

West Valley Citizen Task Force

March 1, 2006

Robert F. Warther, Manager
Ohio Field Office
U.S. Department of Energy
175 Tri-County Parkway
Springdale, OH 45246

Re: U.S. Department of Energy *West Valley Demonstration Project Site Utilization Management Plan*, August 2005

Dear Mr. Warther:

We, the West Valley Citizen Task Force (CTF), request that the U.S. Department of Energy (DOE) either withdraw the subject Site Utilization Management Plan (SUMP) until the Environmental Impact Statement (EIS) process is complete, or explain in a credible manner why this is a valid document and not an attempt to bypass the EIS process. At this point the CTF has worked diligently for nine years in the interest of helping state and federal site managers for the West Valley Demonstration Project (WVDP) make decisions about project completion. We take seriously our responsibility, since these decisions address the health, safety and economic interests of the local community as well as the region at large.

Shortly before our November 30, 2005 meeting, we were presented with the DOE SUMP, dated August 2005, which deals with project completion and site closure issues. While we are cognizant that it is a work-in-progress, we are extremely disappointed in the document because it appears to call for closure of the site well before a true cleanup has been accomplished. Even its title, "Site Utilization," is a misnomer. Webster's dictionary defines "utilize" as "to put to use; make profitable use of," but that is not what the SUMP accomplishes. It appears to outline the utilization of DOE's scaled-back resources, diminished because of failure to complete the EIS as ordered "in a timely manner."

Given the above, we find the SUMP to be premature and irrelevant. We invite you to show otherwise and hope you will consider some of the alternatives suggested by us and others through the years to reach the goal of a proper cleanup of radioactive and other waste at West Valley.

Our reasons for objecting to the SUMP are many:

- The SUMP appears to be a diversion, almost a separate process, which was created in response to the February 2002 DOE Office of Environmental Management (EM) "Top-to-Bottom Review." Without an EIS, it has no basis for its conclusions.
- Large, complex projects such as the WVDP cannot proceed effectively until the goal or end state is reasonably well defined. Until this is defined, and the decisions on project completion and site closure are documented by an EIS, any substantial plans for completion are premature.
- The SUMP introduces a new intermediate cleanup goal called "EM Completion," which recommends use of "contract management strategies to support accelerated completion," with no mention of the pathway by which completion will be defined. How can "contract management strategies" be employed, much less accelerate completion, before issuance of the decommissioning EIS, followed by a Record of Decision (ROD) and proper review of both documents?
- Why is the EIS being postponed again? Is it realistic to assume the EIS and ROD will be completed the same year?
- Why leave the old and contaminated reprocessing plant (Process Building) in place merely to house the Vitrification containers destined for a safe repository some time in the future, when both the state of New York and the DOE have expressed doubts about the wisdom of maintaining it?
- Why the assumption (p. 5) that the High-Level Waste (HLW) canisters must remain stored in the Process Building as long as they remain on site? Why not move the canisters to a safe place on site, such as the Vitrification Facility, then take down the Process Building, which was the state's preference (and DOE's at one point), and get at the source of the radioactive plume of strontium making its way across the complex and beyond engineered barriers?
- Why remove the relatively new Remote-Handled Waste Facility (RHWF) building, when there is still so much cleanup to be done? It makes no sense for DOE to remove the building they have built in an apparent effort to clean up their portion of the site, without regard for possible future use by either governmental entity.
- Why no mention of DOE's plans and responsibilities for the NRC-Licensed Disposal Area (NDA) or for the strontium groundwater plume? We find it appalling that the federal government would purposely ignore these significant sources of contamination at the site and omit them from the closure plan.
- Costs are important components, of course, but a safe and usable site is of paramount importance to future generations in the local communities and the region as a whole.

Why project diminishing costs, indicating an intention to close the site within seven years? How is that possible when the EIS still is not complete, no legal decision has been reached on Project completion, and there remains a significant source term of radioactivity to be cleaned up?

