

ORIGINAL

**OFFICIAL TRANSCRIPT OF PROCEEDINGS  
UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION**

**Title: WEST VALLEY PUBLIC MEETING**

**Case No.:**

**Work Order No.: ASB-300-1074**

**LOCATION: West Valley, New York**

**DATE: Wednesday, January 5, 2000**

**PAGES: 1 - 120**

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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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WEST VALLEY PUBLIC MEETING

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Ashford Office Complex  
Conference Room C1  
9030 Route 219  
West Valley, New York  
Wednesday, January 5, 2000

The above-entitled public meeting commenced,  
pursuant to notice, at 7:07 p.m.

PRESENTERS AND PARTICIPANTS:

On behalf of the U.S. Nuclear Regulatory Commission:

- LARRY CAMPER
- ROBERT NELSON
- JIM LIEBERMAN
- CHIP CAMERON
- JOHN RANDALL
- JACK PARROTT
- JOHN CONTARDI
- KRISTINA BANOVA

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1 PRESENTERS AND PARTICIPANTS: [Continued]

2 On behalf of the U.S. Environmental Protection Agency:

3 JEANETTE ENG

4

5 On behalf of the U.S. Department of Energy:

6 RICK AHEARN

7 JOHN EBERSOL

8 KEN PICA

9 MARK RAWLINGS

10 PAUL MERGES

11 DANIEL W. SULLIVAN

12

13 On behalf of the New York State Department of Environmental  
14 Conservation:

15 TIMOTHY RICE

16

17 OTHER PARTICIPANTS:

18 ROBERT A. NELSON

19 DAVID R. STEINER

20 ROBERT E. STEINER

21 STEPHEN J. KRZES

22 DENNIS P. HEBNER

23 BLANCHE M. CHAMBERS

24 GARY A. ABRAHAM

25 LLOYD F. GERWITZ

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## 1 OTHER PARTICIPANTS: [Continued]

2 HENRIETTE M. GERWITZ  
3 HAL BRODIE  
4 COLLEEN GERWITZ  
5 THOMAS H. ATTRIDGE  
6 PAUL BERMBIA  
7 PAUL L. PICIULO  
8 LANA E. REDEYE  
9 JACK L. KRAJEWSKI  
10 CHARLOTTE B. BANZER  
11 KAREN A. MALONE  
12 RAY VAUGHN  
13 JAMES LITTLE  
14 ROGER D. DIVINCENZO  
15 LINDA E. WHITE  
16 JAMES M. RAUCH  
17 PAUL W. JANOWICZ  
18 JOSEPH J. PATTI  
19 LOUIS J. LAMBERT  
20 ROBERT M. BERNERO  
21 ANDREA L. MELLON  
22 BILL DIBBLE  
23 LEE LAMBERT  
24 DIANE D'ARRIGO  
25

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## P R O C E E D I N G S

[7:07 p.m.]

1  
2  
3 MR. CAMERON: Welcome to the West Valley public  
4 meeting. My name is Chip Cameron. I am the Special Counsel  
5 for Public Liaison at the NRC and I am pleased to serve as  
6 your facilitator for tonight's meeting. I just wanted to  
7 briefly cover three topics before we get into the program  
8 tonight.

9 One is what the purpose of the meeting is. The  
10 second is what my role as a facilitator will be tonight, and  
11 the third is the ground rules and format for tonight's  
12 meeting.

13 As far as the purpose of the meeting is concerned,  
14 in a few minutes the NRC Staff will be explaining that the  
15 Commission has issued a draft policy statement on the  
16 decommissioning criteria for West Valley. The Commission  
17 has asked for written comments on that policy statement, but  
18 the NRC also wanted to provide an opportunity to talk with  
19 you in person about the policy statement tonight and, first,  
20 to make sure that you understand the policy statement, that  
21 the NRC clears up anything that might be ambiguous in the  
22 statement or explains things that you have questions about  
23 so that you can understand it generally, but also if you do  
24 want to file written comments that you might be better  
25 prepared to do that.

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1           Secondly, we want to consider any comments that  
2 you make tonight as formal comments on the policy statement,  
3 and we are transcribing the meeting for that purpose, so any  
4 comments that you make tonight will be considered as  
5 comments on the policy statement.

6           In terms of my role as a facilitator, I am going  
7 to try to assist all of you in a number of ways -- one, to  
8 make sure that our discussion is organized and relevant and  
9 on schedule. Secondly, make sure that we all understand  
10 what is being said tonight, not only by the NRC but by all  
11 of you and most importantly to make sure that everyone has a  
12 chance to speak tonight who wants to engage in the  
13 discussion or to make a statement.

14           The ground rules are pretty simple. We are going  
15 to have an NRC presentation. It will be the only one to  
16 sort of give you a background on this, and then we are going  
17 to go on to you for discussion, and if you want to ask a  
18 question or make a comment just raise your hand, and I will  
19 recognize you and I will either bring you this talking  
20 stick, or you could come up to one of these microphones that  
21 are up front here, and then we will proceed with the  
22 discussion on that point.

23           I would just ask you to try to be concise in your  
24 comments to make sure that we give everybody a chance to  
25 talk tonight.

1           In terms of the agenda, at 7:15 we are going to  
2 have Jack Parrott from the NRC Staff make a presentation, an  
3 overview presentation, for you on the NRC's responsibilities  
4 in regard to West Valley and specifically on the policy  
5 statement and the criteria that are mentioned in the policy  
6 statement.

7           After that, we are going to have an initial  
8 discussion mainly focusing on the responsibilities of the  
9 NRC towards West Valley to make sure that everybody  
10 understands that before we get into the major portion of  
11 tonight's discussion with you which are issues related to  
12 the policy statement itself, and after Jack's presentation I  
13 also would like to just introduce several people in the  
14 audience who were with some of the Government agencies, the  
15 tribal organizations, citizen groups who are involved in the  
16 West Valley or are concerned about the West Valley Project.

17           We really wanted to try to have a conversation, so  
18 to speak, with all of you tonight and have a discussion of  
19 these topics, but we realize that there may be people who  
20 want to make a formal statement for the record, so we do  
21 have a 9:30 time slot for that, and it may be that you get  
22 your comments out during the discussion sections on various  
23 issues, but we do have time for statements.

24           I am just trying to get an idea of how many of you  
25 have a formal statement that you might want to read into the

1 record tonight, just so we can figure out what the time  
2 allotment should be.

3 Good -- looks like seven or eight people. I  
4 think the time will work out on that.

5 I guess the last thing that I will say before we  
6 go to Jack Parrott is that we realize that there are a lot  
7 of issues of concern in regard to West Valley generally, and  
8 tonight we want to focus on the NRC's responsibility.

9 There may be related issues that come up that we  
10 will try to see if we or someone in the audience can provide  
11 you with information on, but we do want to focus on NRC  
12 responsibilities tonight and specifically the policy  
13 statement will be broader than that.

14 In terms of the NRC Staff here with us tonight, we  
15 brought a number of people to make sure that we could answer  
16 all of your questions and if you have time after the meeting  
17 is formally closed tonight to talk with them, they are here  
18 and they will welcome talking with you.

19 Jack Parrott is going to be doing the  
20 presentation. He is with the NRC Staff and he is the  
21 Project Manager for West Valley, and he is really the focal  
22 point for all NRC activities in regard to this project.  
23 Jack is a hydrogeologist by training.

24 We also have another Technical Staff member, John  
25 Contardi over here, who is an expert on the incidental waste



1 issue which we know is of concern to you. He is a chemical  
2 engineer.

3 Kristina Banovac is right here. She is with the  
4 NRC Technical Staff, and we did want to make sure that the  
5 NRC managers who are responsible for this project came up to  
6 be here tonight, and Bob Nelson, right here, is the Section  
7 Chief for this project, and that section is within Larry  
8 Camper's Branch and Larry Camper is the Branch Chief for  
9 that project.

10 We have someone here from our Office of General  
11 Counsel in case there are legal issues, legal questions that  
12 you might have -- Jim Lieberman from our Office of General  
13 Counsel, and the NRC has an independent advisory committee  
14 called the Advisory Committee on Nuclear Waste, and it is a  
15 group of scientists that advise the Commission on various  
16 issues, one of them being West Valley, and John Randall is  
17 here from the Advisory Committee on Nuclear Waste.

18 As I mentioned, we will introduce some other  
19 people in the audience and you will be introducing  
20 yourselves when we go to the discussion period.

21 What I would like to do now is have Jack Parrott  
22 present a brief presentation and then we will go to  
23 discussion.

24 MR. PARROTT: Hello. Thank you, Chip.

25 Many of you in the crowd may know me, but I see a

1 lot of new faces. I will introduce myself a little bit. As  
2 Chip mentioned, I am Jack Parrott. I am the NRC's Project  
3 Manager for the West Valley site. I have been doing that  
4 specific job for about two and a half years now. I have  
5 been at the NRC for 10 years.

6 Shortly after I joined the agency I made my first  
7 trip to West Valley in 1990 and so I have got somewhat of a  
8 background in it even before I started as Project Manager.

9 First of all, I am glad to see the large turnout  
10 tonight. The purpose of this meeting was to give public  
11 discussion on the policy statement and obviously if nobody  
12 shows up we can't discuss it, so it looks like we are going  
13 to have a good discussion tonight.

14 I'll get started on my presentation. I've got 20  
15 minutes to talk. I have got a lot of ground to cover, so  
16 let me go ahead and get started.

17 Again, my presentation here is an overview of the  
18 draft policy statement on the decommissioning criteria that  
19 we have issued.

20 First of all, let me go into a little bit of  
21 history. I'll try to be brief, but I thought I'd cover this  
22 for the benefit of those who may not be totally aware of  
23 this.

24 The West Valley site was issued a license by at  
25 that time the Atomic Energy Commission, and the licensees

1 were a company called NFS and the State of New York. This  
2 license was issued in 1966. The purpose of this license, of  
3 operations at the site, was to reprocess spent commercial  
4 nuclear fuel to remove some of the uranium and plutonium  
5 that was in that material for reuse.

6 The operations at the site produced some 600,000  
7 gallons of high level waste, the liquid byproduct of the  
8 reprocessing operation, and that is the primary focus of the  
9 West Valley Demonstration Project is to take care of that  
10 material.

11 The West Valley Demonstration Project Act was  
12 signed in 1980 by President Carter. It did a number of  
13 things. Of concern to NRC was that it put our license into  
14 abeyance and permitted DOE to come onto the site and to take  
15 care of essentially the high level waste that was remaining  
16 at the site.

17 I have listed some of the primary DOE  
18 responsibilities at the site. Rather than go through the  
19 list, I will say in general their job is to manage the site  
20 and the waste of the site, to remediate parts of the site,  
21 to ensure the worker and public health and safety from the  
22 project. That was partially NRC's role at the time it was  
23 licensed, but at the time that the West Valley Demonstration  
24 Project Act was signed, that became a DOE responsibility,  
25 also, to coordinate with NRC because NRC was given certain

1 responsibilities under the Act as well.

2 I should say that our relationship to the site now  
3 is somewhat different than it would be with a normal  
4 licensee. We have a somewhat limited oversight function.  
5 We don't have the same type of authority as well would have  
6 with a licensee.

7 The main thing though is that NRC was given, as  
8 you can see here, some functions to perform in oversight,  
9 mainly to ensure that there's some consistency with what we  
10 would normally require at an NRC licensed site, while DOE is  
11 here, because at some point in the future the license will  
12 come out of abeyance and it will be once again, an NRC  
13 licensed site.

14 The other major player at the site, NYSERDA, the  
15 New York State Energy, Research and Development authority  
16 has responsibilities under the Act as well. They are the  
17 landlord of the site. They are co-participating in a  
18 project, the West Valley Demonstration Project, with DOE and  
19 they of course will be eventually the licensee again, once  
20 the Act is -- when DOE is done with their responsibilities  
21 under the Act.

22 I should also note that there's another regulator  
23 besides NRC involved in the site, and that is the New York  
24 State Department of Environmental Conservation. A lot of  
25 these different agencies have a lot of the same acronyms but

1 they mean different things. They are going to talk later,  
2 but they regulate various aspects of the site as well.

3 Okay. I will jump right into what is in the  
4 policy statement. The Commission directed the Staff to  
5 issue the draft policy statement that directs the  
6 decommissioning criteria for the site, the NRC's license  
7 termination rule, and let me talk about what that is.

8 The NRC's license termination rule was promulgated  
9 recently, in 1997. It is a rulemaking that is meant to  
10 cover all of NRC's licensees and NRC licenses everything  
11 from nuclear power plants to individual users of small  
12 quantities of nuclear material.

13 Because of the wide range of activities that NRC  
14 licenses, and from previous experiences from  
15 decommissioning, when this rulemaking was being worked on we  
16 knew that we would need a range of options in  
17 decommissioning in order to be able to fulfill all of the  
18 different types of possibilities that are related to  
19 decommissioning a site.

20 What I have listed here is what is in the license  
21 termination rule and also in the policy statement.

22 What this represents, these three bullets here, is  
23 a range of dose-based criteria that NRC would like to see  
24 met at a site that is undergoing decommissioning and that  
25 wants their license terminated.

1           The first bullet there is unrestricted release.  
2           What does that mean? Unrestricted release in this rule  
3           would -- NRC has stipulated that the dose from that site  
4           that is released for unrestricted use be no more than 25  
5           millirem a year. That number is well within what we  
6           consider and what we have determined to be protective of  
7           public health and safety.

8           That is the limit. Certainly that the site can  
9           get lower than that, and they need to evaluate that -- they  
10          should and they need to do that if they can, but that is the  
11          limit for what you can release.

12          Another option is a restricted release. The goal  
13          of that one, again, is to keep doses again to under 25  
14          millirem per year, although in this situation that can be  
15          done through not just cleaning up the site but also possibly  
16          restricting use of the site through institutional controls.

17          Institutional controls can involve things like  
18          property rights or uses of Government authority, all in  
19          order to keep people from contacting any residual waste that  
20          might be on a site that is released for restricted use.

21          Again I said the goal is to keep people from  
22          getting a dose of over 25 millirem per year, however we  
23          recognize that things like institutional controls are put in  
24          place by society. There is a lot of uncertainty over long  
25          periods of time of what society can fulfill in these roles,

1 so the Commission in this rule established a few caps to  
2 limit the dose from these sites if institutional controls  
3 were lost at some time in the future, and these range from  
4 100 millirem per year to up to 500 millirem per year  
5 depending on what types of institutional controls, who is  
6 the authority, and various details of the way these sites  
7 are released.

8           There's also some stipulation in the rule for  
9 alternative criteria. These were put in for difficult type  
10 of sites where again the goal would be to meet 25 millirem  
11 per year using restricted release, but recognizing that  
12 there may be a situation at that type of a site where it may  
13 not be feasible to totally contain the contamination in such  
14 as way or restrict the site in such a way to keep the  
15 contamination, perhaps for example for moving off the site,  
16 and this dose cap again -- is a dose cap of 100 millirem per  
17 year.

18           Let me give you an example. If you had a site  
19 that you had institutional controls on such that no one  
20 could get on the site and contact the waste, yet there was  
21 waste, say, below the surface and it could get into  
22 groundwater, and you could not control, it was not feasible  
23 to control, say, the movement of the groundwater off the  
24 site that this dose cap -- you would have to clean up the  
25 site so that that dose would not be more than 100 millirem a

1 year as well.

2 I should point out that the analysis period for  
3 determining what the dose limits are is a thousand years.  
4 This is a period that was determined could be reasonably  
5 modelled and where institutional controls might have a  
6 reasonable chance of being in force.

7 Let me talk a little bit about the process that we  
8 have gone through to come to what we have got today in the  
9 draft policy statement.

10 A little over a year ago the NRC Staff wrote a  
11 report to the Commissioners recognizing we have got this  
12 responsibility to prescribe decommissioning criteria for the  
13 West Valley site -- here are some possibilities for what we  
14 could do. We wanted it again to be consistent with the way  
15 we decommission all of our licensees so we simply stated we  
16 would like to apply the license termination rule and the  
17 decommissioning criteria.

18 There were also some other issues with waste at  
19 the site that we addressed in that paper for consideration  
20 by the Commission. One of them was applying incidental  
21 waste criteria and using Part 61, which is the NRC's low  
22 level waste disposal, commercial low level waste disposal  
23 regulations for, criteria for onsite disposal of any of the  
24 waste produced from the solidification of the high level  
25 waste that is going on.



1 I will talk a little bit more about incidental  
2 waste and Part 61 a little later.

3 About a year ago, after this paper came out, the  
4 Commission directed the Staff to have a public meeting down  
5 at NRC's Headquarters in Rockville, Maryland. All of the  
6 stakeholders were invited including DOE, NYSERDA, NYSHAP and  
7 the Citizens Task Force, which is the citizens group here  
8 involved at this site. It is made up of a number of  
9 different people from the area with various interests.

