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May 2, 2022

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Re: West Valley Supplemental Environmental Impact Statement Final Scope

Dear Interested and Involved Agencies:

As you are aware, the State Environmental Quality Review Act (SEQRA) requires lead agencies to issue to the project sponsor, involved agencies, and interested parties a Final Scope after the conclusion of the scoping public comment period. Here, the New York State Energy Research and Development Authority (NYSERDA) is both the project sponsor and the lead agency. Pursuant to SEQRA regulations (6 NYCRR § 617.8(e)), NYSERDA hereby provides the attached *Final Scope for the Supplemental Environmental Impact Statement for Decommissioning and/or Long-Term Stewardship at the West Valley Demonstration Project and Western New York Nuclear Service Center*. The Final Scope is being submitted for publication in the May 4, 2022, issue of the New York State Environmental Notice Bulletin and will be posted to the SEIS website (www.SEISWestValleySite.com) and to NYSERDA's website (<https://www.nyserda.ny.gov/Researchers-and-Policymakers/West-Valley>).

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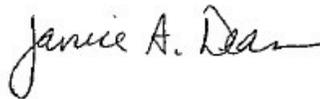
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We note that the National Environmental Policy Act (NEPA) does not contain a requirement for a Final Scope. However, NEPA and SEQRA require cooperation between Federal and State agencies in conducting environmental reviews to avoid inefficiency and duplication. Insofar as NYSERDA and the Department of Energy are joint lead agencies on the West Valley Supplemental Environmental Impact Statement, the agencies worked together in consideration and incorporation of feedback from the voluminous comments received into the Final Scope. The Department of Energy and NYSERDA will now continue our joint effort to prepare the draft Supplemental Environmental Impact Statement.

Sincerely,



Janice A. Dean
Deputy General Counsel
SEQRA Liaison

JAD/LMG/amd

Attachment: *Final Scope for the Supplemental Environmental Impact Statement for Decommissioning and/or Long-Term Stewardship at the West Valley Demonstration Project and Western New York Nuclear Service Center*

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New York State Energy Research and Development Authority

Final Scope for the Supplemental Environmental Impact Statement for Decommissioning and/or Long-Term Stewardship at the West Valley Demonstration Project and Western New York Nuclear Service Center

AGENCY: New York State Energy Research and Development Authority

ACTION: Final Scope

SUMMARY: The New York State Environmental Quality Review Act (SEQRA) regulations require the New York State Energy Research and Development Authority (NYSERDA), following a public comment period on the draft scope, to issue this final scope for the *Supplemental Environmental Impact Statement for Decommissioning and/or Long-Term Stewardship at the West Valley Demonstration Project and Western New York Nuclear Service Center* (DOE/EIS-0226-S1), hereinafter referred to as the Supplemental Environmental Impact Statement (SEIS) for the West Valley Site (or “Site”). The West Valley Site or the Western New York Nuclear Service Center (WNYNSC), for the purposes of this SEIS and associated documents, includes the Department of Energy (DOE) West Valley Demonstration Project (WVDP) or Project Premises, the retained premises, which includes the non-WVDP portions of the NRC-licensed property, and the State-Licensed Disposal Area (SDA). In 2010, DOE and NYSEERDA selected the Phased Decision-making Alternative, which was the preferred alternative in the *Final Environmental Impact Statement for Decommissioning and/or Long-Term Stewardship at the West Valley Demonstration Project and Western New York Nuclear Service Center* (DOE/EIS-0226) (2010 FEIS). DOE and NYSEERDA are moving forward to prepare a Draft SEIS (DSEIS) which is expected to be published and available for public comment in 2023.

SUPPLEMENTARY INFORMATION:

