

To: Citizen Task Force
From: Melinda Holland, Clean Sites
Subject: Summary of November 17, 1998, Task Force Meeting
Date: December 4, 1998

Next Meeting:

The next Citizen Task Force (CTF) meeting is scheduled for:

Date: Tuesday, December 15, 1998
Time: 7:00 p.m. - 9:30 p.m.
Location: Ashford Office Complex
9030 Route 219, West Valley, NY

If you have questions or comments regarding the upcoming meeting or about this summary, please contact Melinda Holland at (864) 457-4202 or Tom Attridge at (716) 942-2453.

CTF Attendees:

Attending were: Joe Patti, Ray Vaughan, Barbara Mazurowski, Larry Smith, Pete Scherer, Eric Wohlers, Paul Piciulo, Warren Schmidt, Rich Tobe, Bill King, and Bridget Wilson. Not attending were: John Pfeffer, Blake Reeves, Nevella McNeil, Tim Siepel, Lana Redeye, Murray Regan, and Pete Cooney.

Regulatory Agency Attendees

Jack Parrott, U.S. NRC
Tim Rice and Jack Krajewski, NYSDEC

Attendees Via Video Conference

John Greeves, Mike Weber, Bill Reamer, and John Hickey, NRC
Pat Mackin, Center for Nuclear Waste Regulatory Analysis (NRC's subcontractor)
Jim Turi, DOE
Patti Swain and Joe Price, SAIC

July 29 Meeting Summary:

Tom Attridge and Melinda Holland opened the meeting by reviewing administrative issues and the agenda. The presentation on the High Level Waste Tank Closure Workshop was postponed until a future meeting due to a full agenda for this meeting.

The Nuclear Regulatory Commission (NRC) issued its Draft Decommissioning Criteria for West Valley (SECY-98-251) October 30, 1998. Jack Parrott of NRC was present at this CTF meeting to

make a presentation on the criteria paper and answer questions. NRC staff were also available via video conference for assistance in answering questions.¹

During the discussion of NRC's presentation, a CTF member asked whether an Environmental Impact Statement (EIS) had been done on the incidental waste criteria and whether all of Part 61 should apply as is indicated by the rule's preamble. Jack Parrott responded that an EIS had not been done on just the incidental waste criteria as NRC felt it was not appropriate. He stated that an EIS had been done for the Part 61 regulations and that NRC believes that the Part 61 rule should be considered to see if the performance objectives are met to protect public health and safety.

A Task Force member expressed confusion over the portion of NRC's criteria paper which deals with what would happen if the criteria cannot be met. He also questioned whether decontamination and decommissioning (D&D) would ever be achieved if long-term institutional controls are allowed as part of the site remedy. NRC responded that institutional controls could be considered as satisfying the D&D requirement if the end result protects public health. However, they want to see the final EIS for the site to evaluate the D&D criteria. A CTF member disagreed with this and stated that NRC should do its own EIS for this purpose. NRC stated that if the final EIS says the site cannot meet the unrestricted release criteria and must rely on long-term institutional controls, NRC could exercise the three options that are identified in the Commission paper. Another CTF member questioned why NRC would go through the time-consuming process of seeking legislation if it could hand the site over to EPA to handle under CERCLA (Superfund). Another CTF member pointed out that the West Valley Demonstration Project Act (WVDPA) specifies that NRC is to set the D&D criteria which may preclude it from turning the site over to EPA, without legislative action. NRC representatives felt that their agency could transfer the issue to EPA authority.

A Task Force member suggested that NRC should use the Radiological Criteria License Termination Rule as the only criteria for the West Valley site. NRC responded that they want to require the same approach and level of protection as they are requiring for other sites with high level waste tank closure and disposal issues. The incidental waste criteria are being applied to high level waste tanks and their wastes at other sites and NRC feels they should do the same at West Valley. In response to a question on which parts of the site would not be covered under the incidental waste criteria, NRC responded that only the tanks and drum cell would be covered by the incidental waste criteria. The rest of the site would be subject to the Radiological Criteria License Termination Rule. A CTF member asked why NRC is not willing to make the Radiological Criteria License Termination Rule binding now because it would provide more protection to the public. The NRC staff responded that the Commissioners will have to decide that issue. A Task Force member asked why the NRC staff is recommending doing it this way? NRC staff responded that they are not ready to prescribe those criteria, because significant consequences may result which would sway the decision away from applying the Radiological Criteria License Termination Rule. NRC wants to see the information in the final EIS to determine this. The CTF member countered with the question that since the Radiological Criteria License Termination Rule

¹For those not attending the meeting, a copy of the NRC paper and Jack Parrott's presentation can be obtained by calling Sonja Allen, WVNS, at 942-2152. Jack Parrott indicated that the NRC Commissioners will hold a public briefing to allow the CTF, DOE, NYSERDA, and NYSDEC to present their respective comments/positions on the SECY paper. The Commissioners may also ask questions of the presenters, as well as the NRC staff that presented the SECY paper. The meeting was scheduled for December 14 to be held at the NRC's offices in Washington, DC.

