



July 20, 2011

Ms. Barbara Warren, Executive Director  
Citizens' Environmental Coalition  
33 Central Avenue, 3<sup>rd</sup> Floor  
Albany, New York 12210

Dear Ms. Warren:

**SUBJECT:** Response to 3-24-2011 Comments on the West Valley Phase 1 Studies and Process

On March 24, 2011, we received your letter that provided detailed recommendations for the Phase 1 Studies public participation process as well as recommendations for specific Phase 1 Studies and topical study areas. DOE and NYSERDA have prepared the attached matrix, which includes a response to each of the points raised in your letter.

Both agencies are committed to meaningful stakeholder input throughout the Phase 1 Studies process. DOE and NYSERDA will hold routine meetings with the public to discuss the Phase 1 Studies process, Potential Areas of Study, individual scientific studies and their implementation and results. DOE and NYSERDA will carefully consider your input and will make it available to the appropriate subject-matter experts as they evaluate the potential areas of study.

We wish to thank both you and the other signatories of the March 24, 2011 letter for your dedication to the West Valley Demonstration Project. We look forward to your continued involvement as we move forward with the Phase 1 Studies.

Sincerely,

A handwritten signature in black ink that reads "Paul J. Bembia".

Paul J. Bembia, Director  
West Valley Site Management Program  
New York State Energy Research & Development  
Authority

A handwritten signature in black ink that reads "Bryan C. Bower".

Bryan C. Bower, Director  
U.S. Department of Energy  
West Valley Demonstration Project

PJB/BB/lmg

Attachments:

1. *DOE/NYSERDA Response to March 24, 2011 Comments on the West Valley Phase 1 Studies and Process and Potential Areas of Study Presentation during the Quarterly Public Meeting held on February 23, 2011, dated September 28, 2012.*

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2. Letter, Catherine M. Bohan, DOE to John Filippelli, USEPA, "US Environmental Protection Agency Comments on the *Final Environmental Impact Statement for Decommissioning and/or Long-Term Stewardship at the West Valley Demonstration Project and Western New York Nuclear Service Center*, dated May 13, 2011.
3. Letter, Bryan C. Bower, DOE to Barbara Warren, Citizens' Environmental Coalition, "Citizens' Environmental Coalition (CEC) Comments on the Phase 1 Characterization Sampling and Analysis Plan for the West Valley Demonstration Project (WVDP) and West Valley Phase 1 Studies," dated March 18, 2011.

cc: Anne Rabe, Center for Health, Environment and Justice (w/atts.)  
Brian Smith, Citizens Campaign for the Environment (w/atts.)  
Joanne Hameister, Coalition on West Valley Nuclear Waste (w/atts.)  
Judith M. Anderson, Environmental Justice Action Group of WNY (w/atts.)  
Laura Haight, New York Public Interest Research Group (w/atts.)  
Diane D'Arrigo, Nuclear Information and Resource Service (w/atts.)  
Lynne Jackson, Save the Pine Bush (w/atts.)  
Robert Ciesielski, Sierra Club Niagara Chapter (w/atts.)  
Suzie Rivo Solender, Solender Services, LLC (w/atts.)

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bcc: M. N. Maloney, DOE-WVDP (w/atts.)  
P. B. Underwood, DOE-EMCBC (w/atts.)  
H. Brodie, NYSERDA-Alb. (w/atts.)  
D. A. Munro, NYSERDA-Alb. (w/atts.)  
A. L. Mellon, NYSERDA-WV (w/atts.)  
L. M. Gordon, NYSERDA-WV (w/atts.)  
File #60428 (w/atts.)

**DOE/NYSERDA Response to March 24, 2011 Comments on the Phase 1 Studies Process and Potential Areas of Study Presentation During the Quarterly Public Meeting February 23, 2011, submitted by:**

Barbara Warren, Citizens Environmental Coalition  
 Anne Rabe, Center for Health, Environment and Justice  
 Brian Smith, Citizens Campaign for the Environment  
 Joanne Hameister, Coalition on West Valley Nuclear Wastes  
 Judith M. Anderson, Environmental Justice Action Group of WNY  
 Laura Haight, New York Public Interest research Group  
 Dianne D'Arrigo, Nuclear Information and Resource Service  
 Lynne Jackson, Save the Pine Bush  
 Robert Ciesielski, Sierra Club Niagara Chapter  
 Suzie RivoSolender, Solender Services, LLC

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<b>Part 1</b>		
2, 3 - 5	<p>Bryan Bower and other US Department of Energy (DOE) representatives continue to convey the following two statements:</p> <ol style="list-style-type: none"> <li>1) The Agency rationale for a "phased approach" was that it enabled a way forward on immediate cleanup tasks, while providing additional time for completion of studies in Phase I. The Agency said that it did not have enough information to make decisions now about Phase II and that these studies would be essential to future agency decision-making.</li> <li>2) The 2010 EIS contained enough information for the Agency to make all future decisions including Phase II cleanup decisions.</li> </ol> <p>Both of these statements have been made in writing in the final EIS and other DOE materials. Since they are contradictory, both of these statements cannot be true.</p>	<p>The consistent and continuing position of the United States Department of Energy (DOE) is that the <i>Environmental Impact Statement for the Decommissioning and/or Long-term Stewardship at the West Valley Demonstration Project and Western New York Nuclear Service Center</i> (Decommissioning EIS) adequately analyzes the impacts associated with all reasonable alternatives evaluated in the EIS as demonstrated by the following examples:</p> <ol style="list-style-type: none"> <li>1) Page 7 of the "A Summary and Guide for Stakeholders" to the EIS: "<b><i>DOE believes the analyses and disclosure of uncertainties in the EIS fully complies with the requirements and spirit of NEPA. Furthermore, DOE believes the information in the EIS is adequate to support agency decisionmaking for all the reasonable alternatives.</i></b>"</li> <li>2) Page 21 of the April 2010 DOE Record of Decision (ROD) for the EIS: "<b><i>DOE has considered these comments, and finds the Final EIS to be fully compliant with the requirements of NEPA. DOE further believes that the document is adequate to support DOE decommissioning decisionmaking for WNYNSC. The Final EIS uses all reasonably available data to support its analyses</i></b></li> </ol>

