

West Valley
Citizen
Task
Force

December 22, 1998

Dr. Shirley A. Jackson, Chairman
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

RE: PUBLIC BRIEFING COMMENTS
Commission Paper SECY-98-251
Decommissioning Criteria For West Valley

Dear Chairman Jackson:

1 Initially, the West Valley Citizen Task Force (CTF) would like to thank the
2 Commission for kindly accommodating our request for a postponement of the
3 earlier scheduled public briefing regarding the proposed decommissioning criteria
4 for the West Valley Demonstration Project site in SECY-98-251 (Paper). Since
5 each member of the CTF was appointed to represent one of several unique
6 constituencies, it is likely we would not have been able to schedule the necessary
7 number of meetings required to discuss and formalize a consensus set of
8 comments under the earlier time frame.

9 We would also like to thank the staff of the NRC for its active involvement in
10 the meetings of the CTF over these last two years. NRC staff have attended
11 meetings in West Valley, have participated in many of our meetings via video
12 conference and on several occasions have briefed the CTF. In particular we wish

13 to thank Jack Bennett for his assistance in preparing this letter. 12/22/98

20 considering the many complex issues involving the twelve distinctive waste management areas
21 and listening to numerous presentations explaining the rationale behind present radiation dose
22 estimates for various exposure scenarios, the CTF questioned many times as to the apparent
23 futility of discussing such risks or evaluating the various cleanup alternatives without knowing
24 what NRC criteria and rules would apply to decommissioning and/or govern reliance on
25 institutional controls. We had been informed on several occasions that the release of official
26 NRC guidance on these subjects was forthcoming and we had hoped it would be available for our

27 consideration during the final development of our July 1998 report

28 And so it was with great anticipation that we received SECY-98-251. Having read the Paper
29 and then convening a CTF meeting to discuss the proposal, it quickly became apparent that the
30 Paper did not meet with the general expectations of the CTF. In fact, rather than resolving some
31 of our outstanding questions it raised some new ones.

32 We would respectfully request that the Commission consider the following comments and

52 alternatives in the draft EIS that leave residual or stored waste on site, nonviable under the
53 proposed decommissioning criteria..." It thus appears the Paper is recommending the use of
54 criteria which cannot be achieved at this site. This recommendation, the acknowledgment that it
55 is "nonviable", and the lack of specificity on any other criteria leaves the CTF unsure as to what
56 the Paper is proposing and what the NRC will have adopted should it approve this Paper.

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58 Much is already known about the West Valley Site

59 The Paper proposes that the "prescription of decommissioning criteria (by the Commission)
60 will be better informed by the EIS." The sentence from which this recommendation comes is
61 preceded by a discussion on the criteria that will be used to justify a departure by DOE and
62 NYSERDA from the requirements found in the License Termination Rule.

63 The CTF wishes to draw to the Commission's attention that there has already been a draft
64 EIS prepared for decontamination and decommissioning of the West Valley site. Although no
65 preferred alternative was identified, the data contained in the draft EIS has not been called into

66 question other than that to some extent more data has been sought. The draft EIS which was
67 released in March 1996 is voluminous and exhaustive. It will be the basis for the new EIS. The
68 characteristics of the waste at the site and its location are well known, as is the potential to cause
69 harm to humans and the environment. The CTF does not believe the new draft or final EIS are
70 necessary for the NRC to establish decontamination and decommissioning criteria at the West
71 Valley site.

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73 CTF Alternative Recommendation

80 Two Simple Questions

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82 The CTF, in considering the Paper, poses two fundamental questions.

83

84 1. Should the Standard for the decontamination and decommissioning of the West Valley



85 site be different than that for the rest of the country?

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87 2. Should the NRC deviate from its normal practice in which it sets in advance clear,
88 objective standards for the protection of human health and the environment so as to
89 guide, influence and finally judge proposed activities?

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91 The CTF has concluded that the answer to both questions is no.

