APPENDIX B
RESPONSES TO SCOPING COMMENTS

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APPENDIX B
RESPONSES TO SCOPING COMMENTS

B.1 INTRODUCTION

In March 2001, the U.S. Department of Energy (DOE) issued a strategy for completing the 1996 West Valley Demonstration Project (WVDP) Completion and Closure Draft Environmental Impact Statement (EIS) (DOE 1996) and a Notice of Intent (NOI) to prepare a Decontamination and Waste Management EIS (66 Fed. Reg. 16447 (2001)). The Decontamination and Waste Management EIS was originally intended to be a revision of the 1996 Completion and Closure Draft EIS (see Section 1.2 for details). In the NOI, DOE published for comment its position that its decisionmaking process would be facilitated by preparing and issuing for public comment a Revised Draft EIS that focused on DOE's actions to decontaminate the project facilities and manage WVDP wastes controlled by DOE under the West Valley Demonstration Project Act. In the NOI, DOE also announced that it would conduct a public scoping meeting on April 10, 2001.

DOE received nine written and oral comments regarding the proposed scope of the Decontamination and Waste Management EIS from individuals, organizations, and government agencies. These comments were provided in letters and electronic mail messages and at the public scoping meeting. The commenters were:

- George J. Wilberg
- James L. Pickering
- Carol Mongerson
- State of New York Office of the Attorney General
- Coalition on West Valley Nuclear Wastes
- Concerned Citizens of Cattaraugus County, Inc.
- West Valley Citizens Task Force
- Nuclear Information and Resource Service, and Public Citizen/Critical Mass Energy and Environment Program (joint submittal)
- League of Women Voters of Buffalo/Niagara

B.2 SUMMARY OF COMMENTS

The commenters expressed concern regarding or opposition to DOE's rescoping of the *Environmental Impact Statement for Completion of the West Valley Demonstration Project and Closure or Long-Term Management of Facilities at the Western New York Nuclear Service Center* (1996 Completion and Closure Draft EIS). Taken together, the comments suggest that preparing one EIS for near-term decontamination and waste management activities and another EIS to support long-term decommissioning and/or long-term stewardship of the site violates the National Environmental Policy Act (NEPA) and the Stipulation of Compromise (*Coalition on West Valley Nuclear Wastes & Radioactive Waste Campaign*, Civil Action No. 86-1052-C, entered into on May 27, 1987).

B.3 DOE RESPONSE

As stated in the NOI to rescope the 1996 Completion and Closure Draft EIS, this EIS was originally focused on DOE actions to decontaminate West Valley Demonstration Project (WVDP or the Project) facilities and manage WVDP wastes that are controlled by DOE under the West Valley Demonstration Project Act. DOE has modified the scope of this EIS as a result of public comments received during

scoping and has decided to eliminate the consideration of decontamination activities at the WVDP in the scope of this EIS. The scope is now limited to onsite waste management and offsite waste transportation activities, and no longer includes decontamination activities as proposed in the NOI. The need for and potential environmental impacts of future decontamination activities will be addressed in the continuation of the 1996 Completion and Closure EIS, now referred to as the Decommissioning and/or Long-Term Stewardship EIS. An Advance NOI for this EIS was issued on November 6, 2001 (66 Fed. Reg. 56090 (2001)).

The proposed waste management activities addressed in this EIS would need to be taken by DOE regardless of the decisions regarding the long-term management of the Western New York Nuclear Service Center (the Center) that would be made at a later date. DOE's proposed waste management activities are independent of eventual site decommissioning and closure decisions.