1.0 Background

In 2010, DOE and NYSERDA selected the Phased Decision-making Alternative, which was the preferred alternative in the *Final Environmental Impact Statement for Decommissioning and/or Long-Term Stewardship at the West Valley Demonstration Project and Western New York Nuclear Service Center* (DOE/EIS-0226) (2010 FEIS). The Phased Decision-making Alternative is described in the 2010 FEIS, DOE's associated Record of Decision (ROD) (75 FR 20582; April 20, 2010), and NYSERDA's associated Findings Statement (May 12, 2010). During implementation of Phase 1 of the Phased Decision-making Alternative, which is ongoing, a number of highly contaminated facilities at the West Valley Site are being removed via decontamination, demolition, and offsite disposal. The Phased Decision-making Alternative deferred decisions (known as Phase 2 decisions) on several facilities for 10 years (the expected time frame to complete Phase 1 decommissioning activities) while DOE and NYSERDA gathered additional information and performed additional analyses (e.g. Phase 1 Studies) to foster inter-agency consensus and inform the decisions. DOE and NYSERDA intend to make Phase 2 decisions by 2025 on the disposition of the facilities and areas that would remain after completion of Phase 1 decommissioning. The remaining facilities include the Waste Tank Farm, U.S. Nuclear Regulatory Commission (NRC)-Licensed Disposal Area (NDA), non-source area of the North Plateau Groundwater Plume, Construction and Demolition Debris Landfill, Cesium Prong, contaminated stream sediments, balance of the WNYNSC property, and SDA.

DOE and NYSERDA intend to jointly prepare an SEIS to inform Phase 2 decision-making for the West Valley Site. The SEIS process will be structured to meet DOE and NYSERDA's

respective environmental review responsibilities under the National Environmental Policy Act (NEPA, 42 U.S.C. 4321 *et seq.*) and SEQRA (N.Y. Env. Conserv. Law § 8-0101 *et seq.*), the West Valley Demonstration Project Act of 1980 (Pub. L. 96-368) (WVDP Act), the Atomic Energy Act of 1954 (as amended) (AEA), and other applicable federal and State requirements. The SEIS will be prepared in accordance with regulations of the Council on Environmental Quality for implementing NEPA (40 CFR parts 1500-1508), DOE's NEPA Implementing Procedures (10 CFR part 1021), and State of New York regulations for implementing SEQRA (6 NYCRR Part 617).

1.1 WNYNSC Project Site

The WNYNSC is a 1,351-hectare (3,338-acre) site located 48 kilometers (30 miles) south of Buffalo, NY, and owned by NYSERDA. In 1962, Nuclear Fuel Services, Inc. ("NFS") entered into Agreements with the Atomic Energy Commission and New York State to construct the first commercial reprocessing plant of nuclear fuel in the United States. NFS, a private company, built and operated the fuel reprocessing plant and burial grounds, processing 640 metric tons of spent nuclear fuel at the WNYNSC from 1966 to 1972 under an Atomic Energy Commission license. Fuel reprocessing ended in 1972, when the plant was shut down for modifications. In 1976, in view of increased costs and regulatory requirements, NFS decided to exercise its contractual right to yield responsibility for the WNYNSC to the State of New York. NFS withdrew without removing any of the in-process nuclear wastes. NYSERDA now holds title to and manages the WNYNSC.

1.2 The WVDP Act

In 1980, Congress passed the WVDP Act, Public Law 96-368. The WVDP Act requires DOE to demonstrate that the liquid high-level radioactive waste from reprocessing could be safely managed by solidifying it at the WNYNSC and transporting it to a federal repository for permanent disposal. Specifically, Section 2(a) of the WVDP Act directs DOE to take the following actions:

1. Solidify, in a form suitable for transportation and disposal, the high-level radioactive waste at the WNYNSC;
2. Develop containers suitable for the high-level radioactive waste's permanent disposal;
3. As soon as feasible, transport the solidified waste to a federal repository for permanent disposal;
4. Dispose of low-level radioactive waste and transuranic waste produced by the solidification of the high-level radioactive waste; and
5. Decontaminate and decommission the tanks and other facilities used at the WNYNSC in which the high-level radioactive waste was solidified, the facilities used in the waste's solidification, and any material and hardware used in connection with the West Valley Demonstration Project.

Pursuant to the WVDP Act, on October 1, 1980, DOE and NYSERDA entered into a Cooperative Agreement (amended September 18, 1981) that established a framework for the implementation of the WVDP. Under the agreement, NYSERDA has made available to DOE, without transfer of title, a 68-hectare (167-acre) area known as the Project Premises, which

includes the formerly operated spent nuclear fuel reprocessing plant, spent nuclear fuel receiving and storage area, underground liquid high-level waste storage tanks, and a liquid low-level waste treatment facility with associated lagoons, as well as other facilities. Most of the facilities on the Project Premises were radioactively contaminated from reprocessing operations and are located on a geographic area known as the North Plateau. Among the other facilities located within the Project Premises is a radioactive waste disposal area known as the NRC-licensed disposal area (NDA). Adjacent to the Project Premises is a radioactive waste disposal area known as the State-Licensed Disposal Area (SDA), for which NYSERDA has operational responsibility. Both the NDA and SDA are located on a geographic area known as the South Plateau.