sets exposure thresholds without site-specific considerations, then why would the EIS change that so that a higher human exposure level is acceptable? NRC responded that a generic EIS was done for the Radiological Criteria License Termination Rule based on a range of site situations and assumptions. When the Radiological Criteria License Termination Rule is applied to individual sites like West Valley, NRC may find that the site doesn't fit the ranges of assumptions used in the EIS for the Radiological Criteria License Termination Rule. A CTF member asked if the site finds it cannot meet the 500 mrem criteria, is that when it must justify its approach? NRC responded that the site should analyze what will happen if the standards in the Radiological Criteria License Termination Rule are applied. If the site finds that it will cause unreasonable consequences, they can present what they feel is a more reasonable solution and show how that would be protective. For example, the Amax site and some other uranium mill tailings sites have been allowed to use long-term institutional controls to meet exposure criteria. Task Force members stated that NRC should require a "strong" justification for not following the rule, "some" justification (as stated in page 5 of the proposed criteria document) is not enough. The members also felt that NRC is downplaying the importance of institutional controls and long-term government presence and funding guarantees. Also, the credibility of long-term institutional controls is in question. The CTF indicated the Commission should not be asked to relinquish its traditional authority under the rules unless a much stronger justification can be made.

CTF members expressed concern over NRC's reluctance to give the site clean-up standards on which to base the preferred alternative and SEIS. Using this approach, it could position NRC to either reject or "rubber stamp" the site's proposal after a lot of work has been done. Another CTF member observed that this appears to be a case of NRC bending the rules to fit the wishes of the site. NRC representatives disagreed, stating that they will not "rubber-stamp" the site's recommendation. Because Part 61 and the Radiological Criteria License Termination Rule do not specifically apply to the West Valley site, NRC wants to assess the impacts (via the final EIS) before it prescribes specific criteria for West Valley. He stated that the WVDPA provides the legal authority to do a site-specific rule for West Valley. A Task Force member countered that NRC also has full authority to prescribe D&D criteria now. Given the long-term risks at West Valley from erosion and other natural processes, it is highly likely that long-term institutional controls will fail.

In response to a question, NRC stated that the incidental waste criteria may be applied at West Valley and that NRC views incidental waste as low-level waste. In response to a question on the threshold for transuranic waste, NRC stated that if DOE proposes a number higher than 10 nanocuries/gram, the waste would have to meet the performance objectives of Part 61 under this proposal.

A DOE representative explained to the Task Force that DOE appreciates the flexibility afforded by the draft criteria document and is willing to propose an approach to NRC for review via the EIS process.

A CTF member asked if NRC staff would be willing to revise this paper before having the Commission vote on it. NRC staff responded that they have already provided the criteria paper to the Commissioners who now want to hear from the CTF, NYSERDA, DOE and NYSDEC before making a decision on the paper. The Commission may tell the staff to modify the criteria document after it hears from all the parties.

At the conclusion of the meeting, CTF members expressed concern that they had just received the proposed criteria five days before the meeting, and that a public briefing with the Commissioners on December 14 would not allow them enough time to prepare written comments and a presentation. NRC representatives suggested that the CTF send a letter to Bill Hill in the NRC Secretary's office requesting more time. [At the CTF's request, Melinda Holland drafted a letter which was sent to Shirley Jackson, Chairman of the Commission, and NRC staff on November 18. NYSEDA and DOE also sent letters supporting the CTF's request for a postponement. Subsequently, NRC postponed the public briefing until January 12 at 9:00 a.m..]

The Task Force scheduled a work group meeting for Monday, November 23 to begin developing written comments for the NRC briefing. Ray Vaughan offered to develop a first draft for review by the work group.²

Observer Comments

An observer asked whether Mr. Parrott had discussed incidental waste during his presentation, so Mr. Parrott reviewed that part of the presentation. Another observer expressed her anger that the NRC has set such a short deadline for the briefing. She reminded them that the public did not get to see the proposed criteria document until the evening of the meeting (November 17) and that the CTF mailing list should have received the document in advance. Another observer commented that the site should not be expected to prepare another EIS without NRC guidelines, and that the Commissioners should extend the deadline for the briefing.

Next Steps

- ◆ CTF work group to develop draft comments and a presentation for the Commission briefing.
- ◆ The CTF will meet on December 15 to finalize the contents of the comments and presentation.
- ◆ The CTF needs to select a representative to testify on its behalf at the January 12 public briefing.

²At the November 23 work group meeting, Ray Vaughan's draft of comments from the Coalition was discussed. Eric Wohlens agreed to incorporate the group's input into a draft for the CTF's review by December 4. The work group will meet again on December 7 to refine the document. The full CTF will meet on December 15 to review and approve comments for the Commission and to decide who will make the presentation on behalf of the CTF.