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		<p><b><i>comparing the potential environmental consequences of all of the alternatives</i></b>”.</p> <p>The Phased Decisionmaking Alternative was selected as the Preferred Alternative (by DOE in its April 2010 ROD and by NYSERDA in its May 2010 SEQR Findings Statement) to allow decommissioning work to be conducted at the West Valley Demonstration Project (WVDP). While this work proceeds, DOE and NYSERDA intend to conduct additional scientific studies in order to facilitate interagency consensus to complete decommissioning of the remaining facilities (hereafter “Phase 1 Studies”) as demonstrated by the following:</p> <p>1) Decommissioning EIS, Response to Comment, Major Issues, page 2-2: “In order to facilitate interagency consensus, additional studies would be conducted to possibly reduce technical uncertainties related to the decision on final decommissioning and long-term management of the site . . .”</p>
2,6	<p>The EIS was focused primarily on Phase I site activities related to 1-2% of radioactive materials on site that have not been processed in some way. Decommissioning also focused entirely on Phase I, as did the US Nuclear Regulatory Commission's (NRC's) review.</p>	<p>The EIS was not “<i>focused primarily on Phase 1 site activities.</i>” The EIS evaluated the potential environmental impacts associated with the following four closure alternatives for the WVDP and the Western New York Nuclear Service Center (WNYNSC): Sitewide Removal, Sitewide Close-in-Place, Phased Decisionmaking and No Action. It should be noted that the No Action Alternative does not meet the purpose and need for DOE and NYSERDA action at the WVDP and WNYNSC, but is required to be analyzed by the National Environmental Policy Act (NEPA) and the New York State Environmental Quality Act (SEQR). The various environmental consequences associated with these four alternatives are summarized in Chapter 4 of the EIS, and detailed descriptions of the analyses supporting these consequences are described in the EIS appendices.</p> <p>The Phased Decisionmaking Alternative was selected as the Preferred Alternative by DOE in its April 2010 ROD and by NYSERDA in its May 2010 SEQR Findings Statement.</p> <p>Since the Phased Decisionmaking Alternative was selected by DOE</p>

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		<p>and NYSERDA as the preferred decommissioning alternative, the Phase 1 Decommissioning Plan for the West Valley Demonstration Project (DP) was prepared to describe those Phase 1 Decommissioning actions that would be implemented at the WVDP. DOE prepared the DP pursuant to its statutory obligations for decontamination and decommissioning of the WVDP under the WVDP Act of 1980, Public Law 96-836, and to satisfy commitments made to the U.S. Nuclear Regulatory Commission (NRC) (in 1981 and 2003) to prepare a decommissioning plan for the WVDP and submit it to the NRC for review. As stated in the ROD and SEQR Findings Statement, a Phase 2 decision would be made for the decommissioning of the remaining facilities within 10 years of the ROD and Findings Statement. Once a Phase 2 decision has been made, DOE will prepare a Phase 2 Decommissioning Plan describing the decommissioning actions to be performed during Phase 2 decommissioning of the WVDP.</p>
2, 7	<p>A primary function of an EIS is to collect sufficient information so that a detailed environmental analysis can be prepared and provided to the public and elected officials. Without adequate information, a complete environmental analysis could not be performed. The Agency, in choosing the phased approach to allow for additional studies, therefore admitted to the inadequacy of information.</p>	<p>As detailed above and throughout the Decommissioning EIS and ROD, DOE has adequately analyzed the impacts of all reasonable alternatives in the Decommissioning EIS. The selection of the Phased Decisionmaking alternative by DOE and NYSERDA was a mutual decision by both Agencies, and <b>not</b> an acknowledgement of the inadequacy of the EIS.</p> <p>NYSERDA believes that additional scientific study is needed to evaluate issues associated with in-place closure and full-exhumation alternatives.</p> <p>NYSERDA has committed to prepare a second EIS for the State-Licensed Disposal Area (SDA) and the WNYNSC prior to making Phase 2 decisions.</p> <p>As detailed on page 2-33 of the Decommissioning EIS, DOE will assess the results of studies as they become available along with other emerging information to determine whether any new information warrants preparation of a Supplemental EIS. If it is unclear whether a Supplemental EIS is needed, DOE would prepare a Supplemental Analysis pursuant to 10 C.F.R. 1021.314(c), and make the analysis and resulting determination available to the public.</p>

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		<p>DOE maintains that the EIS:</p> <ol style="list-style-type: none"> <li>1) Used all reasonably available data to support the analyses in the EIS</li> <li>2) Fully complied with the requirements and intent of NEPA</li> <li>3) Prepared adequate analyses to support DOE decisionmaking for all of the decommissioning alternatives considered for the WVDP and WNYNSC.</li> </ol>
2, 8	<p>Long-term analysis of containment of radioactive materials at this erosion prone site was incomplete and inadequate. In addition, during the EIS public comment period, the US Environmental Protection Agency (EPA) sent a letter highlighting that West Valley would need to store radioactive materials for a longer time frame and that the Final EIS should discuss 40 CFR 191 (refers to Code of Federal Regulations) as the appropriate standard for the WNYNSC site. EPA's comments have not been addressed.</p>	<p>As stated previously and throughout the administrative record for the Decommissioning EIS, the analyses presented in the Final EIS are fully compliant with the requirements of NEPA, and are adequate to support DOE decommissioning decisionmaking for the decommissioning of the WVDP and WNYNSC, including the long-term containment of radioactive waste associated with the Sitewide Close-in-Place alternative.</p> <p>EPA's concern was with DOE and NYSERDA reducing the maximum duration of Phase 1 decommissioning from 30 years to 10 years, and not with the adequacy of the long-term analysis of containment of radioactive waste at the WNYNSC. EPA also expressed concern with the lack of disposal facilities for high-level radioactive waste, spent nuclear fuel, and Greater-Than-Class C (GTCC) waste that may be generated during Phase 1 decommissioning. Further, EPA requested that Phase 1 studies be designed to ensure that the storage of such wastes during Phase 1 decommissioning would be in compliance with the EPA dose standards in 40 CFR Part 191, Standards for the Storage and Disposal of High-Level Radioactive Waste.</p> <p>DOE responded to EPA's letter on May 13, 2010, a copy of which is provided as Attachment 2.</p>
3, 1	<p>Extensive and meaningful public participation assumes much greater importance in this situation given that the EIS provided only a brief summary of Phase I studies. Thousands of substantive comments were also submitted on the EIS - and yet only one change was made - a reduction in the time period for Phase I to 10 years.</p>	<p>DOE and NYSERDA made a commitment to meaningful public participation during the Phase 1 Studies process. Public participation was also stressed during the February 23, 2011 CTF meeting to describe the Phase 1 Studies process. During the meeting, both DOE and NYSERDA committed to meeting with the public on a quarterly basis, at a minimum, to discuss the status of the WVDP Phase 1 Studies process and to respond to written</p>