In 1982, DOE assumed control, but not ownership, of the Project Premises to conduct the WVDP, as required under the WVDP Act. As part of the WVDP Act, NRC was charged with developing decommissioning criteria. In the “Decommissioning Criteria for the WVDP at the West Valley Site; Final Policy Statement” (NRC Policy Statement) (67 FR 5003; February 1, 2002), NRC prescribed the requirements for decommissioning the WVDP. NRC prescribed its License Termination Rule as the decommissioning goal for the WVDP and all NRC-licensed portions of the WNYNSC. The decommissioning criteria define the conditions that would allow the Project Premises to be used with specified restrictions or without restrictions on future use. If those conditions cannot be met, the NRC Policy Statement also defines the circumstances under which sections of the Project Premises could remain under long-term management or stewardship. NRC has placed the Technical Specifications of NYSERDA’s license under the NRC regulations at Title 10 of the *Code of Federal Regulations* Part 50 in abeyance during DOE’s fulfillment of its WVDP Act requirements.

A 1987 Stipulation of Compromise between the Coalition on West Valley Nuclear Wastes and DOE specified that a closure environmental impact statement (EIS) be prepared that also addresses the disposal of those Class B and C low-level radioactive wastes generated as a result of DOE's activities at the WVDP. In 1990, DOE and NYSERDA entered into a supplemental agreement to prepare an EIS to address both the completion of the WVDP and closure or long-term management of the WNYNSC.

1.3 The 2010 FEIS and Current SEIS

After issuance of a draft EIS in 1996, DOE and NYSERDA in 2001 announced a revised EIS strategy. Under the revised strategy, DOE and NYSERDA, as co-lead preparers, issued a draft EIS in 2008 and, in 2010, issued the *Final Environmental Impact Statement for Decommissioning and/or Long-Term Stewardship at the West Valley Demonstration Project and Western New York Nuclear Service Center* (DOE/EIS-0226) (2010 FEIS).

DOE and NYSERDA have determined that the preparation of an SEIS would further the purposes of NEPA by including new information and changes since issuance of the 2010 FEIS. The SEIS also is consistent with the commitment in the 2010 ROD and Findings Statement to provide robust and meaningful opportunities for public participation during decommissioning. Preparation of an SEIS for the West Valley Site would also further the purposes of SEQRA, the WVDP Act, the AEA, and other applicable Federal and state requirements. The SEIS will evaluate potential environmental impacts of the range of reasonable Phase 2 alternatives proposed for the West Valley Site. The SEIS will incorporate information developed through the Phase 1 and other scientific studies being performed for the site, including a long-term probabilistic performance assessment. Input received during the SEIS public scoping process and

through consultation with involved, interested, or cooperating parties will also be considered in preparation of the SEIS. The SEIS will contain new information and analyses to ensure its adequacy for Phase 2 decision-making and will “tier” (40 CFR 1501.11) from the 2010 FEIS; where appropriate, information and analyses from the 2010 FEIS will be summarized and incorporated by reference in the SEIS.

The Phase 1 studies were conducted by subject-matter expert working groups, and cover topics such as erosion modeling, the geomorphic history of the Site, geologic material properties, Site radiological inventory, and precedent waste exhumation projects/technologies. Additionally, in order to further evaluate and potentially reduce uncertainty in the long-term performance assessment, DOE and NYSERDA are developing a long-term probabilistic performance assessment (PPA) for the West Valley Site. The PPA model is currently being developed in the GoldSim probabilistic modeling platform and will be supported by several process-level models, including a surface water/sediment transport model, a three-dimensional groundwater flow model, and an erosion model. The PPA will be used to evaluate radiological impacts for the range of alternatives in the SEIS. An analysis will also be prepared to evaluate hazardous chemical risks and impacts for the range of alternatives in the SEIS. These analyses will be made publicly available with the publication of the DSEIS.