DOE believes that the proposed waste management activities are not "connected" to future decommissioning and/or long-term stewardship decisions for WVDP or the Center, as that term is defined in the Council on Environmental Quality regulations implementing NEPA (*see* 40 Code of Federal Regulations [CFR] 1508.25(a)). The proposed activities would not automatically trigger other actions that would require the preparation of an EIS, can proceed independently of other actions at the site, and are not dependent upon future decisions regarding long-term plans for the site. Moreover, undertaking these activities in the near term would not limit or prejudge the range of alternatives or the decisions that would be made for eventual decommissioning of WVDP facilities and/or long-term stewardship of the Center. Finally, DOE believes that preparing an EIS for waste management activities would allow the Department to make progress in removing wastes from the site, rather than waiting until site decommissioning and/or long-term stewardship decisions are made some time in the future.

The specific issues that were raised by the commenters and DOE's responses are provided below.

GEORGE J. WILBERG

Wilberg Comment 1. *After reading the recent article about the continuing radioactive cleanup at the West Valley Nuclear Facilities I can only think that this cleanup has taken what seems to me "forever." In weighing the alternatives of a one part or two part plan I can only wonder how much longer the two part plan will take? Although I do not have the exact details of each plan it would appear to the uninformed reader that the two part plan obviously would take longer. Therefore, as a local resident and taxpayer I opt for the one part plan to achieve closure of this facility.*

DOE Response: DOE believes that rescoping the 1996 Completion and Closure Draft EIS into a Waste Management EIS and continuing the evaluations begun in the 1996 Completion and Closure Draft EIS in a future Decommissioning and/or Long-Term Stewardship EIS will allow the Department to begin site cleanup at an earlier time, rather than waiting until all future site closure decisions have been made. This approach will allow DOE to make decisions regarding transportation of waste for offsite disposal and to implement those decisions while undertaking the process of making long-term closure or stewardship decisions with the New York State Energy Research and Development Authority (NYSERDA) and federal and state regulators.

Wilberg Comment 2. *The four day trip* [in reference to spent fuel shipments to Idaho] *seems to be the safest and most secure by using our railways. Truck transportation has too many variables and possibilities of failure – that is unacceptable. The half life of U-235 and 238 is high was well as strontium. Many thousands of years will pass before that radioactivity can decrease to an acceptable level (most sources says 10,000 years!). The best place for storage is in a relatively uninhabited area*

with low earthquake activity. An area that can be relatively easily protected from terrorism is also a needed requirement – Idaho would seem ideal for such a venture.

DOE Response: The Waste Management EIS analyzes the transportation of low-level radioactive waste (LLW), mixed LLW, transuranic (TRU) waste, and high-level radioactive waste (HLW) by both rail and truck to appropriate storage or disposal facilities. The storage and disposal sites being considered are Envirocare in Utah (disposal of LLW and mixed LLW), the Nevada Test Site in Nevada (disposal of LLW), the Hanford Site in Washington (disposal of LLW and storage of HLW and TRU waste), the Waste Isolation Pilot Plant in New Mexico (storage and disposal of TRU waste), the Savannah River Site in South Carolina (storage of TRU and HLW), Oak Ridge National Laboratory in Tennessee (storage of TRU waste), Idaho National Engineering and Environmental Laboratory (storage of TRU waste), and the proposed Yucca Mountain High-Level Waste Repository (disposal of HLW). All of these sites have waste management facilities that are safe and secure and that provide the appropriate isolation from the human environment for each type of WVDP waste.

JAMES L. PICKERING

Pickering Comment 1 (summarized from comment letter). *The West Valley Demonstration Project Act (Public Law No. 96-368) provides for the removal, preparation for disposal, solidification, and decontamination of facilities at the West Valley Demonstration Project site. The Stipulation of Compromise in Civil Action No. 86-1052-C (U.S. District Court, Western District of New York) calls for one EIS process and one environmental impact statement. Both the Stipulation and the one process/one EIS under Public Law No. 96-368 are binding upon the Department of Energy. The Notice of Intent to rescope the 1966 Draft Completion and Closure EIS is void and unlawful and unconstitutional.*

DOE Response: In DOE's view, neither the West Valley Demonstration Project Act nor the Stipulation of Compromise requires the preparation of only one EIS. DOE has met or will meet all of the commitments included in the Stipulation of Compromise by completing both the Waste Management EIS and the future Decommissioning and/or Long-Term Stewardship EIS. DOE has met or will meet all of the vitrification, waste management, and closure requirements set forth in the West Valley Demonstration Project Act. The Decommissioning and/or Long-Term Stewardship EIS will evaluate alternatives for completing DOE's obligations under the Act.

