

West Valley

**CITIZEN
TASK
FORCE**



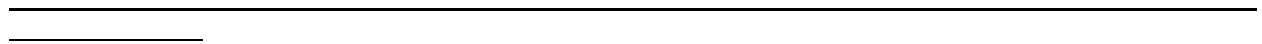
**West Valley
Citizen Task Force
Final Report**

July 29, 1998

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I. INTRODUCTION

This report has been prepared and submitted by the West Valley Citizen Task Force (“CTF”) to the New York State Energy Research and Development Authority (“NYSERDA”) and the United States Department of Energy (“USDOE”), the Site Managers, so as to provide direction and advice on the development of a Preferred Alternative for the completion of the West Valley Demonstration Project and cleanup, closure and/or long-term management of the facilities at the Western New York Nuclear Services Center (hereafter referred to as the Center¹).

The CTF acknowledges that the vitrification process, which is more than half completed, is of great importance to the overall safety of the Center, human health and the environment. Converting the liquid wastes to a solid and emptying the high level tank will remove a grave risk that has threatened the health and safety of the entire area. The CTF commends the Site Managers and all those who have made this possible.

The CTF expects that the Site Managers will develop a Preferred Alternative which complies with the Policies and Priorities contained in Section III and responds to the Guidelines in Section IV.

The CTF expects the Site Managers to recommend policies and criteria that will offset, ameliorate, or replace the losses to the community from the reduction in economic activity at the Center.

Upon selection of the Preferred Alternative, the CTF expects for the Site Managers to present such alternative to the CTF and the public with all supporting information. Such presentation to the CTF may precede the commencement of a formal public participation process but is not a substitute for full formal public participation and the development of a Record of Decision.

The CTF also expects that the Site Managers will continue to actively manage and monitor the Center during the development of the Preferred Alternative. The CTF further expects that the Site Managers will immediately take any steps necessary to prevent the further spread of wastes.

¹The term “Center” refers to the 3300 acres of the Western New York Nuclear Services Center, including the West Valley Demonstration Project (WVDP) premises and the State-licensed Disposal Area (SDA). The term “Site” refers to the 200 acre-WVDP premises and SDA only.

II. BACKGROUND

On January 29, 1997, the CTF held its first meeting at the Ashford Office Complex. The CTF was convened by NYSERDA and USDOE. The CTF has met twice a month since January 1997, except for short recesses. The members of the CTF are listed in Appendix One.

The CTF was formed to

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Presentations were made to the CTF regarding:

- Center history,
- applicable law, rules and regulations, administrative policies, governmental agreements, and court decisions,
- the draft environmental impact statement and the five alternatives which it considered,
- radiation hazards,
- the twelve waste management areas into which the Center was divided
- licensing issues,
- new or alternative technologies,
- institutional controls, and
- special concerns such as the North Plateau Plume.

III. CTF POLICIES AND PRIORITIES

1. The CTF expects that the Preferred Alternative will protect human health and the environment from all risks associated with the Center. Because proximity to the Center increases potential risk, the CTF believes that special attention should be paid to the long-term health and safety of people residing in the adjacent towns.

2. The Seneca Nation is an indigenous, distinct, sovereign Nation of People whose past and future existence is dependent upon, among other things, the protection and preservation of its natural resources. Closure options that may contaminate these resources to any extent (i.e., animal and fish life, herbs, plants and forest areas, water, air, and soil, including viable land for home sites), are of overwhelming concern to the Nation and its people. The CTF recognizes this concern.

3. The CTF does not believe (based on currently available information) the Site is suitable for the long term, permanent storage or disposal of long-lived radionuclides (such as carbon-14 with a half life of 5,730 years, uranium-238 with a half life of more than 4 billion years, plutonium-239 with a half life of 24,100 years, and Technetium-99 with a half life of 217,000 years). The site is in an area that has an average rainfall of 40 inches, has a relatively

² Ground Rules of the Citizen Task Force, as revised and approved on January 29, 1997.

high and mobile water table which is hydrologically connected to the surface and perhaps in the future to subsurface aquifers, has sand lenses that are irregularly distributed through the clay on which the site sits, is on or near active earthquake faults and is located on a tributary of Lake Erie. The population density in the area and the large number of people who rely on Cattaraugus Creek, Lake Erie, the Niagara River, and Lake Ontario for drinking water (over one million people for Lake Erie alone), fishing, recreation, etc. is of great concern. The height of the water table, the discharge of groundwater at the site, the surface geological processes at the site (such as erosion) would preclude, under current criteria, the siting of a new nuclear waste storage or disposal facility at this location³.