10 Based on the results of what the Commission heard  
11 from the stakeholders in this meeting, the Commission asked  
12 the Staff to produce some supplemental information for them  
13 to consider on how to apply the decommissioning criteria. We  
14 did that in February of last year. We gave them that  
15 information and in June of last year the Commission came out  
16 and required the Staff to apply the policy statement with  
17 the license termination rule in it.

18 This policy statement was issued in a draft form.  
19 It was published in the Federal Register December 3rd, 1999.  
20 It is what we are here to talk about tonight.

21 The Commission stipulated that the comment period  
22 be a 60-day comment period and therefore the comment period  
23 would end February 1st, 2000. What they have requested is  
24 for people to submit written comments and also to hold a  
25 public meeting. As Chip mentioned, we are transcribing it

1 so that any issues brought up in here will be considered as  
2 well, and will be captured in writing.

3 So let me talk in a little bit more detail about  
4 what is in the draft policy statement.

5 It has three components. As I mentioned, it  
6 directs that the NRC license termination rule be used as the  
7 decommissioning criteria for not only the Project, DOE's  
8 project, but also for the rest of the site that NRC has a  
9 license on or a license in abeyance on that is owned by  
10 NYSERDA. It does not include one portion of the site, which  
11 is called the State License Disposal Area, which as the name  
12 implies, is licensed by the State of New York.

13 The time has come to gather the comments that you  
14 all can give us on the policy statement, consider those,  
15 revise the policy statement as needed and to finalize it  
16 with approval by the Commission.

17 Then, as many of you may know, DOE and NYSERDA are  
18 working on an environmental impact statement, an EIS, for  
19 the closure and/or long-term management of the site. This  
20 environmental impact statement would propose at some point a  
21 preferred alternative. I should mention that a draft of  
22 this has been issued, but at this point there is no  
23 preferred alternative.

24 Once that is developed, NRC would look at it to  
25 see that it supports the fact that this is in fact the

1 preferred alternative, and also that the preferred  
2 alternative meets the NRC's license termination rule  
3 criteria.

4 NRC would then verify that the specific criteria  
5 that is identified in the preferred alternative meets our  
6 license termination rule and prescribe its use after NRC  
7 considers the impacts in the EIS.

8 I should mention that the way we considered this  
9 in prescribing the criteria was actually a two-step process.  
10 The first was what we are trying to do with the policy  
11 statement prescribed by the license termination rule, but as  
12 I mentioned, it is a range of possibilities, of options that  
13 can be done, so what specific option is chosen by the DOE  
14 and NYSERDA EIS will be embodied in the preferred  
15 alternative, and that will be reviewed by NRC and  
16 prescribed -- they will prescribe its use after we can  
17 verify that it does meet the license termination rule.

18 As I mentioned earlier, there are some other  
19 issues involved with this site. They are identified either  
20 in the West Valley Demonstration Project Act or through  
21 subsequent involvement with NRC and DOE.

22 The first one was waste disposal requirements. I  
23 think in the West Valley Demonstration Project Act there was  
24 when that was promulgated back in 1980 I think the feeling  
25 was at that time that any waste produced from the Project

1 might be disposed on site, but as the EIS was developed and  
2 the draft came out, there's various possibilities of what  
3 could happen to this waste, so the Commission decided to  
4 defer any determination on what the requirements for waste  
5 disposal would be until we could actually see a preferred  
6 alternative and know what is going to happen, if it is going  
7 to go offsite -- to an offsite licensed disposal area, we  
8 wouldn't need to stipulate what the onsite disposal criteria  
9 would be, so that is not -- that is an issue that is not  
10 addressed in the policy statement.

11 Another one is incidental waste. What is  
12 incidental waste? I put a brief definition here, but the  
13 high level waste at the site and the spent fuel -- in NRC  
14 regulations high level waste and spent fuel is a class of  
15 waste called "high level waste" -- we have other types of  
16 waste that are "low level waste" but high level waste as a  
17 class is defined not by the concentration of radionuclides  
18 in that waste but by the source of that material, primarily  
19 being spent fuel from reactors and reprocessing the waste  
20 that is produced from reprocessing that fuel.

21 MR. PARROTT: The SOA criteria is used to say when  
22 high-level waste can be considered low-level waste.

23 The high-level waste, if you think about it, as I  
24 mentioned, is defined on its source, and for example, at  
25 this site, as you clean and clean, and reduce concentrations

1 of the high-level waste, you reduce the mass of the high-  
2 level waste in the tank.

3           You get down to a point where the mass of the  
4 high-level waste has been reduced so much that the original  
5 concerns with what is high-level waste, really isn't -- the  
6 hazard to the public health and safety is not the same as  
7 high-level waste in the spent fuel in the tank, such that it  
8 would require isolation in a deep geologic repository.

9           So we evaluate that on a case-by-case basis, and  
10 the determination of that, the NRC is addressing at multiple  
11 sites.

12           And that criteria, while important at West Valley,  
13 is not discussed in the policy statement. Although it is an  
14 issue at West Valley, it will need to be decided at some  
15 point in the future.

16           But again, it is not identified or dealt with in  
17 the policy statement.

18           Now, again, we're interested in your comments on  
19 the policy statement. This is the contact information for  
20 sending anything, any written comments.

21           If you need any information, you can call me, e-  
22 mail me. We have various documents that support the  
23 license, for instance, the license determination rule that  
24 will give more detail on what it is.

25           And I might also mention that any comments that

1 you send in, they don't have to be negative ones. If there  
2 is something you like about the policy statement, please  
3 feel free to reinforce that.

4 And that concludes my presentation. I'll turn it  
5 back over to Chip for the next item on the agenda.

6 MR. CAMERON: Okay, thanks, Jack. We're going to  
7 get into all of this in detail in a couple of minutes.

8 Jack mentioned that there were some other  
9 governmental actors involved in this, and I just wanted to  
10 make sure that you all knew who they were and heard from  
11 them, just briefly, before we get into the discussion.

12 And I'm going to start off with the Department of  
13 Energy, Barbara Mazerowski.

14 MS. MAZEROSKI: Well, my comments are going to be  
15 comments of appreciation. My name is Barbara Mazerowski and  
16 I'm the Director from the Department of Energy at the West  
17 Valley Demonstration Project.

18 And I want to express my appreciation to the NRC  
19 for having this public meeting here at West Valley that  
20 enables the maximum amount of people, our citizens in our  
21 local community that are interested in the outcome of the  
22 West Valley Demonstration Project to give their views and  
23 their comments here.

24 NRC is a cooperative agency under this process,  
25 but they also have provided us valuable and invaluable

1 oversight for the project activities, through the startup of  
2 the vitrification and through the vitrification activities,  
3 and we certainly do appreciate NRC's role.

4 I also want to express my appreciation to you, to  
5 all of you who have come out here today to express your  
6 views, your positions, and your feelings here, an especially  
7 to the Citizens Task Force.

8 We've got a Citizens Task Force that has been in  
9 existence for over three years now, and they have devoted  
10 their time and their energy and their efforts in learning  
11 and understanding and educating themselves, and have  
12 provided the Department of Energy and NYSERDA with some very  
13 valuable recommendations that we take very, very seriously,  
14 and will do our best to incorporate into the final outcome  
15 for the project.

16 And I want you to know that it is only through the  
17 support of our community, through the teamwork that we have  
18 with NYSERDA and our contractor and our other regulators,  
19 that we've been able to make significant progress at the  
20 West Valley Demonstration Project and vitrify in excess of  
21 98 percent of that high-level waste into a solid, stable  
22 form, which will be disposed of eventually.

23 And so I thank you for coming. We value your  
24 opinions, and so I look forward to this being a very  
25 educational and efficient and effective meeting for us all.

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1 Thank you.

2 MR. CAMERON: Okay, thank you, Barbara. Let's go  
3 next to Paul Piciulo, who is with New York State Energy  
4 Research and Development Authority.

5 MR. PICIULO: Thanks, Chip. Jack pretty much told  
6 you who the Energy Authority is. I'm Paul Piciulo, the  
7 Program Director here right at the site.

8 We have a dual role at West Valley. One is that  
9 we own the site, the state owns the site, and NYSERDA owns  
10 title to the site.

11 We're a partner with the Department of Energy in  
12 the Demonstration Project, and to go with Barbara, they've  
13 done a great job in the Demonstration Project thus far at  
14 solidifying the bulk of the radioactivity that's in the  
15 high-level waste tank, and managing the site very safely.

16 I think we're going to continue to go along that  
17 path to be sure that the site is managed safely.

18 We also have individual responsibility for the  
19 state license disposal area under Regulation with the EC, so  
20 that's our piece of the responsibility here.

21 I, too, congratulate NRC in all they're doing. I  
22 know they have had quite an open process to get to the  
23 license termination role, and they need to continue that  
24 open process with us here at the site and with the public in  
25 general.



1           They've been very involved with the Citizens Task  
2 Force even before Part VII, and I think that's been really  
3 great.

4           So, I'm going to kind of move on, because I'm  
5 really interested in hearing what people's comments are.  
6 They're not only good for NRC in establishing the criteria;  
7 they're also very important to us at the site, to be sure  
8 that we can continue to manage the site safely well into the  
9 future.

10           So, thank you, Chip.

11           MR. CAMERON: Thank you, Paul. Next, we're going  
12 to go to Paul Merges with the New York State Department of  
13 Environmental Conservation.

14           MR. MERGES: I'm Paul Merges, the Director of the  
15 Bureau of Radiation and Hazardous Site Management with the  
16 Department of Environmental Conservation.

17           With me tonight are Tim Rice, an Environmental  
18 Radiation Specialist; and Jack Krajewski, an Environmental  
19 Geologist in our Region 9 Office.

20           Under the Agreement States Program, the  
21 radiological aspects of the state-licensed disposal area,  
22 which is a 15-acre parcel of property within the DOE 200  
23 acres, is under the jurisdiction of New York State, in  
24 particular, the Department of Environmental Conservation  
25 which issues permits for disposal and maintenance of that

1 facility under our Part 380 regulations, in the Department  
2 of Labor, which issues the radioactive materials license to  
3 NYSERDA to possess the material therein.

4 DEC also has non-radiological jurisdiction over  
5 the entire site, both the SDA and the rest of the DOE  
6 operations at the rest of the site, pursuant to the  
7 Environmental Conversation Law and delegated to the U.S.  
8 Environmental Protection Agency under RCRA, USEPA, the Clean  
9 Air Act, and other federal and state environmental laws.

10 This jurisdiction includes for mixed hazardous and  
11 radiological waste, and in addition, some radiological  
12 jurisdiction over the DOE is evolving. USEPA has  
13 jurisdiction over DOE radiological emissions, pursuant to  
14 the Clean Air Act, and National Emission Standards for  
15 Hazardous Air Pollutants, in particular, Subparts H and Q  
16 which apply to DOE facilities.

17 DEC is currently working with EPA to orderly  
18 transfer this authority into the Department.

19 Finally, I just want to mention our goal in DEC is  
20 to assure that the properties return to a productive use for  
21 the site in an environmentally compatible manner. Thank  
22 you.

23 MR. CAMERON: Thank you very much, Paul. We also  
24 have some other people who are going to be speaking tonight  
25 during the discussion. Jeannette Eng is here from the

1 Environmental Protection Agency, and she's going to be  
2 offering some comments on a couple of different issues  
3 tonight.

4 We also have Lana Redeye from the Seneca Nation  
5 right here, and Lana is also going to be talking. Lana is  
6 on the Citizens Task Force that Barbara mentioned.

7 I know that we have other members of the Citizens  
8 Task Force here with us tonight. As they'll talking,  
9 they'll introduce themselves to us.

10 I guess we should start with the -- are the roles  
11 of the agencies, the role of the NRC clear to everybody?  
12 Does anybody have any questions on that to start with? Or  
13 we can just get right into the policy statement.

14 Diane?

15 MS. D'ARRIGO: Hi, I'm Diane D'Arrigo, from  
16 Buffalo and now work with nuclear information and resource  
17 surveys in Washington, D.C.

18 My question is perhaps regarding NRC and agreement  
19 state authority over the state license disposal facility via  
20 some of the statements in some of the documents indicate  
21 that the NRC is only responsible for the portion of the  
22 site, other than the state-licensed disposal area.

23 And they have no responsibility for that on the  
24 NRC's part.

25 One of the things that we've always wanted here is

1 a comprehensive view of the whole site, not just segment and  
2 chop up and look at different pieces under different  
3 regulatory scenarios.

4 And so I wanted some kind of clarification about  
5 NRC and the agreement state authority that comes from NRC,  
6 anyway, so you indirectly have some role.

7 MR. CAMERON: Okay, thanks, Diane. Let's go to  
8 Jack on that one, and Paul, you may want to offer something,  
9 too.

10 MR. PARROTT: Just that everyone knows what we're  
11 talking about here, the state-licensed disposal area is in  
12 this part of the site.

13 As I mentioned, the policy statement won't apply  
14 to the state-licensed disposal area, however, the doses from  
15 that -- in conjunction with that, the doses from the entire  
16 site will be considered in the EIS that DOE and NYSERDA are  
17 working on.

18 The EIS considers the entire site, and the  
19 criteria, while the criteria won't be applied to the SDA,  
20 any doses that come from the SDA and the rest of the site  
21 have to be considered in conjunction.

22 We're in the process of working with DEC to  
23 clarify how that will be done. But it will be done, and the  
24 goal is to have, you know, protect the public and health and  
25 safety from dosage from the entire site, not just pieces of

1 the site.

2 So someone could get 25 millirem from the NRC-  
3 licensed portion of the site, and 25 millirem, for instance,  
4 from the state-licensed site, but that -- anyone gets no  
5 more than the dose limit from the entire site.

6 MR. CAMERON: Okay, let's hear from Paul, and then  
7 let me check back in with Diane and see if that answers her  
8 question.

9 MR. MERGES: Well, when the state becomes an  
10 agreement state, what happens is that the Nuclear Regulatory  
11 Commission relinquishes authority to the state, unlike EPA,  
12 which delegates RCRA authority or NYSHAP's authority to a  
13 state.

14 In this case, New York became the fourth agreement  
15 state. There are now 30 agreement states out of the 50  
16 states in the Union, and the vast majority that have  
17 materials licensed are under agreement states.

18 Our programs are inspected by the Nuclear  
19 Regulatory Commission every several years to assure they're  
20 adequate and compatible with that of the Nuclear Regulatory  
21 Commission.

22 So while we're implementing their program in New  
23 York State with the New York State in that sense, but we  
24 have recognized the need to invest in issues like the total  
25 dose associated with this site, including the SDA, versus

1 the NRC-licensed areas of the site, and to assure that that  
2 cumulative dose would meet the dose criteria that are being  
3 established.

4 And that will be addressed in an MOU that the  
5 Department is working on with the Nuclear Regulatory  
6 Commission.

7 MR. CAMERON: Okay, so that there is an MOU under  
8 development between the Department of Environmental  
9 Conservation and the NRC.

10 Diane, do you have a followup?

11 MS. D'ARRIGO: Yes, maybe I didn't quite hear you,  
12 but are you saying then that there could be 25 millirem from  
13 the state-licensed site, under the New York State  
14 regulations that are compatible with the NRC regs for  
15 commercial low-level radioactive waste disposal, plus 25  
16 more from the rest of the site?

17 MR. PARROTT: No, the goal would be to keep any  
18 dose to any person, either onsite or offsite, to 25 millirem  
19 from the entire site, no matter what the source of that dose  
20 is.

21 MS. D'ARRIGO: The final disposition of both would  
22 have to be considered when either is being considered?

23 MR. PARROTT: Right.

24 MS. D'ARRIGO: So that you can make those  
25 projections?

1 MR. PARROTT: Right.

2 MR. CAMERON: Okay, great. Questions on  
3 relationships between the agencies or the NRC role?

4 Okay, hold one second and let me see if there is  
5 anything on these responsibility issues, and then we'll go  
6 to you for the first question on the policy statement.

7 Yes, sir?

8 MR. RAUCH: My name is James Rauch, and I'm a  
9 member of the West Valley Coalition.

10 Following up on what Diane asked, I'd like to know  
11 if NRC is aware or believes there to be high-level waste in  
12 the SDA, and then I'll have a followup to that.

13 My understand is that if there is high-level waste  
14 in the SDA, that is strictly a federal responsibility.

15 I'm operating under the assumption that there is  
16 high-level waste in the SDA, and, therefore, it's my opinion  
17 that the NRC should be involved in the ESDA.

18 There are also other wastes in the SDA that Paul  
19 Merges is aware he has no authority to regulate, and that  
20 was brought out in the, and I'm referring to 11 (e) (2),  
21 uranium byproduct materials.

22 MR. CAMERON: Okay, good questions on  
23 jurisdiction. Jack, why don't you address the high-level  
24 waste issue, and, Paul, do you want to talk at all to that  
25 point about fuse wrap after?

1 All right, Jack, go ahead.

2 MR. PARROTT: I'm not aware of any high-level  
3 waste that's in the SDA. I know that there is very highly  
4 contaminated material in there.