Pickering Comment 2 (from public meeting). *Our scientists have identified certain black holes in outer space. They have computed that it takes millions and billions of light years before the rays got here to identify those black holes. What those black holes are is a space where all of the rest of its environment is zero. We have developed the technology to get vehicles in outer space. I see no reason why we should not take a test and ship something even if it was not radioactive and see if it would head towards that black hole once we got beyond the gravitational pull of the earth and have a vehicle headed into a black hole, then we give nature the whole of creation back her radioactive waste.*

DOE Response: DOE has studied the environmental impacts that could occur if DOE developed and implemented various technologies for the management and disposal of radioactive waste. It examined several alternatives, including mined geologic disposal, very deep hole disposal, disposal in a mined cavity that resulted from rock melting, island-based geologic disposal, subseabed disposal, ice sheet disposal, well injection disposal, transmutation, and space disposal in a Final Environmental Impact Statement on *Management of Commercially Generated Radioactive Waste* (DOE/EIS-0046F). Space disposal in particular was thought to pose unacceptable health and safety risks. The Record of Decision for that EIS announced the DOE decision to pursue the mined geologic disposal alternative for disposition of radioactive waste (46 Federal Register [FR] 26677 (1981)).

CAROL MONGERSON COMMENTS (FROM PUBLIC MEETING)

Mongerson Comment 1. *If this hearing were legal, which I am not conceding by making these remarks, I would want to say some of the following. I do not really have comments to make on the first EIS proposal. What you are planning to cover sounds reasonable to me. You've done a pretty good job our here so far and I trust you to do the decontamination work pretty well.*

DOE Response: The NOI to revise the strategy for completing the 1996 Completion and Closure Draft EIS, published in the *Federal Register* on March 26, 2001 (66 FR 16447) gave appropriate notice of the public meeting held on April 10, 2001. Notice of the meeting was also provided in local media. For this reason, DOE believes that the public meeting held to discuss the revised strategy and the scope of the Waste Management EIS was in compliance with all applicable laws.

DOE and the WVDP appreciate the confidence in our ability to safely and effectively decontaminate the Project facilities.

Mongerson Comment 2. *So my concerns are about the second one... It appears to me that some decisions – that the two EISs are not really inseparable because some decisions have already been made about which waste to ship. Until this time only Class A waste has been agreed that we would ship Class A waste offsite. Now we are talking about doing higher classes of waste and the transuranic waste. So that decision has already been made and it makes those EISs inseparable and we will already be committed to that.*

DOE Response: As a result of the *Final Waste Management Programmatic Environmental Impact Statement for Managing, Treatment, Storage, and Disposal of Radioactive and Hazardous Waste* (WM PEIS) (DOE/EIS-0200-F, May 1997), DOE made programmatic decisions regarding the management (treatment, storage, or disposal) of LLW, mixed LLW, TRU waste, HLW, and non-wastewater hazardous waste. The proposed actions and alternatives assessed in this EIS are consistent with the terms of the Stipulation of Compromise reached with the Coalition on West Valley Nuclear Wastes and Radioactive Waste Campaign. Implementation of theses actions would allow DOE to make progress in meeting its obligations under the Act that pertain to waste management (see Appendix A), and they are consistent with programmatic decisions DOE has made (see Sections 1.6.1.2 and 1.6.1.4) regarding the waste types addressed in this EIS. Those decisions and their respective EISs, as they apply to the WVDP, provide for shipping wastes from the West Valley site to other regional or centralized DOE sites for treatment, storage, and disposal, as appropriate. In particular, DOE is considering a variety of options in this EIS for offsite transportation and disposal of LLW and mixed LLW and offsite storage or disposal of TRU waste and HLW.