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		comments from the public. Additionally, with respect to comments received on the Decommissioning EIS, please refer to the 1,000-page Volume 3, Book 1 and Book 2 for DOE's and NYSERDA's responses to all comments received, including revisions.
3, 2	We believe that DOE must honor the commitment made by DOE and Ines' Triay for meaningful public participation in all studies and physical site activities as the agency moves forward.	DOE made a commitment in the Final EIS and the ROD for robust and meaningful opportunities for public participation during decommissioning, the Phase 1 Studies process, and prior to making its Phase 2 decision. Since the ROD, DOE and NYSERDA have held the following public meetings during which the Phase 1 Studies process was discussed: May 25, 2011, March 23, 2011, February 23, 2011 and August 3, 2010. DOE has also committed to continue meeting with the public on at least a quarterly basis to discuss the status of decommissioning the WVDP and the Phase 1 Studies process.
3, 3	We also believe that a second EIS will be necessary because of all of the information collection activities that will be undertaken for the Characterization, Sampling and Analysis Plan (CSAP) and for all Phase I studies. All of these studies will provide new information, a key criterion for an environmental impact statement under the National Environmental Policy Act (NEPA). A Supplement Analysis merely presumes enhancements to existing study information, and provides for inadequate public participation. Under the current situation, a supplemental analysis cannot possibly be sufficient. In addition, the longer term analyses recommended by EPA including compliance under 40 CFR 191 must be undertaken.	As detailed in the Decommissioning EIS and ROD, DOE will assess the results of the Phase 1 Studies and, in consultation with NYSERDA and the cooperating agencies, will determine whether the results from the Phase 1 Studies warrant the preparation of a Supplemental EIS. If it is unclear whether a Supplemental EIS is required, DOE will prepare a Supplemental Analysis in accordance with 10 CFR 1021.314(c) and will make this analysis available to the public prior to making a determination.
3, 4	It should be noted that the New York State Energy Research & Development Authority (NYSERDA) is planning for a second EIS as part of its obligation to deal with the State Disposal area (SDA).	NYSERDA confirms its commitment to prepare a second EIS for the SDA and WNYNSC prior to making its Phase 2 decisions.
<b>Part II Essentials of Public Participation</b> <b>A. Information</b>		
3, 5	Advance notice of at least one month for public meetings to allow full attendance (except in the case of the need for an emergency meeting). Notice should include proposed agenda	The Agencies anticipate that public meetings focusing on Phase 1 Studies will be scheduled regularly, once each calendar quarter. It may be necessary to hold additional meetings or to meet less



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	<p>topics. The public should also have the opportunity to suggest agenda topics.</p>	<p>frequently as the process proceeds. As soon as practical, DOE and NYSERDA will announce the time and date for each meeting and distribute a meeting agenda. The public is welcome to suggest additional agenda topics.</p>
3, 6	<p>Webcasting and teleconferencing of all meetings with provision of documents in advance to the extent they are available, at the meeting to all in person, or online, and posted to a website prior to the meeting. The webcast of the meeting and all documents should be posted online for future reference and for those that could not attend.</p>	<p>The Agencies will develop a central internet repository for meeting documents, including agendas, summary notes, public comments, and DOE/NYSERDA responses to comments. The Agencies will make meeting documents available as soon as practical prior to meetings. In addition to a phone-in line for meetings, DOE and NYSERDA and DOE will consider additional media such as recordings or webcasts.</p>
3, 7 – 8 4, 1	<p>Timelines need to be prepared that enable the public to understand the cleanup steps and their order. Regular status updates should be provided to the public regarding the physical activities at the site as well as the planning activities for many different projects and studies. As agency plans and/or the timelines are altered, revised versions should be made available and posted to the website.</p> <p>We recommend two timelines:</p> <ul style="list-style-type: none"> <li>• one for all studies including the CSAP, and</li> <li>• one related to physical cleanup activities.</li> </ul> <p>The timelines can use brief descriptions for purposes of the timelines but fuller narrative descriptions should accompany the timelines. Progress reports should be provided at every meeting. Regular updates to the timelines should be done with notation of revision date.</p>	<p>NYSERDA and DOE will provide timetables for cleanup activities and Phase 1 Studies as they are developed. Narrative descriptions will accompany these timetables to the extent possible. Progress reports will be provided at all public meetings.</p> <p>DOE will provide updates to the public on the progress of CSAP soil and sediment characterization activities within the WVDP Premises. It should be noted that the Phase 1 Decommissioning Plan (DP) and its supporting documents (including the CSAP, FSSP, etc.) are not part of the Phase 1 Studies process. As such, these documents are subject to a different process for public comment.</p>
4, 2 - 3	<p>A Summary Overview is particularly important to inform the public adequately of what is going on.</p> <p>We will have many experts from different fields reviewing Phase I studies and making recommendations. To facilitate their work we support this recommendation. We also note that a Summary Overview would be very helpful for the public.</p>	<p>The Agencies intend to have summary material available for each Potential Area of Study and study activities as these are defined.</p>
4, 4 - 5	<p>Funding adequacy for the planned activities is a key public concern. We need information about what \$60 million will fund --at a minimum-- for each of the next 3 years in relation</p>	<p>Information on the activities to be completed at the WVDP over the next three years will be available after the next site prime contractor completes transition and the project baseline is prepared. The next</p>

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	<p>to all of the tasks including those still remaining to reach the interim end state and those in Phase I. Cost Estimates for each of the Phase I tasks should be provided.</p> <p>For example, we have concerns about when the source area of the plume will be excavated. If this activity is delayed due to funding, what are the implications for the spread of contamination as well as for the useful life of the permeable treatment wall?</p>	<p>site prime contractor will be required to complete the work scopes specified in the West Valley Demonstration Project Phase 1 Decommissioning - Facility Disposition Request for Proposal (RFP). This contractor will be responsible for sequencing the work activities required by the RFP in the most efficient and expedient manner.</p> <p>Excavation of the source area of the plume is not part of the work scope for the RFP or the next prime contract, which was awarded June 30. Removal of the source area of the plume cannot be completed until the HLW canisters are removed from the Main Plant Process Building (MPPB) and the MPPB is demolished. DOE expects that these activities will take up to seven years at a funding profile of approximately \$60 million per year.</p> <p>The large excavations in Waste Management Area (WMA) 1 and WMA 2 will be the principal work scope for the contract to follow the prime contract that was awarded on June 30, 2011. This follow-up contract will complete Phase 1 decommissioning activities and is scheduled to be awarded in seven years. The permeable treatment wall that was installed in November 2010 to control the spread of groundwater contamination in the North Plateau has a working life of 20 years.</p>
4, 6	Honest and transparent communication and information is essential. Agencies should not be hiding information or selectively providing only a subset of information to the public.	NYSERDA and DOE have always been committed to open and honest communication between the Agencies, with our contractors and experts, regulatory agencies and members of the public.
4, 7	All agency plans for the site must be clearly presented in an official and dated document, whether draft or not.	<p>DOE plans for characterizing and decommissioning the WVDP are clearly presented in a number of publicly available documents including:</p> <ol style="list-style-type: none"> <li>1) The <i>Final Environmental Impact Statement for Decommissioning and/or Long-Term Stewardship at the West Valley Demonstration Project and the Western New York Nuclear Service Center</i> (EIS)</li> <li>2) Phase 1 Decommissioning Plan for the WVDP (DP)</li> <li>3) Phase 1 Characterization Sampling and Analysis Plan (CSAP)</li> <li>4) Phase 1 Final Status Survey Plan (FSSP)</li> </ol>

