

Center for Health, Environment & Justice*
Citizens Environmental Coalition*
Coalition on West Valley Nuclear Wastes*
Indigenous Women's Initiatives*
Nuclear Information & Resource Service

December 15, 2011

Bryan Bower, Director
US Department of Energy
West Valley Demonstration Project
10282 Rock Springs Road
West Valley, NY 14171-9499

Paul Bembia, Director
West Valley Site Management Program
New York State Energy Research and Development Authority
10282 Rock Springs Rd.
West Valley, NY 14171-9799

Re: West Valley Public Participation Processes

Dear Directors Bower & Bembia,

In our initial letter in March of 2011, we addressed what we felt was needed for a substantive collaborative effort for Phase I and other site activities to involve the public in a meaningful way. Improving public participation and the interactions with DOE, US Department of Energy, & NYSERDA, NYS Energy Research and Development Authority, are essential to a successful Phase I.

- Public review should be as important as agency review.
- Timely agendas and meetings that provide quality information and discussion will increase public involvement.
- The process of public participation should be improved and detailed.

We would like to point out that the legal basis for the Quarterly Meetings is the Stipulation of Compromise established in the settlement with the Coalition on West Valley Nuclear Wastes.

The Meeting on November 16th provides a perfect example of the problems with the public process we have seen for some time. Our March letter detailed the improvements in public participation we would like to see. While we received a written response to that letter, not much has changed regarding adequate public information and participation. For clarity, we have numbered each separate item:

1. A draft agenda was not provided sufficiently in advance of the meeting. We would like to participate in drafting the agenda, so we can ensure that the meetings are substantive. Quarterly meetings occur only 4 times a year and, to our minds, the agenda and the work of the meeting should be extensively planned in advance.
2. There has been almost no training of new personnel regarding a public notification list and communications procedures.
3. The principal agenda items were introducing the new consultants, their backgrounds and experience, and a discussion of Phase I. However, we received no scope of work for any of the new consultants, which would have helped us answer some questions:
 - What exactly will Ch2M-B&W be doing? According to meeting notes following the meeting, ECS is procuring services of contractors, providing the contract vehicle for subject matter experts, ISP members and facilitator and also serving as subject matter experts.
 - What will ITSI be doing? Ch2M-B&W ? And how will they all work together? ‘Who’s on first?’ to borrow a baseball analogy.
 - Where is the Overview of work to be conducted in the next year? We would imagine that the Agencies have an understanding of the upcoming work in order to prepare these contracts. However, this information has not been shared with us.
 - What exactly is the job of the Facilitator now? At earlier meetings we had been told that the facilitator’s job would be working with the public to facilitate the meetings and ensuring that the public process is effective. However, DOE and NYSERDA informed us that the public I would still be going directly to DOE & NYSERDA, not to the facilitator. We would like clarification on the contract responsibilities and the role of the facilitator. However, we continue to strongly support direct interaction with the Agencies.
4. The Approach to Phase I studies was not discussed, although it was listed on a slide. However, there is no slide that addresses what the approach is. We actually expected the public process for Phase I to be discussed at this meeting, since we had made extensive recommendations. In addition, the Agencies (DOE & NYSERDA) had been postponing dealing with the public participation issues because they claimed they wanted to bring the contractors and facilitator on board first.
5. There was no real presentation regarding Program Organization and the slide itself is extremely confusing. Most importantly, it is not clear how the public interacts with the program organization.
6. The Consultants’ focus at the meeting was primarily on work that they were contracted for by the agencies, NOT public involvement. They had looked only briefly at our March letter just prior to the meeting and conveyed two points that we found disturbing:

- the Purpose of Phase I is to reach Agency consensus and
 - the Phase I study guidance originally prepared by DOE and NYSERDA in the fall of 2010 has not been altered one iota since receipt of our letter. This is extremely disturbing – reminding us of the single change in the Final EIS in response to thousands of substantive comments. The Agencies, not the consultants are responsible for this problem as they clearly have not conveyed our concerns around public participation. We have no interest in Agency consensus unless it is consistent with scientific facts and the truth related to environmental and public health protection.
7. There was no comprehensive project overview or summary prepared with a timeline for all West Valley activity. However, the Consultants proposed a timeline focused primarily on SME and SP activity that moves extremely quickly to begin substantive discussion of the Potential Areas of Study—two were identified immediately – erosion and climate change. Therefore the services of the ISP members and the SME are to be secured by January, prior to the next quarterly meeting! We do not agree with this schedule given the lengthy time period it took the agencies to deal with these contracts.
 8. A reasonably comprehensive public participation plan should have been presented at this November meeting, so we could have had more discussion. We expected an announcement of the immediate steps that the Agencies and consultants would be taking to address some of our comments.
 9. There was no mention at the meeting that we would have only 30 days to provide comments to the agencies. Yet this limited comment period was included in the meeting notes.