Pursuant to the Stipulation of Compromise, DOE is permitted to ship Class A LLW and some mixed LLW. DOE will defer shipment of other types of waste until completion of the Waste Management EIS and the issuance of a Record of Decision (ROD). The shipment of wastes offsite for disposal or storage is an activity that will have to occur regardless of the ultimate decision that is made regarding the disposition of the WVDP and the Center.

Mongerson Comment 3. *The first thing I want to say about the second EIS is ... the idea of doing a draft environmental impact statement without knowing what NRC criteria you are going to have to meet has always struck me as being insane and it still has. We must wait for that NRC criteria before we write these drafts.*

DOE Response: This comment refers to criteria that the U.S. Nuclear Regulatory Commission (NRC) has prescribed for the cleanup of the WVDP site. DOE will address these criteria in the future Decommissioning and/or Long-Term Stewardship EIS.

Mongerson Comment 4. *The second thing that disturbs me is what appears to me to be an appearance of a new term. That term in the title – long term management of the facilities. That may mean nothing but is sounds ominous to me and it disturbs me because to me what we were promised was not long-term management. What we were promised was closure and decommission. Long-term management to me implies indefinite institutional control and indefinite institutional control is something that is not realistic. I don't believe that we can count on it. I just don't think it is going to happen.*

DOE Response: Long-term stewardship (or management) does include provisions for institutional control such as continuous monitoring and maintenance of protective barriers to protect the public.

Long-term stewardship was an option in the 1996 Completion and Closure Draft EIS under Alternatives III and IV, although the term "long-term stewardship" was not used in that document. Long-term stewardship (long-term monitoring and maintenance) is a reasonable alternative for site closure, and it will be analyzed in the future Decommissioning and/or Long-Term Stewardship EIS along with other alternatives. An Advance NOI was issued on November 6, 2001 (66 FR 56090) formalizing DOE's commitment to begin work on the Decommissioning and/or Long-Term Stewardship EIS.

Mongerson Comment 5. *Any waste which we ship away from here has to go some place else and that some place else is not going to want it either. This is a fundamental problem that we are simply going to have to deal with. Our society is going to have to deal with this problem and the irony is that we keep on making more waste. All the time we are trying to deal with this problem but nobody wants it. We must stop making more nuclear waste. Yes, we have to deal with what is at West Valley already. We must stop making more. Now, you will say that's neither here nor there with this EIS and in a sense that is true, but the problem is not inseparable. You cannot make the one decision without making the other as a society.*

DOE Response: As the commenter recognizes, whether the nation continues to produce nuclear waste is a decision to be made by the American people and Congress, not by DOE. As a federal agency, DOE is required to follow the dictates of Congress, which has enacted laws directing DOE to engage in activities (such as research and development and national security) that generate nuclear waste. Because a decision to discontinue the production of nuclear waste is not within DOE's purview, that issue will not be analyzed in either the Waste Management EIS or the future Decommissioning and/or Long-Term Stewardship EIS.

STATE OF NEW YORK OFFICE OF THE ATTORNEY GENERAL

Office of the Attorney General Comment 1. *There is no basis for the proposed action other than the conclusory statement in the Notice that "the regulatory and physical nature of the two categories of actions are different." This is no more true now than it was when the NEPA process was initiated in 1988.*

DOE Response: Although DOE attempted to address all issues in the 1996 Completion and Closure Draft EIS, it became apparent, during DOE and NYSERDA discussions on the preferred alternative, that separating waste management from decommissioning would allow DOE to move forward with activities for which it is responsible under the West Valley Demonstration Project Act and for which it would not need NYSERDA's concurrence. For that reason, DOE decided to rescope the 1996 Draft EIS and proceed with the Waste Management EIS that focuses exclusively on activities conducted by DOE.