5 But as I mentioned, high-level waste is defined at  
6 the source, and I don't know that there is any waste from  
7 that source in the SDA.

8 MR. RAUCH: Does the NRC know --

9 MR. CAMERON: Okay, let's then -- we didn't  
10 capture that on the mike, but let me repeat it.

11 In other words, does the NRC know -- and I think  
12 you're speaking for the NRC, not personally, but does the  
13 NRC have any knowledge that the SDA contains high-level  
14 waste.

15 I'll ask Paul Merges the same question. Go ahead,  
16 Jack.

17 MR. PARROTT: I've looked at a lot of West Valley  
18 documents. I haven't seen that mentioned.

19 MR. CAMERON: Okay, Paul, do you want to say short  
20 words on fuse wrap?

21 MR. MERGES: Well, I know what you're referring to  
22 with regard to what's called high-level waste, and those are  
23 transuranic wastes that are Class E wastes in the SDA. I  
24 acknowledge that.

25 I realize what you're saying there, but it's not



1 what we call spent fuel or something like that, which is  
2 still a different category of waste.

3 As far as the 11(e)(2) material, yes, but the  
4 Department does not have regulatory authority. We've been  
5 told that by the Nuclear Regulatory Commission, pursuant to  
6 their authority, as they claim they don't have authority  
7 over this issue as well, since the -- was passed, the  
8 Uranium Mill Tailings Act of 1978.

9 I personally disagree with that NRC  
10 interpretation, but it's something for the new Chairman to  
11 address.

12 MR. CAMERON: Let me clarify this for everybody,  
13 and we'll move on. It think this is an important point.

14 We don't know of any -- NRC doesn't know of any  
15 high-level waste. Paul, were you saying that there is  
16 11(e)(2) waste in the SDA?

17 MR. MERGES: I'm not aware of any.

18 MR. CAMERON: Okay. I think that wasn't clear.  
19 He's not aware that there is any 11(e)(2) in there, which  
20 would make it a federal responsibility.

21 Let's move on to Ray. Do you have a followup on  
22 this?

23 MR. VAUGHN: Yes, Ray Vaughn, West Valley  
24 Coalition and Citizens Task Force.

25 Jack, I'm interested in what your thoughts are on

1 high-level waste uncertainty. That's probably the best way  
2 to put it with regard to the SDA.

3 There were some major efforts made for the  
4 preparation of the 1996 draft EIS to try to get a better  
5 handle of what had been disposed of in the SDA.

6 One study, I believe, was done by Pacific  
7 Northwest Laboratories, to try to establish what typical  
8 waste streams from that disposal area were.

9 And one thing that came out that was news to me,  
10 at least, in the issuance of the draft EIS and the reports  
11 that led up to it, was that roughly 30-35 percent of the  
12 source term was from relatively classified, secret material  
13 that came from Defense research and Defense activities.

14 And I think that material is now very well  
15 characterized. There is some speculation -- and it is  
16 merely speculation -- but there's no proof one way or the  
17 other yet, that there may be some small Defense research  
18 reactors disposed of in the SDA.

19 As far as I know that has not been resolved one  
20 way or the other. But that rather large quantity, that 30-  
21 35 percent, could involve a lot of material that is not well  
22 characterized at this point in time, so in the future it may  
23 truly be high-level waste.

24 MR. PARROTT: I will say that I know that NYSERDA  
25 has looked into, you know -- obviously, they want to try to

1 characterize what's in the SDA as much as they can, and they  
2 have a database on what's in there.

3 Maybe I might ask them to address that.

4 MR. CAMERON: Does anybody want to say anything on  
5 that?

6 MR. PICIULO: I think it becomes speculation, and  
7 maybe that's not really the point for this evening's  
8 discussion. But there has been discussion in the past  
9 about, you know, perhaps there are snap reactors there, and  
10 as Paul said, I think, transuranic wastes that are in there.

11 I don't think that it's any secret that there are  
12 some Class E wastes in the SDA that would be the  
13 responsibility of the Federal Government under today's  
14 regulations, but they are disposed of there.

15 MR. CAMERON: Okay, Mr. Rauch, we'll be back to  
16 you. I'm going to try to get some other people.

17 But also I want to ask the NRC: How will the NRC  
18 address this comment about the uncertainty about high-level  
19 waste in the evaluation of the policy statement?

20 Will we investigate that in evaluating the  
21 comment?

22 MR. PARROTT: Well, the policy statement was  
23 geared toward the decommissioning criteria for the area of  
24 the site that had been NRC-licensed. That does not include  
25 the SDA.

1           This gets a little bit out of what's in the policy  
2 statement.

3           MR. CAMERON: But we'll note it as a comment.

4           MR. PARROTT: Yes.

5           MR. CAMERON: All right, okay.

6           MR. PARROTT: But the point of the policy  
7 statement is to prescribe decommissioning criteria for the  
8 area of the site that's licensed by or was licensed by NRC.

9           MR. CAMERON: Okay, any other comments on  
10 jurisdictional responsibilities, before we go to, Carol for  
11 a question on the policy statement?

12           We'll get back to you on that. Okay?

13           MR. RAUCH: All I wanted to point out was that the  
14 draft EIS does identify reactor material. It's in Appendix  
15 G of --

16           MR. CAMERON: Okay.

17           MR. RAUCH: In my opinion, that's high-level  
18 waste.

19           MR. CAMERON: Okay, thank you, Mr. Rauch.

20           Comment on jurisdictional? Go ahead?

21           MR. DIBBLE: I'm Bill Dibble. On the SDA, I think  
22 the minimal funding on the project is 90/10, and I think the  
23 records show that it is Defense waste in the SDA, and if  
24 that's the case, the project should define what it is.

25           Also, if it's Defense Department waste, the

1 procedure should be more than 90 percent, maybe close to the  
2 total. The scope of what you're doing should define the  
3 percentage of the federal amount of cleanup of the SDA. The  
4 percentage should be shown.

5 MR. CAMERON: Okay, thank you.

6 MR. PARROTT: Well, I'll say that at this point I  
7 don't think there's been an attempt to determine the  
8 responsibilities of -- one of the alternatives is to clean  
9 up the SDA or to decommission the SDA.

10 I don't think there has been any attempt at this  
11 point to determine who is responsible for it.

12 MR. DIBBLE: Well, you threw Defense waste in the  
13 SDA, and I think it should clearly define what part of the  
14 cleanup is federal, what percentage.

15 MR. PARROTT: Okay.

16 MR. CAMERON: Okay. I think we might as well move  
17 on to the policy statement issues.

18 Carol?

19 MS. MONGERSON: Carol Mongerson, Coalition on West  
20 Valley Nuclear Waste. This is just a question about the --  
21 does NRC have an official policy, and official definition  
22 of institutional control, and if so, where can it be found  
23 in the regs or whatever, and if you could summarize it,  
24 please?

25 MR. PARROTT: Okay. Hold on a second. I don't

1 know that it's actually defined in the license termination  
2 rule, of what institutional controls are.

3 We do have a guidance document. It's draft at  
4 this point, but it is published. It's on our website and  
5 can be obtained by anyone in the public.

6 This describes a lot of what different types of  
7 institutional controls could be at a site. It probably is  
8 not an exhaustive discussion of what every type of  
9 institutional control could be.

10 If you'd get --

11 MS. MONGERSON: Draft Regulatory Guide DT406?

12 MR. PARROTT: Yes, that's it, that's it.

13 MS. MONGERSON: It doesn't have it.

14 MR. PARROTT: Okay, it probably describes in some  
15 sense, what -- in a general sense, what institutional  
16 controls are, but it does that by example, not -- it  
17 probably doesn't give a definition of what institutional  
18 controls are, what the limits are to that, that's true.

19 MS. MONGERSON: Is the answer no?

20 VOICE: Could you get her on a microphone?

21 MR. CAMERON: Yes. Carol, let me give you the  
22 mike, so that you can ask a followup on that.

23 MS. MONGERSON: Is the answer, no, the NRC does  
24 not have an official definition of institutional control?

25 MR. PARROTT: That's right.

1 MR. CAMERON: Any other comments on the  
2 institutional control issue, while we're on that issue?

3 Larry Camper, do you want to clarify?

4 MR. CAMPER: The issue of institutional controls,  
5 that's a good question and we appreciate that.

6 Let me say this: It's not found in the  
7 regulation.

8 The degree --

9 VOICE: Microphone.

10 MR. CAMPER: The underlying philosophy of  
11 institutional controls is that there will be a governmental  
12 jurisdiction that will assume responsibility for the site  
13 for a protracted period of time, in an ongoing manner for  
14 perpetuity.

15 Institutional controls, the concept is that there  
16 will be a responsible, cognizant jurisdictional,  
17 governmental authority that will step up and assume  
18 responsibility and oversee the site in an ongoing way.

19 Now, the question of institutional control is  
20 something we are looking at very closely. We're having a  
21 lot of discussions amongst ourselves already.

22 It's an issue that's being discussed in  
23 international circles as well. There is a meeting coming up  
24 in Cordoba, Spain, in March. One of the topics on that  
25 agenda is institutional controls.

1           What we're now finding is that within the United  
2 States and within other countries as well, we are now  
3 advancing to the point in decommissioning of facilities  
4 under both unrestricted and restricted release scenarios,  
5 that we're gaining information about what is actually  
6 happening.

7           We have a theory; we have a concept. It's briefly  
8 what I described, but we're now finding, in getting good  
9 data back, is that emerging as a reality?

10           And as that happens, we will continue to assess it  
11 and reexamine what it means. And if need be, based upon  
12 what we're finding and what our colleagues in international  
13 circles are finding, we will go back to the Commission and  
14 share those findings.

15           If further steps are needed to define  
16 institutional controls, we will suggest to the Commission  
17 that we do that, and the Commission can take it under  
18 consideration.

19           MR. CAMERON: Let me just ask Carol if that  
20 answers the question about whether something is an  
21 institutional control or not. I gather -- okay.

22           How about other points on institutional controls,  
23 since we're there? Jeannette?

24           This is Jeannette Eng from the Environmental  
25 Protection Agency. Jeannette?



1 MS. ENG: Hi. I think that the issue of  
2 institutional control, you know, we need to, particularly  
3 for the local community, have a very clear idea of what that  
4 is.

5 I think that within the various agencies,  
6 institutional control can include engineering and technical  
7 barriers, and for some other agency that's just purely the  
8 legal and deed restriction type of controls.

9 So I think it's important to be very clear when we  
10 say institutional controls, what we each mean.

11 In EPA, institutional controls are really  
12 supplemental. They're not treated equally, you know, with  
13 looking at a legal action, looking at cleaning up a site.

14 So they're regarded as separate from treating  
15 waste and doing the containment that's necessary. It's  
16 above and beyond that that you would call institutional  
17 control.

18 That may be a philosophical difference, but it  
19 certainly needs to be clarified.

20 MR. CAMERON: Thank you very much, Jeannette. And  
21 just to make sure that everybody knows that context of  
22 institutional controls, I would ask NRC staff to correct me  
23 if I'm wrong on this.

24 One of the ways that the license termination rule  
25 can be met is if institutional controls are found effective

1 at a site or various portions of the site.

2 So I think that's why this issue is important.

3 MR. MERGES: Just quickly, the Department of  
4 Conservation rules and Part 382 defined an institutional  
5 control, period. It would cover legally imposed  
6 requirements on the site. It would not cover engineered  
7 barriers, but they would cover the maintenance of engineered  
8 structures and things like that. So I refer you to our Part  
9 382 regulations for our definition of that.

10 MR. CAMERON: Okay, thanks, Paul. Further  
11 comments from the NRC on institutional controls? Larry  
12 Camper?

13 MR. CAMPER: There are two other points. I  
14 mentioned the governmental jurisdiction. It can be a  
15 private entity, but primarily thinking is that it would be a  
16 governmental entity, but it could be a private entity with  
17 appropriate financial resources, deed restrictions, and the  
18 like.

19 But let me also point out another fundamental  
20 tenet of institutional controls in our rule. That is that  
21 these institutional controls need to be legally enforceable.

22 They would be developed by public participatory  
23 processes. And Part 20, Subpart E of our regulations points  
24 that out.

25 MS. MONGERSON: They do include the barrier?

1 MR. CAMERON: Carol, let me repeat your question  
2 for you. It is, do institutional controls include  
3 engineered barriers? That's what I understand from this  
4 guide.

5 MR. CAMPER: Well, the answer is yes and no.

6 [Laughter.]

7 MR. CAMPER: Well, engineered barriers can exist  
8 for purposes of containing any residual radioactive material  
9 that might be on a given site. Or it might be used to keep  
10 water from entering into a site where materials are being  
11 used.

12 I mean, engineered barriers can be a boundary, if  
13 you will, for those purposes.

14 Engineered barriers can also be part of an  
15 institutional control scenario, but our thinking is that an  
16 engineered barrier, in and of itself, is not an  
17 institutional control.

18 For example, a fence is an engineered barrier. It  
19 is part of the institutional control process, but a fence  
20 without some cognizant responsible authority, an  
21 institutional control to maintain that fence, to replace it  
22 if it's torn down and so forth, really, in and of itself, is  
23 not very useful.

24 You've got to have some kind of ongoing, legally  
25 enforceable, named, responsible institutional control.

1 MR. CAMERON: Okay, we're going to go for some  
2 more clarification to Bob Nelson of the NRC staff.

3 MR. NELSON: Let's see if I can shed some more  
4 light on this? An engineered barrier is normally some  
5 constructed wall or the cover on a site to prevent either  
6 migration of the waste further into the environment, or to  
7 prevent water, either groundwater or rain water from getting  
8 in to cause migration.

9 That's normally what an engineered barrier is. In  
10 that context, it's not an institutional control.

11 Where institutional controls can become linked  
12 with engineered barriers is where you rely on the  
13 institutional control to maintain the barrier. Then there  
14 is a linkage.

15 For example, if you're relying on a government  
16 entity or some other body to maintain that barrier, then  
17 that maintenance becomes the institutional control, not the  
18 barrier itself.

19 So there's the linkage. Usually when we think of  
20 institutional controls, in my mind, I use the definition  
21 that tells me what it is. The institution maintains the  
22 control? Okay, some body, some county in the sense of  
23 making and recording deed restrictions, a government entity  
24 supplying resources to maintain a facility, to cut the grass  
25 if that's necessary to demonstrate performance.

1           That's what we mean by institutional control. So  
2 they can be linked, not necessarily.

3           Normally, an engineered barrier is simply a  
4 barrier to prevent or minimize migration of the waste.  
5 Institutional control is a control placed on the site by an  
6 institution, normally to control access or use of the site.

7           MR. CAMERON: Thank you, Bob. Let's go to Ray and  
8 then we'll go to this gentleman back here.

9           MR. VAUGHN: I would just like to -- Ray Vaughn,  
10 again, Coalition on West Valley Nuclear Waste, Citizens Task  
11 Force.

12           I would like to just explain why there is some  
13 concern, I think, as to just what institutional controls  
14 consisted of. Under restricted site release, there are some  
15 very specific requirements on the cap dose value that needs  
16 to be met.

17           And that's based on the hypothetical situation  
18 where institutional controls are no longer in effect.

19           Now, it makes quite a difference whether suddenly  
20 the people who are supposed to be repairing engineered  
21 barriers are absent or whether the assumption is that  
22 instantly that engineered barrier is breached.

23           There are certainly a number of facilities on the  
24 site here. For example, there is the somehow re-engineered  
25 plan for the high-level waste tank. Some of us believe that

1 the Department of Energy has performed a minor and maybe  
2 even a major miracle in bringing the dose estimates down by  
3 a factor of one million.

4 If you look at the draft EIS, those are huge  
5 doses, if institutional controls are lost. They now claim  
6 to be able to do it with a dose of one million times less.

7 But they do so by building a number of engineered  
8 barriers, and the integrity of those barriers is in question  
9 for a number of reasons, but knowing how to treat them under  
10 the cap requirement is very important.

11 MR. CAMERON: Ray, let me get some verification  
12 from Bob Nelson on your point. Bob, could you address what  
13 Ray just said?

14 MR. NELSON: I'll try. Bob Nelson, NRC.

15 I think your question gets back to this kind of  
16 linkage I was trying to make. If you're talking about a  
17 cap, some engineered cap, whether it be a concrete cap or  
18 some composite -- no?

19 MR. VAUGHN: I'm using the term cap on the dose.

20 MR. NELSON: On the dose model?

21 MR. VAUGHN: Yes.

22 MR. NELSON: Okay. Then to look at the cap, you  
23 have to assume the institutional control has failed and is  
24 no longer in effect.

25 You then go back and look at your engineered

1 barrier performance and determine when that engineered  
2 barrier performance would fail, based on no more  
3 maintenance, no more control.

4 So you do your dose assessment based on some  
5 period of performance, of satisfactory performance of that  
6 engineered barrier, followed by a failure of performance  
7 because the act of maintenance is no longer there.

8 Did I answer your question?

9 MR. VAUGHN: I understand that that's one of two  
10 possible views, but a clearer definition -- really, I  
11 haven't got a definition of institutional control that would  
12 eliminate this slight uncertainty that remains.

