Coalition on West Valley Nuclear Wastes

PO Box 603 Springville, NY 14141

September 20, 2010

Re: Property Transfer

Reply To: 73 Koster Row
Amherst, NY 14226

Paul J. Bembia
Program Director, West Valley Site Management Program
NYSERDA
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Chad J. Glenn
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U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

The Coalition on West Valley Nuclear Wastes is firmly opposed to the transfer of any portion of the Heinz Creek watershed back to private ownership, for the following reasons:

- ✓ Discharge from the mouth of Heinz Creek is a major factor in the undercutting of the west bank of Buttermilk Creek at the "Big Slide" opposite the SDA according to expert opinion (Michael Wilson). Private control of this area could result in decreased vegetative cover as a result of land clearing or logging activities. A decrease in vegetative cover in this watershed will worsen erosion in this Buttermilk Creek gorge area; by the same token, an increase in vegetative cover will decrease erosion in this area. NYSERDA, by this proposed transfer, is abrogating its responsibility to the erosion control of Heinz and Buttermilk Creeks and, therefore, the SDA.
- ✓ DOE and NYS have violated the intent of NEPA at West Valley. The court-required final NEPA waste disposition decision for over 90% of the site's wastes has not been achieved since it was ordered over 23 years ago; this, despite the issuance of, and collection of comments upon, the scientifically valid 1996 DEIS. That site-wide DEIS decision process was subsequently aborted following the promulgation in 1997 of 10 CFR 20 Subpart E – the "License Termination Rule" – which was based on a limited, generic EIS.
- ✓ The process to implement Phase I of the 2010 ROD, aka 2% waste disposition decision, gives control to a so-called Independent Scientific Panel of (1) what to study, (2) how to study it, and (3) whether or not to submit any study findings to further NEPA public review.
- ✓ Composition of the Independent Scientific Panel is not independent – see letter of B. Warren, *et al*, Sept. 17, 2010 – and we restate our objections by reference thereto.

Lacking any evidence to the contrary, the Coalition presumes the intents of property transfer and the Independent Scientific Panel are to justify the *de facto* long-term on-site waste management decision taken by both DOE and NYS many years ago, a decision consistently opposed by the public. Given that decision, it is incumbent upon NYS and NRC to prevent a worsening of erosion in the Buttermilk Creek watershed.

Sincerely,

James Rauch

James Rauch
Steering Committee
Coalition on West Valley Nuclear Wastes

CC:
David A. Paterson
Catherine Bohan