Office of the Attorney General Comment 2. *The Notice is somewhat misleading in that it announces DOE's and NYSERDA's "intent to revise their strategy for completing the [1996 Completion and Closure Draft EIS] issued for public comment in March 1996." In fact, however, a review of the entire Notice reveals that the agencies seek not to complete the 1996 Completion and Closure Draft EIS but instead to separate the EIS process into two parts.*

DOE Response: DOE apologizes if some readers found the Notice misleading. As described in the Notice, the revised strategy for completing the 1996 Completion and Closure Draft EIS was to separate the original proposed action into two distinct activities: the first being waste management and decontamination; and the second focusing on decommissioning. DOE has modified the scope of this EIS as a result of public comments received during scoping. The scope is now limited to onsite waste management and offsite waste transportation activities, and no longer includes decontamination activities as proposed in the NOI. DOE will prepare an EIS in the future for decisions regarding decommissioning and/or long-term stewardship. An Advance NOI was issued on November 6, 2001 (66 FR 56090), formalizing DOE's commitment to begin work on the Decommissioning and/or Long-Term Stewardship EIS. Upon completion of both of these EISs, the proposed action and alternatives described in the 1996 Completion and Closure Draft EIS will have been fully analyzed and the subject of public review and comment, thus "completing" the 1996 Completion and Closure Draft EIS.

Office of the Attorney General Comment 3. *Pursuant to 40 CFR Section 1508.25(a)(3), actions involving common geography and cumulative environmental impacts such as are present at the WNYNSC and the WVDP should be evaluated in a single EIS.*

DOE Response: The Council on Environmental Quality regulations implementing the procedural provisions of NEPA do encourage federal agencies to consider the extent to which proposed actions that are connected, cumulative, or similar should be addressed in the same EIS (*see* 40 CFR 1508.25(a)). DOE has determined that, while the waste management and decommissioning proposals would both affect the WVDP site and the Center, other considerations (such as timing) favor the separation of the two proposals into two EISs. This is consistent with the Council on Environmental Quality NEPA regulations.

Office of the Attorney General Comment 4. *The first three alternatives for closure of the WNYNSC including the WVDP in the 1996 Draft Completion and Closure EIS are based on varying degrees of waste removal. Given the acknowledged unsuitability of the WNYNSC for the long-term storage or disposal of radioactive waste, waste removal must necessarily be part of future actions regarding decommissioning and/or long-term stewardship. Pursuant to 40 CFR Section 1502.23 an EIS must include a cost-benefit analysis. Separating the same issues now addressed in the 1996 Completion and Closure Draft EIS into two separate Environmental Impact Statements, particularly waste removal, will have a significant impact on the cost-benefit analysis used to evaluate closure options, including monetary costs and qualitative considerations. Economies of scale and the significance of cumulative environmental, social, and economic impacts are unavoidably affected by separating the EIS into two parts.*

DOE Response: The Council on Environmental Quality NEPA regulations state that "[i]f a cost-benefit analysis relevant to the choice among environmentally different alternatives is being considered for the proposed action, it shall be incorporated by reference or appended to the statement as an aid in evaluating the environmental consequences." (40 CFR 1502.23). Neither NEPA nor the Council on Environmental Quality regulations require that a cost-benefit analysis be prepared as part of an EIS.

There could be cumulative environmental impacts associated with the proposed waste management activities and the conduct of future decommissioning and/or long-term stewardship activities. DOE

describes the potential for these cumulative impacts in the Waste Management EIS and will take these potential impacts into account in its decisionmaking process.