13 I understand what your opinion is, but it is not  
14 clear from reading the requirements set in law.

15 MR. CAMERON: Okay, Bob, do you want to agree with  
16 that?

17 MR. NELSON: I will agree with you that our  
18 definition of institutional controls is not clear, and  
19 that's the message we're getting, and I think we understand  
20 that.

21 MR. CAMPER: Let me try. I mentioned that an  
22 institutional control was something that we're now  
23 progressing on. We're seeing what's emerging.

24 I try to simply state the concept, and as we  
25 encounter these situations, we evaluate them. There will be

1 lessons learned, including what's going on here.

2 Now, let me -- just bear with me. For those of  
3 you who have not read draft Reg Guide 4006, I know this is  
4 not your -- it's either this or Tom Clancey, and I know who  
5 wins.

6 But for those of you who have not had the benefit  
7 of reading this, let me just read a couple of things to you,  
8 if you'll bear with me.

9 Under Section 4.1 in the draft guide 4006 that was  
10 mentioned, entitled Legally Enforceable Institutional  
11 Controls, we have two pertinent paragraphs, I think, that at  
12 least will share with you the general tenets of  
13 institutional controls as we now believe them to be.

14 "This section describes the legally enforceable  
15 institutional controls that can be used to meet the  
16 requirements of 10 CFR 20.4203(b). Institutional controls  
17 may be based on property rights or on a governments's  
18 sovereign or police powers.

19 At some sites, institutional controls may include  
20 physical conclusions, for example, fences, markers, earthen  
21 covers, radiological monitoring, and the maintenance of  
22 those controls.

23 Physical controls alone do not meet the  
24 requirement in 10 CFR 20.4203(b) for legally enforceable  
25 institutional controls because they lack a mechanism for



1 legal enforcement.

2 Physical controls and their maintenance can be  
3 used to meet the requirement in 10 CFR 20.4203(b), only when  
4 they are used in combination with an instrument that permits  
5 legal enforcement of a physical control."

6 So that, in more definitive terms, summarizes the  
7 point that I was trying to make a moment ago in the example  
8 of a fence. A fence alone is not sufficient; there has to  
9 be an enforceable document in place that will ensure that  
10 there is a responsible, named entity that functions as an  
11 institutional control to maintain that fence in perpetuity.

12 MR. CAMERON: Okay, thank you, Larry. If people  
13 want to get a copy of this Reg Guide, how do they go about  
14 doing that, Jack?

15 MR. PARROTT: Again, you can contact me for the  
16 information I had up here earlier. Also, if you have access  
17 to the Internet, a complete text of it is available on our  
18 website.

19 MR. CAMERON: Okay, thank you. We're going to go  
20 to this gentleman, and then we'll go up here.

21 MR. ZIMMERMAN: I'm Abel Zimmerman, and my  
22 property joins the site. Now, I was wondering if the  
23 injection well that's on the Kowalski property which was not  
24 documented, was part of the site at one time. I mean, it  
25 wasn't there, but it was there.

1 Now, did they really go as far as they wanted to  
2 with that well, or did they just drill it a short distance?

3 All kinds of equipment was there when they were  
4 doing it. It was there for two or three weeks.

5 Now, I would like to know if it's been tested  
6 lately to see if there is any of the radioactive material  
7 that you would normally put into an injection well.

8 MR. CAMERON: Do we have an answer for Mr.  
9 Zimmerman on that question?

10 MR. PARROTT: That injection well was used in the  
11 late 60s and early 70s for at testing program that was done  
12 by Oak Ridge National Laboratories.

13 At the time, the only material that was put down  
14 that well was a very short-lived zirconium, which is a very  
15 short-lived tracer. So there was a study that was done,  
16 think, by Davis and Moore, in the late 80s when they looked  
17 that well, and didn't find any residual trace material from  
18 that testing program.

19 MR. ZIMMERMAN: At first there was no well there.  
20 There was no papers or anything on it when I first brought  
21 it up, because -- now, is that really the right definition  
22 of that well, or is there other things that went on there  
23 that we aren't being told?

24 Now, I think that well should be examined  
25 thoroughly by responsible people to make sure that it isn't

1 a dangerous thing that's sitting out there.

2 MR. CAMERON: Okay, thanks, Mr. Zimmerman. I'm  
3 going to ask if you could talk to Mr. Zimmerman specifically  
4 about this well before he leaves tonight?

5 MR. PARROTT: Yes.

6 MR. CAMERON: Okay. He's going to talk to you  
7 about that.

8 Mr. Rauch?

9 MR. RAUCH: Jim Rauch, again, with the West Valley  
10 Coalition. I would like to get Dr. Merges's opinion about  
11 what I'm about to say, because I think he's very familiar  
12 with failure of institutional control in its ultimate form,  
13 which is licensing.

14 I'm referring again to the fuse -- Tanawanda. The  
15 -- at the Tanawanda site became the method of this simply  
16 because of the failure of licensing.

17 It was NRC's and NRC's predecessor agencies whose  
18 responsibility caused that failure which has resulted in a  
19 huge cleanup.

20 Now, my opinion of institutional controls is that  
21 this is a real slippery slope we're on here, and we're  
22 sliding into a weaker and weaker position.

23 When 10 CFR 61 was promulgated, the low-level  
24 waste disposal regulations, that rulemaking was subject to  
25 broad, wide, large public involvement.

1           The public expressed its opinion that  
2 institutional controls could not be relied on for any length  
3 of time. The rule incorporated a 100-year period as the  
4 maximum amount of time that institutional controls could be  
5 relied on for low-level waste disposal.

6           I wonder why now NRC -- and I'd like Dr. Merges's  
7 comments -- why NRC has seen fit to extend that to 1,000  
8 years with minimal public input?

9           MR. CAMERON: And this slippery slope is the  
10 extension from 100 to 1,000 years, basically. Okay, let me  
11 go to the NRC for any comments they may have on this point,  
12 and we'll see if Paul wants to say anything.

13           Keep in mind, this is a draft policy statement, so  
14 all of these comments that you're making will be evaluated  
15 by the NRC in deciding to finalize that policy statement.

16           But does anybody want to comment on Mr. Rauch's  
17 point?

18           MR. PARROTT: Well, the 1,000-year period that  
19 you're talking about in the license termination rule is the  
20 period where, again, there is a dose standard, that the  
21 modeling be done to determine what the doses are.

22           There isn't -- it's assumed that if there are  
23 institutional controls at a site to meet the dose cap, the  
24 assumption is that they fail essentially immediately after  
25 the license is released. But anytime in that thousand

1 years, it's assumed that they fail.

2 And that's why that dose cap is in there, for  
3 restricted release. There isn't an assumption that the  
4 institutional controls last for a thousand years.

5 MR. CAMERON: Mr. Rauch, let's get Paul Merges,  
6 and then we'll go back to you for a followup, okay? Paul?

7 MR. MERGES: I have two different things here:  
8 One is that the SDA is not a Part 61 site. There is  
9 material in the SDA that would not be allowed into a Part 61  
10 low-level waste site, so there is a difference, and I want  
11 to remind you of that.

12 And as you pointed out, for example, a snap  
13 reactor is in there, and that would not be allowed in a low-  
14 level waste site, as defined by the Low-Level Waste Policy  
15 Act and the Part 61 regulations that were implemented in the  
16 1980s. This stuff was put in there in the 1960s.

17 The other thing is that there is a difference  
18 between institutional controls and regulatory authority.  
19 And basically NRC's statement on 11(e)(2) and the material  
20 has to do with their belief that we do not have regulatory  
21 authority by law, and it's a legal issue as opposed to a  
22 legal mechanism which an institutional control would be such  
23 as a deed restriction on a particular site.

24 MR. CAMERON: Mr. Rauch, I'm going to have ask you  
25 to speak into this microphone. We're going to give you a

1 quick followup on this, and then we'll go on to some other  
2 people.

3 MR. RAUCH: Well, first I guess I understand your  
4 comment to be that NRC's view now is that institutional  
5 controls can be applied indefinitely, whatever the period  
6 is.

7 I specifically asked NRC to respond to the public  
8 expression in 10 CFR 61 that 100 years be the maximum, up  
9 front, a priori.

10 MR. PARROTT: Let me restate it. I'm sorry if I  
11 misinterpreted it. But when the -- in terms of the license  
12 termination rule for this site, NRC recognized that there is  
13 a tremendous amount of uncertainty about what is going to  
14 happen in the future, especially with relation to  
15 institutional controls.

16 We don't allow indefinite or reliance or  
17 institutional controls to maintain doses under sites that  
18 are decommissioned.

19 We know that there is this tremendous amount of  
20 uncertainty, and that's why we -- in the restricted release  
21 situation, when it would be under institutional controls,  
22 the goal is that they would last as long as possible, but  
23 recognizing that we can't verify that, we set an additional  
24 cap on dose that when they break down, we have to assume  
25 that they will, that additional dose cap is what protects

1 public health and safety.

2 But there isn't, there really isn't an assumption  
3 that we can rely on the institutional controls.

4 MR. RAUCH: What I would like Dr. Merges to  
5 comment on is his view of NRC's misapplication of its  
6 licensing requirements at Tanawanda. What happened, for  
7 people who don't know what happened at the Tanawanda  
8 Manhattan project site, is, there were wastes that basically  
9 the Federal Government did not license.

10 They turned wastes onto property that was owned by  
11 the Federal Government, and turned it back to a private  
12 ownership. And that private ownership then spread the waste  
13 around the site so that now we have a horrendous problem.

14 The Federal Government abdicated its  
15 responsibility to maintain a licensed control. And I'd like  
16 Dr. Merges's opinion on that, vis a vis this current  
17 discussion.

18 MR. CAMERON: Okay, before Paul, while you're  
19 thinking of what you want to say to that -- and then I think  
20 we need to see if there are other issues here that people  
21 want to bring up.

22 I'd like to at least get Larry Camper on for one  
23 clarification.

24 MR. CAMPER: Yes, I have two points. I wanted to  
25 point out on the institutional control that it's not that it

1 allows a thousand years; it says that licensees -- and in  
2 this consideration, we pointed out that licensees cannot  
3 know with virtual certainty, what institutional controls  
4 will be and how long they will be there.

5 But you are to design your institutional controls  
6 for a thousand years. And that coincides with the dose  
7 analyses calculations as an objective for institutional  
8 controls.

9 And the license termination rule, of course, was  
10 published for public comment, and really there were minimum  
11 comments on the rule, and there were no particular negative  
12 objections to the idea of having the design objective of a  
13 thousand years for institutional controls.

14 MR. CAMERON: Okay, let's see if Paul Merges has  
15 anything to say, and then I think we need to move on to some  
16 other issues, to make sure that we use our time.

17 MR. MERGES: I'd like to point out that the sites  
18 in Tanawanda don't have anything to do with this particular  
19 issue tonight. However, while I may agree with you on your  
20 statements about what I think NRC's jurisdiction is, they  
21 will not necessary agree with you, and I want to remind you  
22 that the current Chairman of the Nuclear Regulatory  
23 Commission, when he represented Kerr McGee in the West  
24 Chicago case in 1990 -- and this man's name is Richard  
25 Meserve, advocated exactly the same position you're



1 advocating tonight, so I think you ought to address a letter  
2 directly to him.

3 As I said, I'm not a lawyer, but I happen to agree  
4 that --

5 MR. RAUCH: Does the vagaries of personality --

6 MR. CAMERON: You have to speak into the mike, and  
7 we have --

8 MR. MERGES: What you're really asking for is a  
9 court interpretation, a definitive court interpretation. I  
10 would like to see it, too.

11 MR. CAMERON: All right, I think that the point  
12 that is being made about Tanawanda, obviously -- Mr. Rauch,  
13 if you want to have a conversation with Paul, do it offline.

14 But I think your point is not to focus on  
15 Tanawanda, but there is some lesson to be learned there in  
16 terms of the use of institutional control.

17 I think people have gotten that. Other --

18 MR. PARROTT: Relating back to West Valley, that  
19 situation that Mr. Rauch described at Tanawanda, I mean,  
20 that's why we set up the license termination rule the way it  
21 is, to avoid that. If the license termination rule had been  
22 applied at that site, if institutional controls had broken  
23 down, private entity took over the site, spread the waste  
24 around, that would have been a dose, and would never have  
25 happened.

1 I assume we would have modeled it such that we  
2 would have looked at that possibility and said, no, you  
3 know, you can't be released, and it wouldn't have happened.

4 It was situations like that that went into the  
5 basis for the license termination rule.

6 MR. CAMERON: Okay, thank you. Let's go -- Diane,  
7 do you have a comment?

8 MS. D'ARRIGO: I'd just like to disagree with  
9 Larry Camper who just said that there weren't very many  
10 comments on the license termination rule.

11 There was an enhanced participatory rulemaking  
12 which members of the public participated in about five or so  
13 meetings around the country. And a lot of public input went  
14 into those, and that public input was essentially ignored by  
15 the NRC.

16 And the rule was finalized, and at this point, I  
17 think it's not protective enough. It's the rock bottom that  
18 should apply here at West Valley.

19 But there are a lot of loopholes in this  
20 regulation that are not protective enough. At the rock  
21 bottom minimum, that should be applicable here, and we  
22 should be looking at greater protections than that standard  
23 for this site.

24 MR. CAMERON: Thank you, Diane. I would say that  
25 the comments are part of the record on the rule, and the

1 summaries of the workshops are there, too, for people to  
2 see.

3 Did you want to say something?

4 MR. CAMPER: I wasn't implying that there weren't  
5 any comments on the rule. What I was speaking to was, there  
6 were not many comments specifically on the 1,000-year design  
7 objective for institutional controls. That was what we were  
8 talking about at the moment.

9 Now, I agree with you that there were many  
10 comments on the rule. And there was an enhanced process,  
11 yes.

12 MR. CAMERON: Okay, thank you. Others? Okay,  
13 we've talked a lot about institutional controls, and I think  
14 probably we're ready to move on to other issues here.

15 Jeannette, do you want to put another issue on the  
16 table for us?

17 MS. ENG: In fact, the institutional control  
18 discussion is probably a good segue, because there was  
19 reference made to the 100-millirem and 500-millirem number.  
20 And from EPA's perspective, those numbers are not  
21 protective, but above and beyond that, we've had in the  
22 past, comments to the NRC on the 25-millirem number.

23 And if you look at the discussion on the cleanup  
24 levels, and if you look at the 25-millirem number, year-  
25 in/year-out, over a lifetime, that would be outside of the

1 EPA risk range that we use when we look at Superfund, when  
2 we look at EPA cleanups under the Superfund Program.

3 But in discussions that NRC and EPA have had, the  
4 NRC has said that when it comes to most or many of the sites  
5 that they're going to terminate license under the license  
6 termination rule, that if you -- if the 25 millirem with the  
7 application of ALARA would be trying to get the doses to as  
8 low as reasonably achievable.

9 They probably could get within the EPA risk range.  
10 But I think that at the West Valley site, this is really  
11 difficult to do, and there is certainly more effort that is  
12 going to be needed for that.

13 And I would hope that the DOE in response to or in  
14 reaction to looking at complying with the NRC's license  
15 termination rules, that they keep in mind that once they  
16 terminate the license, the EPA view of what is an acceptable  
17 -- whether the site is safe or not, that they should keep  
18 that in mind that what we hope to look at is to meet the EPA  
19 regulation, that the excess cancer risk be less than the  
20 1:10,000.

21 MR. CAMERON: Thanks, Jeannette. I think that the  
22 cleanup levels are something that would be useful to  
23 explore, including differences between the EPA viewpoint on  
24 it.

25 Jack, I don't remember if you covered it, but the

1 basis for the NRC's establishing the cleanup level? Maybe  
2 that would be useful for people to know, and then we can ask  
3 if there are further questions on the point that Jeannette  
4 raised.

5 Or, if Jack's not the right person, Bob, whomever?  
6 Bob? Bob Nelson.

7 MR. NELSON: Bob Nelson from the NRC. The 25-  
8 millirem dose limit for unrestricted use in the license  
9 termination rule, came about from two basic considerations:  
10 The first was -- first of all, we considered 100 millirem  
11 per year as our public dose limit, and considered that to be  
12 a safe level, but we realized that people can be exposed  
13 from multiple sources.

14 This is a concept that not only we hold, but is  
15 also encouraged by the international organizations as well.  
16 So we felt that we needed to fractionate or take a fraction  
17 of the 100-millirem limit to account for multiple exposures.

18 So, the first question was, what's the appropriate  
19 fraction, or how many sites could conceivably be thought to  
20 be exposed to simultaneously?

21 Well, four was chosen, and is, we felt,  
22 conservative, in that very few people would be  
23 simultaneously exposed to four sites, each contributing 25  
24 millirem per year. It would be highly unlikely that that  
25 would occur, but four was a good number, and it was chosen.

1           But then you also have to look at what can be  
2 achieved from a cost/benefit standpoint, so that's the  
3 second portion of the, could you go lower than 25?

