes that over a prolonged period of time nature's processes will prevail over engineered solutions.

16. The CTF expects that the Preferred Alternative will include the restoration of the Center to alternative uses (such as educational, industrial, commercial or recreational uses) as much as is possible and as soon as possible.

17. The CTF expects that cost considerations will not be a primary factor in the development of the Preferred Alternative.

18. The CTF expects that the Preferred Alternative will provide for a continuing presence by USDOE so long as Project wastes as defined by the West Valley Demonstration Project Act remain at the Center. As such, USDOE will continue to participate in the management of the Center and in the funding of activities associated with implementation of the Preferred Alternative. In addition, the CTF requests that USDOE remain on the Center so long

as any waste remains at the Center, especially waste from federal defense activities and from federal research, development and defense contracts.

IV CTF GUIDELINES FOR PREFERRED ALTERNATIVE

1. The Preferred Alternative shall to the maximum extent possible achieve the CTF Policies and Priorities contained in Section III of this report.

2. The Preferred Alternative shall state the applicable law(s) under which it has been developed, and if the Preferred Alternative complies with such law(s). In particular, the Preferred Alternative shall indicate if the "decontamination and decommissioning" requirements of the West Valley Demonstration Project Act[4] will be achieved.

3. The Preferred Alternative shall detail all licensing issues including a statement of any licenses that will be required, the standards that will apply and if the Preferred Alternative complies with current licensing requirements. In addition, the Preferred Alternative shall indicate if any special variances or special licensing issues will be sought. In particular, the Preferred Alternative shall indicate if policies of the Nuclear Regulatory Commission regarding reliance upon "institutional controls" can be achieved.[5]

4. The Preferred Alternative shall detail the role of other state and federal agencies including New York State Department of Environmental Conservation (NYSDEC), NYS Department of Health (NYSDOH), NYS Department of Labor (NYSDOL), and Army Corps of Engineers.

5. The Preferred Alternative shall detail the extent to which "institutional controls" and "active maintenance" will be relied upon and shall identify the associated specific actions.[6] This shall include the extent to which a continued human presence at the Center is required to provide monitoring, site control and restoration of protective features.

6. The Preferred Alternative shall detail the extent to which structures and other engineered solutions are relied upon. The Preferred Alternative shall not use incineration at the Center.

7. The Site Managers shall indicate when the logs, rods and other materials that are the results of the vitrification process will be removed from the Site. This shall include who is responsible for the removal action, what steps will be taken to insure removal in a timely fashion and how and where these wastes will be stored until removal. The Site Managers shall indicate if this schedule will affect the development and implementation of any alternative.

---

[4] Public Law 96-368- October 1, 1980, Section 2(a)(5)

[5] See 10CFR§20.1403(e) and §61.59(b)

[6] See West Valley Draft EIS, January 1996, Glossary, page A-9 and 10CFR§61.2.

8. The Preferred Alternative shall provide a detailed statement of how the costs and responsibilities for implementing the Preferred Alternative will be divided between the Site Managers. This shall include a statement of who will be responsible for management of the Center, statutory authority for such management activities, and who will be responsible for the costs of implementing the Preferred Alternative and for long term management of the Center, and for all future funding including but not limited to planned and emergency remedial and removal actions and for insuring compliance with the CTF Policies and Priorities and Guidelines.

9. The Preferred Alternative shall provide a reliable method to assure that funding will be available whenever necessary, but particularly over the long term, to carry out all remediation, relocation (pending appropriate environmental review) on Center premises, monitoring, institutional controls, and removal.

10. The Preferred Alternative shall provide a reliable method of review and implementation to assure that all issues are reopened at regular intervals and to monitor the success at achieving the goal of eventual removal of all wastes from the Site. This method, or "trigger," to cause a review and appropriate action should be automatic after the passage of a certain time period and also discretionary if circumstances at the Center change or new technology is developed.