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		5) Second Supplemental Agreement 6) Phase 1 Studies Guidance
4, 8	<p>A single website should make available all site information, timeline and progress descriptions in a simple format. Electronic documents can be posted there. Historical documents should be separated from current documents for which immediate public input is being sought.</p>	<p>The Agencies will develop a single, central internet repository for meeting documents, including agendas, summary notes, public comments, and DOE/NYSERDA responses to comments. Historical documents will be separated from current documents.</p>
4, 9	<p>Public comment periods should be announced and posted on the website. All public comments and questions should be posted on the website. Agencies should make every effort at public meetings to inform the public about documents being prepared for public review and comment in the near future.</p> <p>For example, there was recently a Quarterly Meeting on Feb. 23rd and at that meeting we were told to provide comments on Phase I by March 25th. Yet we were not informed that DOE would soon release a 114- page document related to handling the Vitrification Melter as Waste Incidental to Reprocessing, and that there would be a public comment period of just 45 days. We learned about this because a short list of people were notified on March 11th.</p> <p>As a result, members of the public and public officials in attendance at the Quarterly meeting were not alerted to this upcoming issue and opportunity to comment.</p>	<p>The Agencies will develop a single, central internet repository for Phase 1 Studies meeting documents, including agendas, summary notes, public comments, and DOE/NYSERDA responses to comments. Public comment periods will be announced and posted on the website.</p> <p>The February 23, 2011 Quarterly Public Meeting was held to discuss the WVDP Phase 1 Studies Process. It was not known at the time of this meeting that the Draft Waste Incidental to Reprocessing (WIR) Evaluation for the WVDP Vitrification Melter would be released for public review and comment on March 11, 2011. Normally, when DOE has definitive information with respect to an upcoming public comment period, such information is shared with the public during the routine WVDP project update meetings such as the Quarterly Public and Citizen Task Force meetings.</p>
<b>B. Public Participation</b>		
5, 3	<p>The rocky relationship between DOE and NYSERDA is an ongoing problem. However, that problem should not override the need for and attention to public concerns and involvement.</p>	<p>DOE and NYSERDA have agreed upon the Phased Decisionmaking alternative and have developed a process by which each agency will have an equal voice and cost share in the process. A number of core values have been identified to help the Agencies promote trust and engage in honest discourse. Both Agencies are firmly committed to a Phase 1 Studies process that ensures meaningful public involvement.</p>
5, 4	<p>All public participation is relevant and must be governed by one public participation process.</p>	<p>DOE and NYSERDA have identified a process for meaningful public input for the Phase 1 Studies Process. This process is outlined in the Phase 1 Studies Guidance, and provides opportunities throughout Phase 1 for public review of documents and</p>

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		comment/suggestion on the Phase 1 Studies. Due to the fact that there are statutory and regulatory requirements that may be distinct from the Phase 1 Studies process, it is not possible to use one single public participation process to satisfy all requirements.
5, 5	<p>Both written and verbal issues and concerns raised by the public should be handled through an established process which includes:</p> <ul style="list-style-type: none"> <li>• Written notation of the issue or concern raised, and the date</li> <li>• Agency decision as to the appropriate next step for issue to be handled (Note: Ignoring the public is not an appropriate next step.)</li> <li>• The Facilitator should record the issue and ensure that agency response is provided within a month. If the particular issue is determined to be handled much later -- at a future step in the cleanup-- that response must be provided to the public and documented as a concern or issue for future consideration.</li> </ul> <p>The response to written comments on a key study, the Characterization, Sampling and Analysis Plan, has been particularly unacceptable. At a meeting in Aug. of 2010, DOE consultants were only available by phone and their only answer to our comments was that -- when they revise their Plan, they will consider our comments. This leaves us in a quandary because if the CSAP is not being altered to reflect our comments, then many of the specifics we raised should be addressed as Phase I studies. Despite several subsequent requests for a response by DOE, we have received no substantive response that addresses the issues raised.</p>	<p>The meeting facilitator will take note of general comment topics and concerns raised during meetings, and will summarize these issues in the meeting notes. NYSERDA and DOE will respond to comments provided in writing.</p> <p>The February 2010 draft of the CSAP was revised considering technical comments submitted by the NRC, NYSERDA, and public stakeholders, including the CEC. CSAP revision 1 was issued on June 30, 2011.</p> <p>As previously discussed with Barbara Warren of the CEC, the CSAP describes the radiological environmental data collection activities that will specifically support the implementation of the Phase 1 decommissioning actions within the WVDP Premises, which are described in the DP. Section 9.0 of the DP, Facility Radiation Surveys, identified facility radiation surveys (background, characterization, final status) required to support the Phase 1 Decommissioning of the WVDP. The DP required the preparation of two supplemental documents, the CSAP and the Phase 1 Final Status Survey Plan (FSSP), which would provide the specific details of the sampling activities to support Phase 1 decommissioning.</p> <p>Phase 1 activities to facilitate interagency consensus to complete Phase 2 decisionmaking will be addressed in the joint</p>

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		<p>DOE/NYSERDA Phase 1 Studies process that was described to the public during the February 23, 2011 Quarterly Public Meeting. Additional characterization needs have been identified as a Potential Area of Study (PAS) for the Phase 1 Studies Process as discussed during the February 23, 2011 Quarterly Public Meeting.</p> <p>DOE has provided written responses and, on several occasions, has had personal discussions with Barbara Warren of the CEC concerning comments on the CSAP. The latest communication on this issue was a March 18, 2011 letter to Ms. Warren, which is provided as Attachment 3.</p> <p>DOE responded to a May 11, 2010 CEC correspondence on July 7, 2010, which was returned to the DOE on July 20, 2010, after Federal Express failed in several attempts to deliver the letter to the CEC address at 33 Central Avenue, 3<sup>rd</sup> Floor, Albany, NY 12210. On July 22, 2010, DOE re-sent the letter via US Mail and Federal Express to Barbara Warren's personal address in Cuddebackville, NY 12729. During a telephone conversation with Barbara Warren on October 25, 2010, Moira Maloney (DOE) described the CSAP as a specific support document for the Phase 1 Decommissioning Plan for the WVDP (DP), which is not considered as a Phase 1 Study. In a May 12, 2010 e-mail response to Barbara Warren, Paul Piciulo of NYSERDA explained why the NYSERDA-managed WMA 8 and WMA 11 are not included in the CSAP, which is a specific document required for the DP. Andrea Mellon of NYSERDA has had multiple telephone conversations on the CSAP as well, including calls on June 2, 2010, July 27, 2010, August 3, 2010 and, most recently, March 28, 2011.</p>
5, 7	Core Team meetings should be held in public through a webcast that provides an opportunity for public participation and public comment.	The Core Team was created to resolve technical issues and to work toward an agreed upon path forward for decommissioning of a number of facilities. The path forward was identified (the Phased-Decisionmaking Alternative) as well as identification of the Phase 1 Studies process. Accordingly, the goals of the Core Team have been completed and, as such, it is not anticipated that a new Core Team will be part of the Phase 1 Studies process.
5, 8	Procedures should be established for public involvement in scientific and technical issues.	These procedures have been identified in the Phase 1 Studies Guidance and include provision of public comments to expert working groups, availability of experts at public meetings, and the