4           Is it reasonable, after you consider this  
5 partitioning effect of the multiple exposure scenario, is it  
6 reasonable to get below 25 from a cost-benefit standpoint?

7           These are the two aspects that were looked in the  
8 generic environmental impact statement for the rule, and the  
9 in the Commission, generally.

10           It basically concluded that there was not a  
11 significant cost benefit of requiring doses to be below or  
12 establishing a dose limit below 25.

13           We did, however, put that on a standardized basis,  
14 but we did put it in an ALARA requirement on the 25. That  
15 meant that 25 is okay on a general basis, but for each site,  
16 you have to demonstrate that that is as low as reasonably  
17 achievable.

18           So 25 isn't a fixed number, as Ms. Eng said. You  
19 have to look at -- start at 25, you do a cost/benefit  
20 analysis, you have to demonstrate that whatever number you  
21 choose, 25 or below, is a as low as reasonably achievable.

22           MR. CAMERON: Okay, thanks for that clarification,  
23 Bob. Are there other comments on the issue of cleanup  
24 levels?

25           [No response.]

1 MR. CAMERON: Okay, let's go to Carolyn. We're  
2 going to have to, all of us, try to speak up, and speak into  
3 this mike, so that our stenographer can get this.

4 Carol?

5 MS. MONGERSON: Now, this is a question about the  
6 restricted and unrestricted sites. Is that appropriate  
7 right now?

8 MR. CAMERON: Go ahead.

9 MS. MONGERSON: And I'm going to read it, because  
10 it took me a long time to figure out how to understand this  
11 and express this. It's just one sentence.

12 The terminology of the criteria for the license  
13 termination is unclear on one point. If a site meets  
14 Section 1402, the license can be terminated, and it can be  
15 released for unrestricted use.

16 Under 1403, criteria are set for license  
17 termination under restricted conditions. If these  
18 conditions are met and the license is terminated, is the  
19 site released for unrestricted use, or does the word,  
20 conditions, apply to the license?

21 Does it apply to the license or to the site use or  
22 both?

23 MR. CAMERON: Thanks, Carol. We're going to go up  
24 to Bob Nelson to answer that question for you. Bob?

25 MR. NELSON: The license would be terminated under

1 1403. The restricted use would be placed on the conditions  
2 of use of the site.

3 So the license would no longer exist, but there  
4 would have to be institutional controls in effect that would  
5 limit the uses of the site to assure that the dose limit was  
6 achieved.

7 Does that answer your question?

8 MS. MONGERSON: No.

9 MR. CAMERON: Okay, let's see if we can clarify  
10 this. Carol?

11 MS. MONGERSON: Are the conditions put on the  
12 termination, on the conditions that must be met before  
13 termination, or are they conditions on the use of the site  
14 after termination?

15 MR. NELSON: It's not clear to me. If it's clear  
16 to somebody else, go ahead.

17 MR. LIEBERMAN: I'm Jim Lieberman. Let me try to  
18 answer that.

19 When the license is terminated under a restricted  
20 use scenario, before we would terminate the license, we  
21 would be satisfied that the restrictive conditions are  
22 enforceable, are in a deed, are in a zoning restriction, are  
23 in a mechanism that once NRC no longer oversees a site,  
24 those restrictions would continue.

25 There is also a provision in the regulation that,



1 should, for some reason over time, the dose levels not be as  
2 expected, such that, for example, there's more than 10  
3 millirems, NRC has a provision to be able to reinstate its  
4 authority to assure that the site is properly controlled.

5 I don't know if that helps or not.

6 MR. CAMERON: Carol, does giving this one more  
7 try, does that help?

8 MS. MONGERSON: I'll ponder it.

9 [Laughter.]

10 MR. CAMERON: Okay, and that brings up the issue  
11 that there will be a transcript from this meeting. And  
12 those of you who want to read what was said and ponder that,  
13 we can make the transcript available. It will be on the NRC  
14 website.

15 How else could people get a copy of the  
16 transcript?

17 MR. PARROTT: Contact me, and I can get you a copy  
18 of it.

19 MR. CAMERON: All right. I think I'm going to ask  
20 Paul Merges and Jim Rauch to step outside now.

21 [Laughter.]

22 MR. CAMERON: We'll go to you, Paul, and then over  
23 to Jim. We'll see who else -- yes, sir?

24 MR. DIBBLE: This comment has to do with control.  
25 Looking at the CTF, on the makeup of that CTF, the--, the

1 SNI, Fire Department, County Health, state legislative reps,  
2 and do we have assurance that those titles will not become  
3 the institutional control?

4 MR. CAMERON: Your name, for the transcript?

5 MR. DIBBLE: Bill Dibble.

6 MR. CAMERON: Bill Dibble, all right. Jack, did  
7 you get that?

8 MR. PARROTT: Let me try to maybe try to clarify  
9 your question. Well, the members of the CTF?

10 MR. DIBBLE: The CTF, we know who they are, but  
11 these come from different titles around the overall  
12 community. And would those titles become the institutional  
13 control?

14 MR. PARROTT: If you mean, will the--well, no, I  
15 mean, it would be impossible to speculate who would enforce  
16 the institutional controls.

17 MR. CAMERON: Okay, a quick followup, sir?

18 MR. DIBBLE: The question was not who, but those  
19 positions.

20 MR. PARROTT: Oh, would the CTF members become the  
21 institutional controlling body? That is a possibility.

22 I mean, there is--I don't know what--the  
23 termination issue of control, as we mentioned earlier, isn't  
24 defined. It could be a lot of different possibilities.

25 That's one I hadn't thought of, but--

1 MR. CAMERON: Okay, let's go to Paul Merges.

2 MR. MERGES: Carol, I want to elaborate on this  
3 termination of an NRC license. When they terminate a  
4 license, that means that that piece of property falls into  
5 the jurisdiction of the agreement states program.

6 It's been our position for years that the  
7 agreement states have to be factored into any decision that  
8 the NRC has on trying to terminate a license for a nuclear  
9 power plant or a research reactor, or, in this case, the  
10 West Valley site.

11 So, we expect NRC to be factoring the State of New  
12 York into DEC as part of the agreement state program, and to  
13 the decision of how institutional controls will be imposed,  
14 if that is appropriate for a license termination.

15 MR. CAMERON: Okay, thank you, Paul. Your point  
16 is that you think the agreement states should be consulted  
17 within any determination on institutional controls, all  
18 right.

19 MR. MERGES: Termination of the license. If  
20 you're going to maintain the license--

21 MR. CAMERON: Right, Larry, do you want to comment  
22 on that?

23 MR. CAMPER: Let me just state the obvious:  
24 Clearly, that will be the case; we will be consulting the  
25 state and local governments, for developing institutional

1 controls at this site, or, for that matter, any other  
2 similar type of site.

3 MR. CAMERON: Okay, anybody here have an issue  
4 that they want to raise at this point? Yes, sir, let's go  
5 to you. Just state your name, and please speak into the  
6 mike for the stenographer.

7 MR. CHAMBERS: Glenn Chambers. I'd just like to  
8 know, just what is going on over there? What are you doing  
9 in the way of cleaning up stuff?

10 How long is it going to take? And is there any  
11 foreseeable time when all of this thing could come to an end  
12 and bring this down into the ordinary working terms now?  
13 Thank you.

14 MR. CAMERON: Jack, an overview sort of answer to  
15 that?

16 MR. PARROTT: Actually, let me throw this question  
17 over to DOE to get maybe a brief -- give everyone a brief  
18 idea of what the status of that is.

19 MR. CAMERON: All right, good. Carol, you might  
20 as well use that mike up there, I guess, or Barbara.

21 MS. MAZEROSKI: Barbara Mazerowski, Director, West  
22 Valley Demonstration Project.

23 What is going on at the West Valley Demonstration  
24 Project is that we have designed, constructed, tested, pre-  
25 treated, and vitrified over 98 percent of the high-level

1 waste that was in underground tanks, which formed the basis  
2 for the West Valley Demonstration Project Act.

3 Right now, what we're doing is, we are cleaning  
4 the bottom of those tanks, what we call the tank heel, and  
5 we are devising all kinds of new and innovative  
6 technologies, arms that go down into the tank, with sprays  
7 on them, with cameras, so that we can effectively remove as  
8 much waste out of that tank as is technically possible.

9 In addition to that, we maintain a safe site. Our  
10 priority is safety. We don't do any work unless we do it  
11 safely.

12 And we're working with NYSERDA in developing an  
13 EIS process that will ultimately identify what a preferred  
14 alternative is for closure of the site, and also the process  
15 will eventually get us to a record of decision for site  
16 closure.

17 And the NRC, as a cooperating agency, has the  
18 responsibility to prescribe the criteria for us in coming to  
19 a decision.

20 So that's what's going on at the site. How long  
21 will this take us? We're nearly at the end of our  
22 vitrification activities. We're at the tank-heel cleaning,  
23 so the vitrification process isn't going to go on much  
24 longer, maybe a year, maybe a little over a year.

25 We are trying to get ourselves in the position to

1 have as much waste out of the tank as we need to have, to  
2 close the tanks. And we want to do this within the life of  
3 the melter.

4 And the life of the melter is, conservatively,  
5 maybe 5-7 years. We're in the fifth year of melter life.  
6 We want to be in a position to have those tanks clean enough  
7 that we decide when the melter is finished.

8 The EIS process, we're working with it through  
9 NYSERDA. We're working through it with our Citizens Task  
10 Force. We need to move that process along. We need to get  
11 to a record of decision.

12 I can't tell you how long that's going to take,  
13 but we are trying to move it along as quickly as we can.  
14 Under some scenarios, we could have a record of decision  
15 maybe in a couple of years.

16 But in the meantime, there is work that's being  
17 done that we know that we have to do, regardless of what the  
18 record of decision is going to say.

19 We are removing waste from the site. We moved  
20 over 36,000 cubic feet of low-level waste from the site to a  
21 commercial disposal in Utah, Envirocare. So we are removing  
22 waste off the site, we are doing these things.

23 We've installed a permeable pilot test treatment  
24 wall to help us control the groundwater pump, and what we  
25 call the North Plateau Groundwater Pump, so we're doing

1 those sorts of activities.

2 And we are actively pursuing removing waste from  
3 the cells. We have what we call the head end cells in the  
4 plant. These are called head end cells because that was the  
5 front of the processing activity when NSF had it.

6 We are going into those cells. We're preparing  
7 equipment, and manipulators and arms and cranes to allow us  
8 to get into those cells, remove the high-activity of waste  
9 from those cells.

10 These are the kinds of activities that we need to  
11 do, regardless of how we're going to close the site.

12 And so that's what's going on. We have stable  
13 funding which allows us to make progress onsite, and so with  
14 the stable funding, and with the cooperation of NYSERDA and  
15 the other regulatory members, we can continue to make  
16 progress.

17 Have I answered your question?

18 MR. CHAMBERS: A lot of it.

19 MR. CAMERON: Okay, Barbara, one final point: If  
20 people in the community want to be kept informed on a  
21 periodic basis of what's going on with your program, what's  
22 the best way for them to do that?

23 MS. MAZEROSKI: We have public meeting, and ever  
24 public quarterly meeting includes a status of project  
25 activities. It tells you what we're doing, where we're

1 going, what we're thinking of, and it gives you an EIS  
2 status.

3 When is the next quarterly public meeting?

4 VOICE: The second week in February.

5 MS. MAZEROSKI: The second week in February. The  
6 public is always invited, and welcome.

7 MR. CAMERON: Okay, thank you very much, Barbara.

8 Yes, sir?

9 MR. ABRAHAM: Gary Abraham, Concerned Citizens of  
10 Chhattaraugus County. Can you give us some idea of how much  
11 waste is outside the Demonstration Project, beyond the 98  
12 percent of the waste that's inside the project that you just  
13 talked about?

14 Isn't there significant amounts of hazardous and  
15 nuclear waste outside the Demonstration Project?

16 MR. CAMERON: I don't want to take us too far  
17 afield from what we're here for, which is the NRC  
18 responsibilities, but do you have anything quick to say on  
19 that?

20 MS. MAZEROSKI: Are you talking about the disposal  
21 areas?

22 MR. ABRAHAM: Yes.

23 MS. MAZEROSKI: Somebody will have to help me with  
24 the quantity that's in the disposal areas.

25 MR. SULLIVAN: Are you looking for a particular



1 quantity, or in general?

2 MR. ABRAHAM: When they say 98 percent of the  
3 waste will be cleaned out.

4 MR. CAMERON: 98 percent of the waste that was in  
5 the high-level waste tanks. That's what Barbara was  
6 referring to.

7 MR. ABRAHAM: I'm wondering if you could give us  
8 an idea of --

9 COURT REPORTER: I'm sorry, I can't hear his  
10 questions.

11 MR. ABRAHAM: I'm wondering if you could give us  
12 an idea of the quantity of waste that is not covered by the  
13 Demonstration Project's activities and whether these  
14 standards are going to apply to those wastes?

15 MR. PARROTT: Let me go ahead and take a stab at  
16 that. I don't know the specific numbers, but there are  
17 various waste management areas contained in the SDA that I  
18 mentioned before.

19 And we've got significant amounts of radioactive  
20 wastes in them. The standard, as I said, will apply to  
21 everything. We don't have authority to apply it to the SDA,  
22 but all the other areas outside of what DOE is doing, will  
23 be applied to those areas as well, yes.

24 MR. CAMERON: Okay, and then we have some more  
25 information from Dan Westcott, DOE, and please speak into

1 the mike,<sup>s</sup> Dan.

2 MR. WESTCOTT: Yes, Dan Westcott with West Valley  
3 Nuclear Services. If I could use the graphic up here, I  
4 think I could shed some light on Gary's question.

5 The focus of the West Valley Demonstration Project  
6 was the vitrification of the high-level waste. Congress  
7 directed West Valley to vitrify the high-level waste because  
8 the overwhelming source term at West Valley is associated  
9 with the high-level waste tanks.

10 A the time the West Valley Demonstration Project  
11 Act was passed, there was over 30 million Curies of  
12 radioactivity in the high-level waste tanks.

13 When the vitrification process began operations  
14 back in 1996, there was approximately 24,000,000 Curies of  
15 radioactivity in those high-level waste tanks. That is by  
16 far the largest source of radioactivity onsite.

17 Now, Barbara has said that we've done a very good  
18 job at removing the overwhelming majority of those  
19 24,000,000 million Curies of radioactivity. They're safely  
20 solidified into vitrified canisters.

21 Now, to put that 24,000,000 Curies into  
22 perspective, the residual inventory that remains in the  
23 process building is on the order of 10-20,000 Curies, much,  
24 much less than the 24,000,000 Curies.

25 And in the disposal areas, the NRC-licensed

1 disposal area and the state-licensed disposal area, we're  
2 talking on the order of a couple hundred thousand Curies, so  
3 by removing the risk associated with the 24,000,000 Curies,  
4 you've attacked the major source term, the major risk  
5 onsite.

6 MR. CAMERON: Okay, great, thank you, Dan. Are  
7 there other issues that people would like to talk about?

8 At some point, we're going to move into giving you  
9 an opportunity to make some formal statements, but let's  
10 make sure we get these other issues out.

11 Ray Vaughn?

12 MR. VAUGHN: Ray Vaughn, West Valley Coalition and  
13 CTF. I want to talk to Jack Parrott of the NRC, generally,  
14 about the so-called three components of the draft policy  
15 statement.

16 It's sometimes phrased as a two-step process in  
17 some of the other things we've seen. The concern that I  
18 have is that the license termination rule would be applied  
19 or prescribed now or in the very near future by NRC.

20 And prescription of the decommissioning criteria  
21 is a specific step that's called for in the West Valley  
22 Demonstration Project. I am concerned that there is a later  
23 step that's also called prescription that is rather vague,  
24 and raises the question of whether a second, later  
25 prescription step could supersede or override the first one.

1 I see this as a serious legal ambiguity, that  
2 there are these two prescription steps, separated by many  
3 years, to accomplish what the West Valley Demonstration  
4 project calls for as a single act.

5 MR. PARROTT: First of all, let me try to describe  
6 it in the terms that we usually use with the licensees. At  
7 a typical licensee's site, when they go to decommission, we  
8 wouldn't need to prescribe the license termination rule  
9 because it already applies to that, okay?

10 So they would come into us with a decommission  
11 plan, and they would say this is the way we intend to meet  
12 the license termination rule, and that maybe -- for  
13 instance, they didn't go for unrestricted use.

14 Okay, we're going to meet the 25-millirem per  
15 year dose limit. We would review their analysis, we're okay  
16 with it; we would approve it, and that, in the same sense  
17 we're using it here, that is when we would prescribe what  
18 the decommissioning criteria is going to be for that site.

19 Now, let me try to get to your concern. I think -  
20 - and correct me if I'm wrong -- what I'm hearing is, we're  
21 prescribing -- in this case, we actually have to prescribe  
22 the license termination rule, because there isn't a  
23 licensee, per se, at this site.

