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4 DECOMMISSIONING AND/OR LONG-TERM STEWARDSHIP
5 DRAFT ENVIRONMENTAL IMPACT STATEMENT
6 PUBLIC SCOPING MEETING
7 ASHFORD OFFICE COMPLEX
8 9030 ROUTE 219
9 ASHFORD, NEW YORK
10 APRIL 10, 2003
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2 SPEAKERS:

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DANIEL W. SULLIVAN,
5 DOE Document Manager,
West Valley Demonstration Project.
6

PAUL BEMBIA, NYSERDA.
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1 MR. CHAMBERLAIN: Good evening, and
2 welcome. I am John Chamberlain. I work in the
3 Communications Department of the West Valley
4 Demonstration Project. I will be acting as
5 moderator for this meeting that is being held by the
6 Department of Energy and the New York State Energy
7 Research and Development Authority.
8 You may hear terms this evening that you
9 are not familiar with. I encourage you to note any
10 acronyms or terms that are unclear to you, and ask
11 for clarification at the end of the presentations,
12 as they're done, or during the question and answer
13 period that follows.
14 On March 13th, 2003, a notice was
15 published in the Federal Register by the Department
16 of Energy and New York State Energy Research and
17 Development Authority of their intent to prepare an
18 Environmental Impact Statement, or EIS, for
19 decommissioning and/or long-term stewardship at the
20 West Valley Demonstration Project and Western New
21 York Nuclear Service Center. This study will revise
22 the Draft EIS released in 1996 for public review and
23 comment for completion of the West Valley
24 Demonstration Project and closure or long-term
25 management of facilities at the Western New York

1 Nuclear Service Center.
2 DOE decided in 2001 to rescope the 1996
3 Draft EIS into two studies. A new EIS, developed by
4 DOE, focussed on near-term management and off-site
5 shipping of West Valley Demonstration Project
6 radioactive wastes, and continuation of the joint
7 DOE and NYSERDA EIS to focus on the long-term issues
8 and alternatives for WVDP completion and site
9 closure or stewardship. A public meeting was held
10 at that time to receive comments on the rescoping
11 approach and on the content and scope of the waste
12 management EIS.
13 The purpose of this meeting is to receive
14 comments on the scope of work to be considered in
15 the revision of the Draft 1996 EIS. Before we move
16 forward with presentations on this Environmental
17 Impact Statement and the receipt of public comments,
18 I think it would be valuable to provide some
19 background on the site and the West Valley
20 Demonstration Project. This will establish the
21 context in which the decommissioning and/or
22 long-term stewardship EIS is being developed.
23 Western New York Nuclear Service Center is
24 a 3,345-acre site owned by New York State Energy and
25 Research and Development Authority or NYSERDA. From

1966 to 1972 a private company operated the state-owned commercial-used nuclear fuel reprocessing facility at the site. Following the 1976 announcement by the private operator of its intent to withdraw from reprocessing, the US Congress passed legislation in 1980 directing the Federal Department of Energy to come to the site and conduct a demonstration project to solidify the liquid high level waste at the site. This very radioactive liquid was a by-product of the reprocessing operation.

In 1982 DOE assumed control of approximately 200 acres of the Western New York Nuclear Service Center to conduct the project. New York State maintained ownership of the entire center, and controlled the balance of the property outside the DOE project premises.

DOE and NYSERDA jointly began the EIS for completion of the West Valley Demonstration Project and closure or long-term management of the Western New York Nuclear Service Center in December 1988. This effort resulted in a Draft EIS being issued for public review and comment in 1996.

DOE and NYSERDA will continue as joint lead agencies revising the 1996 Draft EIS. DOE,

1 under the National Environmental Policy Act, and
2 NYSERDA, under the State Environmental Quality
3 Review Act, plan to evaluate the range of reasonable
4 alternatives to address their respective
5 responsibilities. The US Nuclear Regulatory
6 Commission, US Environmental Protection Agency, and
7 New York State Department of Environmental
8 Conservation are participating as cooperating
9 agencies.
10 In a moment, Dan Sullivan, DOE EIS project
11 manager, and Paul Bembia, NYSERDA Environmental
12 Monitoring Manager, will further explain the work to
13 be considered in this revision of the Draft EIS.
14 Following their presentations, there will
15 be a brief question and answer period, specifically
16 to clarify items related to this EIS process or the
17 proposed actions being evaluated. As well
18 Mr. Sullivan and Mr. Bembia, Miss Anna Bradford from
19 the Nuclear Regulatory Commission; Mr. Paul Giardina
20 from the Environmental Protection Agency, and
21 Mr. Tim Rice from NYSDEC, will be available to
22 answer questions.
23 Following the question and answer period,
24 we will be receiving oral comments from individuals
25 who have registered to speak. Each speaker will be

1 provided approximately five minutes. If you have
2 not registered and would like to speak, you can sign
3 up now at the table to my right.
4 For the official record, I wish to note
5 this scoping meeting is being held on April 10th,
6 2003, at the Ashford Office Complex in Ashford
7 Hollow, New York. Before I turn the meeting over to
8 Dan Sullivan, I would ask if you have any questions
9 regarding his presentation, please write them down
10 and ask them during the question and answer period
11 that follows. Dan?
12 MR. SULLIVAN: Okay. Thank you, John.
13 Good evening, everybody. I'm Dan Sullivan with the
14 Department of Energy. The Department of Energy is
15 at the West Valley site because of an act of
16 Congress. There are several responsibilities we
17 have there, several actions that we take. One of
18 the most important we've actually already
19 accomplished, and that is solidifying the liquid
20 waste that was in the high level waste tanks. And
21 we solidified that through a process called
22 vitrification, and it is complete and done safely.
23 A great accomplishment for the Department of Energy,
24 but there's more work to be done.
25 Tonight we will talk about a study that's