Recommendations:

- Next quarterly meeting be devoted to all the public information and participation issues that need more discussion and resolution, including the recommended additional areas of study.
- A presentation and discussion of a summary overview of the project activities for the next year.
- A presentation of a reasonable timeline for the studies so that we can recommend experts at the appropriate time in the schedule of activity.

We cannot recommend experts who will not be consulted for a year or more in the future. We disagree with the necessity for getting all of the experts immediately on board.

While it is certainly true that the November meeting could have been better utilized by the Agencies, it also is clear from that meeting that public participation is currently only an afterthought, if considered at all. We expect a better process and one that should be ironed at our

next Quarterly meeting. There are many substantive issues to handle and establishing a good process will facilitate the progress we need.

- The First Workshop should be one to discuss fully the outstanding public issues from the March 2011 letter, rather than climate change. At this first workshop a comprehensive overview of planned physical activities, as well as studies at West Valley, should be presented. This Overview should help in making decisions about the immediate priorities for the work of the Subject Matter Experts (SMEs) and the Independent Scientific Panel (ISP). Sufficient preparation must be allocated to enable a successful workshop. We support the idea of the climate change workshop, but not as the first one. There also is a serious need to discuss the CSAP, Characterization, Sampling and Analysis Plan, although the first workshop may not be able to cover all these issues adequately.
- The First Workshop should be in a webinar format to facilitate slide presentations as well as visuals of the speakers. The session should be taped and made available on the website we proposed.
- The Facilitator should have a defined role as a liaison between the public and the agencies. This will ensure that the public receives advance notices of meetings with materials to be discussed at the meeting a minimum of 30 days prior to the meeting. The public should be consulted about agenda items. The Facilitator also should maintain a contact list and ensure that the public is informed of official public comment period regarding DOE, NRC, NYSEDA, DEC, etc for anything relating to West Valley. The Facilitator should record substantive public comments from each meeting or other form of communication and follow through to ensure that the comments are addressed by the appropriate party.
- The public must be provided a meaningful role in relation to the two scientific panels. To date the Agencies have delineated no role for the public. This is unacceptable and must be discussed further. Our preference was for an independent technical consultant who could serve as a liaison with the scientific panels and represent public concerns and issues. We have several significant problems with the structure of these panels:
 - Independence from the agencies was not a requirement. We actually disagree with calling the Scientific Panel “independent”, although we do appreciate the addition of Dr. Shrader-Frechette.
 - No plan for a public representative who serves as an independent consultant.
 - No plan that provides a system for issues raised by the public to be addressed and resolved.
 - No opportunity to observe the conduct of meetings
 - No proposed opportunity for the public to speak to the science experts.
- We identified a number of Potential Areas of Study that should be included in Phase 1. In most cases, the Agencies have indicated that our recommended studies would be referred to the SMEs and ISP members for discussion. Rather than an opportunity to discuss fully our

study recommendations, the Agencies suggest merely referring these ideas to the expert panels who will discuss them in closed meetings.

- Public participation must be treated with more importance for the success of Phase 1. These new scientific panels have created another layer between government and the public. Our initial concerns about this were obviously justified as the agencies have now suggested referring our study recommendations into closed, private meetings where there will be no opportunity for the public to have discussions with the experts.
- All Draft documents coming out of the scientific panels must be provided with a 60 –day public comment period.
- In the *Guidance for Identifying and Conducting Potential Phase 1 Studies on the Decommissioning and/or Long-Term Stewardship of the West Valley Demonstration Project and Western New York Nuclear Service Center* of 01/13/2011, DOE and NYSERDA agreed to hold regular meetings with the public (including the CTF, environmental groups, and other interested stakeholders) to discuss the Phase 1 Study process, PAS, and individual scientific studies, their implementation and results. However, since no particular timeline was offered, we respectfully submit the following draft timeline for discussion and your consideration. *See attached.*

Thank you for your attention.

Sincerely,



Barbara J. Warren
Citizens' Environmental Coalition

Anne Rabe
Center for Health, Environment & Justice

Joanne Hameister & Kathy McGoldrick
Coalition on West Valley Nuclear Wastes

Agnes Williams
Indigenous Women's Initiatives

Diane D'Arrigo
Nuclear Information & Resource Services

cc. Maloney, Moira
Gordon, Lee

TIMELINE FOR
PHASE I STUDIES PROCESS FOR PUBLIC PARTICIPATION

(Phase 1)