24 So we have to prescribe the license termination  
25 rule. It's a range of options.

1           We and NYSErDa are going to look at those, come up  
2 with a preferred alternative, show that it meets something  
3 in that range.

4           And then we're going to look at it to see that the  
5 specific situation, the specific criteria that they intend  
6 to meet, does, in fact, we feel -- we believe that it falls  
7 within our license termination rule.

8           So there is this sort of double-prescription step.  
9 We don't intend that this second prescription -- well, we're  
10 going to look at their analysis and say, well, you could  
11 make our license termination rule, let's prescribe something  
12 else. We're not going to do that.

13           What we want to do is make sure that they're  
14 within the license termination rule, prescribe the specific  
15 criteria that are embodied within the range of the license  
16 termination rule.

17           MR. CAMERON: Ray, do you think that this is  
18 something that should be clarified when the policy statement  
19 is finalized?

20           MR. VAUGHN: Yes, I do. I think that what you  
21 described makes sense up to a certain point, and that is  
22 setting the decommissioning criteria up front, setting the  
23 rules, is exactly what we would like, and then verifying  
24 later that the rules have been met, as you put up there,  
25 verifies specific criteria meets the LTF.

1           Yes, that certainly makes sense. My concern is  
2 just the way the word, prescribe, is then used in that same  
3 sentence as this last later step. That's a word that's in  
4 the West Valley Demonstration Project and means something  
5 rather specific.

6           I would advise you not to use that word again,  
7 because it raises this question of whether you might be  
8 second-guessing what you said the first time.

9           MR. CAMERON: Great, thank you for that comment.  
10 Other issues that people want to bring on the floor now  
11 before we go to a formal comment period?

12           Jeannette Eng, from the EPA. Jeannette, please  
13 speak into the microphone, so the stenographer can hear you.

14           MS. ENG: I wanted to ask the NRC if they could  
15 elaborate a little bit more on the five-year review. I  
16 think that in your policy statement, you indicated that if  
17 the decision is for the restricted use, that if the  
18 institutional controls fail, that if the doses are, you  
19 know, calculated, that they could be 500 millirem per year,  
20 that you would require a five-year review.

21           I guess the question is, what does that five-year  
22 review entail, and who does that review?

23           MR. PARROTT: First of all, let me try to clarify  
24 what you said. The way it's set up in the rule, the five-  
25 year review or less time period, but no more than five years

1 between reviews, is the period set up so that when we check  
2 on institutional controls, this wouldn't be we're checking  
3 on that it's no more than 500 millirem.

4 What we're checking on is that it's 25 millirem  
5 because the institutional controls keep it there. What  
6 we're checking are the institutional controls every time  
7 period.

8 MS. ENG: So the NRC would be doing that check?  
9 When you're saying, "we're going to check that," you mean  
10 the NRC?

11 MR. PARROTT: I don't think that's precisely  
12 defined. It could be NRC; it could be some institutional  
13 controlling body, some other government agency. Any other  
14 possibilities?

15 MR. CAMERON: Bob, could you use the standup,  
16 please, and we'll keep this over here? Thank you.

17 MR. NELSON: Bob Nelson, NRC. No, we don't view  
18 that as an NRC recheck. The regulation requires that  
19 sufficient financial assurance be provided, that an  
20 independent third party, also named and agreed to in  
21 advance, that there's enough financial assurance there to do  
22 the checks, no less frequently than every five years, and to  
23 take whatever corrective action is necessary to ensure that  
24 the institutional controls remain.

25 That's something that needs to be set up by the

1 organization that's applying for the institutional --  
2 termination under restricted use. They have to demonstrate  
3 to us that there is a mechanism that would allow some --  
4 since we're talking about the 500 millirem cap scenario,  
5 that's the only place this five-year recheck applies -- some  
6 durable body has the ability and the funds to complete that  
7 five-year recheck, and that there is an agreement between  
8 the person applying for restricted release, and that body,  
9 whatever that is, to do that.

10 MS. ENG: The thing would be that in your draft  
11 policy, you indicate that a five-year review before the  
12 level where we reached the 500 millirem per year or in your  
13 calculations of failure of institutional control.

14 I guess what we would recommend is that that type  
15 of review be instituted whenever you have a restricted  
16 release scenario, rather than just at a restricted release  
17 scenario that is so severe that you're at 500 millirem.

18 MR. CAMERON: Okay, thank you for that  
19 recommendation, Jeannette. Let's go to Diane at this point  
20 -- oh, great, let's go over there.

21 I'd just ask you to identify yourself for us, and  
22 speak clearly into the microphone.

23 MS. LAMBERT: I'm Lee Lambert. I've been a member  
24 of the Task Force for the past year and a half, and I  
25 represent the League of Women Voters.



1 I have a question about that statement that he  
2 just made about the financial assurance and somebody taking  
3 care of this. I have some real qualms about that.

4 Considering the political climate at any  
5 particular time in any particular state, I think we could be  
6 in deep trouble if we don't have some entity that is  
7 watching it, whether it's called NRC or it becomes something  
8 else at some point; that there is not someone watching over  
9 and making sure that this is watched, and that some  
10 political notion -- if some territory decides not to bother  
11 with it, and -- thank you.

12 MR. CAMERON: I think that the NRC can speak to  
13 that. Bob? Do you have the concern?

14 MR. NELSON: I think I do.

15 MR. CAMERON: All right.

16 MR. NELSON: The license termination rule has  
17 institutional controls as a graduated application of that  
18 institutional control. There's two caps, a 100-millirem cap  
19 and a 500-millirem cap.

20 What I mean by that is, if you apply for release  
21 under restricted release, you have to look at the dose  
22 consequences, if those institutional controls fail.

23 At the 100-millirem -- so there's two levels. If  
24 it's under 100-millirem, there's one set of criteria. If it  
25 exceeds 100 but does not exceed 500, there's a more

1 restricted set of criteria.

2 The five-year recheck requirement comes in under  
3 the more restrictive 500-millirem cap scenario. And under  
4 that case, we would look to -- the rule says a durable --  
5 talking about durable institutional control or durable body.

6 What we're looking for there is some government  
7 entity, state or Federal Government, to be that entity that  
8 has that responsibility.

9 It is the -- in this case, it would be DOE's  
10 responsibility, if this were the case, to identify what that  
11 government body is, and make the agreement with that body,  
12 whether it be NYSERDA, New York, or some agency of the  
13 Federal Government, to take on that responsibility.

14 They would have to demonstrate through some  
15 agreement that's signed between the DOE and that other body,  
16 that that responsibility is there, and that there is  
17 sufficient financial assurance in place for that body to  
18 take whatever action it needed to ensure that the  
19 institutional controls remained in effect.

20 At the lower level, the 100-millirem level, that  
21 could be -- that would not necessarily need to be a  
22 government body; it could be. It could be some other  
23 entity.

24 The different types of entities and the different  
25 types of institutional controls are, I think, pretty well

1 described in this EG 4006 document, the one that was talked  
2 about earlier.

3 I think that describes the kinds of institutional  
4 controls we would find acceptable at the various levels, at  
5 these two different criteria levels.

6 MR. CAMERON: Okay, thank you, Bob. Do you have a  
7 followup?

8 MS. LAMBERT: I have a followup and comment on  
9 that. You know, I don't know that the NRC could mandate any  
10 kind of funding, though, at any point, to any government  
11 institution.

12 MR. NELSON: We would have to look at the cost  
13 estimate that -- and find that cost estimate to be  
14 acceptable. And there are, again, in this guidance  
15 document, there are some formulas for calculating what that  
16 financial assurance cost should be.

17 And we would have to not only find if the cost  
18 estimate was acceptable; we'd have to find that the  
19 mechanism for ensuring that those funds were available, is  
20 also acceptable, some kind of setaside funds, some kind of -  
21 - again, those types of different funding mechanisms, I  
22 think, are described in this Regulatory Guide.

23 MR. CAMERON: Okay, thanks, Bob. We're going to  
24 go to Diane, and then Ray, and then Jim Rauch, and this  
25 gentleman, and then I think we're going to get pretty near

1 where we need to move to some formal statements.

2 But let's go to Diane first.

3 MS. D'ARRIGO: I wanted to know if the -- I wanted  
4 a clarification of this, which came up at a different site  
5 where the license termination rule of the NRC is being  
6 implemented.

7 Maybe I've misunderstood what went on at this  
8 other site, but is it true that the NRC is not responsible  
9 for offsite contamination, even if that contamination is  
10 from the site that's being decommissioned?

11 MR. CAMERON: Okay, who wants to address that?

12 MR. LIEBERMAN: You're referring to from a  
13 licensed activity?

14 MS. D'ARRIGO: Yes.

15 MR. LIEBERMAN: That would be covered under the  
16 license termination rule. We would expect the entity to  
17 have the license to be responsible for the material that got  
18 offsite.

19 MS. D'ARRIGO: Is that what is happening at Yankee  
20 Rowe?

21 MR. LIEBERMAN: Frankly, I can't speak to Yankee.  
22 I don't know what's happening at Yankee Rowe.

23 MS. D'ARRIGO: I was just wondering if the same  
24 thing that slapped them in the face, might slap us in the  
25 face here. My understanding -- and, again, I wasn't there,

1 so I might not have it straight -- is that there's  
2 contamination that came from that facility that went  
3 offsite.

4 And the cleanup plan does not take into  
5 consideration, the doses from that offsite contamination,  
6 nor does it require the cleanup of offsite contamination.

7 And I just wanted to find out early on here,  
8 whether that was the way it would be here also.

9 MR. LIEBERMAN: Well, we'll certainly take that  
10 comment, but my understanding, being in the NRC for many  
11 years, is that we've always held licensees responsible for  
12 material that they released or from their activity going  
13 offsite. I'll check on the issue at Yankee Rowe.

14 MS. D'ARRIGO: Great.

15 MR. CAMERON: Okay.

16 MR. CAMPER: I'm like to add to that. We'll look  
17 into your point on that, but let me just say this: We have  
18 sites that are undergoing decommissioning right now. And  
19 there is known contamination offsite that the licensees are  
20 expected to and are cleaning up as part of their  
21 decommissioning plan.

22 We have -- there are at least a couple of those  
23 that come to my mind right now where that is happening. And  
24 they are responsible for that if it's contamination from  
25 licensed activities. They are addressing it in their

1 decommissioning plans, and we will be expecting a cleanup.

2 MR. CAMERON: Okay, we're going to go to Ray  
3 Vaughn; then we're going to go to Jim. Ray?

4 MR. VAUGHN: Ray Vaughn. I want to ask NRC about  
5 the five-year review period that would apply in the 500-  
6 millirem capped restricted release scenario.

7 I just wanted to remind everybody that  
8 institutional controls at this site are apt to be a much  
9 more difficult question than they might be at many sites,  
10 simply because erosion is nibbling away at the site.

11 All the projections done to date show that over a  
12 period of, say, a thousand years, erosion really eats into a  
13 lot of the waste management areas.

14 But let's say we're to go with the 500-millirem  
15 cap restricted release scenario. The way I would see it is  
16 that NRC or its responsible representative, would have to  
17 revisit the site every five years to see whether erosion was  
18 gaining the upper hand.

19 That's really the main way in which institutional  
20 controls would be lost at this site. It's not so much a  
21 government entity not being here, it's maybe not paying  
22 attention to what it needs to, to prevent very severe  
23 erosion from happening.

24 What sort of technical reviews would you foresee  
25 happening to look at that?

1 MR. CAMPER: Rather than describing the particular  
2 technical review, let me say that it would be that  
3 particular technical analyses or reviews would be a function  
4 of the particular site characteristics and the phenomenon,  
5 such as, for example, erosion, as you're pointing out, that  
6 was current.

7 Let me point out that the five-year time period  
8 that we're talking about is an outer bound. It's actually  
9 no less frequently than five years, and clearly, you're  
10 right, your perceptions are on the mark.

11 If something is going to on at a site such as  
12 significant erosion that is clearly subject to change, then  
13 the frequency of monitoring is going to have to be more  
14 aggressive, the level and nature of technical review that's  
15 being done, and, of course, the action that you'd be taking.

16 So you're right, but I just want to point out that  
17 it's no less frequently than that.

18 MR. CAMERON: Okay, thanks, Larry. Let's go to  
19 Mr. Rauch for a question or a comment.

20 MR. RAUCH: Actually, I'd have both; I have a  
21 question that I will address first. And this would be to  
22 the NRC representatives here:

23 How did the draft policy have a decommissioning  
24 criteria for a licensee SF-1, the license that's in abeyance  
25 now, the license that formerly was an NSF license that when

1 they went belly-up was handed over to the State of New York  
2 and was put in abeyance when the feds had to come in and  
3 bail it out -- that portion of the draft statement says the  
4 criteria in the LTR and also by determination of NYSERDA's  
5 NRC license in the West Valley site, once that license is  
6 reactivated.

7 I'd like to get a clearer idea of just what that  
8 license will cover, as clear as we can possibly have,  
9 granted that there have probably been discussions about this  
10 going on.

11 You know, from what I hear tonight, this would be  
12 a my understanding a little bit, is that we're talking about  
13 decommissioning project premises under the LTR and the NDA.  
14 We've got an ongoing DIS process that's supposed to be  
15 holistic and overarching control of the whole site closure.

16 And yet we've got this license in abeyance that's  
17 going to come back at some point. I'd like to know when it  
18 will come back.

19 I'd like to know what it will cover, and how it  
20 interconnects with the draft EIS process and what's going to  
21 come out of that.

22 Will it be restricted to what? To the SDA, which  
23 Paul Merges is claiming increasing control over?

24 MR. CAMERON: Okay, I think that this is important  
25 to give an overview, Jack, of how all this is going to work.



1 And hopefully you can provide us with that information.

2 MR. PARROTT: Yes, the plan -- the path forward on  
3 this is not precisely defined, but the way I see it  
4 happening is that through the EIS, the entire site is  
5 evaluated.

6 And once, you know, West Valley Demonstration  
7 Project is required to decontaminate decommissioned parts of  
8 the site that they've used, once they've done that to the  
9 terms of our license termination rule, then the parts of the  
10 site that are left -- and I'm not going to speculate on what  
11 those would be, but some part of the site may be left under  
12 NYSERDA's responsibility, and those parts of the site would  
13 come under the license.

14 And then it would be their responsibility to  
15 terminate those -- to decommission and terminate the license  
16 on those parts of the site that they still possess that  
17 haven't been decommissioned under DOE.

18 MR. CAMERON: Okay, I'm not sure that you  
19 addressed everything, but let's give Mr. Rauch one followup  
20 on this.

21 MR. RAUCH: Well, I'd like to get an answer here,  
22 quite frankly, and that's not an answer. My answer is that  
23 I'm under the misapprehension, perhaps, that this is going  
24 to -- this LTR decision is going to close out the project  
25 premises.

1           You know, what controls you? The EIS decision?

2           I think for efficiency, I'd just like to be able  
3 to follow up here and see where we're going.

4           Can we talk about time lines here, perhaps?

5           MR. PARROTT: Well, it would be difficult to  
6 speculate on a time line, but the EIS is just one step in  
7 that process. It will go and evaluate the closure of the  
8 entire site, decommissioning of it.

9           It will look at the license termination rule, and  
10 after that whole scenario is played out and they come to a  
11 record of decision on how they're going to decommission the  
12 site, then they have to issue or submit a decommissioning  
13 plan that has to be reviewed.

14           MR. RAUCH: If NRC comes down with a termination  
15 and, say -- I mean, we've heard from Barbara Mazerowski that  
16 they're going to be onsite for quite awhile.

17           Now, let's say the decision is reached on the LTR,  
18 and the parameters are worked on, and then the EIS decision  
19 is reached at a later date. Is it conceivable to anyone in  
20 NRC that the NEPA decision could be subject to -- could  
21 override or change the LTR decision of NRC and could be  
22 subject to public judicial review?

23           I also have a comment that I would like to reserve  
24 a right to make at the end here.

25           MR. CAMERON: Okay, we'll let you make that

1 comment as part of the formal comment process. I think that  
2 what the issue is here, is what is the schematic, so to  
3 speak, about how does NEPA relate to the NRC's compliance  
4 evaluation decision, and how does NEPA relate to what the  
5 Department of Energy and NYSERDA decide to follow in terms  
6 of an option.

7 I think that one thing that's coming out of your  
8 comment is perhaps there is a need when the policy statement  
9 is finalized, to try to spell out clearly to people, how all  
10 those steps interrelate, because it is confusing.

11 All right, yes, sir? You had a comment, right?

12 MR. PATTI: The comment is that I want to start  
13 the formal presentation so I can get out of here.

14 [Laughter.]

15 I have been know to be to the point, and I have a  
16 10:00 appointment, so --

17 MR. CAMERON: Okay, fine.

18 MR. PATTI: I need to do this.

19 MR. CAMERON: Just state your -- do you want to  
20 come up here?

21 MR. PATTI: I guess.

22 MR. CAMERON: Maybe that would be easier for you.

23 Okay, we'll start off the formal comment period,  
24 and if you could just state your name, sir, and go to it?

25 MR. PATTI: My name is Joe Patti, and I am

1 speaking on behalf of the CTF. We have put in three years  
2 in this process of trying to make a decision on what to do  
3 for the site, the community, and working with NRC, DOE,  
4 NYSERDA.