2.0 Purpose and Need for Agency Action

DOE is required by the WVDP Act to decontaminate and decommission the tanks and facilities used in the solidification of the high-level waste, and any material and hardware used in connection with the WVDP, in accordance with such requirements as NRC may prescribe. NRC has prescribed its License Termination Rule (LTR) as the decommissioning criteria for the

WVDP. Therefore, DOE needs to determine the manner that facilities, materials, and hardware for which the Department is responsible are managed or decommissioned, in accordance with NRC's LTR and applicable Federal and state requirements. To this end, DOE needs to determine what, if any, material, or structures for which it is responsible that were not addressed in Phase 1 (i.e., Phase 2 facilities) will remain onsite, and what, if any, institutional controls, engineered barriers, or stewardship provisions would be needed. That is, DOE needs to determine what it needs to do to complete the WVDP and return the Project Premises to NYSERDA.

NYSERDA needs to determine the manner that Phase 2 facilities and property for which NYSERDA is responsible, including the retained premises of the WNYNSC and the SDA, will be managed or decommissioned, in accordance with applicable federal and state requirements. To this end, NYSERDA needs to determine what, if any, material, or structures for which it is responsible will remain on-site, and what, if any, institutional controls, engineered barriers, or stewardship provisions would be needed. It is NYSERDA's intent to pursue termination of the existing 10 CFR Part 50 license for the WNYNSC upon DOE's completion of decontamination and decommissioning under the WVDP Act in accordance with criteria prescribed by NRC. NYSERDA will assess closure alternatives for the SDA in the context of State radiological performance criteria identified by the New York State Department of Environmental Conservation (NYSDEC)¹. NYSERDA plans to use the analysis of alternatives in the SEIS for the West Valley Site to support any necessary NRC, NYSDEC, and/or New York State Department of Health (NYSDOH) license or permit applications.

¹ The New York State Department of Environmental Conservation (NYSDEC) identified radiological criteria and performance assessment requirements for the assessment of closure options for the SDA (letter from NYSDEC to NYSERDA, Feb. 3, 2020). NYSERDA will continue to consult and coordinate with SEQR Involved Agencies NYSDEC and the New York State Department of Health (NYSDOH) with regard to identifying the regulatory framework for implementing the Phase 2 decision for the SDA.

3.0 Proposed Action

The Proposed Action is the WVDP's completion and the decommissioning and/or long-term management or stewardship of the WNYNSC and SDA. This includes the decontamination and decommissioning of the facilities remaining at the West Valley Site after completion of Phase 1 decommissioning.

4.0 Alternatives

The SEIS will examine the range of reasonable Phase 2 alternatives (i.e., the alternatives that meet DOE's and NYSERDA's respective purpose and need for action) and their potential environmental impacts. The SEIS will also analyze the No Action Alternative, as required by NEPA and SEQRA.

4.1 Context

As specified in NRC's Final Policy Statement, DOE and NYSERDA intend to use NRC's LTR as the framework to evaluate alternatives for decommissioning and/or long-term stewardship actions involving West Valley Site facilities. NYSERDA will ensure that any remediation or closure decisions for the SDA will be made within the framework of applicable New York State regulations.

The range of reasonable alternatives encompasses those involving (1) release from the NRC license of West Valley Site facilities and areas for re-use under unrestricted conditions per the LTR, (2) release from the NRC license of West Valley Site facilities and areas for re-use under restricted conditions per the LTR, and (3) a long-term or even perpetual license or other innovative approaches for some parts of the Site where cleanup to the LTR requirements is

prohibitively expensive or technically impractical (NRC, 2002). Accordingly, the SEIS will evaluate Phase 2 alternatives in the context of the NRC decommissioning criteria and other applicable requirements. This evaluation will include analysis of the long-term radiological dose impacts and hazardous chemical risk impacts of the Phase 2 alternatives for the facilities and areas on the West Valley Site remaining following completion of Phase 1 decommissioning, DOE and NYSERDA will consider this information as it is developed in determining details of the alternatives to be analyzed in the SEIS. This process for alternative development will help ensure that the range of alternatives is adequate and provides a sound basis for informed decision-making.