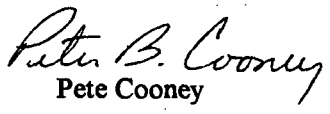
11. The Preferred Alternative shall specify how immediate or emergency issues will be dealt with such as the sudden deterioration of protective features, the migration of the North Plateau Plume and other issues that require prompt action. This shall include a statement of who will be responsible for decision making, statutory authority for such decision making, and in what way there will be readily available funds to carry out any action that may be required.

12. The Preferred Alternative shall specify the extent to which local emergency response will be required over the long and short term. If emergency response is required, the Preferred Alternative shall state the extent to which it will be required and identify a source of funding to acquire and maintain equipment and to provide the necessary training and planning for emergency response.

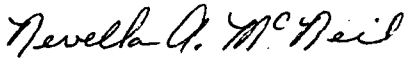
13. The Preferred Alternative shall specifically detail a comprehensive plan for addressing the North Plateau Plume, including the source area, and shall clearly establish the authority under which the plan will be implemented over the long term.

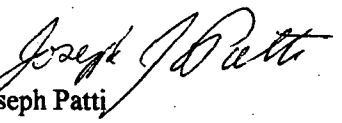
Respectfully Submitted, July 1998

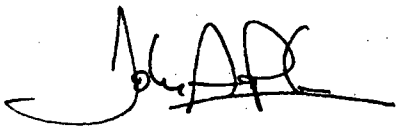
West Valley Citizen Task Force Members

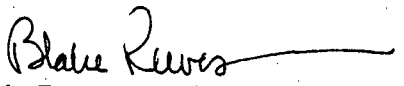

Pete Cooney

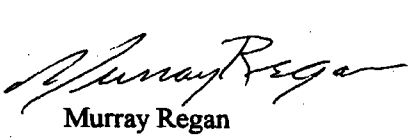
Bill King


Nevella McNeil


Joseph Patti


John Pfeffer

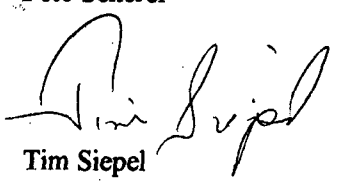

Blake Reeves

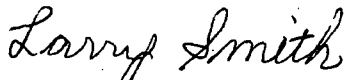

Murray Regan

Lana Redeye

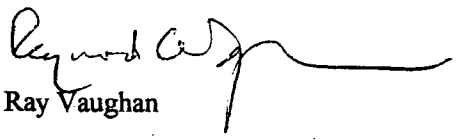
Pete Scherer

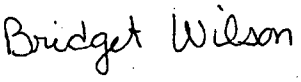
Warren Schmidt

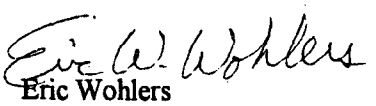

Tim Siepel


Larry Smith

Richard Tobe


Ray Vaughan


Bridget Wilson


Eric Wohlers

APPENDIX 1

CTF Membership

Mr. Pete Cooney
International Assoc. of Machinists and Aerospace Workers
10987 Galen Hill Road
Freedom, NY 14065
Work: (716) 492-2387 or 2313
Home: (716) 492-2387

Mr. Bill King
Town of Ashford
P.O. Box 306
West Valley, NY 14171
Work: (716) 942-6016
Home: (716) 942-3223

Ms. Nevella McNeil
8243 Route 240
Machias, NY 14101
Work: (716) 942-4086
Home: (716) 942-3258

Mr. Joe Patti
677 Yacht Club Drive
Machias, NY 14101
Work: (716) 942-3262
Home: (716) 353-4162

Mr. John Pfeffer
9203 Route 240
West Valley, NY 14171
Work: (716) 645-6575
Home: (716) 942-3437

Mr. Blake Reeves
4 Cloister Court
Amherst, NY 14226
Home: (716) 833-6697

Mr. Murray Regan
P.O. Box 368
Springville, NY 14141
Work: (716) 592-4946
Fax: (716) 592-5030

Ms. Lana Redeye
Box 231
Salamanca, NY 14779
Work: (716) 945-1790, Ext. 132

Mr. Pete Scherer
P.O. Box 201
West Valley, NY 14171
Work: (716) 942-3256
Home: (716) 942-6658