4) The CTF recognizes that portions of the Center are not fully characterized and therefore cannot be judged with certainty to be either suitable or unsuitable for long-term, permanent storage or disposal of wastes under current regulations. Under present conditions, the CTF does not believe that any portion of the Center can be considered suitable for long-term, permanent storage or disposal of wastes. The CTF may reconsider its opinion of site suitability if new evidence based on site characterization is presented to the CTF in the near future.

5. The CTF recognizes that some wastes will remain at the Site for a prolonged period of time. The CTF expects that all decisions regarding such wastes will be guided by the belief that the only appropriate, final action with regard to these wastes is for them to be removed from the Site. The CTF does not believe any solution should be chosen which makes retrieval significantly harder. Thus, for instance, the CTF does not support any alternative in which a large solid, permanent "monolith" would be created.

6. The CTF expects that the logs and remaining fuel rods will be removed from the Site as soon as possible.

7. The CTF expects that, other than to the extent necessary to manage the Center safely and to achieve the Policies and Priorities of the CTF, all wastes that remain at the Site will be managed in a manner to ensure that contamination does not spread and that uncontaminated soils and other materials will be protected from contamination. The CTF does not want to have the amount of material contaminated increase, thus increasing the expense and problems associated with clean up of the Site.

8. The CTF expects that all wastes that remain at the Site, whether stored above or below ground, will be stored in a manner that allows for its monitoring to readily, safely and regularly determine if the materials are leaking or migrating .

9. The CTF expects that all wastes that remain at the Site will be stored in such a way that they can be retrieved if the containment system and/or packaging fails. Retrieval may be

³ For instance, see comments of Center for Nuclear Waste Regulatory Analyses, August 1996,

beginning at page 3-1.

necessary as part of the ultimate disposal plan or due to a gradual (slow erosion) or dramatic (earthquake or rapid erosion from a flood) reduction in the integrity of the containment or packaging system. The CTF expects that an alternative storage system will be developed so as to be readily available should the primary containment system fail.

10. The CTF expects that all wastes will be isolated from ground water. In order to achieve this goal, the CTF acknowledges the slightly higher risk to intruders (trespassers) and site personnel that accompanies the storage of wastes above ground in structures.

11. The CTF prefers that all wastes be excavated and placed in a structure where monitoring and retrieval for repackaging and recontainment, if necessary, will be relatively easy. The CTF recognizes that for some wastes excavation and storage may not be appropriate in the near term. For such wastes the CTF expects that the Preferred Alternative shall describe when and how such wastes shall be excavated.

12. The CTF expects that any structures built in the ground or above the ground at the Site to contain wastes will be constructed to withstand severe natural events such as tornadoes, earthquakes, and the hazards of flooding and erosion.

13. The CTF expects that the risks and costs associated with the Center will be borne in large part by our generation. The CTF wants to limit, as much as possible, the extent to which future generations bear the risks and costs of the Center, and its monitoring and cleanup.

14. The CTF expects that the Preferred Alternative will comply with all applicable local, state, and federal laws, rules, and regulations including the provisions of the West Valley Demonstration Project Act (Public Law 96-368) , Article 29 of the New York State Environmental Conservation Law and subparagraph a of paragraph 1 of Section 1854-a of the New York State Public Authorities Law which prohibits the location of a low level waste repository at the Western New York Nuclear Services Center.

15. The CTF expects that the Preferred Alternative will not rely upon man made structures over a long period of time. The CTF believes that over a prolonged period of time nature's processes will prevail over engineered solutions.

16. The CTF expects that the Preferred Alternative will include the restoration of the Center to alternative uses (such as educational, industrial, commercial or recreational uses) as much as is possible and as soon as possible.

17. The CTF expects that cost considerations will not be a primary factor in the development of the Preferred Alternative.

18. The CTF expects that the Preferred Alternative will provide for a continuing presence by USDOE so long as Project wastes as defined by the West Valley Demonstration Project Act remain at the Center. As such, USDOE will continue to participate in the management of the Center and in the funding of activities associated with implementation of the Preferred Alternative. In addition, the CTF requests that USDOE remain on the Center so long

as any waste remains at the Center, especially waste from federal defense activities and from federal research, development and defense contracts.