5 It definitely is a complex issue. I think that  
6 the people that are in the room have given all of themselves  
7 to finding out what we need to know to make it best for our  
8 community.

9 I think that the people in this room are very  
10 capable of coming up with a solution, if we all work  
11 together.

12 I remember a few years back where we couldn't have  
13 discussions like we are having tonight, or the discussions  
14 that we've had over the last three years at our CTF in  
15 coming up with some great solutions.

16 Tonight, I would like to present CTF's formal  
17 written comments, again. Some of them are the same topics  
18 that have been presented tonight from definitions, use of  
19 certain words, paraphrasing, and the definition, again, of  
20 institutional controls.

21 I do not want to spend all of your time reading  
22 our nine points. What we have done is, we have printed 100  
23 copies of them that will be available at the front for  
24 everybody to digest and figure out what we're saying.

25 But I think it is what everybody in the room has

1 been saying, and with that, I do not want to take any more  
2 of your precious time, and I would like to just present this  
3 document to you.

4 MR. CAMERON: All right, thank you very much, Joe.  
5 That will go on the record. Thank you.

6 Lana, do you want to say what you wanted to say  
7 now, please? This is Lana Redeye.

8 MS. REDEYE: Thank you very much, and good evening  
9 to everyone. My name is Lana Redeye. I'm a member of the  
10 Seneca Nation of Indians. I'm also a member of the Herring  
11 Clan, and my clan name is [speaks Indian language].

12 I'm here tonight as a representative of the Seneca  
13 Nation. I'm also the Nation's representative on the West  
14 Valley Citizens Task Force, and also the Nation's  
15 representative on the DOE State and Tribal Government  
16 Working Group.

17 I've been involved with various aspects of the  
18 activities here at West Valley for a good number of years,  
19 probably more than I care to think about, probably 15,  
20 anyway. I was on the New York State Low-Level Nuclear Waste  
21 Committee many years ago when I first had my first exposure  
22 -- pun intended -- to the West Valley site.

23 [Laughter.]

24 MS. REDEYE: The remarks that I'm going to read  
25 into the record are solely the comments of the Seneca

1 Nation's Government, its Council, and the Seneca people.

2           The Seneca Nation of Indians is a sovereign,  
3 federally-recognized Nation of people having three  
4 territories: The Allegheny, Cattaraugus, and Oil Springs  
5 Reservations.

6           Located approximately 20 miles upstream of  
7 Cattaraugus Reservation on our aboriginal lands is the  
8 Western New York Nuclear Services Center, including the West  
9 Valley Demonstration Project.

10           Flowing through the project site are tributaries  
11 to Cattaraugus Creek. These tributaries receive all surface  
12 water runoff, groundwater, and industrial discharges from  
13 the project site.

14           Cattaraugus Creek flows through our land and has  
15 nourished and nurtured our cultural traditions for as long  
16 as we have been [speaks Indian language], the People of the  
17 Great Hill.

18           We are very concerned about the ultimate closure  
19 decisions which will be made for the West Valley site,  
20 particularly the potential for downstream contamination of  
21 the creek and our natural resources.

22           If waste remains at the site, failure of the West  
23 Valley site integrity will result in the exposure of our  
24 people to potentially high doses of radioactive substances  
25 if waste remains at the site.

1           We cannot afford any compromise of our remaining  
2 lands due to contamination from the West Valley site. We  
3 think that the license termination rule could be an  
4 effective tool for cleaning up the West Valley Demonstration  
5 Project and the Western New York Nuclear Services Center.

6           We have several comments to improve the draft  
7 policy for applying the license termination rule which I  
8 will summarize:

9           In some instances, the policy statement  
10 paraphrases the license termination rule. For clarity and  
11 consistency, and where practicable, the wording in the  
12 policy should be identical to the wording in the license  
13 termination rule.

14           We are opposed to reliance on long-term  
15 institutional controls, and think that the NRC's policy on  
16 applying the license termination rule should give priority  
17 to the 25-millirem per year criteria for unrestricted use.  
18 That is the most protective criteria.

19           We are concerned that the NRC and the DOE are not  
20 fully considering the potential problems of the restricted  
21 use criteria, stewardship, and long-term institutional  
22 control.

23           Can site control be enforced and maintained? Will  
24 long-term institutional control be cost-effective in the  
25 long term, or will it become increasingly expensive as

1 engineered controls fail and replaced with more complex  
2 solutions?

3 For NRC and the DOE to simply state that  
4 institutional controls will be maintained, does not seem to  
5 address the feasibility of implementing long-term  
6 institutional controls for hundreds to thousands of years.

7 The NRC should require a full explanation of the  
8 costs, management, repair, and maintenance needs for  
9 restricted use, to show that these alternatives would not  
10 cause human or environmental harm, or be prohibitively  
11 expensive or technically infeasible. Otherwise, how will  
12 the NRC know if a plan for restricted use would qualify for  
13 license termination?

14 We urge the NRC to adopt a policy which emphasizes  
15 that residual contamination be as low as reasonably  
16 achievable.

17 Indian Nations have been critical of cleanup  
18 standards which have been developed using conventional risk  
19 assessments. Typical risk assessments ignore tribal  
20 cultural values and practices, and do not accommodate our  
21 unique cultural, social, and spiritual needs.

22 This lack of understanding of our culture puts  
23 tribal people at more risk than the hypothetical individual  
24 assumed for technical risk assessment models.

25 The Seneca Nation, like many other Indian Nations,



1 has different views on the use and protection of the natural  
2 world. We have standards that are above and beyond those  
3 set by federal or state laws.

4 Consequently, the Seneca people have zero  
5 tolerance for contamination of our environment, because even  
6 low levels of contamination released into the environment  
7 and absorbed by plants and animals will eventually reach us.

8 All plants and animals have spiritual and cultural  
9 significance to the Seneca people and are crucial to the web  
10 of life. A compromised plant or animal species or the  
11 elimination of a plant or animal species directly impacts  
12 the natural world and our cultural responsibilities to it.

13 These concerns are critically important to our  
14 people because the natural world has always served as the  
15 foundation of our culture and identity, and it is the key to  
16 our survival.

17 Assigning one system, the human system, as the  
18 critical group is a too-narrow definition of the most likely  
19 exposure scenario based on prudently conservative exposure  
20 assumptions.

21 The draft policy should be reexamined for any  
22 indications that the relation to NRC policy or guidelines  
23 regarding Native Americans.

24 How does this policy reflect the NRC's federal  
25 trust responsibility to ensure that tribal treaties and

1 other federally-reserved rights and concerns are protected?

2 What are the implications of this policy in  
3 relation to DOE's revised American Indian Policy?

4 In conclusion, since this policy statement will  
5 set NRC's method of action to guide and determine future  
6 decisions regarding the West Valley site, we think it should  
7 be written so that it's subject to as little interpretation  
8 as possible.

9 We think that NRC's policy should always be to  
10 require the cleanup level that most restores and protects  
11 the environment.

12 MR. CAMERON: Thank you very much.

13 [Applause.]

14 MR. CAMERON: Diane, would you like to go next?

15 MS. D'ARRIGO: I think what we've always known  
16 since those of us who have been studying this site have been  
17 studying it, is that it needs to be dug up.

18 All of it needs to be dug up. You can't leave the  
19 tanks there, you can't leave the trenches there.

20 It has to be dug up, and it has to be dug up now  
21 or very soon, and we've got to create the political momentum  
22 to force the monies to show up somewhere so that we can  
23 actually do another demonstration project at this site.

24 This community has been very responsible. We  
25 pushed before the West Valley Demonstration Project to have

1 worked with, not against the government agencies and the  
2 companies that have been working on the cleanup, and we  
3 insist that the material that's buried there not be allowed  
4 to erode into the Great Lakes, into the environment, and  
5 have no faith that there will be monies when that erosion  
6 actually occurs to come in and clean it up then.

7           You know, is it going to happen when one of the  
8 five-year checks occurs, and then all of a sudden we need  
9 however many billions of dollars, and do something to stop  
10 the stuff from leaking.

11           I think that it's been a pretty consistent feeling  
12 of the community that I have been aware of in the years that  
13 I've been working on this issue, which is about 20, that the  
14 site needs to be dug up, and it needs to be dug up and  
15 stored retrievably and managed now.

16           Where it goes from there is obviously a difficult  
17 question, but keeping it in the ground where we all know  
18 it's going to leak out is unacceptable.

19           So whatever standards or rules or agency  
20 jurisdictions need to apply, need to be made to apply now,  
21 and it is incumbent on all of the agencies, the DOE, the  
22 NRC, NYSERDA, DEC, EPA.

23           Every single agency has a responsibility to do  
24 what it can to get that site into a condition where it is  
25 not going to leak, and where it is not relying continually

1 on institutional controls to manage what's in the ground.

2 We may need institutional controls to maintain  
3 what's stored above ground, but it's something that's more  
4 visible and manageable, and that's what needs to happen  
5 there.

6 Sixty-percent of the waste is from federal  
7 activities; 40 percent from commercial that was encouraged  
8 by the Government, so it's not something that can simply be  
9 dumped on New York alone.

10 New York and the Federal Government all have to do  
11 their part and get this stuff up out of the ground.

12 I just have one more point. It's on the NRC's  
13 cleanup requirements, and actually it's on many of the  
14 agencies' cleanup requirements.

15 I don't really believe in millirems. I don't know  
16 how someone can prove that. How do I show that I have  
17 received 26 or 101 or 501 millirems, and I am the average  
18 member of the critical group, or am I just somebody who gets  
19 a higher dose, and I can be averaged in with the rest of the  
20 group?

21 The standards that are being postulated are not  
22 enforceable, and what needs to happen is that the waste has  
23 to be exhumed and put into a condition where it's going to  
24 provide the minimum exposure.

25 It's possible, according to the DOE ZIS, to

1 actually perform an exhumation of the entire site, and  
2 that's what I think needs to happen here.

3 And, finally, the comment period itself, finding  
4 out at the beginning of December that at the beginning of  
5 January, this is it for us to comment to the NRC is not  
6 acceptable. This is an issue that we need at least six more  
7 months for the local community to even find out about it.

8 I have friends that live here that didn't even  
9 know that this was happening, and couldn't get here tonight,  
10 who care a lot about this site and this issue.

11 And writing comments is one thing, but I think  
12 there needs to be a followup meeting in a few months, once  
13 the community is aware of it, once the news articles are  
14 out, that this is actually another stage in the final  
15 decisionmaking on what's going to go on with this site.

16 It's pivotal, even though it may sound not as  
17 pivotal as -- you know, it's not -- my request is for an  
18 extension on the comment period of at least six months, and  
19 a followup meeting that is held on this issue prior to the  
20 end of that time. Thank you.

21 MR. CAMERON: Okay, thank you, Diane. Ray? No?  
22 Paul Piciulo?

23 MR. PICIULO: Thanks, Chip. I just want to make a  
24 couple of comments, some of which are repetitive from what I  
25 said before.

1           But on behalf of the New York State Energy  
2 Research and Development Authority, we'd like to commend the  
3 NRC on the open and responsive process that led to the  
4 issuance of a draft policy statement.

5           We also want to thank you for being here tonight  
6 to listen to the stakeholders of West Valley to discuss the  
7 issues surrounding this site. I think it's very important  
8 and very helpful to us.

9           We, too, will be providing the NRC with some  
10 written comments on the draft policy statement later this  
11 month. However, I'd like to take the opportunity to mention  
12 some of the matters that we believe need clarification, and  
13 we would go into them in more detail in writing.

14           First, NYSERDA is pleased that the Commission has  
15 applied the license termination rule as the decommissioning  
16 criteria for West Valley for the West Valley Demonstration  
17 project.

18           We appreciate the Commission's clarification also  
19 that the same criteria will apply to DOE and to NYSERDA. We  
20 believe that the application of the license termination rule  
21 would be protective of public health and safety and the  
22 environment.

23           We note, however, that substantial issues,  
24 including the specific criteria to be applied at West  
25 Valley, and the potential application of the incidental

1 release criteria were not addressed in the draft policy  
2 statement. We expect that the Commission staff will  
3 continue to work with DOE, NYSERDA and the other  
4 stakeholders to clarify these issues.

5 Further, it remains NYSERDA's position that if  
6 DOE's decommissioning of the WVDP facilities requires any  
7 institutional controls or maintenance of any of these  
8 engineered barriers to meet the decommissioning criteria  
9 prescribed by NRC, then DOE must remain at the site to  
10 provide those institutional controls and maintain and  
11 monitor the performance of those engineered barriers.

12 NYSERDA also believes that any dose criteria must  
13 consider this site as a whole, and I think there were a lot  
14 of comments on that tonight, and that was kind of the  
15 intent, I think, from the very beginning of this CIS  
16 process.

17 And the Commission will need to consider the  
18 interplay between requirements of the license termination  
19 rule for the decommissioned portions of the site, and then  
20 the dose criteria that will govern any non-decommissioned  
21 portions of the site.

22 Although the state-licensed disposal area is not  
23 subject to NRC's immediate regulatory jurisdiction, the  
24 Commission's exercise of its responsibilities for this site  
25 clearly have got to coordinated with the Department of

1 Environmental Conservation's exercise of its regulatory  
2 responsibilities, so that ultimately they both work together  
3 at this site.

4 And, finally, we expect that the NRC will continue  
5 to be closely involved in the activities at the West Valley  
6 site, including the detailed planning process for the  
7 closure and long-term management of the facilities, and the  
8 implementation of those future policy decisions.

9 With that, I thank you for the opportunity and  
10 thank you for being here.

11 MR. CAMERON: Thank you, Paul. Barbara, would you  
12 like to say something at this point?

13 MS. MAZEROSKI: We will also be submitting written  
14 comments to the NRC. The Department of Energy appreciates  
15 the opportunity that the NRC has given to the public and to  
16 the involved agencies to comment on the process for  
17 prescribing D&D criteria for the West Valley Demonstration  
18 Project.

19 In terms of developing D&D criteria for the  
20 project, DOE is interested in the same thing that all of you  
21 are interested in: A fair, open process that produces safe  
22 D&D criteria.

23 Our position on how this process should be  
24 conducted is exactly the same as indicated when I went  
25 before the Commission last January.



1           This position was first documented in the  
2 Memorandum of Understanding between DOE and NRC in 1981.  
3 The Memorandum of Understanding charted the path forward for  
4 DOE and the NRC, based on the intent of the West Valley  
5 Demonstration Project Act.

6           Section 4 of the Memorandum of Understanding  
7 outlines a two-step process for prescribing D&D criteria for  
8 the project. In the first step, DOE is to perform an  
9 analysis of the risk and impacts of various decommissioning  
10 alternatives, based on consultation with the NRC.

11           In the second step, NRC is to prescribe D&D  
12 criteria after reviewing the DOE analysis. After the  
13 Environmental Impact Statement has been completed and the  
14 Commission has prescribed decommissioning criteria, DOE is  
15 required to prepare a decommissioning plan.

16           This plan will be reviewed and commented on by the  
17 Commission. Finally, after the decommissioning phase is  
18 completed, DOE is required to prepare a site status report,  
19 describing in detail, the condition of the site at the  
20 completion of the project.

21           The site status report will serve as the basis for  
22 further licensing action as described in the cooperative  
23 agreement with New York State.

24           DOE feels that the process suggested by the SECY  
25 98-251, appropriately described what was always envisioned

1 and reflected in the DOE/NRC Memorandum of Understanding.

2 Also, as expressed in my comments to the  
3 Commission last year on SECY 98-251, DOE supports  
4 application of the license termination rule to project  
5 facilities which do not include the disposal areas, and  
6 endorses the use of any ongoing license as the means of  
7 providing any necessary long-term institutional controls.

8 Additionally, though not addressed specifically in  
9 the December 1999 NRC policy statement, DOE believes that it  
10 is appropriate to use the process in DOE Order 435.1 to  
11 clean up facilities that contained high-level waste, so that  
12 residual material may be declared incidental waste.

13 In summary, we think that the original process  
14 agreed to in the DOE/NRC Memorandum of Understanding meets  
15 the intent of the West Valley Demonstration Project Act,  
16 complies with NEPA, and promotes a fair, open process that  
17 will produce safe D&D criteria.

18 MR. CAMERON: Thank you very much, Barbara. We're  
19 going to go to Paul Merges from the Department of  
20 Environmental Conservation now, and then we're going to go  
21 to Jeannette Eng from the EPA.

22 Paul?

23 MR. MERGES: Good evening. My two-hour speech is  
24 cut down a little bit.

25 MR. CAMERON: That's good.

1 MR. MERGES: I have copies of what I'm about to  
2 say here, and it's a little bit longer, actually. I left it  
3 on the table, so you don't have to take notes if you don't  
4 want to.