Mr. Warren Schmidt
Office of Assemblyman Thomas M. Reynolds
1244 Eagle Street
Arcade, NY 14009
Work: (716) 968-1760, Ext. 47
Home: (716) 492-3812

Dr. Tim Siepel
27 Franklin Street
Springville, NY 14171
Work: (716) 592-7400
Home: (716) 942-3219

Rev. Larry Smith
P.O. Box 316
West Valley, NY 14171
Work: (716) 942-3251 or 6537
Home: (716) 942-3251

Mr. Richard Tobe
Erie County Dept. of Environment and Planning
95 Franklin Street
Buffalo, NY 14202
Work: (716) 858-6716
Home: (716) 886-5758

Mr. Ray Vaughan
135 East Main Street
Hamburg, NY 14075
Work: (716) 853-7500, Ext. 7623
Home: (716) 648-5861

Ms. Bridget Wilson
5092 Gooseneck Road
Delevan, NY 14042
Work: (716) 592-2927
Home: (716) 942-3736

Mr. Eric Wohlers
Cattaraugus County Health Department
1701 Lincoln Avenue
Olean, NY 14760
Work: (716) 373-8050

Appendix 2

Seneca Nation of Indians

President - Michael W. Schindler
Clerk - Geraldine Huff

1490 ROUTE 438
IRVING, NEW YORK 14081

Tel. (716) 532-4900
FAX (716) 532-6272

Treasurer - Rae L. Snyder

P.O. BOX 231
SALAMANCA, NEW YORK 14779

Tel. (716) 945-1790
FAX (716) 945-1565

AT THE SPECIAL SESSION OF COUNCIL THE SENECA NATION OF INDIANS HELD ON JULY 23, 1998, AT THE G.R. PLUMMER BUILDING ON THE ALLEGANY INDIAN RESERVATION, SALAMANCA, NEW YORK 14779

EXECUTIVES PRESENT:	PRESIDENT	MICHAEL W. SCHINDLER
	CLERK	GERALDINE HUFF
	TREASURER	RAE L. SNYDER

WEST VALLEY TASK FORCE / APPROVAL

Motion by Lanny Bennett, Seconded by Karen Bucktooth, that Tribal Council approve the following resolution:

WHEREAS, the Seneca Nation of Indians has a vested interest in the future of the West Valley Nuclear Services Center; and

WHEREAS, Lana Redeye was appointed to represent the Seneca nation of Indians at the west Valley Citizen Task Force; and

WHEREAS, the Citizen Task Force Draft Report incorporates the viewpoints and concerns of the Seneca Nation and its people, provided the following additions are made to Section III item 2:

The Seneca Nation is an indigenous, distinct, sovereign Nation of People whose past and future existence is dependent upon, among other things, the protection and preservation of its natural resources. Closure options that may contaminate these resources to any extent (i.e., animal and fish life, herbs, plants, forest areas, water, air, and soil, including viable land for home sites) are of overwhelming concern to the Nation and its people. The CTF recognizes this concern.

Appendix 2

SPECIAL COUNCIL SESSION
JULY 23, 1998
PAGE 2

WEST VALLEY TASK FORCE / APPROVAL, (CONTINUED)

NOW, LET IT BE RESOLVED, that the Seneca Nation of Indians concurs with the policies, procedures and guidelines contained in the Citizen Task Force Draft Report and authorizes Lana Redeye to sign the report as the Seneca Nation's representative.

ALL IN FAVOR MOTION CARRIED

CERTIFICATION

I hereby certify the foregoing extract is a true and correct copy from the minutes of the Special Session of Council of the Seneca Nation of Indians held on the Allegany Indian Reservation, original of which is on file in the Clerks Office of the Seneca Nation of Indians.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and cause the seal to be affixed at the William Seneca Administration Building on the Cattaraugus Indian Reservation, Irving, New York on the 28th day of July 1998.

ATTEST:

(S E A L)

GERALDINE HUFF, CLERK
THE SENECA NATION OF INDIANS