1 going to evaluate options to do some of that work.
2 This process was begun in 1988. Together, the
3 Department of Energy and NYSERDA are preparing a
4 Joint EIS, a study that looks at what to do with the
5 rest of the site, how to decommission the facilities
6 here.
7 In 1996 when we issued this draft, the
8 scope of that document was to look at completing the
9 demonstration project and decommissioning the site.
10 We issued that draft in 1996 without a preferred
11 alternative.
12 Okay. Since then, John talked about some
13 of the things that have happened. We rescoped that
14 document to now, essentially, take that EIS and
15 we've made two EISes out of it. One EIS is a
16 stand-alone document that will look at the waste
17 management decisions. Previously that decision,
18 along with the decommissioning decision, was in one
19 document. Now there's two documents. Tonight we're
20 talking about the decommissioning piece. The waste
21 management piece, separate EIS, will be available
22 for public review sometime in early May.
23 Additionally, the scope of the 1996 EIS
24 was revised to modify the alternatives, to address
25 NRC's policy statement. The Nuclear Regulatory

1 Commission published a final policy statement for
2 West Valley in February of 2002. This EIS has its
3 alternatives patterned after what's in that policy
4 statement.
5 The agencies that are involved in this
6 EIS, John did mention them, I will just go through
7 them again real quickly: The Nuclear Regulatory
8 Commission, the Environmental Protection Agency, and
9 the New York State Department of Environmental
10 Conservation. They are all cooperating agencies
11 under NEPA. In plain English, a cooperating agency
12 is an agency that brings special expertise and/or
13 jurisdiction by law. And in the case of all of
14 these agencies, they bring that to the table.
15 NYSDEC is an involved agency under SEQRA,
16 which is similar to the process I just described
17 under NEPA, which is the National Environmental
18 Policy Act, and then SEQRA is essentially the State
19 equivalent, for simplicity.
20 This EIS evaluates five alternatives, and
21 I've got posters for those alternatives that I will
22 walk through in a second. Pictures do help. The
23 five alternatives are: Unrestricted Site Release,
24 Partial Site Release Without Restrictions, Partial
25 Site Release With Restrictions, Monitor and

1 Maintain, and a No Action Alternative, a Walk Away
2 Alternative.
3 The objective of the study is to provide a
4 decision maker with enough information to make an
5 informed decision. The EIS is structured such that
6 these alternatives can be compared to one another to
7 do that.
8 The Unrestricted Release alternative is
9 the farthest poster. Last night I didn't spend much
10 time walking over to the posters, and a suggestion
11 was made that I should do that, it would probably
12 help. This is the illustration of what Unrestricted
13 Site Release could potentially look like. This is
14 what we're starting with right now. So what this
15 would entail is all these facilities, including
16 these burial grounds, are all removed, disposed of
17 off-site. So this is what you're left with. So
18 much of the site, all of the site, could potentially
19 be released for unrestricted use.
20 The second alternative is Partial Site
21 Release Without Restrictions, which is similar to
22 alternative 1, the difference being the burial
23 grounds that are here, would remain in place under
24 regulatory control. But other portions of the site,
25 including this area where these facilities were,

1 would be available for unrestricted release.
2 The third alternative is Partial Site
3 Release With Restrictions. That's Partial Site
4 Release Without Restrictions, this is Partial Site
5 Release With Restrictions. The similarities are the
6 burial grounds would again remain under regulatory
7 control, the facilities that we have today on site
8 would be rubblized and/or closed in place,
9 decommissioned in place, to meet the criteria that
10 NRC's prescribed in their policy statement. And
11 this illustration shows these areas closed in place,
12 decommissioned in place, and capped. And that's
13 what this center piece is supposed to depict.
14 This portion of the site couldn't just be
15 released in an unrestricted sense, it could be
16 released in a restricted sense, according to NRC's
17 policy statement. But there are other portions of
18 the site unimpacted that could be released and
19 unrestricted, in an unrestricted way. Again, burial
20 grounds are under regulatory control.
21 The fourth alternative is Monitor and
22 Maintain. And essentially, that is conducting the
23 business as we do today, from a monitoring
24 standpoint. The center and facilities and property
25 would continue to be managed and monitored and

1 maintained, and then any remedial action that would
2 be necessary would be taken. I think that's all I
3 want to say about that particular option.
4 The fourth alternative is a Walk Away
5 Alternative. NEPA requires a Walk Away Alternative.
6 It's not something the Department intends to do, but
7 it's useful to compare the other alternatives. We
8 had some comments about that last night. That is
9 not an option that the Department of Energy is going
10 to undertake, but as I mentioned just a minute ago,
11 it is useful to compare other alternatives.
12 In the Notice of Intent that we published,
13 there were several factors and issues that decision
14 makers are going to consider in this process. And
15 this is just a short list of some of the things that
16 are in the Notice of Intent, but I thought it was
17 worthwhile to go through some of these.
18 Short term and long-term impacts to the
19 environment, the workers, and the population. Those
20 are factors that will be considered in the analysis,
21 along with costs, both short term and long-term
22 costs. Ability to comply with applicable
23 requirements. Long-term stewardship issues is a key
24 issue for many. That will be part of the analysis,
25 along with long-term site stability. In addition,

1 waste disposition, including interim management and
2 transport.
3 In terms of a schedule and process: We
4 had a meeting last night, we have a meeting tonight.
5 My goal is to get as much input on the process as
6 possible. Input from the public on the alternatives
7 that we're considering analyzing, additional
8 alternatives, feedback is what we're looking for.
9 These comments are going to be considered during the
10 preparation of the revised Draft EIS. Comments were
11 provided on the '96 Draft EIS. No comment will be
12 lost, they're all part of the administrative record.
13 We intend to issue a revised draft as early as
14 December of 2003. As early as December of this
15 year. That's my goal.
16 A public comment period would be held for
17 up to 180 days, and another goal is to issue a
18 record decision in 2004. So approximately a year
19 after the draft is published, then issue a record of
20 decision.
21 That was it for my prepared remarks. We
22 will be available for questions shortly.
23 Paul Bembia is next.
24 MR. BEMBIA: I'm Paul Bembia; I'm a
25 program manager with the New York State Energy