- Implementing the SUMP may save money in the near term but prove very costly in the long run as the site requires further cleanup. Why not deal with the costs of a real cleanup now, in this generation, rather than hand it to future generations faced with an erosive site that unquestionably will leak and cost even more to clean up than it will today?
- Erosion is and will be a continuing problem in the Western New York area, and particularly at the hilly West Valley site. Any barriers would have to be maintained for thousands of years to stem the inevitable leakage into the creeks and downstream to Lake Erie. Even if engineered barriers were an option, they would need continual maintenance and replacement, yet DOE has a poor record with engineered barriers such as the ones the strontium groundwater plume has circumvented.
- There is no mention of HLW resulting from the solidification process. Is this because the reclassification of waste is expected to eliminate the HLW classification even though, in some cases in terms of activity, much LLW is in reality very highly radioactive? What category would "project-generated high activity" waste (p.10) fall into?
- Under this proposal, the tanks that held the liquid HLW (and still contain highly radioactive solid waste) would be reclassified as "incidental" waste or "waste incidental to reprocessing" (WIR). However, there are serious questions about whether this type of reclassification meets legal and regulatory requirements; legal challenges have admittedly contributed to delays. An equally serious question is whether leaving wastes in the tanks would save money in the long run or simply shift major costs into the future. The SUMP should not gloss over these questions, nor should it make plans that depend on waste reclassification.

The EIS, as required by the National Environmental Policy Act (NEPA), must be a top priority. It is mystifying that the EIS could not have been completed by now, especially since this EIS process began in the late 1980s. Following a 1986 lawsuit, DOE agreed to proceed toward issuance of an EIS "in a timely manner." More recently, objections have been made to the splitting of the EIS into two segments, partly because of the delay it might cause in cleaning up the site. Obviously, that is exactly the situation we are in now, with the EIS once more postponed for three more years. The SUMP calls for completion of the EIS/ROD process in 2008, a full twenty years after it began, at which point the real work of cleanup will still need to be done.

It appears that DOE has drafted the SUMP to present its End State Vision for closure of the site, without a proper basis for that decision. It appears also that cost reductions are paramount, taking precedence over proper cleanup. How can the costs go down, and the project

accelerated, if the plant must be taken down, the groundwater plumes of strontium and cesium cleaned up, the tanks and the burial grounds exhumed? These are major issues yet to be addressed, and we urge you to address them. The community is expecting a comprehensive cleanup of the site, as expressed in the 1998 CTF Recommendations Report. We see no sign of that intention in the SUMP.

The reason the law requires an EIS be done before any major governmental project is to assess any possible problems before plans are made or work begun. All parties are guaranteed an opportunity to comment, thus allowing the process to uncover hidden pitfalls heretofore unnoticed. The EIS process serves to minimize occasions in which a project is either partially or entirely completed before major problems are unearthed, leaving the planners with the dilemma of undoing what might be irreversible. Therefore, it makes no sense to remove buildings which may be needed in the final cleanup unless there is no intention of pursuing further cleanup.

Numerous other comments on specific statements in the SUMP can be found in the appendix to this letter.

In summary, this mis-titled Site Utilization Management Plan is unfounded in the absence of the required EIS and ROD. DOE is remiss in failing to complete the overdue EIS before forging ahead with any detailed closure plan, and the CTF is troubled by the SUMP's purposeful neglect of contaminated areas of the site which will remain a serious threat to area residents. Unfortunately, the SUMP appears to confirm that the DOE has no intention of doing a comprehensive cleanup of the site now or in the future. Once DOE pulls out of West Valley, the people of New York will be burdened with controlling the very real hazards remaining at the site and the associated public safety risks certain to be posed in the future. The CTF therefore requests that DOE scrap the SUMP and develop a realistic time schedule and a plan for performing a responsible cleanup of the site. The people of the region deserve to have the majority of the Project site available for unrestricted reuse. Only then can we best ensure the health and safety of the Western New York community.

We would appreciate DOE's serious reconsideration of this unauthorized course of action, and we await your response to our questions and concerns.

Sincerely,

Eric W. Wohlers

Eric Wohlers
On Behalf of the
West Valley Citizen Task Force

Enclosure: Appendix - Additional CTF Comments on the SUMP

cc: Samuel W. Bodman, Secretary of the U.S. DOE
James A. Rispoli, Assistant Secretary for Environmental Management at DOE
T. J. Jackson, DOE Deputy Director/West Valley Demonstration Project
U.S. Senator Hillary R. Clinton
U.S. Senator Charles Schumer
U.S. Representative Brian M. Higgins
U.S. Representative John R. Kuhl, Jr.
U.S. Representative Thomas M. Reynolds
U.S. Representative Louise M. Slaughter
NYS Governor George E. Pataki
Peter R. Smith, President, New York State Energy Research and Development Authority
Paul L. Piciulo, Ph.D., Director/West Valley Site Management Program, NYSERDA
Catharine M. Young, New York State Senate
Joseph Giglio, New York State Assembly
Jeanette Eng, U.S. Environmental Protection Agency
Chad Glenn, U.S. Nuclear Regulatory Commission
Pat Concannon, NYS Department of Environmental Conservation
CTF Members