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	<p>The public must be involved in the selection of subject-matter experts and members of the independent scientific panel. The public must be involved in the structure and function of scientific and technical panels and public participation processes.</p> <p>Involved agencies must allocate funds for a public technical expert. The public should be able to choose its own expert to represent and evaluate our issues of concern and to participate in agency technical and scientific meetings. The public expert will ensure that issues raised by the public are actually addressed by scientific panels assembled by the agencies.</p> <p>In addition, the public must be allowed to observe and invited to offer public comments early in each scientific or technical meeting or at a midpoint.</p>	<p>opportunity for the public to review final expert recommendations and study finding interpretations.</p> <p>DOE and NYSERDA encourage public input on qualified expert candidates and on the structure and function of expert panels and the public participation process. The Agencies, however, maintain ultimate decisionmaking authority and responsibility for selecting technical experts. At the public's request, the Agencies considered the selection of an additional candidate of the public's choosing to the Independent Scientific Panel (ISP). After review of the individual's background, the Agencies mutually agreed to extend an invitation to Dr. Shrader-Frechette to join the ISP.</p> <p>DOE and NYSERDA will provide public input and background information to the Subject-Matter Experts (SMEs). Technical meetings of the SME and ISP, however, will not be open to the public. Further, DOE and NYSERDA will not be interacting with either the SME or ISP during their technical discussions. SME and ISP members will be made available at public meetings to answer questions.</p>
6, 5	<p>Administrative and funding issues. Key issues related to administration and funding also need to be handled. The public needs clear answers on these issues and the process above concerning agency responses should be followed. However, the only reason for technical and scientific panels to deal at all with administration and funding issues is where there is a definite interaction that requires expert judgment. In most cases, administrative and funding issues will be dealt with by relevant agencies in other public meetings.</p>	<p>DOE and NYSERDA agree that the agencies are responsible for administration and funding issues.</p>
6, 6	<p>Site Characterization, Sampling and Analysis. NYSERDA's Independent Review Team noted that the site is very complex, and that site characterization would normally be completed prior to the development of the Decommissioning plan and EIS, not after as currently is happening at the WestValley site. The team pointed out that as a result, DOE is</p>	<p>DOE is aware of the issues associated with performing site characterization after, and not before, the preparation of the Phase 1 DP. The Phase 1 DP, CSAP, and FSSP all have provisions for modifying these documents if the CSAP sampling results require changes to the conceptual models, DCGLs, and CGs that are presented in these documents. The DP, CSAP, and FSSP were</p>

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	<p>operating with a large number of uncertainties. A great deal of work produced for the NRC and guiding Phase 1 work was based on preliminary assumptions, which must be confirmed later. Substantial work--the DCGL values, the work plans and the engineered barrier designs--may all have to be redone. It is critically important that we have a detailed discussion of the Characterization, Sampling and Analysis Plan to ensure that essential information is gathered. We should devote a meeting or a major part of a meeting to this discussion. This will provide an opportunity to address issues raised by the public about the CSAP.</p>	<p>reviewed by the NRC, NYSERDA, and the public, and were revised incorporating their technical comments. Both the August 3, 2010 Quarterly Public meeting and the March 24, 2010 CTF meeting were devoted to detailed discussions of the CSAP and the sampling activities proposed to support Phase 1 decommissioning at the WVDP.</p> <p>The Phase 1 CSAP is prepared to support the U.S. Nuclear Regulatory Commission review of planned Phase 1 decommissioning activities at the WVDP, and is independent of the <i>Final Environmental Impact Statement for Decommissioning and/or Long-Term Stewardship at the WVDP and the Western New York Nuclear Service Center</i>. The scope of the Phase 1 CSAP covers radiological environmental data collection pertinent to the design and implementation of Phase 1 Decommissioning Plan activities at the WVDP.</p> <p>Phase 1 activities to facilitate interagency consensus to complete Phase 2 decisionmaking will be addressed in the joint DOE/NYSERDA Phase 1 Studies process, which was described to the public during the February 23, 2011 Quarterly Public Meeting. Both DOE and NYSERDA have already identified "additional characterization needs" as a Potential Area of Study (PAS) for the Phase 1 Studies Process as discussed during the February 23, 2011 Quarterly Public Meeting.</p>
6, 7	<p>The public needs regular updates regarding planned physical activities at the site and the status of finalizing key design plans, which to date, are only preliminary. Significant construction plans in Phase I are currently based on preliminary designs and contractors will be finalizing plans. Major issues have been raised by experts regarding groundwater flow, hydraulic barriers to flow, flow being directed toward the tank farm, flow recontaminating excavated areas, as well as performance issues regarding the slurry wall, which is already being constructed. Experts are very concerned about the final design plans and the potential impacts of these projects. The public needs to be informed regarding these plans and how these scientific and technical issues are being addressed</p>	<p>DOE will continue to provide regular updates on physical activities at the site during regularly scheduled meetings such as Quarterly Public Meetings and the CTF meetings.</p> <p>The reference to a slurry wall "<i>already being constructed</i>" is incorrect. There are no slurry walls being constructed at the WVDP at this time.</p> <p>The final designs for the engineered structures that will support the completion of Phase 1 decommissioning will be based on a detailed understanding of groundwater flow and subsurface soil conditions in the immediate vicinity of the WMA 1 and WMA 2 excavations. These hydraulic barriers will be designed to minimize potential impacts to the waste tank farm and to prevent the recontamination</p>