IV CTF GUIDELINES FOR PREFERRED ALTERNATIVE

1. The Preferred Alternative shall to the maximum extent possible achieve the CTF Policies and Priorities contained in Section III of this report.
2. The Preferred Alternative shall state the applicable law(s) under which it has been developed, and if the Preferred Alternative complies with such law(s). In particular, the Preferred Alternative shall indicate if the “decontamination and decommissioning” requirements of the West Valley Demonstration Project Act⁴ will be achieved.
3. The Preferred Alternative shall detail all licensing issues including a statement of any licenses that will be required, the standards that will apply and if the Preferred Alternative complies with current licensing requirements. In addition, the Preferred Alternative shall indicate if any special variances or special licensing issues will be sought. In particular, the Preferred Alternative shall indicate if policies of the Nuclear Regulatory Commission regarding reliance upon “institutional controls” can be achieved.⁵
4. The Preferred Alternative shall detail the role of other state and federal agencies including New York State Department of Environmental Conservation (NYSDEC), NYS Department of Health (NYSDOH), NYS Department of Labor (NYSDOL), and Army Corps of Engineers.
5. The Preferred Alternative shall detail the extent to which “institutional controls” and “active maintenance” will be relied upon and shall identify the associated specific actions.⁶ This shall include the extent to which a continued human presence at the Center is required to provide monitoring, site control and restoration of protective features.
6. The Preferred Alternative shall detail the extent to which structures and other engineered solutions are relied upon. The Preferred Alternative shall not use incineration at the Center.
7. The Site Managers shall indicate when the logs, rods and other materials that are the results of the vitrification process will be removed from the Site. This shall include who is responsible for the removal action, what steps will be taken to insure removal in a timely fashion and how and where these wastes will be stored until removal. The Site Managers shall indicate if this schedule will affect the development and implementation of any alternative.

⁴ Public Law 96-368- October 1, 1980, Section 2(a)(5)

⁵ See 10CFR§20.1403(e) and §61.59(b)

⁶ See West Valley Draft EIS, January 1996, Glossary, page A-9 and 10CFR§61.2.

8. The Preferred Alternative shall provide a detailed statement of how the costs and responsibilities for implementing the Preferred Alternative will be divided between the Site Managers. This shall include a statement of who will be responsible for management of the Center, statutory authority for such management activities, and who will be responsible for the costs of implementing the Preferred Alternative and for long term management of the Center, and for all future funding including but not limited to planned and emergency remedial and removal actions and for insuring compliance with the CTF Policies and Priorities and Guidelines.

9. The Preferred Alternative shall provide a reliable method to assure that funding will be available whenever necessary, but particularly over the long term, to carry out all remediation, relocation (pending appropriate environmental review) on Center premises, monitoring, institutional controls, and removal.

10. The Preferred Alternative shall provide a reliable method of review and implementation to assure that all issues are reopened at regular intervals and to monitor the success at achieving the goal of eventual removal of all wastes from the Site. This method, or "trigger," to cause a review and appropriate action should be automatic after the passage of a certain time period and also discretionary if circumstances at the Center change or new technology is developed.

11. The Preferred Alternative shall specify how immediate or emergency issues will be dealt with such as the sudden deterioration of protective features, the migration of the North Plateau Plume and other issues that require prompt action. This shall include a statement of who will be responsible for decision making, statutory authority for such decision making, and in what way there will be readily available funds to carry out any action that may be required.

12. The Preferred Alternative shall specify the extent to which local emergency response will be required over the long and short term. If emergency response is required, the Preferred Alternative shall state the extent to which it will be required and identify a source of funding to acquire and maintain equipment and to provide the necessary training and planning for emergency response.

13. The Preferred Alternative shall specifically detail a comprehensive plan for addressing the North Plateau Plume, including the source area, and shall clearly establish the authority under which the plan will be implemented over the long term.