4.2. Specific Action Alternatives

Specific action alternatives proposed for analysis in the SEIS include the Sitewide Close-in-Place Alternative and the Sitewide Removal Alternative (described below). Conceptually, these alternatives represent the ends of the spectrum of action alternatives from the perspective of on-site and off-site management of facilities and contaminants, and the associated amount of area for which unrestricted versus restricted future land use would be appropriate. In addition to these alternatives, analysis of at least two “hybrid” alternatives is planned. Conceptually, the hybrid alternatives will represent points along the spectrum between the Sitewide Close-in-Place Alternative and the Sitewide Removal Alternative, incorporating some elements of each. To that end, DOE and NYSERDA will consider information developed through the studies and analyses described above to inform the development of the hybrid alternatives. The SEIS will also include a No Action alternative, as prescribed by NEPA and SEQRA.

In developing alternatives, DOE and NYSERDA will explore various ways to implement them, which would be presented as implementing options. In addition, DOE and NYSERDA will explore mitigation measures to avoid or reduce potential environmental impacts of the alternatives and implementing options. These mitigation measures could include institutional controls, license and or permit terms/controls and other administrative controls (e.g. deed restrictions), robust engineered closure controls (e.g. multi-layer caps, grouts, etc.), robust erosion control structures, and/or additional removal of radiological and/or chemical inventory.

The alternatives and associated environmental analyses will be structured so that decisions based on the SEIS need not be limited only to a specific set of elements that happen to define a particular alternative. Rather, decision-makers could ultimately select an alternative comprised of elements of one or more of the alternatives and their associated implementing options.

DOE and NYSERDA plan to identify a preferred alternative in the DSEIS.

5.0 Preliminary Description of Alternatives

5.1 Sitewide Close-in-Place Alternative

Under this alternative, most Phase 2 facilities would be closed in place in accordance with applicable requirements. Major facilities and sources of contamination such as the Waste Tank Farm, NDA, and SDA would be managed at their current locations and would be isolated by specially engineered structures and barriers. These structures and barriers would be designed to meet regulatory requirements to retain wastes and contamination, to be resistant to long-term degradation, and to include features to discourage inadvertent intrusion into the wastes and contamination left on-site. Structures that would interfere with the construction of these barriers

would be removed (e.g., the Supernatant Treatment System Support Building). Facilities with lesser amounts of contamination (e.g., the North Plateau Groundwater Plume, the Cesium Prong) would be allowed to naturally attenuate. This approach would allow large areas of the WNYNSC to be released for unrestricted use. Facilities that are closed in place, and any buffer areas around them, as well as facilities that are allowed to naturally attenuate, would require long-term stewardship.

5.2 Sitewide Removal Alternative

Under this alternative, Site facilities, contaminated soil, sediment, and groundwater would be removed to meet criteria that would allow unrestricted release of the WNYNSC. Radioactive, hazardous, and mixed waste would be characterized, packaged, and shipped off-site for disposal. Immediate implementation of this alternative would require the disposition of waste for which there is currently no off-site disposal location (e.g., potential non-defense transuranic waste and Greater-Than-Class C low-level radioactive waste). Any such “orphan waste” would be stored on-site until an appropriate off-site facility is available. Completion of these activities would allow unrestricted use of the Site (i.e., the Site could be made available for any public or private use).

5.3 Hybrid Alternatives

Analysis of at least two hybrid alternatives is planned. The hybrid alternatives could contain elements of any or all of the other alternatives. For example, a hybrid alternative might include complete or partial removal of certain facilities and close-in-place for the remaining facilities. Additionally, these actions could occur immediately or after a safe-storage period. The results of the PPA will be used to determine which facilities should be removed, and which should be

closed-in-place. For example, if the PPA shows that a particular radionuclide from a particular facility dominates the long-term dose/risk estimate, then one hybrid alternative might be the removal of the material containing that radionuclide from that facility and closure in place of the remaining facilities. Depending on the facility and the amount of material to be removed, the approach for implementing the partial removal of material from a facility under the hybrid alternative may differ from the approach presented for the Sitewide Removal Alternative. The NRC Policy Statement requires that cleanup should continue to the extent technically and economically practical even if license termination cannot be achieved. The hybrid alternatives may be used to evaluate the benefits of additional risk reduction as opposed to footprint reduction.