1 Research and Development Authority, and also known
2 as NYSERDA. And I'm the lead project manager for
3 NYSERDA on the Environmental Impact Statement. I'm
4 here tonight to talk a little bit about NYSERDA's
5 involvement in the process.
6 NYSERDA owns the Western New York Nuclear
7 Service Center on behalf of the State of New York.
8 We have eleven people at the West Valley site under
9 the management of Dr. Paul Piciulo. We provide the
10 day-to-day management of a couple different areas of
11 the Western New York Nuclear Service Center. We
12 manage the State-Licensed Disposal Area, and we also
13 manage a portion of the site called the retained
14 premises, and I will tell you more about those in a
15 minute. In addition to that, NYSERDA funds 10
16 percent of the cost of the West Valley Demonstration
17 Project, and so as part of that role, we monitor
18 West Valley Demonstration Project activities by
19 NYSERDA.
20 Now, what I want to do tonight, and again
21 I want to tell you about our role in the
22 Environmental Impact Statement, and to frame that a
23 little bit, I will talk a little bit about the
24 Western New York Nuclear Service Center and a little
25 bit about the regulatory framework for this site.

1 First of all, the center is a 3300-acre site. It's
2 located primarily in the Town of Ashford in
3 Cattaraugus County, and there's a small portion of
4 the site that's located in the Town of Concord in
5 Erie County. The center is made up of a few
6 different areas, and I would like to tell you a
7 little bit about those.
8 First there's the West Valley
9 Demonstration Project premises. This is about
10 180-acre portion of the site. It's the area here
11 that's outlined in green. This is the portion of
12 the site where a majority of the reprocessing
13 facilities were located when the site operated for
14 field reprocessing. It's the area of the site that
15 the Department of Energy controls in order to
16 conduct the West Valley Demonstration Project, and
17 it's also where the majority of the facilities that
18 are going to be assessed in the EIS are located.
19 Adjacent to the West Valley Demonstration
20 Project premises, but not part of it, is this blue
21 cross-hatched area here. That's the State-Licensed
22 Disposal Area. That's the shutdown commercial
23 radioactive waste disposal facility on the site.
24 It's about 15 acres. It operated in the 1960s and
25 1970s, and that portion of the site is managed by

1 NYSERDA.
2 The remainder of the site is the area that
3 we call the retained premises, it's this blue area
4 here. That portion of the site is also managed by
5 NYSERDA, but you do see on there some little green
6 areas in here. Those areas are part of the West
7 Valley Demonstration Project, they're project
8 facilities. Those two areas there are some
9 reservoirs that are on site. In addition to that,
10 there are some other minor facilities, like a firing
11 range, warehouse, some environmental monitoring
12 locations, but those areas that are managed by the
13 Department of Energy under the West Valley
14 Demonstration Project. That's kind of the structure
15 of the site.
16 Now I want to talk just a little bit about
17 the regulatory framework. The Western New York
18 Nuclear Service Center, with the exception of the
19 State-Licensed Disposal Area, was licensed by the
20 Nuclear Regulatory Commission in 1966 when
21 reprocessing operations began. The technical
22 specifications to that license, the day-to-day
23 operational procedures for the facilities, were put
24 in abeyance or temporarily set aside when the
25 Department of Energy took over the major facilities

1 to conduct the West Valley Demonstration Project.
2 The State-Licensed Disposal Area is not
3 under the NRC license, it's regulated by the New
4 York State Department of Environmental Conservation.
5 There's a Part 380 permit for the State-Licensed
6 Disposal Area, that's for the regulation and
7 prevention of discharges of radioactive materials.
8 The New York State Department of Environmental
9 Conservation also regulates hazardous wastes and
10 hazardous constituents with the State-Licensed
11 Disposal Area and for the West Valley Demonstration
12 Project as well.
13 The Environmental Protection Agency also
14 has a role in the regulation of the hazardous
15 materials or hazardous constituents and wastes, and
16 they also have other regulatory responsibilities on
17 this site. And as John mentioned, I think Dan, we
18 have representatives here tonight from the Nuclear
19 Regulatory Commission, EPA, and NYSDEC, and they are
20 participating in the EIS process.
21 Okay. So that brings us to how NYSERDA is
22 participating in the Environmental Impact Statement.
23 First, we're a joint lead agency with the Department
24 of Energy on the Environmental Impact Statement.
25 Now why is that? It's because the Environmental

1 Impact Statement is looking at the entire Western
2 New York Nuclear Service Center. It looks at the
3 West Valley Demonstration Project premises, but also
4 the portions of the site that NYSERDA's responsible
5 for. And we will be making decisions on the
6 direction for decommissioning or long-term
7 management of those facilities that we're
8 responsible for.
9 Because the EIS covers more than the West
10 Valley Demonstration Project, we have a written
11 agreement with the Department of Energy regarding
12 the preparation of the EIS, and under that written
13 agreement, the Department of Energy manages the
14 preparation of the EIS with their contractors.
15 And then again, NYSERDA will use this EIS
16 to support decisions that we'll make for the areas
17 of the site that we're responsible for, and I want
18 to talk about that next.
19 Okay. So, again, NYSERDA will use the
20 document to decide the direction for the
21 decommissioning and long-term management for the
22 facilities that we're responsible for. So for the
23 retained premises portion of the site, that's the
24 blue area here, NYSERDA is responsible for the
25 management of this area, it's under the Nuclear

1 Regulatory Commission license. So we will be
2 deciding the direction of decommissioning and
3 long-term management for that portion of the site.
4 Because when the Department of Energy completes the
5 demonstration project we intend to terminate the
6 license, we will use the analysis in the
7 Environmental Impact Statement to support any
8 license applications or license termination actions
9 as a result of that.
10 For the West Valley Demonstration Project
11 premises, the same thing. Upon DOE's completion of
12 the West Valley Demonstration Project, NYSERDA
13 intends to terminate the license, and we will use
14 this Environmental Impact Statement to support those
15 license applications.
16 For the State-Licensed Disposal Area,
17 again that area is not under the NRC license. That
18 area is regulated by NYSDEC. But again, we're
19 looking at all of the facilities at the Western New
20 York Nuclear Service Center, including the
21 State-Licensed Disposal Area, so we will be looking
22 at the direction for decommissioning and long-term
23 management of the SDA. Accordingly, again, if there
24 are any permit actions, permitting activities that
25 come out of that decision, we use the EIS to support