92

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

144 DOE/NYSERDA might "propose alternative criteria" and staff would then subsequently propose
145 a new approach for approval by the Commission. We clearly do not understand under what

146 authority or by what precedent a regulated agency could, in effect, prescribe the rules under
147 which they are governed. This is clearly the province of NRC alone.

148 At various times the CTF has been reassured by staff from all involved agencies that
149 protecting both worker and public health and safety is the single most important criterion relied
150 upon when making site management decisions. We felt so strongly about this issue that several
151 references were incorporated into our report [see Section III, Items 1 and 17; Section IV, Item 2].
152 NRC has already established definitive allowable radiation dose rates on a national basis in the
153 License Termination Rule. Should acceptable dosage rates not be the same for all
154 communities/populations, irrespective of geographical location? The CTF contends that the
155 NRC should establish firm criteria now, not just flexible guidance. Detailed EIS analyses of long
156 term risks and short term implementation risks for the various alternatives should not be based on
157 assumptions of what the applicable decommissioning criteria might be. The preferred alternative
158 which will be developed in this process should be tailored to meet the NRC's "prescribed"

176 Concerns With Extended Institutional Control

177 Perhaps the greatest shortcoming of the Paper is the failure to resolve the critical questions
178 concerning establishment of definitive guidelines for allowing extended use of institutional
179 controls (IC). 10 CFR 61 clearly states that IC cannot be relied on for more than 100 years, and
180 everyone unequivocally agrees that the West Valley site has significant nondesirable
181 characteristics that preclude indefinite reliance on active-maintenance IC. The CTF believes that
182 the concept of an "unlimited" IC period as assumed in the DEIS is a nonviable option [Section
183 III, Items 3, 4, 13 and 15; Section IV, Items 3 and 5]. Additionally, the NRC should not consider
184 relegating their authority to say what kind of institutional controls are appropriate to rely upon.

186 The CTF believes (based on currently available information) the site is not suitable for the
187 long-term, permanent storage or disposal of long-lived radionuclides and that final action with
188 regard to these wastes is for them to be removed from the site. (Section III, Items 3 and 5). The
189 CTF may reconsider its opinion of site suitability if new evidence based on site characterization
190 is presented to the CTF in the near future. The CTF further understands that certain factors could
191 result in interim onsite storage with associated IC. Several assumptions made were that over

208 waste will not exceed applicable limits for Class C LLW as per 10 CFR 61. Without sufficient
209 additional information as to the treatment methods, specific waste characterization, and estimated

210 volumes of waste involved, it is difficult to make an informed assessment of the appropriateness
211 of applying such criteria. Regardless, as presently proposed the criteria are merely a suggested
212 guideline, or worse, a deliberate means of allowing DOE to reclassify the HLW collected from
213 tank residue and decontamination of the process building and vitrification facility as LLW.
214 Again, this position would allow DOE to be absolved of responsibility, whereafter NRC will
215 reinstate the State license and hold New York wholly accountable for meeting the latent NRC
216 criteria.

217 In summation, the CTF is resolutely opposed to the approval of SECY-98-251 in its present
218 form. The proposal does not set forth decommissioning criteria as advertised but rather is seen
219 as a guise for providing DOE defacto authority to dispose of their wastes onsite at the eventual

220 [redacted] of New York. NRC has a statutory obligation to make discretionary decisions at West

240 4. Direct staff to develop a policy statement for Commission approval, prior to completion
241 of the EIS, setting forth definitive criteria for allowing time-limited institutional controls which
242 are consistent with all statutory requirements.

243 5. Direct staff to develop a policy statement for Commission approval setting forth a clear
244 definition of incidental waste for West Valley and whether such definition conflicts with policy
245 already set for transuranic waste.

246 6. Direct staff to develop a policy statement for Commission approval setting forth the
247 criteria for reinstating the NRC license following completion of the WVDP.

Respectfully submitted,

West Valley CTF

