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THE WEST VALLEY CITIZEN TASK FORCE

4

5 DATE

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

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

13 Dear Ms. Bohan,

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

17 **Background**

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

23 The CTF met for approximately 18 months and on July 29, 1998 issued a Final Report setting forth our
24 Policies and Priorities and Guidelines for the Preferred Alternative. We draw your attention to the Final
25 Report which is attached. Some elements of the Final Report have been implemented. For those that
26 have not been implemented we stand by our Report.

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

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

Draft for review and discussion – May 5, 2009

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

35 The CTF appreciates the progress to date and the work of the Core Team agencies in arriving at a
36 Preferred Alternative, something that was missing from the 1996 DEIS. The Core Team agencies are to
37 be commended for overcoming significant differences and for working together to arrive at a Preferred
38 Alternative. The CTF appreciates that DOE and NYSERDA are planning to accomplish cleanup work at the
39 site that the CTF deems essential including the removal of the source area of the North Plateau
40 Groundwater Plume and a significant number of the contaminated facilities.

41 **General Comments**

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

44 These include some fundamental concerns with the structure and assumptions in the DEIS, including:

- 45 • If the Phased Decision making Alternative is selected, a FINAL EIS and ROD cannot be issued. A
46 Phased Alternative would be tantamount to an Interim Remedial Action. A determination of
47 impacts for issue of a FINAL EIS is not possible without a comprehensive determination of action
48 and subsequent impacts.
- 49 • There is significant risk associated with radionuclides remaining at the site in their present state
50 for a prolonged period. We believe a more thorough analysis of risks and volumes of waste and
51 transportation methods will revise the current analysis and indicate that removal of wastes is
52 the most prudent option. In addition, we believe that
 - 53 ○ Institutional controls will probably not hold for as long as expected,
 - 54 ○ Dose modeling seems understated,
 - 55 ○ Erosion estimates seem understated,
 - 56 ○ Impacts to engineered barriers can be unpredictable,
 - 57 ○ There is an inherent danger when dealing with radionuclides and hazardous materials,
58 and
 - 59 ○ Any event that causes a major release of material from the site will contaminate the
60 water supply for most of Western New York, and potentially one of the largest
61 freshwater supplies in the world.
- 62 • Even if full site cleanup is selected in the FEIS and ROD, important decisions remain concerning
63 implementation. If the Phased Decision Making Alternative is selected even more significant
64 decisions about the future of the site are deferred. In either of these events, the public should
65 not only be involved but should actively participate by the agencies: (drawn from recent email
66 dialogue)

- 67 ○ Committing to continue public engagement through the CTF, [new]
- 68 ○ Allowing for a public representative on the Core Team, and [new]
- 69 ○ Committing to a second or supplemental EIS and NEPA process for any Phase 2 decision,
- 70 if the Phased Decision Making Approach is selected.

71 Additional general comments include:

- 72 ● The proposed Preferred Alternative Phase 1 work meets the Policies and Priorities articulated in
73 the CTF 1998 Final Report. The CTF strongly encourages that this work be completed without
74 further delay and in a manner that enhances future decisions regarding cleanup of the site. The
75 CTF desires that performance measurements for this work be clearly articulated and adhered to.
76
- 77 ● The CTF stands by the Policies and Priorities articulated in its 1998 Final Report. Including,
78 among others:
 - 79 a. The protection of the long-term human health and safety and of the environment is
80 paramount.
 - 81 b. Given the CTF's knowledge of the geologic, hydrologic and climate conditions, the site
82 does not appear to be suitable for long term, permanent storage or disposal of long-
83 lived radionuclides. The level of risk from exposure is such that reliance on institutional
84 controls over a prolonged period, hundreds or thousands of years, is not feasible.
 - 85 c. Decisions and studies should be performed during Phase 1 that assess and support the
86 eventual goal of a full cleanup of the site.
87
- 88 ● The CTF understands that not all critical information, characterizations, studies and technologies
89 may exist at this time to make a conclusive decision on the procedures and methodologies for
90 removal of wastes. The CTF also understands that no long-term storage or disposal solution
91 exists for orphan and TRU wastes at this time. The CTF further understands that technological
92 advances may increase the safety of waste retrieval processes with potentially lower costs. As its
93 name implies, the West Valley Demonstration Project is a suitable site because of its size and
94 special circumstances to develop and pilot new and emerging technologies.
95
- 96 ● The Phased Decision-Making approach contained in the Preferred Alternative postpones the
97 ultimate decision as to the level of cleanup and disposition of the wastes at the site. The CTF
98 believes:
 - 99 d. Such as decision should be made as soon as practicable but no later than ____.
 - 100 e. The opportunity for public review and comment contained in this DEIS is sufficient for
101 the Phase 1 decisions. Any future decisions that will result in the full cleanup and closure
102 of the WVDP and the cessation of DOE involvement or in the possible long-term storage
103 or disposal of wastes at the site should be subject to additional NEPA/SEQRA public
104 review and comment or a similarly robust public process.

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

109 • Regulatory reviews, permitting and licensing should contain commitments by the appropriate
110 agencies to seek and incorporate the views of the community in making decisions regarding the
111 future of the site.

112 • Although the CTF understands that Nuclear Regulatory Commission criteria evaluate alternatives
113 in relation to doses to a human receptor, we feel that the lack of discussion of environmental
114 impacts associated with non-dose related radioactive releases fails to acknowledge the potential
115 harm to other species or cumulative impacts of slow releases.

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

122 During such time as this larger question of a national high-level waste repository or the ability of
123 other facilities within the DOE complex to store wastes awaiting a determination on a national
124 repository, the CTF expects that wastes on the site will be exhumed and temporarily stored in a
125 manner that allows for its monitoring to readily, safely and regularly determine if the materials
126 are leaking or migrating. The CTF prefers that all wastes be excavated and placed in a structure
127 where monitoring and retrieval for repackaging and recontainment, if necessary, will be
128 relatively easy.

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

136 • Site Suitability. Underlying the CTF's desire that the cleanup result in unrestricted release of the
137 Site is the belief that the Site is not suitable for the long-term storage of long-lived
138 radionuclides. In the years since the site was selected and the facilities constructed, the
139 government and the public has come to more clearly understand the dangers associated with
140 radioactive wastes and the conditions and criteria that will maximize protection of human
141 health and safety and the environment during the handling, management, reprocessing, storage

142 and disposal of radioactive materials. The Western New York Nuclear Service Center Site does
143 not meet existing NRC licensing criteria. Because the Site does not meet current licensing
144 criteria, a logical assumption is that it is not safe for the long-term storage or disposal of
145 wastes. Therefore, the CTF believes that the site should be closed in an unrestricted release
146 status and that it should have long-term waste storage.

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

152 As part of the ongoing permitting process for the Part 373/RCRA program, the New York State
153 Department of Environmental Conservation may require mechanisms for assessments and
154 continuation of work. Such permitting requirements might include activities such as pilot
155 exhumation studies and projects. The CTF encourages DOE and NYSERDA to commit to such
156 projects in the EIS and not simply through what may be required by NYSDEC. In addition, the CTF
157 understands that the RCRA process has public participation components; nonetheless, the CTF
158 strongly encourages NYSDEC, DOE and NYSERDA to make these processes robust and ensure
159 public participation beyond the minimally required processes.

- 160 • We acknowledge and concur with NYSERDA comments contained in the NYSERDA View.(NEW)

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162 **Conclusion**

163 Language to be added.

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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 Catherine M. Young
New York State Representative Joseph Giglio
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