1 those, and those would be NYSDEC permits.
2 Finally, if anyone would like anymore
3 information about NYSERDA, our programs here at the
4 center, or our general programs, or our involvement
5 in the EIS, please feel free to contact me. My
6 telephone number is 942-4900. E-mail is
7 pbj@nyserda.org. You can also get general
8 information on NYSERDA's program at www.nyserda.org,
9 and this webb site gives you specific information
10 about our West Valley site management program.
11 That's it. Thank you.
12 MR. CHAMBERLAIN: Next we will be having a
13 brief question and answer period for clarifying
14 questions relating to the Environmental Impact
15 Statement, the content of it, comments to be
16 considered.
17 A number of you in the audience were here
18 with us last night, and you will note that the
19 meeting this evening is very similar, in fact
20 identical, to the meeting last night. We have held
21 it twice to provide people who might not have been
22 able to come and comment last night to come this
23 evening. The question and answer period will be the
24 same. I would only note that at the end transcripts
25 will be provided of both meetings, and comments and

1 questions and answers provided at either meeting
2 will carry the same weight.
3 So we will proceed. We have two people
4 signed up to make comments tonight. If you come in
5 and you would like to make a comment and haven't
6 signed up, just feel free to step up to the table
7 and sign up, and we will go to the comments right
8 after the question and answer period.
9 This will be about ten minutes, and I
10 would ask Paul and Dan and Anna and Paul and Tim to
11 come up front just for this brief period. If there
12 are any questions, again I would ask that we try to
13 stick to questions that deal with this study and the
14 alternatives with the content of the study, and
15 we'll try to make sure someone at the table can
16 answer them for you. All right. Any questions from
17 the audience? Diane?
18 MS. DIANE D'ARRIGO: Diane D'Arrigo. Work
19 with Nuclear Information and Resource Service in DC,
20 and I am a local resident. I live in Washington
21 now, but this is my home.
22 I have a couple of questions. One is
23 regarding the EPA guidance. The EPA -- not
24 guidance. The EPA drinking water standards under
25 SERCLA Super fund. Is the Department of Energy

1 planning to comply with those in its clean-up
2 effort? Is that a bottom line that --
3 MR. CHAMBERLAIN: Can I try to repeat
4 that, make sure everybody heard it. The question
5 was EPA drinking water standards will.
6 MS. DIANE D'ARRIGO: SERCLA or Super Fund
7 drinking water standards, will they be achieved in
8 the cleanup at West Valley.
9 MR. CHAMBERLAIN: And everybody heard
10 that.
11 MR. GIARDINA: One small point. The
12 actual drinking water standards are part of the Safe
13 Drinking Water Act and not Super Fund. They were
14 enacted under the Safe Drinking Water Act.
15 The EPA was --
16 MS. DIANE D'ARRIGO: I'm sorry, could you
17 reclarify that?
18 MR. GIARDINA: The drinking water
19 standards for radionuclides are part of the Safe
20 Drinking Water Act, and not SERCLA or Super Fund
21 Act. But irregardless where they are from, there
22 are a set of Safe Drinking Water Act standards that
23 do specify radionuclide limits for drinking water
24 and for drinking water sources, which would be
25 under/around the West Valley site. The site would

1 have to comply.
2 MS. D'ARRIGO: With the drinking water or
3 the SERCLA? Are those different standards then?
4 MR. GIARDINA: The only standards that the
5 United States Environmental Protection Agency has
6 that governs radionuclide content in drinking water
7 are the Safe Drinking Water Standards. Those are
8 the only ones.
9 MS. D'ARRIGO: These are the MCLs?
10 MR. GIARDINA: Right.
11 MS. D'ARRIGO: So will they be required to
12 be complied with in the clean-up at this site?
13 MR. GIARDINA: For water that is drinking
14 water, yes.
15 MS. D'ARRIGO: And is DOE planning to
16 comply?
17 MR. SULLIVAN: In terms of an analysis,
18 that is identified as one of the issues as part of
19 this process. I didn't list that on my slide, but
20 if you look at the notice, yes, that will be
21 evaluated in the EIS. I don't know what the
22 decision will be yet, but I mean, that will be part
23 of the analysis, to demonstrate that that can be
24 met.
25 MS. D'ARRIGO: So there's a question on

1 the table of whether or not DOE has to meet those?
2 MR. SULLIVAN: No, of course not. The
3 question on the table is what the final decision
4 will be on one of our alternatives. That's the
5 question, but, no, no EPA has made it clear.
6 MS. D'ARRIGO: So there's no question that
7 those will be complied with at this site in its
8 closure?
9 MR. GIARDINA: There's something called a
10 Regulator's Communication Plan, which we made
11 available, I think. If not, we can get it to you.
12 And it lists all of the radionuclide-related
13 standards of all the agencies and what the
14 expectations are and what has to be met, and cuts
15 through the fact that certain radionuclide standards
16 have been set under the Safe Drinking Water Act.
17 There are things that apply to radionuclide limits
18 in just about every piece of environmental
19 legislation. Fortunately, there's no one
20 over-arching environmental set of standards.
21 There's radionuclide standards under the Clear Air
22 Act, under the Drinking Water Act.
23 In an attempt to try to make it as clear
24 as possible to the regulated community, the State
25 and the DOE, NRC, EPA, and the State Environmental