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		of the backfilled WMA 1 and WMA 2 excavations.
7, 1	<p>As issues of concern arise, we need details regarding the approach or investigation being undertaken. An example of this is the finding of high radionuclide concentrations in Buttermilk Creek, near where it joins Cattaraugus Creek, and where a resident farmer is located. This issue should be presented at a public meeting.</p> <p>Follow-up verbal comment by Barbara Warren to Paul Bembia:</p> <p>“This was in the IERT report and I was surprised to see it, because I had not heard about it elsewhere. Please see top of P. B-9 where Potter says “There is now a resident farmer on the banks of Buttermilk Creek.....” This sounded to me like Potter was talking about a real situation.”</p>	<p>Thomas Potter, a NYSERDA reviewer of the DOE Decommissioning Plan, made the following comment in the IERT Report called “<i>IERT Review of DOE Responses to NRC’s Request for Additional Information (RAI) on the Phase 1 DP,</i>” dated 12-14-2009:</p> <p>Comment 5C6 – SHOW CISTERN SCENARIO BOUNDING</p> <p>Thomas E. Potter  “<i>This RAI is reflective of a number of major IERT comments. The DOE response appears to reflect reasonable interpretation of the RAI. DOE demonstrates that the dose to a farmer with a cistern is limiting with respect to exposure scenarios involving gully erosion. It should be noted, however, that the offsite exposure scenario assumed for this evaluation was a resident gardener/fisherman on Cattaraugus Creek. Although this receptor is assumed to ingest stream water, which would be unlikely and conservative, other aspects of the assumption may not be conservative. There is now a resident farmer on the banks of Buttermilk Creek just upstream of the confluence with Cattaraugus Creek where nuclide concentrations in stream water are approximately an order of magnitude higher than in Cattaraugus Creek. DOE work involving assessment of radionuclide transport from residual subsurface materials as related to this matter is continuing and the results could be important to this RAI.</i>”</p> <p>If this is the information cited, the Agencies believe the comment results from a misunderstanding of Tom Potter’s statement. Tom is not saying that there are high concentrations of radionuclides in Buttermilk Creek. He is saying that the particular hypothetical dose calculation scenario he was evaluating in the DP may not be “conservative” as DOE was claiming in the DP, because the DOE receptor in that hypothetical scenario is assumed to be a resident farmer on Cattaraugus Creek, rather than on Buttermilk Creek. Tom is saying that the scenario would not be “conservative” because, just by simple dilution factors, any radionuclide concentrations from the site in Buttermilk Creek would be higher than those in Cattaraugus Creek. Tom refers to Buttermilk Creek concentrations being an “order of magnitude” higher than in Cattaraugus Creek.</p>



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		<p>The term “order of magnitude” simply means “a factor of ten.” Tom Potter’s comment does not suggest that the radionuclide concentrations in Buttermilk Creek are high. In fact, he is not providing ANY indication of radionuclide concentrations in Buttermilk Creek, whether high or low. He is just saying that the relative concentration in Buttermilk Creek would be expected to be about a factor of ten higher than in Cattaraugus Creek, which means that DOE’s hypothetical scenario for a farmer on Cattaraugus Creek would not be as conservative as having the farmer on Buttermilk Creek.</p> <p>In summary, Tom Potter’s comment did not identify a health and safety concern. The radionuclide concentrations in Buttermilk Creek today are very low, and the concentrations in Cattaraugus Creek are 10 times lower than the already-low Buttermilk Creek concentrations.</p>
<b>C. Planned Studies</b>		
7, 2	All Planned studies should be handled with the public information and participation elements discussed here. No studies now being launched at the site should be excluded from public participation because they somehow are not identified by the relevant agencies as Phase I studies.	DOE and NYSERDA have identified a process for meaningful public input for the Phase 1 Studies Process. This process is outlined in the Phase 1 Studies Guidance, and provides opportunities throughout Phase 1 for public review of documents and comment/suggestion on the Phase 1 Studies. Due to the fact that there are statutory and regulatory requirements that may be distinct from the Phase 1 Studies process, it is not possible to use one single public participation process to satisfy all requirements.
7, 3	The public must be involved in commenting on all studies related to this site. The list of "Phase I studies" contained in the supplemental agreement between DOE and NYSERDA is below:	The public will have an opportunity to comment on all Phase 1 Studies. The list contained in the Second Supplemental Agreement is a list of Potential Areas of Study. These are topical areas rather than individual study activities. In other words, there may be a number of studies conducted under the Potential Area of Study which is "Soil Erosion."
<b>Recommended Additions to Phase 1 Studies List</b>		
7, 4	During the EIS process, DOE claimed it did not have enough data to make a full cleanup decision, so collectively the studies must provide enough scientific information to help us make a decision about exhumation.	DOE’s consistent and continuing position is that the <i>Environmental Impact Statement for the Decommissioning and/or Long-term Stewardship at the West Valley Demonstration Project and Western New York Nuclear Service Center</i> (Decommissioning EIS) adequately analyzes the impacts associated with all reasonable

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		<p>alternatives evaluated in the EIS, as demonstrated by the following examples:</p> <ol style="list-style-type: none"> <li>1) Page 7 of the “A Summary and Guide for Stakeholders” to the EIS: <b><i>“DOE believes the analyses and disclosure of uncertainties in the EIS fully complies with the requirements and spirit of NEPA. Furthermore, DOE believes the information in the EIS is adequate to support agency decisionmaking for all the reasonable alternatives”.</i></b></li> <li>2) Page 21 of the April 2010 DOE ROD for the EIS: <b><i>“DOE has considered these comments, and finds the Final EIS to be fully compliant with the requirements of NEPA. DOE further believes that the document is adequate to support DOE decommissioning decisionmaking for WNYNSC. The Final EIS uses all reasonably available data to support its analyses comparing the potential environmental consequences of all of the alternatives”.</i></b></li> </ol> <p>The Phased Decisionmaking Alternative was selected as the Preferred Alternative by DOE in its April 2010 ROD and by NYSERDA in its May 2010 SEQR Findings Statement to allow decommissioning work to continue at the WVDP. While this work proceeds, DOE and NYSERDA intend to conduct additional scientific studies in order to facilitate interagency consensus to complete decommissioning of the remaining facilities (hereafter “Phase 1 Studies”) as demonstrated by the following:</p> <ol style="list-style-type: none"> <li>1) Decommissioning EIS, Response to Comment, Major Issues, page 2-2: “In order to facilitate interagency consensus, additional studies would be conducted to possible reduce technical uncertainties related to the decision on final decommissioning and long-term management of the site. . . .”</li> </ol> <p>The Agencies intend to address issues associated with exhumation during the Phase 1 Studies, including an evaluation of the following Potential Areas of Study:</p> <ul style="list-style-type: none"> <li>• Alternative approaches to, and cost of, complete exhumation</li> </ul>