5.4 No Action Alternative

Under the No Action Alternative, Phase 1 decommissioning actions would be completed, but no further actions toward decommissioning the West Valley Site would be taken. The No Action Alternative would involve the continued management and oversight of West Valley Site facilities. The Site would continue to be monitored and maintained for the foreseeable future, as required by federal and state regulations, to protect the health and safety of workers, the public, and the environment. Additionally, periodic maintenance activities (e.g., replacing permeable treatment wall media, replacing SDA and NDA geomembranes) would continue during an assumed period of active institutional controls until, for purposes of analysis only, controls are assumed to become ineffective. The No Action Alternative would not meet the purpose and need for agency action, but analysis of the No Action Alternative is required under NEPA and SEQRA to provide a baseline against which the environmental impacts from the other analyzed alternatives can be compared.

6.0 Potential Environmental Issues for Analysis and Potentially Significant Adverse Impacts

DOE and NYSERDA, in consultation with involved, interested, and cooperating parties and the public, have tentatively identified the following potential environmental issues and considerations, and potentially significant adverse impacts that will be analyzed in the SEIS; the below lists are not intended to be all-inclusive or to predetermine the alternatives to be analyzed.

Potential Environmental Issues and Considerations

- Issues associated with long-term Site stewardship, including duration and costs of stewardship (at various future “discount” rates, including a zero-discount rate), regulatory and engineering considerations, institutional controls, and land use restrictions, including the need for buffer areas.
- Compliance with applicable Federal, state, and local requirements.
- Identification of Derived Concentration Guideline Levels and other relevant clean-up concentrations, where appropriate.
- Issues associated with Waste Incidental to Reprocessing.
- Potential impacts to community character.
- The influence of, and potential interactions of, any wastes remaining at the West Valley Site after decommissioning.
- Long-term Site stability, including seismicity and erosion, based upon available data and considering climate change.

- Irretrievable and irreversible commitment of resources.

Potentially Significant Adverse Impacts

- Impacts to the general population and on-site workers from radiological and non-radiological releases from decommissioning and/or long-term stewardship activities.
- Transportation impacts from shipments of radioactive, hazardous, mixed, and clean waste generated during decommissioning activities.
- Impacts from postulated accidents.
- Disproportionately high and adverse effects on low-income and minority populations (environmental justice).
- Impacts resulting from degraded performance and failure of engineered barriers.
- Impacts resulting from low probability, high impact events (e.g. slope failure, seismic event, stream capture).
- Socioeconomic impacts to local communities.
- Areas of concern to the Seneca Nation of Indians related to culturally specific considerations.
- Short-term and long-term land use impacts.
- Short-term and long-term environmental impacts, including but not limited to impacts to air, surface water, groundwater, flora, fauna, and environmental media such as soil, from decommissioning and/or long-term stewardship activities.

- Impacts to floodplains and wetlands (the SEIS will contain an assessment of potential floodplain and wetland impacts in accordance with DOE requirements (10 CFR part 1022)).
- Impacts on threatened and endangered species.

For potentially significant adverse impacts, mitigation measures will be identified to avoid or minimize these impacts.

7.0 Interim Storage of High-Level Waste and Transuranic/Greater Than Class C-Like Waste

The agencies have considered the interim storage of High-Level Waste (HLW) and transuranic waste (also known to DOE as Greater Than Class C-like [GTCC-like] waste) at the West Valley site. Per the WVDP Act, the DOE is responsible for 1) the transportation of the solidified HLW at West Valley to an appropriate Federal repository for permanent disposal, and 2) the disposal of transuranic/GTCC-like waste generated under the project in accordance with applicable licensing criteria. Until a disposal pathway becomes available, the safe storage of the HLW and transuranic/GTCC-like waste will continue.

The continued safe storage of HLW and transuranic/GTCC-like waste requires both the technical feasibility of safe storage and a regulatory framework that provides for monitoring and oversight to address the potential for evolving issues. To ensure adequate protection of public health and safety, the institutional controls provided by DOE must be maintained over time. The SEIS will take the following approach to the interim storage of HLW and transuranic/GTCC-like waste with continued institutional controls:

1. The most reasonable assumption is that institutional controls will be maintained for the foreseeable future; and

2. Although the likelihood of a loss of institutional controls is too remote to meaningfully calculate, a permanent loss of institutional controls for the storage of HLW and transuranic/GTCC-like waste would likely result in unacceptable dose to members of the public.