Appendix

Additional CTF Comments on the Sump

Concerns related to statements made in the SUMP:

- “Site utilization” as mentioned in the title of the SUMP, has little to do with utilization of the site. Rather, the SUMP appears to outline the utilization of scaled-back DOE resources, as stated prominently in the Executive Summary (p.3) of the document.
- “Impasse” (p.4, # 1) - We take exception to the statement that New York State declared a stalemate. Our understanding is that during negotiations DOE was adamant about certain positions, making further talks fruitless.
- “EM completion” (p.4, # 7) - Why were the tank farm “and other DOE responsibilities” reincorporated into Environmental Management (EM) completion? Does this more readily allow moving those responsibilities into the Legacy Management (LM) process, thus precluding any further cleanup?
- “Decommissioning the tank farm . . . in-place closure or exhumation.” (pp.6, 24) - How could “decommissioning” the tank farm be done while leaving the tanks in-ground? Does this mean re-naming it as “waste incidental to reprocessing (WIR)?”
- “Erosion controls” (p.6) - Considering the watershed scale of erosion in the Buttermilk Creek valley, we cannot rely on erosion controls over hundreds of years, much less the thousands of years the waste will be dangerous. Reliance on engineered barriers is simply not realistic for erosion on a valley-wide scale.
- “Evaluation determination waste” (pp.18, 21) - The proposal for an “evaluation determination” that would result in a change in classification from “high-level waste” to “incidental” waste is apparently motivated by a desire to reduce costs.
- Waste terms - “LLW and TRU . . . as a result of the HLW solidification . . .” (pp.5, 23) - The statement refers to low-level waste (LLW) and transuranic waste (TRU). The terms LLW and TRU are misleading since, depending on the laws and/or regulations governing “disposal,” there is the possibility that some will qualify to be sent off-site, while some might remain on-site, as highly radioactive as ever, under a different name.
- Costs
 - a) . . . “cost-effective” decontamination (by 2010) “cost effectively maintain the HLW canisters” . . . (pp.5, 14) “cost-effective long-term . . .” (p.23) - Which is more cost-effective: maintaining the old and contaminated building sitting on top of the source of a radioactive plume, or moving the canisters and dealing with the real issue of demolishing the building safely and intercepting the source of the

strontium and cesium beneath it? That will be costly, but not as much as future generations will pay in terms of health and safety if it is not cleaned up.

- b) "Less annual cost"... (p.12) - It is irresponsible for DOE to modify its planning basis "to proceed toward accomplishment of interim end state completion by FY2010 with less annual funding requirements than previously estimated in the July, 2002 PMP."

NOTE: By failing to complete the decommissioning EIS in a reasonable length of time, DOE has been forcing an ongoing reduction in the WVDP workforce and annual budget. Safe and timely completion and closure should be the priorities to which DOE aligns its EIS' process, budget, and workforce.

- c) Some "cost-effective configuring" (pp. 4, 23) of utilities and infrastructure certainly makes sense, but cannot be acted on before a definitive plan for decommissioning and closure has been legally adopted. Similarly, breaking up the site to offer economic development to the community should not preclude the opportunity to do a comprehensive cleanup, including exhumation of the tanks and burial grounds.
- "Transition of . . . site to another organization" (pp.8, 28) - This phrase caused us to ponder its meaning. There are two possibilities readily apparent, neither one of them beneficial to the local area or the Western New York region, neither one anticipating cleanup of the site. One possibility is to turn the site over to the Department of Defense, which could easily closet it in secrecy behind fences. The other, more likely choice, might be to move it from DOE's EM division to LM, meaning there is no intention of cleaning it up, and the site will merely be monitored and maintained ad infinitum... virtually forever.
- Regarding Draft Disposition charts ("Strategy for Disposition of Facilities and Equipment for WVDP, Sept. 30, 2004"):
 - a) Why are the gate house and administration building included in the EIS? Is that simply because they are buildings that were part of the project?
 - b) Why are the RAD and RCRA facilities NOT included in the EIS chart? Is that because they are already shown in their particular color, or are they for some reason expected to be exempt from the EIS requirement?

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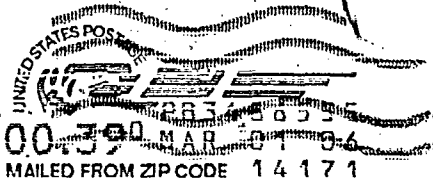
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