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		<ul style="list-style-type: none"> <li>• Viability, cost and benefit of partial exhumation</li> <li>• Exhumation uncertainties and benefit of pilot-exhumation activities</li> </ul>
7, 5	Real actual pilot exhumation of waste, not a paper exercise.	The Agencies may choose to conduct a pilot exhumation of waste should it become necessary to gather information that cannot be obtained elsewhere (e.g., from literature, studying other exhumation projects, etc.). Such a study would be conducted to satisfy specific data gaps with clearly defined data quality objectives. Further, a feasibility study would be necessary to evaluate the benefits and risks before a pilot exhumation of waste could be conducted.
7, 6	Climate change and severe weather events could impact items and in unusual ways. Climate change was assumed not to occur for 10,000 years in the recent EIS. Studies need to make up for this notable deficiency during Phase I.	Climate change will be addressed as it relates to a number of Potential Areas of Study.  NYSERDA and DOE will provide this comment to our SMEs and ISP for their consideration.
7, 7	Emergency Preparedness, Prevention and Response are subjects very important to public involvement, trust and protection of the public from harm. Clear and defensible plans must be developed around likely emergencies at this site. This is a study with an immediate activity—and implementation at the site.	DOE has plans and procedures for potential emergencies that may occur on the WVDP. NYSEERDA has similar plans for the SDA and Retained Premises. Both Agencies work in close coordination in the event of any emergency.
8, 1	Characterizing site contamination, sampling and analyses must evaluate adequately major site facilities-- High Level Waste (HLW) tanks, Nuclear Regulatory Commission Disposal Area (NDA) and State Disposal Area (SDA)-- and associated contamination issues. If Phase I studies are not now planned to address these facilities, this needs to be corrected.	Additional characterization has been identified by DOE and NYSEERDA as a Potential Area of Study during the Phase 1 Studies.
8, 2	Improved long-term analysis of all factors that impact containment of site radioactive materials and improved exposure and dose assumptions. Costs of Cleanup Delays. Costs of early cleanup of the spill associated with the strontium plume versus ultimate actual costs of planned cleanup and long term maintenance, including useful life and replacement of permeable treatment wall.	NYSEERDA and DOE will provide this comment to our SMEs and ISP for their consideration.
8, 3	Analysis of the efforts needed to adequately protect the Sole	NYSEERDA and DOE will provide this comment to our SMEs and

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	Source aquifer.	ISP for their consideration.
8, 4	Better characterization of sediment in creeks and movement of contamination off site, particularly via the Cattaraugus Creek and impacts to the Seneca nation territory.	NYSERDA and DOE will provide this comment to our SMEs and ISP for their consideration.
8, 5	More realistic estimate of long term containment costs vs. early exhumation of buried wastes	NYSERDA and DOE will provide this comment to our SMEs and ISP for their consideration.
8, 6	Analysis of achieving regulatory compliance with all relevant standards including 40 CRF 191.	DOE will continue to ensure that all WVDP operations remain in compliance with all applicable federal and state regulations.
8, 7	All modeling must be grounded using real, on-site conditions as input parameters. We need to understand the basic conceptual models and ensure that they represent likely future conditions.	NYSERDA and DOE will provide this comment to our SMEs and ISP for their consideration.
8, 8	Modeling of Groundwater and contaminant transport. The significance of subsurface contamination must be better accounted for in relation to risks to the public.	<p>NYSERDA and DOE have identified groundwater flow and contaminant transport as a Potential Area of Study.</p> <p>NYSERDA and DOE will provide this comment to our SMEs and ISP for their consideration.</p>
8, 9	Steps or methods in developing exposure, dose scenarios and derived concentration guideline level values for radionuclides (DCGLs) must be fully described for public understanding and all assumptions documented, to support the claim that conservative assumptions have been used.	NYSERDA and DOE will provide this comment to our SMEs and ISP for their consideration.
8, 10	All radionuclides and daughter products should be included in risk estimates.	DOE and NYSEDA agree with the comment. All Radionuclides of Interest (ROI) and their daughter products will be addressed in performance assessments conducted as part of Phase 1 Studies.
8, 11	Drinking water must be given greater importance in exposure and dose scenarios.	NYSERDA and DOE will provide this comment to our SMEs and ISP for their consideration.
8, 12	The lack of conservatism in analyses thus far and the underprediction of actual and future risks is a major public concern. For example we don't believe assuming zero erosion or basing risk analysis only on existing contamination are conservative assumptions.	NYSERDA and DOE will provide this comment to our SMEs and ISP for their consideration.



**Department of Energy**  
West Valley Demonstration Project  
10282 Rock Springs Road  
West Valley, NY 14171-9799

May 13, 2010



Mr. John Filippelli, Chief  
Strategic Planning and Multi-Media Programs Branch  
U.S. Environmental Protection Agency  
Region 2  
290 Broadway  
New York, NY 10007-1865

SUBJECT: U.S. Environmental Protection Agency Comments on the *Final Environmental Impact Statement for Decommissioning and/or Long-Term Stewardship at the West Valley Demonstration Project and Western New York Nuclear Service Center*

REFERENCE: Letter (102730), J. Filippelli to C. Bohan, dated March 1, 2010

Dear Mr. Filippelli:

The U.S. Department of Energy (DOE) thanks the U.S. Environmental Protection Agency (EPA) for its comments on the *Final Environmental Impact Statement for Decommissioning and/or Long-Term Stewardship at the West Valley Demonstration Project and Western New York Nuclear Service Center* (Final EIS). Because the EIS is now final, many comments received are addressed at a summary level in the Record of Decision (ROD). More detailed responses to your letter and the attached comments are also being provided by this letter.

DOE notes EPA's concern regarding long-term storage of high-level radioactive waste, Greater-Than-Class C waste, spent nuclear fuel, and other long-lived radioactive wastes at the Western New York Nuclear Service Center given the uncertainty regarding availability of off-site waste disposal capacity and its resulting request that Phase 1 studies be designed to assure that storage of these wastes will be in compliance with EPA's Standards for the Storage and Disposal of High-Level radioactive waste (40 CFR 191).

As discussed in the ROD, the 40 CFR 191, Subpart A, dose standard applies to the storage of the West Valley Demonstration Project (WVDP) high-level waste form and transuranic waste or spent nuclear fuel that may require continued storage at the WVDP. Specifically, Section 191.03 defines the annual dose equivalent to any member of the public from the storage to not exceed 25 mrem whole body and 75 mrem to any critical organ. DOE Order 5400.5, Radiation Protection of the Public and the Environment, Chapter II.1c, imposes the dose standard from 40 CFR Part 191 with no changes. Compliance with DOE Order 5400.5 would be required in applicable contracts at the WVDP. Therefore, full compliance with 40 CFR 191, Subpart A, would be met through full compliance with DOE Order 5400.5.