1 Conservation Department got together over a period
2 of a year and codified all of the environmental
3 expectations. We delivered that to the two
4 regulated agencies approximately a year ago,
5 actually it's a little bit more. So you can look at
6 that, and that's the set of expectations they've
7 been playing with for over a year.
8 MS. D'ARRIGO: So that's the Regulator's
9 Communication Plan from 2002?
10 MR. GIARDINA: Right.
11 MS. D'ARRIGO: And how do I get that?
12 MR. CHAMBERLAIN: We can provide that to
13 you.
14 MS. D'ARRIGO: Great.
15 MR. CHAMBERLAIN: Ray Vaughan?
16 MR. VAUGHAN: Ray Vaughan. On page 12047
17 of the Notice of Intent, it is stated that NRC may
18 adopt this EIS for determining that the preferred
19 alternative meets NRC's decommissioning criteria,
20 assuming that NRC will find the preferred
21 alternative acceptable. Anna, and if not you,
22 perhaps Jim, could you explain what is meant by NRC
23 may adopt this EIS for the purpose I just read?
24 MS. BRADFORD: NRC may adopt?
25 MR. VAUGHAN: That's the wording. I'm

1 just reading from the Notice of Intent the DOE
2 published.
3 MS. BRADFORD: Right. NRC may adopt this
4 EIS for determining that the preferred alternative
5 meets NRC's decommissioning criteria?
6 MR. VAUGHAN: What does adopt mean? In
7 what sense would the NRC adopt this EIS?
8 MS. BRADFORD: We would adopt it in the
9 sense of the counts on environmental qualities,
10 regulation on adoption. Whereby rather than doing a
11 duplicative EIS, which would contain basically the
12 same analysis and information, we can review their
13 EIS, and if we find it acceptable, we do what's
14 called adopting, which means we take it as our own.
15 MR. VAUGHAN: But for what purpose? Why
16 would NRC want an EIS in the first place? What is
17 the related NRC subject matter?
18 MS. BRADFORD: To give an analysis of the
19 environmental impacts of the proposed action that
20 DOE and NYSERDA have proposed, preferred
21 alternative.
22 MR. VAUGHAN: Why would you do that, ask
23 you to adopt something that relates to a DOE NYSERDA
24 decision?
25 MR. LIEBERMAN: Jim Lieberman, counsel for

1 NRC staff. Of course with the Commissions policy
2 statement that set forth the criteria for
3 decommissioning at West Valley, and the commission
4 noted that in setting the standards, we have to meet
5 unique requirements. And one of the issues is the
6 environmental impacts of a potential restricted
7 release. And we intend to use the DOE NYSERDA EIS,
8 if we find that document acceptable, to support the
9 NRC's need for responsibilities.
10 MR. VAUGHAN: For adoption of standards,
11 is that what I understood you to say?
12 MR. LIEBERMAN: No, for the acceptance of
13 DOE's preferred alternative for meeting the
14 licensing termination rules.
15 MR. VAUGHAN: I think you said it
16 differently before. I may have misunderstood you.
17 I think you said it differently before. I think you
18 referred to adoption of standards.
19 MR. LIEBERMAN: I think the clearest
20 explanation is in the words of the commission's
21 document. If you go back to the license termination
22 rule, when the Commissioner adopted the license
23 termination rule, the Commissioner said that
24 whenever the commission would make a termination
25 decision under the license termination rule, they

1 would do an environmental review to determine if the
2 licensee's approach and the impacts of the
3 licensee's approach is consistent with a generic
4 Environmental Impact Statement that supported that
5 rule for licensing termination.
6 We have to do the same thing for the West
7 Valley site. We have to, A, make sure that the
8 preferred alternative is consistent with the license
9 termination rule, and second, we have to evaluate
10 the impacts of that alternative to compare it to the
11 impacts in the generic environmental statement to be
12 satisfied before we sign-off on the approach.
13 MR. VAUGHAN: Okay. One follow-up
14 question that relates to understanding the rules
15 under which DOE and NYSERDA will conduct this EIS.
16 Again, Anna or Jim. As you understand it, is there
17 any difference between the license termination rule
18 and the final policy statement adopted for West
19 Valley, or are they one in the same?
20 MR. LIEBERMAN: I think they're one in the
21 same. The Commission spelled out that as with any
22 licensee, there are exceptions which are available,
23 and the Commission noted that in the policy
24 statement. But the Commission basically adopted the
25 license termination rule with the various options.

1 The license termination rule is not one standard,
2 it's a variety of different approaches that could be
3 met.
4 MR. VAUGHAN: As codified in 10 CFR,
5 Part 20?
6 MR. LIEBERMAN: That's correct.
7 MR. CHAMBERLAIN: Anyone else before we go
8 back to Diane? Anyone have a question?
9 MS. D'ARRIGO: I just wanted to clarify on
10 what Ray was asking. So does that mean as we write
11 our scoping comments, then that we should also be
12 directing them to the NRC, too, for whatever role
13 the NRC might have?
14 MS. BRADFORD: I think you're welcome to
15 do that. You can comment on our role.
16 MR. LIEBERMAN: We are looking at the
17 comments that DOE receives, because DOE is a lead
18 agency in doing the EIS. We're a cooperative
19 agency, as well as EPA and NYSDEC, and we want to
20 make sure there's a four-way document that's
21 complete and robust and it's appropriately scoped.
22 We won't be able to adopt this document unless we're
23 satisfied with it. If we're not satisfied with it,
24 then we have to do our own EIS. And we would rather
25 not spend the resources to do a duplicate document.

1 Our goal is to have the DOE EIS be a quality
2 document. So we're going to look at the comments
3 provided to DOE.
4 MR. CHAMBERLAIN: Okay.
5 MR. SULLIVAN: I guess I would just say,
6 Diane, send your comments to me, send your comments
7 to DOE. As part of the involvement in the EIS, they
8 will see those comments.
9 MR. CHAMBERLAIN: Just logistic, we will
10 track them through one system, all the agencies that
11 are cooperating agencies will be tied into that
12 tracking system.
13 MS. D'ARRIGO: But there may be no further
14 opportunity to comment to the NRC on its further
15 responsibilities at this site? I mean, this may be
16 it? There's this EIS, and then there's the other
17 half of the EIS which is now split off, but then
18 there's the NRC license that's in abeyance. So I
19 guess I'm wanting to be sure that -- I guess you
20 just want as much information as possible at this
21 point?
22 MR. SULLIVAN: NRC will see your -- they
23 will see all the comments. So they will definitely
24 see your comments.
25 MS. D'ARRIGO: And this is covering the