8.0 Other Agency Involvement

DOE and NYSERDA invited Federal, state, and local agencies with jurisdiction by law or special expertise to participate in the SEIS as cooperating or involved agencies. At this time, the U.S. Environmental Protection Agency (EPA), NRC, and NYSDEC have agreed to participate as cooperating agencies under NEPA. NYSDEC, NYSDOH, and the Town of Ashford have agreed to participate as involved agencies under SEQRA. DOE intends to involve the Seneca Nation of Indians through existing consultation arrangements, and NYSERDA intends to involve the Seneca Nation of Indians as an interested party under SEQRA.

9.0 Information/Data to be Included in Appendices of the Draft SEIS

Detailed technical analyses, including engineering concepts, decommissioning activities, the probabilistic performance assessments, and results (including evaluations of geohydrology and erosion), and relevant maps, figures, and exhibits will be included in appendices to the DSEIS.

10.0 Correction to Draft Scope

The draft SEIS scope listed the following as a “potentially significant adverse impact” to be evaluated in the SEIS: “Impacts to the general population and on-site workers from radiological and non-radiological releases at radiological and non-radiological waste disposal sites receiving waste generated during Site decommissioning and/or long-term stewardship activities.”

The SEIS will consider impacts to the general population and on-site workers resulting from decommissioning wastes while they are present at the West Valley Site, or otherwise in custody of the entities performing the decommissioning work. However, potential impacts that may occur at or around locations other than the Site subsequent to delivery of wastes at an off-site disposal site, are beyond the scope of this SEIS. Waste disposal sites are licensed through a process that involves the evaluation of environmental impacts at those sites that could result from the storage, processing, and disposal of wastes there. As such, any impacts stemming from waste disposal at the licensed facilities have already been analyzed, and any mitigation of any such impacts lies solely within the authority of the licensed facilities.

11.0 Prominent Issues Raised During Scoping that Will Not Be Incorporated Into the Draft SEIS and Responses to Additional Comments

During the public scoping period for the SEIS, three public scoping meetings were held. Approximately 2000 comments were received verbally at the public meetings and in writing by mail or electronic mail. Many comments addressed issues already identified in the Draft Scope, and those relevant, substantive comments that were not already identified in the Draft Scope have been incorporated herein. This section describes the prominent issues raised during scoping that will not be incorporated into the DSEIS and responds to additional comments.

11.1 Onsite Storage of Decommissioning Wastes

Some public scoping comments requested that the agencies, when evaluating “full cleanup” (i.e., sitewide removal), consider storing exhumed waste on-site in aboveground structures. Comments suggested that onsite storage (1) would be needed due to a lack of available offsite disposal pathway(s) and (2) should be the preferred disposition for exhumed waste such that no other

community would have to deal with a burden created at West Valley. However, the vast majority of waste at the Site has a viable disposal pathway, and the agencies have chosen to evaluate the removal of those wastes from the site to an offsite facility for permanent disposal. For wastes that do not presently have a viable disposal path, the agencies will evaluate continued storage at the site. Thus, onsite storage of decommissioning wastes with a disposal pathway will not be evaluated in the DSEIS.

11.2 Use of Current Siting Standards

Some public scoping comments suggested that current siting standards for radioactive waste disposal facilities should be applied to the West Valley Site. However, because the West Valley Site was developed and utilized prior to the enactment of the current siting standards, these standards do not apply. DOE and NYSERDA will evaluate the Site according to the applicable legal and regulatory framework, which will be described in detail in the DSEIS.

11.3 Public Participation

Some public scoping comments requested public access to information during the development of the DSEIS that are beyond the requirements of NEPA and SEQRA, including but not limited to progress reports, reference materials, and draft technical reports.

NEPA and SEQRA provide for robust public participation, including public hearings and a comment period on the DSEIS. DOE and NYSERDA will comply with the public participation requirements of NEPA and SEQRA. DOE and NYSERDA have committed to an extended public comment period, six months in duration, following publication of the DSEIS. In addition to the required activities, on a periodic basis, the agencies intend to provide presentations on

select, technical topics at Quarterly Public Meetings. Additionally, in conjunction with the publication of the DSEIS, web-based resources will be made available to help stakeholders access, use, and understand information related to the SEIS.