With regard to comment 4 in Enclosure 2, the subject footnote was included to provide an explanation of the basis for the cited dose estimates. The EPA is correct that more tritium decay and, therefore, less tritium release would be expected for the Site-Wide Removal Alternative than for the Site-Wide Close-in-Place Alternative. However, in the dose analysis performed for the EIS, none of the radionuclide release quantities, including those for tritium, were adjusted to



Mr. John Filippelli

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May 13, 2010

account for decay. This conservative assumption was used to ensure that the analysis would be bounding in the event of potential changes in the implementation schedule for decommissioning activities, among other uncertainties. The footnote is correct as written with respect to the analysis. However, after reviewing it in response to this comment, we agree the information could have been stated more clearly.

DOE also notes EPA's remaining comments in Enclosure 2 regarding specific language in the Final EIS. As the EPA is aware, this EIS has been issued as a final document. DOE will consider these suggestions in any future National Environmental Policy Act documents for the WVDP, as appropriate.

DOE would like to thank the EPA for its participation as a Core Team member and the valuable assistance EPA provided during the preparation of the EIS.

Sincerely,



Catherine M. Bohan  
EIS Document Manager  
West Valley Demonstration Project

cc: P. B. Underwood, DOE-EMCBC, Legal  
B. C. Bower, DOE-WVDP, AC-DOE  
M. P. Krentz, DOE-WVDP, AC-DOE  
M. N. Maloney, DOE-WVDP, AC-DOE  
P. J. Bemba, NYSERDA, AC-NYS  
C. Groome, SAIC

CMB:102981 - 451.2.10



**Department of Energy**  
West Valley Demonstration Project  
10282 Rock Springs Road  
West Valley, NY 14171-9799

March 18, 2011

Ms. Barbara Warren, Executive Director  
Citizens' Environmental Coalition  
33 Central Avenue, 3rd Floor  
Albany, NY 12210

**SUBJECT:** Citizens' Environmental Coalition (CEC) Comments on the Phase 1  
Characterization Sampling and Analysis Plan for the West Valley Demonstration  
Project (WVDP) and West Valley Phase 1 Studies

- REFERENCES:**
- 1) E-mail (105086), B. Warren to M. N. Maloney and B. C. Bower, "Phase I Studies," dated March 2, 2011
  - 2) Letter (103112), B. Warren to B. C. Bower, "CEC Comments on the Characterization Sampling and Analysis Plan," dated May 11, 2010
  - 3) Letter MNM:103221 - 450.4, B. C. Bower to B. Warren, "Citizens' Environmental Coalition Comments on the Phase 1 Characterization Sampling and Analysis Plan (CSAP) for the West Valley Demonstration Project," dated July 7, 2010
  - 4) Informal Memorandum (105089), B. C. Bower to B. Warren, "Nondeliverable Response Letter," dated July 22, 2010

Dear Ms. Warren:

The U.S. Department of Energy (DOE) thanks the CEC for its continued interest and input into the development of the "*Phase 1 Characterization Sampling and Analysis Plan, West Valley Demonstration Project*". The February 2010 draft of the CSAP is being revised considering technical comments submitted by the U.S. Nuclear Regulatory Commission (NRC), the New York State Energy Research and Development Authority (NYSERDA), and public stakeholders, including the CEC. The DOE expects to submit the next CSAP revision to the NRC in April 2011.

As you are aware, the DOE has responded to your earlier CEC correspondence and has afforded you several opportunities to discuss the content of the CSAP with DOE and our consultant, Argonne National Laboratory (ANL). At the Citizen's Task Force meeting held on March 24, 2010, which you attended via telephone, DOE's consultant, ANL, provided a presentation to the public on the CSAP. Similarly, at your request, DOE had ANL discuss the CSAP at our Quarterly Public Meeting held on August 3, 2010. You attended via telephone. Additionally, representatives of DOE and NYSERDA personally met with you on May 4, 2010 to discuss the content of the CSAP. The DOE responded to your May 11, 2010 and June 7, 2010 correspondence on July 7, 2010. This correspondence was returned to the DOE on July 20, 2010 after Federal Express failed in several attempts to deliver the letter to the CEC address at



(450.4)  
105088

March 18, 2011

33 Central Avenue, 3rd Floor, Albany, NY 12210. On July 22, 2010 the DOE sent the letter via U.S. Mail and Federal Express to your personal address at 422 Oakland Valley Road, Cuddebackville, NY 12729. During an October 25, 2010 telephone call with you, Moira Maloney of my staff correctly described the CSAP as a support document for the Phase 1 Decommissioning Plan for the WVDP (DP) and is not to be considered as a Phase 1 Study. In an e-mail response to you on May 12, 2010, Paul Piciulo of NYSERDA explained why the NYSERDA-managed Waste Management Area (WMA) 8 and WMA 11 are not included in the CSAP, which is a required document for the Decommissioning Plan (DP).

As discussed with you previously, the CSAP describes the radiological environmental data collection activities that will specifically support the implementation of the Phase 1 decommissioning actions within the WVDP project premises which are described in the DP. Section 9.0 of the DP, Facility Radiation Surveys, identified the various facility radiation surveys (background, characterization, final status) that are required to support the Phase 1 Decommissioning of the WVDP. The DP required the preparation of two supplemental documents, the CSAP and the Phase 1 Final Status Survey Plan (FSSP), which would provide the specific details of the sampling activities to support Phase 1 decommissioning.

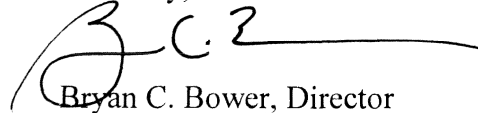
Phase 1 activities to facilitate Phase 2 consensus decisionmaking will be addressed in the joint DOE/NYSERDA Phase 1 Studies process that was described to the public during the February 23, 2011 quarterly public meeting, of which you were a participant. Additional characterization studies have been identified as a Potential Area of Study (PAS) for the Phase 1 Study Process as discussed during the February 23, 2011 quarterly public meeting. DOE encourages the CEC to make recommendations for additional site characterization studies as part of the Phase 1 Studies Process.

It should be made clear that a deadline for submission of comments on the Phase 1 Studies has not been established. The March 25, 2011 deadline established during the February 23, 2011 quarterly public meeting on the "*Phase 1 Study Process and Potential Areas of Study*" was for submission of comments concerning issues discussed during the February 23, 2011 meeting.

The DOE encourages the continued valued participation of the CEC in both the Phase 1 Decommissioning of the WVDP and the joint DOE/NYSERDA Phase 1 Studies Process.

Should you have any questions or comments regarding this transmittal, please contact Moira Maloney of my staff at (716) 942-4255.

Sincerely,



Bryan C. Bower, Director  
West Valley Demonstration Project

cc: See Page 3

MNM:105088 - 450.4



Ms. Barbara Warren

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March 18, 2011

cc: M. N. Maloney, DOE-WVDP, AC-DOE  
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P. Giardina, EPA, Region 2  
C. Glenn, NRC  
K. I. McConnell, NRC  
P. J. Bembia, NYSERDA, AC-NYS

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