1 NRC licensed burial ground?
2 MR. SULLIVAN: The Environmental Impact
3 Statement evaluates alternatives for the entire 3300
4 acres, including burial grounds, yes.
5 MS. D'ARRIGO: So it should also envision
6 how the NRC would eventually keep a license or not
7 have a license for -- when does their license get
8 out of abeyance? I have never really fully
9 understood that, and so now I'm -- it's sounding
10 like maybe NRC's going to be out of it with this
11 EIS.
12 MR. LIEBERMAN: No. This EIS is primarily
13 addressing DOE's responsibilities under the West
14 Valley Demonstration Act to decommission the
15 project. Because the license termination rule
16 addresses the whole NRC licensed site, it needs to
17 consider the whole site, more than just the project.
18 Once DOE has completed their activities
19 and leaves the site, then we will reinstate the
20 license, and if NYSERDA desires to terminate the
21 license, they will have to submit an application.
22 And to the extent the EIS is relevant, that will be
23 considered in the process. To the extent that
24 NYSERDA chooses to do something differently, they
25 will have to supplement it with whatever additional

1 information. That process will allow for a hearing,
2 public comment, just like any other NRC licensing
3 case.
4 MS. BRADFORD: The policy statement says
5 that when NYSERDA chooses to do a licensing
6 termination or action, there will be another
7 environmental review process that we will go
8 through. There will be another one.
9 MS. D'ARRIGO: Will that happen for sure,
10 or maybe not?
11 MS. BRADFORD: Assuming that NYSERDA is
12 going to do something with their license, the way
13 that they say that they want to, if they act to
14 terminate the license or do something like that, we
15 would do another environmental review.
16 MR. BEMBIA: I think from NYSERDA's
17 perspective, that's part of this process, because
18 the same criteria that apply to completion of the
19 West Valley Demonstration Project apply to the
20 termination of the license. So upon the completion,
21 and once the project is completed, once the
22 demonstration project is completed, the assumption
23 is that they will have met the license termination
24 criteria, and NYSERDA should be able to terminate
25 the NRC license.

1 MR. CHAMBERLAIN: Okay. One last
2 question.
3 MR. VAUGHAN: If there are others, I don't
4 want to take the whole floor, but I do have one last
5 question. Are there others?
6 MR. CHAMBERLAIN: There is one question
7 here, then we will take yours and call it complete.
8 MR. ABRAHAM: I'm Gary Abraham from
9 Concerned Citizens of Cattaraugus County. In the
10 list of impacts in the Notice of Intent, potential
11 cost against the background of projected massive
12 budget deficits for the next few years. Where will
13 the money come from to do a full cleanup, or
14 something close to it, that will comply with the
15 license termination?
16 MR. CHAMBERLAIN: Let me just say that
17 really is not part of the EIS scope, but I think we
18 could probably --
19 MR. ABRAHAM: I'm suggesting it should be.
20 MR. CHAMBERLAIN: You want to take a shot?
21 MR. SULLIVAN: Well, the EIS process, it
22 doesn't determine that. The EIS process will, in
23 the course of describing these alternatives, one of
24 the elements of that description will include costs.
25 And it essentially tells the story of, here's how

1 much it costs to do these various alternatives. It
2 doesn't make a determination on where the money
3 comes from. It informs the decision makers, here's
4 how much this one costs, here's how much that one
5 costs. But I guess I should say, those costs cannot
6 be translated into, for instance, letting a contract
7 to say, okay, this is going to cost $10,000, go do
8 it for $10,000. These are costs for comparison
9 across alternatives. It doesn't mean you can turn
10 the shovel and start to do that work for that amount
11 of money. That's not how the NEPA document is
12 developed.
13 MR. CHAMBERLAIN: Just more specifically,
14 the West Valley Project is funded annually by the
15 Federal Appropriations Process; 10 percent is paid
16 by New York and 90 percent by the Federal
17 government. So in the hard and fast dollar area,
18 the money comes on an annual appropriation. And
19 what Dan is saying, you will have a cost estimate
20 for a period of time for comparison purposes in the
21 EIS, but the actual funding is still dependent on
22 the annual, Federal budget process.
23 MR. ABRAHAM: And the funding comes from
24 the Department of Energy budget, and 10 percent from
25 NYSERDA?

1 MR. CHAMBERLAIN: Yes, and 10 percent
2 matching is basically automatic. It's 10 percent of
3 the project cost. Yes, sir.
4 MR. VAUGHAN: Dan, tonight in your
5 presentation, last night as well, you used the
6 phrase "with jurisdiction under law," in explaining
7 the role of cooperating agencies. Could you explain
8 what you mean by that, and as part of your
9 explanation, could you say whether you were -- are
10 referring to agencies with discretionary
11 jurisdiction under law?
12 MR. SULLIVAN: Give you an example. The
13 Act is a law. NRC is defined in the Act as
14 prescribing criteria for the site. They have
15 jurisdiction by law, they also have a lot of
16 expertise in the area of nuclear safety, and both
17 those reasons have them involved in our EIS.
18 MR. CHAMBERLAIN: Okay.
19 MS. D'ARRIGO: I do have one more. You
20 don't want me to?
21 MR. CHAMBERLAIN: Yeah, one more.
22 MS. D'ARRIGO: You said only two people
23 signed up to talk, right? There is some pending
24 legislation that would transfer or require DOE to
25 provide a plan to Congress on the transfer of the

1 title. And I guess it's title possession -- title
2 and full responsibility for all of the property, the
3 facilities, and the waste, radioactive waste at the
4 West Valley Nuclear Service Center to the secretary,
5 to the Department of Energy. And I'm wanting to
6 understand how that transfer of the title and full
7 responsibility for the site to the Department of
8 Energy are planned for that, would affect this
9 process? If then the Department of Energy would
10 then be responsible for the entire site, including
11 the State-Licensed Disposal Area? I mean, I don't
12 know whether this is going to pass or not, but it's
13 happening today and now, and it seems interesting
14 that our comment period is right when that's
15 happening. And I wondered how it would impact this
16 process.
17 MR. SULLIVAN: I will take a shot at it.
18 Yeah, it is interesting. It's a hypothetical. In
19 terms of how we analyze what these alternatives in
20 the EIS, I mean, that is not going to not influence
21 this process. It's a hypothetical. This process is
22 going to look at the alternatives that we've
23 described, so I will say it doesn't impact the work
24 that we're going to do.
25 MR. CHAMBERLAIN: Okay.