Respectfully Submitted,

July 1998

West Valley Citizen Task Force Members

Pete B. Cooney
Pete Cooney

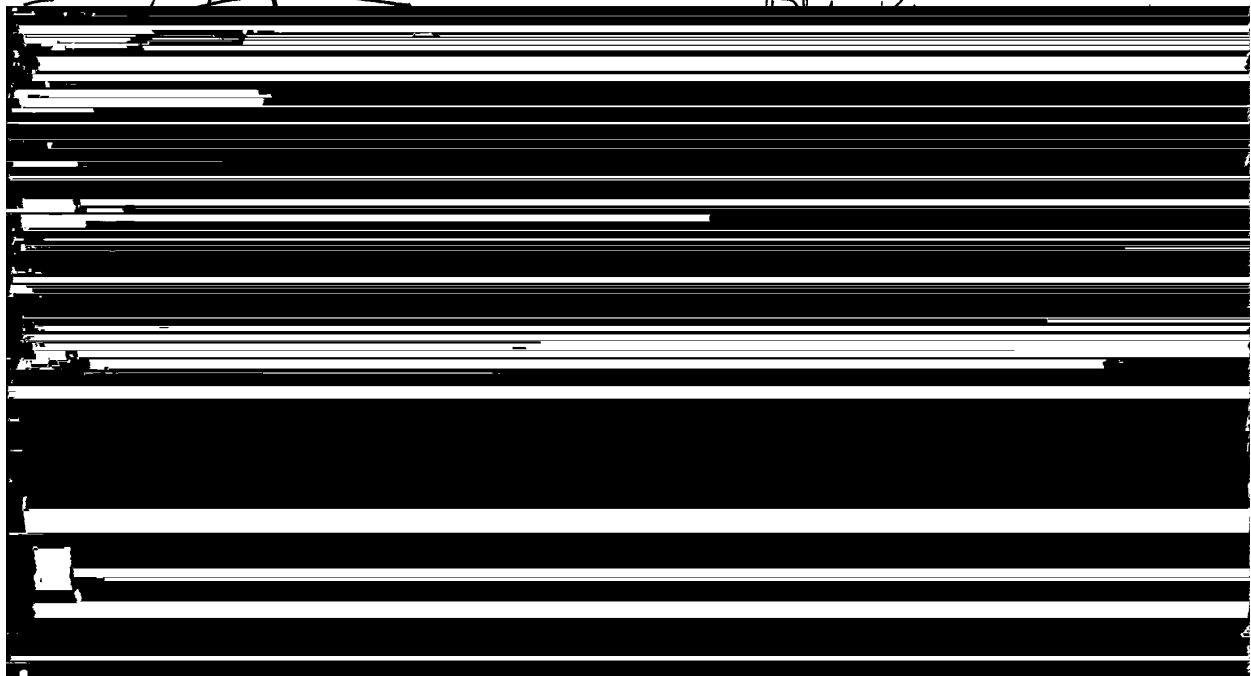
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APPENDIX 1

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Appendix 2

Seneca Nation of Indians

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Clerk - Geraldine Huff

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AT THE SPECIAL SESSION OF COUNCIL THE
SENECA NATION OF INDIANS HELD ON JULY
23, 1998, AT THE G.R. PLUMMER BUILDING
ON THE ALLEGANY INDIAN RESERVATION,
SALAMANCA, NEW YORK 14779

EXECUTIVES PRESENT:	PRESIDENT	MICHAEL W. SCHINDLER
	CLERK	GERALDINE HUFF
	TREASURER	RAE L. SNYDER

WEST VALLEY TASK FORCE / APPROVAL

Motion by Lanny Bennett, Seconded by Karen Bucktooth, that Tribal Council approve the following resolution:

WHEREAS, the Seneca Nation of Indians has a vested interest in the future of the West Valley Nuclear Services Center; and

WHEREAS, Lana Redeye was appointed to represent the Seneca nation of Indians at the west Valley Citizen Task Force; and

WHEREAS, the Citizen Task Force Draft Report incorporates the viewpoints and concerns of the Seneca Nation and its people, provided the following additions are made to Section III item 2:

~~The Seneca Nation is an indigenous, distinct, sovereign Nation of People whose past and future existence is dependent upon, among~~
other things, the protection and preservation of its natural resources. Closure options that may contaminate these resources to any extent (i.e., animal and fish life, herbs, plants, forest areas, water, air, and soil, including viable land for home sites) are of overwhelming concern to the Nation and its people. The CTF recognizes this concern.

Appendix 2

SPECIAL COUNCIL SESSION
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WEST VALLEY TASK FORCE / APPROVAL. (CONTINUED)

NOW, LET IT BE RESOLVED, that the Seneca Nation of Indians concurs with the policies, procedures and guidelines contained in the Citizen Task Force Draft Report and authorizes Lana Redeye to sign the report as the Seneca Nation's representative.

ALL IN FAVOR

MOTION CARRIED

AYE

CERTIFICATION

I hereby certify the foregoing extract is a true and correct copy of the minutes of the Special Session of Council of the Seneca Nation of Indians held on the Allegany Indian Reservation, which is on file in the Clerks Office of the Seneca Nation of Indians.

IN WITNESS WHEREOF, I have hereunto subscribed my name and seal to be affixed at the William Seneca Administration Building on the Cattaraugus Indian Reservation, Irving, New York on the 28th day of July 1998.

I hereby certify a true and correct copy from the original of which is on file in the Seneca Nation of Indians.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and seal to be affixed at the Seneca Nation of Indians Building on the Allegany Indian Reservation on the 28th day of July 1998.

ATTEST:

Geraldine Huff
GERALDINE HUFF
THE SENECA NATION

(S E A L)

[Signature]
CLERK
SENeca NATION OF INDIANS