5 We want to thank the NRC for holding this meeting  
6 to receive public comments and public participation at the  
7 heart our Department.

8 The Department is glad to see that the CTF has  
9 maintained their involvement with the site since inception  
10 of the recommendations, and hopefully they will continue to  
11 do so in the future.

12 In addition to the information on state regulatory  
13 responsibility presented here tonight, we are working  
14 diligently to finalize our comments on the NRC policy  
15 statement. We intend to submit that during the comment  
16 period.

17 In order for interested parties to be fully  
18 informed about the decisionmaking process now underway, it  
19 is important for them to understand the nature of the  
20 state's regulatory involvement in West Valley.

21 Therefore, I would like to take this opportunity  
22 to briefly explain the Department's involvement in the EIS  
23 process and what's its regulatory and RCRA responsibilities  
24 are for the Demonstration Project property and the state-  
25 licensed disposal area.

1           It is important for everyone to understand that  
2 the SDA is not, nor has it ever been regulated by the  
3 Nuclear Regulatory Commission. Unlike the NDA, which was  
4 created and licensed to support the fuels reprocessing  
5 operations at the site, the SDA was created as a state-  
6 licensed commercial radioactive waste disposal site.

7           It is currently regulated under a radioactive  
8 materials license by the Department of Labor through DEC  
9 permits for the prevention and control of radioactive  
10 pollution to the environment, and under RCRA 3008 order,  
11 which is a joint order with EPA and DEC and DOE.

12           As such, it is not subject to the NRC license or  
13 the termination rule. As a result of tonight's discussions,  
14 we will need to discuss the status of federal jurisdiction  
15 materials currently reside in the SDA, hopefully in the MOU  
16 with the NRC.

17           Although not subject to the license termination  
18 rule, potential future impacts from the SDA are part of the  
19 ongoing evaluation of the EIS process. All parties have  
20 acknowledged that the potential for combined impacts from  
21 all of the various facilities at the site need to be  
22 accounted for in the EIS.

23           Therefore, though the SDA is not directly subject  
24 to the criteria of the license termination rule, its  
25 potential impacts have to be taken into account when

1 determining how the NRC decommissioning criteria is to be  
2 applied to the non-SDA areas of the site, and what the  
3 ultimate disposition of those areas will be.

4           Given the unique nature of the regulatory  
5 structure at West Valley, DEC and the NRC are developing a  
6 cooperative agreement for the site. The intent of this  
7 agreement is to clarify regulatory responsibility for  
8 exchange of information, and for providing a method for  
9 facilitating a comprehensive approach to determining the  
10 disposition of the various facilities at the site.

11           This agreement is expected to be in place by the  
12 Summer of this year. West Valley EIS fulfills all federal,  
13 NEPA, and state SECCA responsibilities, as well as the  
14 3008(h) order for completion of corrective measures studies.

15           Though the DEC is not recognized as a cooperating  
16 agency under NEPA, we are an involved agency under SECCA and  
17 have regulatory authority when nuclear waste, hazardous  
18 waste, and radiological waste are combined. As such, our  
19 staff has been intimately involved in the EIS process, and  
20 we continue to be so.

21           One of the goal of the Department is to ensure  
22 that all potential sources are taken into account in the  
23 evaluation process. We want to ensure that the SDA existing  
24 areas of radiological contamination such as the groundwater  
25 contamination in the North Plateau and the airborne

1 disposition plume referred to the cesium -- and the RCRA  
2 corrective measures to address the hazardous waste  
3 components of mixed waste are taken into account in the  
4 evaluation process.

5 This concludes my brief comments this evening, and  
6 I hope to be able to clarify the nature of the state's  
7 regulatory involvement at West Valley for you. If anyone  
8 has any questions, see me or my staff who are here, or send  
9 us a letter. Thank you.

10 MR. CAMERON: Okay, thank you, Paul. There are  
11 copies of Paul's statement up here with the phone numbers on  
12 it.

13 Let's go to Jeannette Eng from the Environmental  
14 Protection Agency.

15 MS. ENG: Hello, I'm Jeannette Eng with the United  
16 States Environmental Protection Agency's Region II Office,  
17 which is located in New York City.

18 EPA's involvement with West Valley goes back to  
19 the mid-1970s when EPA looked into the problems with the  
20 commercial low-level waste disposal area. And we've been  
21 involved or assisted in efforts that led to the West Valley  
22 Demonstration Project, the legislation that provided for DOE  
23 to come in and to address the high-level radioactive waste  
24 that resulted from the early spent fuel reprocessing that  
25 occurred at West Valley.

1           So West Valley has provided many lessons learned  
2 with respect to siting, with respect to waste treatment  
3 disposal practices, and now in decommissioning.

4           Because West Valley is a complex and unique site,  
5 EPA believes it is going to be important for the federal,  
6 state agencies, and the local community to work together to  
7 address foreseeable issues and seek consensus.

8           The collective goal should be to remediate West  
9 Valley of hazardous and radioactive contaminants in a  
10 coordinated operation, and to not approach it as an  
11 iterative process.

12           We do agree with the NRC draft policy to prescribe  
13 decommissioning criteria for West Valley before the  
14 completion of the EIS, and we're glad they did that. By  
15 doing so, the U.S. Department of Energy will have a  
16 consistent basis to identify, compare, and assess various  
17 decommissioning options for the site.

18           However, EPA does have concerns over the cleanup  
19 standard, waste disposal, the groundwater protection,  
20 institutional control, non-radiologic contaminants, that we  
21 believe should be addressed as DOE proceeds to develop the  
22 cleanup options and decommissions the site.

23           Some of these issues such as the cleanup standard  
24 and the restricted release scenario, I have addressed in the  
25 discussion period. I have fuller comments which I'd like to

1 ask if you could incorporate into the record, in the  
2 interests of time.

3 MR. CAMERON: Thank you, Jeannette. We will do  
4 that.

5 All right, are there others in the audience who  
6 want to make a statement at this time?

7 Lee?

8 MS. LAMBERT: I'm Lee Lambert from East Aurora,  
9 New York. I've had a lifelong interest in nature and the  
10 environment, spurred by a great school trip to the Buffalo  
11 Museum of Science that led to years of after-school classes,  
12 including Native American culture, birds, mammals,  
13 mineralogy and geology.

14 A teaching assignment at what was then called the  
15 Cattaraugus Indian School led me to a particular interest in  
16 the plight of reservation residents, and later to monitor  
17 decisions being made in regard to the West Valley site as  
18 they impact those occupying the areas occupied by the Seneca  
19 Nation and also by anyone near Cattaraugus Creek or living  
20 along Lake Erie.

21 As a longtime member of the League of Women  
22 Voters, I'm dedicated to good government practices,  
23 including the people's right to participate in the  
24 decisionmaking process.

25 In addition to those better-known positions



1 regarding good government, the League also holds numerous  
2 positions on other topics with which I concur, most notably  
3 the topic of natural resources.

4           These positions address the protection of land,  
5 air, and water, including pollution and land use issues,  
6 among others.

7           I have been impressed by the people involved in  
8 the Citizens Task Force, their dedication and decorum. I  
9 watched the proceedings for over a year before I joined the  
10 group, and I find it heartening that we have reached a point  
11 where the fruits of the labors of that committee are being  
12 seen and responses made by government entities in charge.

13           As a participant in the dialogue with the  
14 Department of Energy on nuclear waste from weapons  
15 production a year and a half ago, I can honestly say there  
16 is an apparent improvement in government response to  
17 people's concerns which I hope to see continue.

18           I was particularly heartened by the reactions of  
19 the five Nuclear Regulatory Commissioners who took the  
20 original draft drawn up by the staff and made significant  
21 and necessary additions to help develop a strong statement  
22 on behalf of the environment.

23           Among the points made by the CTF, the Task Force,  
24 was the issue of institutional controls, often retitled  
25 stewardship. The institutional controls necessary for this

1 site, even if they were to be defined more precisely than  
2 they we have heard them thus far, will be impossible to  
3 achieve.

4 If the dangers of Love Canal were ignored in less  
5 than 50 years, we cannot expect future generations to care  
6 as much as we care now about the dangerous radioactive  
7 materials and other materials at this site.

8 No government can impose budgets on its successor.  
9 Thinking even 100 years into the future is mind-boggling.  
10 Planning for 1,000 years or more is virtually impossible.

11 It is essential that the people of the immediate  
12 area, as well as those of western New York and the Province  
13 of Ontario are assured that all that can possibly be done to  
14 clean up the site will be done.

15 Postponing of full cleanup until some point in the  
16 future is not only reckless, but will be unduly costly, if,  
17 indeed, the political will is even there to tackle the  
18 problem.

19 I urge you to take seriously, the points made by  
20 the CTF, all of which serve to strengthen the document even  
21 more in the interest of protecting the people in the area in  
22 the future, far beyond our lifetimes. Thank you for this  
23 opportunity to be heard.

24 MR. CAMERON: Thank you very much, Lee. Gary?

25 MR. ABRAHAM: Gary Abraham, Concerned Citizens of

1 Cattaraugus County. I want to thank the NRC and the  
2 agencies here for enlightening me. I learned quite a lot  
3 about the complexity of the jurisdictions involved here.

4 It's precisely for that reason that I would  
5 request an extension, a reasonable extension of the public  
6 comment period. Thanks.

7 MR. CAMERON: Okay, thank you, Gary. Do we have -  
8 - Carol?

9 MS. MONGERSON: I don't really have formal  
10 comments to make at this time. I am going to submit written  
11 comments.

12 And perhaps there are just several issues or  
13 comments I want to make, and perhaps I should have made them  
14 earlier because I'm not going to read them. I'm just going  
15 to mention them.

16 First of all, about the extension, we really need  
17 an extension. This was really unconscionable to spring  
18 something like this on a group of citizens, all of whom have  
19 other jobs and other obligations, particularly during the  
20 holidays.

21 And we just don't have the resources to respond to  
22 something this complex in such a short length of time,  
23 adequately.

24 I want to mention a couple of things that haven't  
25 been brought up, and that I will comment more fully on.

1           One that was mentioned was that the cost of  
2 institutional controls can be very considerable, and  
3 probably greater than cleaning up the site right now, if  
4 there is any way to really calculate that.

5           I share the concerns of a lot of people here about  
6 institutional controls, and I kind of figured they probably  
7 stop very suddenly in a very, very few years.

8           And that we -- I don't think, however, that the  
9 site -- I think that the -- we need the LTR, we need the NRC  
10 oversight at this site.

11           Even though I have some qualms about institutional  
12 control, I feel that the NRC at least provides some, and we  
13 need that, at least in the foreseeable future.

14           I would like to see that the site meets LTR for  
15 the next 10,000 years, not just for a briefer time. I know  
16 it's hard to calculate doses that far, but the doses are  
17 only calculated on the maximum dose for the next thousand  
18 years, I think it is. I'd like to see that extended to  
19 10,000.

20           Now, this other point, this next point is one that  
21 hasn't been mentioned at all tonight, and I think it's  
22 extremely important. That is that the site must not be  
23 segmented.

24           In other words, we should not terminate the  
25 license on one part of the site if there is any part of the

1 site which can't meet the LTR.

2 I'd like to see the entire site retained under  
3 control of a license. If any part of it can't meet it --  
4 and I think that is likely going to be the case -- one  
5 reason for that is that we will need a buffer zone around  
6 the site, the part of the site that can't meet it.

7 And we don't want to release part of that site for  
8 unrestricted use. We don't want people to be living right  
9 next door to a thing that is not able to be -- to meet the  
10 LTR.

11 So, one reason for that is that the old license,  
12 the one which is in abeyance, was for the entire site. Now,  
13 I don't think you can reactivate that and amend it in a way  
14 that would only apply to part of it and meet the intention  
15 of the past regulations.

16 I certainly don't want to see the high-level  
17 wastes reclassified as incidental, the residual ones.

18 And I know the NRC has resisted DOE pressure in  
19 the past, and I hope they will resist it again. We don't  
20 think that that properly protects us, and it would really  
21 gut the previous protections that had been put in place, the  
22 previous regulations.

23 I have a lot of qualms about that alternate  
24 criteria section, but it's very complicated, and difficult  
25 for us to understand. I can't imagine how they can think

1 that EPA is going to come in and approve this, the use of  
2 this alternate criteria. But maybe they know something I  
3 don't.

4 I know people are always talking about future  
5 generations, but it is a matter of great concern. There are  
6 places in this policy where they talk about when they're  
7 balancing, whether to clean up further or not, whether we've  
8 met ALARA or not.

9 Then they talk about, well, we have to really show  
10 that the clearing would cause more deaths and more  
11 environmental damage than going ahead and releasing it. I  
12 just want to point out that we made this mess, and that it  
13 should be our generation that takes the risk, if it's a  
14 tossup between risk goes to us or the risk goes to future  
15 generations. It should be ours, and I don't know how to  
16 define ours. I mean, there are people alive today who are  
17 not really -- can't be held responsible, like my five-year  
18 old grandson, for instance.

19 But anyway, it's just a sort of a moral/ethical  
20 issue.

21 One last thing: The transuranic waste issue must  
22 be settled. NRC has a responsibility to settle that, and  
23 we'd like to hold them to the statements that they've made  
24 about that.

25 They are required by law to make a determination

1 about the definition and the disposition of those  
2 transuranic wastes. And this document doesn't really settle  
3 that. Thanks a lot.

4 MR. CAMERON: Okay, thank you very much, Carol.  
5 We're nearing the end of our time. Does anybody have a  
6 final comment?

7 [No response.]

8 MR. CAMERON: I'll turn it over to you, Larry,  
9 before we adjourn. I just wanted to thank all of you for  
10 your attention and your concern and your courtesy, and also  
11 thank our stenographer tonight. Thank you very much.

12 COURT REPORTER: You're welcome.

13 MR. CAMERON: And I thank DOE for the use of this  
14 room. Thank you, Barbara.

15 I'm going to turn it over for a final comment to  
16 Larry Camper, who is, as I mentioned, the Branch Chief over  
17 this effort for the NRC. Larry?

18 MR. CAMPER: Thank you, Chip. I want to thank you  
19 for all your comments. I have participated in many public  
20 meetings in many places on many regulatory issues.

21 I would particularly comment that your thoughts  
22 and comments tonight have been very well thought out, very  
23 constructive, and genuinely motivated. I think that's  
24 commendable for each and every one of you.

25 From my vantage point, progress is being made

1 here. The DOE has done a great deal to clean up that site.  
2 I think that Barbara did an excellent job of summarizing the  
3 effort to date, which is substantial.

4 The NRC has applied the license termination rule  
5 criteria to the decommissioning effort here. The Commission  
6 believes that the LTR is a means for decommissioning that  
7 will protect public health and safety with the standard  
8 that's prescribed in the regulation.

9 Your Task Force and all of you as members of the  
10 public have played and are continuing and will continue to  
11 play a vital part in this overall process.

12 We all the same thing, successful decommissioning  
13 of the West Valley Demonstration Project site.

14 We have heard a lot tonight, we have a lot to go  
15 back and work on. We're going to pour over the transcript  
16 with a great deal of attention. We will be reviewing all of  
17 your written comments.

18 I assure you that all these comments will receive  
19 consideration. We have heard a lot of, I think, very  
20 positive, constructive changes, specific changes that could  
21 be proposed for modification to the proposed policy  
22 statement.

23 Staff will take a close look at those. We've also  
24 heard very loudly and very clearly, your desire for more  
25 time. I've heard even as much as six months requested.



1           The staff will consider that, and the staff will  
2 suggest to the Commission that we should have more time. I  
3 can't guarantee that there will be more time, but I suspect  
4 that there would be. I would be very surprised if we  
5 couldn't find more time.

6           It's a question of how much time. We do need to  
7 make progress, but we hear you loudly and clearly that you'd  
8 like more time, and we'll take that word back.

9           Again, in closing, I think that what's going on  
10 here is what is intended; it's part of the democratic  
11 process. You've all made a great contribution, and I  
12 genuinely thank you for that. Thank you. Good evening.

13           [Whereupon, at 10:14 p.m., the public meeting was  
14 concluded.]

REPORTER'S CERTIFICATE

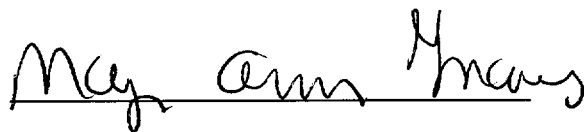
This is to certify that the attached proceedings before the United States Nuclear Regulatory Commission in the matter of:

NAME OF PROCEEDING: WEST VALLEY PUBLIC MEETING

CASE NUMBER:

PLACE OF PROCEEDING: West Valley, NY

were held as herein appears, and that this is the original transcript thereof for the file of the United States Nuclear Regulatory Commission taken by me and thereafter reduced to typewriting by me or under the direction of the court reporting company, and that the transcript is a true and accurate record of the foregoing proceedings.



Mary Ann Francis

Official Reporter

Ann Riley & Associates, Ltd.