1 MS. D'ARRIGO: Except that it would then
2 have DOE be responsible for the State-Licensed
3 Burial Ground also.
4 MR. SULLIVAN: I --
5 MS. D'ARRIGO: That's already part of this
6 enough that --
7 MR. SULLIVAN: The Department does not
8 have responsibility currently for the SDA, no. That
9 is NYSERDA's sole responsibility for that. So how
10 the bill turns out, if it ever turns out, I don't
11 know.
12 MR. CHAMBERLAIN: Just to clarify, that's
13 draft legislation that's been introduced, it hasn't
14 moved out of committees yet, it is simply a draft.
15 So pure speculation on what it would end up looking
16 like if it were passed.
17 MR. BEMBIA: From our perspective, we
18 would have to see how that legislation came out,
19 again, if it hit the House.
20 MR. CHAMBERLAIN: Okay. Anything else?
21 All set? Thank you. Our first commentor tonight is
22 Jim Pickering.
23 MR. PICKERING: Last evening when I talked
24 to you, I spent quite a bit of time talking about
25 96.363 and the fact that this Environmental Impact

1 Statement was not legal under the Act. Towards the
2 end of my presentation, I may have rubbed some of
3 the wheels the wrong way by showing you that what
4 happened when I was a kid, 55 years ago, and I
5 mentioned the led pipe and baseball bats. I don't
6 want to see that kind of activity develop because of
7 what we're doing here, but I also threw in something
8 else, a couple of words that you may not have
9 understood. I used the words absotively and
10 posolutely, which is cutting both those words in
11 half, and juxtaposing them so you're supposed to
12 think.
13 Tonight I want to criticize the use of
14 what I call phony math. And the reason I call it
15 phony math is because while I was waiting for Jerry
16 to finish his supper, I was reading the summary of
17 the '96 thing that was on the board over there, and
18 he took it home. And in the summary, it talks about
19 latent cancer, something or other, less than 0.
20 There is no such a thing as less than 0. And
21 correspondingly, there is no such a thing as
22 106 percent or 110 percent or 100 and any percent of
23 anything. When you do the math involving any of
24 this stuff, you have to stick between 0 and
25 100 percent. If you compare an object that is the

1 head of a pin, and you start using the electronic 10
2 to the minus something ninth, you are comparing
3 something that is smaller than the head of a pin.
4 But you cannot use less than 0 or more than 110
5 percent.
6 The second thing that I want to criticize
7 about, if you will all turn your heads over there, I
8 want to come over here and show you. Can you all
9 hear me over there? Do you see this loaf of bread
10 right here? That's one of the disposal areas that
11 was constructed. That loaf of bread had to be done
12 with the use of mechanical construction equipment
13 such as bulldozers, clam buckets, graders, and
14 things like that. Now that's a pretty good size
15 piece of equipment, and there's an awful lot of
16 radioactive material that's underneath the cover of
17 that thing. The result of it is that the equipment
18 and the operator were exposed to radioactive
19 material in constructing that thing.
20 Now what happened to the equipment after
21 that loaf of bread was constructed? During the past
22 year I ran into a guy that was actually one of the
23 equipment operators. You will never guess what they
24 did? When they got done, they simply dug a hole off
25 to the side and buried the equipment. So when you

1 get around to cleaning up that site, that equipment
2 has got to come out of there. And it has to be
3 treated and taken off-site just like any of the rest
4 of the radioactive material.
5 The reason I haven't brought this forward
6 earlier, is that this guy had a major heart attack,
7 in which four of the five arteries were plugged.
8 And I had to go down to his home in North Carolina
9 and install bigger electric service so that the
10 recommendations of the medical people that the house
11 be maintained between 55 and 80, that meant he had
12 to have a full-time air conditioner and full-time
13 furnace. And when I went down there, he was unable
14 to work and still recovering from the heart attack.
15 I have not been able to get down there since then,
16 but the next time I see him, if in my judgment that
17 he is sufficiently recuperated to the point that I
18 can take a statement from him, I will do it.
19 Because I am a notary from the state. I will do it,
20 and I will bring it back here and you can take it
21 from there.
22 I think personally, that we need to know,
23 and since he's the only one that can tell us, unless
24 there's some other operators around the
25 neighborhood, exactly where that equipment is

1 buried, I think we need to know that.
2 Beyond that, in my judgment, this
3 Environmental Impact Statement that we're doing
4 today does not comply with Public Law 96.368. And I
5 said that yesterday and I went through a lot of
6 detail on it, but these two things, I think, are
7 important enough and it's the reason why I asked to
8 speak again tonight. That information was not
9 available to me yesterday. Thank you.
10 MR. CHAMBERLAIN: Thank you, Jim. Next
11 commentor is Ray Vaughan.
12 MR. VAUGHAN: I also spoke last night. I
13 have just a few follow-up comments. I will number
14 my comments starting from where I left off last
15 night. So my first comment tonight will be
16 number 28.
17 In my prior comments last night, I
18 identified a number of erosion related phenomena
19 that may need to be taken into account in any
20 erosion modeling. If the model is not capable of
21 taking certain erosion-related phenomena into
22 account, then additional conservatism may be needed
23 in the model to compensate for what the model can't
24 take into account.
25 My 29th and last, I think, comment is as

1 follows: We remain concerned that NRC decision
2 making be carried out in accordance with NEPA.
3 There are several types of NRC decision making that
4 may need NEPA support. Specifically, NEPA must be
5 met in the following areas of NRC decision making:
6 A, prescription of West Valley
7 decontamination and decommissioning requirements by
8 NRC.
9 B, determination or establishment of
10 applicable licensing requirements for any low-level
11 and transuranic waste disposal under Section 2(A)4
12 of the West Valley Demonstration Project Act.
13 C, termination of the Part 50 West Valley
14 site license.
15 D, possible relicensing of part or parts
16 of the site, as may occur after termination of the
17 Part 50 license.
18 Each of these four NRC decisions, or
19 potential NRC decisions, has discretionary
20 components and distinct elements that differ from
21 decision to decision. Thus, each must be considered
22 separately in terms of the NEPA obligations that it
23 creates. Once those NEPA obligations are properly
24 identified on a decision by decision basis, it may
25 make sense to combine the required NRC EISes, rather

1 than prepare several separate EISes. The first
2 step, however, is to explicitly identify
3 discretionary NRC decisions that may have a
4 significant effect on the environment. Probably
5 including the four decisions listed above.
6 I'm encouraged to hear tonight that NRC
7 recognizes that at least one of these decisions,
8 regarding Part 50 license termination, will require
9 its own environmental review. However, I disagree
10 strongly with NRC's position that its prescription
11 of West Valley decommissioning requirements does not
12 meet its own explicitly recognized environmental
13 review to support that prescription. NRC needs to
14 be recognized as a decision maker, not just as a
15 cooperating agency, and needs to assess the impacts
16 of the decommissioning requirements that were
17 prescribed. It needs to look at alternatives to
18 those decommissioning requirements, and if there are
19 any differences between the license termination rule
20 and the West Valley decommissioning requirements, it
21 needs to focus on those differences. It is not
22 right for NRC to try to piggyback on this EIS
23 without being identified explicitly as a decision
24 maker. Thank you.
25 MR. CHAMBERLAIN: Thanks, Ray. Next

1 commentor is Diane D'Arrigo.
2 MS. D'ARRIGO: Nuclear Information and
3 Resource Service opposes the deregulation of
4 radioactive wastes, and all three Federal agencies
5 that are involved here, the Nuclear Regulatory
6 Commission, the Department of Energy, and the
7 Environmental Protection Agency are in various
8 states of deregulating and allowing nuclear
9 materials, so-called low-level radioactive wastes,
10 to be deregulated and treated as regular garbage or
11 recycled into consumer goods. They're advocating
12 that.
13 In the same parallel vein, we would oppose
14 the deregulation of high-level radioactive waste to
15 a lower status, be it to so-called low-level waste
16 or to incidental waste. So we oppose, both here at
17 West Valley and at the other sites around the
18 country where reprocessing waste is, the
19 deregulation of some of that high-level waste to WIR
20 waste, incidental to reprocessing the deregulation
21 of high-level waste. And it appears to be being
22 done by linguistic detoxification, by changing
23 assumptions in computer models or using alternatives
24 computer models to justify not having to treat the
25 material according to the existing regulations for

1 high-level radioactive waste. And we oppose that,
2 as I said here, and at the other sites around the
3 country.
4 We will be providing comments in writing
5 before the 28th, and join in the concerns that the
6 Coalition on West Valley Nuclear Wastes have
7 expressed about the splitting of the Environmental
8 Impact Statement. I asked about it yesterday, and
9 I'm still not clear on what the real reason is for
10 making that split, and will continue to explore that
11 and provide input on that.
12 It was in 1996, you will notice that there
13 was a much larger, broader community input, and I
14 believe that the public in Western New York is very
15 concerned about this issue and that it is something
16 that shouldn't be underestimated.
17 MR. CHAMBERLAIN: And those are all the
18 folks who signed up to comment. Are there other
19 people that would like to make further comment at
20 this time?
21 (No response.)
22 MR. CHAMBERLAIN: Okay. If that's the
23 case, I think we're done, but I would like to
24 mention a couple things. Anyone who's new tonight,
25 there is a number of pieces of information up there

1 that might be valuable to this Environmental Impact
2 Statement as a revision of the '96 draft study that
3 was written. There are full copies up there, which
4 are two volumes, if you would like them, and there
5 are summaries. So if you would like that background
6 to look at, feel free to take it. And the other
7 thing I really want to point out, on that packet
8 there's a one-pager comment form. You don't have to
9 use it, it's just for your convenience. It has the
10 address, it has the fax number, it has how you can
11 call one in. So if you feel like you know someone
12 or an organization that you are part of, or if you
13 yourself would like to file a comment, the official
14 period continues until April 28th, and we will take
15 comments as long as possible afterwards. So please
16 take one of these along so you have everything in
17 one place to use if you wish to file a comment
18 later.
19 And last but not least, written comments,
20 ones called in, faxed in, spoken here, all get into
21 the same process, carrying the same weight, no
22 difference. So feel free to take one along in case
23 you need to use it later.
24 MR. VAUGHAN: John, do you have a 100-page
25 version of that form?

1 MR. CHAMBERLAIN: No, but if you would
2 like to work on it, Ray. But anyway, that's up
3 there if you would like one. Anything else?
4 (No response.)
5 MR. CHAMBERLAIN: Okay. Thank you very
6 much. Transcripts probably will be about three
7 weeks before the transcripts are ready. All right.
8 But we will be making those available in the public
9 reading rooms.
10 MS. ALLEN: If you would sign up for one
11 so we know you want a copy, they won't go out
12 automatically. We will be more than happy to send
13 them. We don't want to send out unnecessary copies.
14 MR. CHAMBERLAIN: Thank you very much for
15 coming.
16 (The public hearing concluded at
17 a time of 8:07 p.m.)
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3 C E R T I F I C A T E
4
5
6 I, SUSAN M. RYCKMAN, do hereby certify that I
7 have reported in stenotype shorthand the proceedings
8 in the Public Scoping Meeting on the Draft
9 Environmental Impact Statement at the Ashford Office
10 Complex, at 9030 Route 219, Ashford, New York, on
11 April 9, 2003.
12 That the transcript herewith numbered one
13 through forty-seven is a true, accurate, and
14 complete record of my stenotype notes.
15
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17 ----------
18 SUSAN M. RYCKMAN, C.P.,
Notary Public.
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