COALITION ON WEST VALLEY NUCLEAR WASTES (COALITION)

Coalition Comment 1. *The Stipulation of Compromise Settlement (hereinafter "Stipulation") requires that "the closure Environmental Impact Statement process - including the scoping process - shall begin no later than 1988 . . ." This requirement is binding. DOE cannot unilaterally create a new scoping process that supersedes or substantially modifies the scoping process carried out in 1988.*

DOE Response: The Notice of Intent to prepare the Completion and Closure EIS was issued in 1988, beginning the scoping process for that document. DOE has fulfilled this aspect of the Stipulation. Moreover, the Stipulation does not preclude DOE from preparing other EISs or environmental review documentation to analyze proposed activities at the WVDP that must occur regardless of any future decisions regarding site decommissioning, closure, or long-term stewardship.

Coalition Comment 2. *The scoping process begun in 1988 led to issuance of the 1996 Completion and Closure Draft EIS. A Final EIS or Record of Decision has not yet been issued. Thus, the EIS process specified in the Stipulation has not yet been completed. It is not clear from the Notice of Intent published in the Federal Register on March 26, 2001 whether the EIS process specified in the Stipulation has already been, or soon will be, partially discontinued or suspended. It would be violative of the Stipulation of Compromise Settlement for the DOE to unilaterally abandon the current EIS process and begin a new segmented process.*

DOE Response: The EIS process specified in the Stipulation is not being and will not be discontinued or suspended. Rather, DOE will complete its obligations under the Stipulation by a slightly different route than was envisioned in 1988. An Advance NOI was issued on November 6, 2001 (66 FR 56090), formalizing DOE's commitment to begin work on the Decommissioning and/or Long-Term Stewardship EIS. The conditions of the Stipulation of Compromise will be met by the Waste Management EIS and the future Decommissioning and/or Long-Term Stewardship EIS, in combination. Upon completion of both of these EISs, all conditions of the Stipulation will have been met.

Coalition Comment 3. *The provisions of the Stipulation apply to any and all Environmental Impact Statements into which the closure EIS that began in 1988 may be split. Paragraph 3 of the Stipulation defines the scope of the closure EIS very broadly, such that it covers disposal of all "[Class A] [Class B/C] wastes generated as a result of the activities of the West Valley Demonstration Project as mandated by the United States Congress under the West Valley Demonstration Project Act."*

DOE Response: The provisions of the Stipulation apply to an EIS, begun in 1988, to analyze the potential impacts associated with site closure, including onsite waste disposal. This EIS, as rescoped, assesses only the offsite shipment of stored wastes and wastes that will be generated during the next 10 years of operations while decommissioning and/or long-term closure decisions are still ongoing. Pursuant to the Stipulation, DOE retains the ability to dispose of Class A LLW in accordance with applicable law at a site other than the Center. In addition, for waste material containing elements having an atomic number greater than 92 in concentrations greater than 10 nanocuries per gram but less than or equal to 100 nanocuries per gram, the Stipulation provides that "[f]or disposal at locations other than the Center, such disposal will be in accordance with applicable law." The Stipulation does not address transportation and subsequent offsite disposal of TRU (waste material containing elements having an atomic number greater than 92 in concentrations greater than 100 nanocuries per gram) or HLW. Thus, the preparation

of an EIS to examine waste management activities, none of which relate to onsite disposal of waste, is consistent with the Stipulation.

Coalition Comment 4. *According to the Notice of Intent published in the Federal Register on March 26, 2001, "DOE intends to issue soon a Notice of Intent for a second EIS, with NYSERDA as a joint lead agency, on decommissioning and/or long-term stewardship of the WVDP and the Western New York Nuclear Service Center . . ." This will violate provisions of the Stipulation. The Stipulation requires that "the closure Environmental Impact Statement process - including the scoping process - shall begin no later than 1988 . ." DOE cannot unilaterally create a new EIS with a new scoping process that supersedes or substantially modifies the scoping process carried out in 1988. As specified in the Stipulation, the EIS is a closure EIS. DOE cannot unilaterally change the purpose of the project and thus the scope of the EIS.*

DOE Response: As noted above, the NOI to prepare the Completion and Closure EIS was issued in 1988, beginning the scoping process for that document. DOE has fulfilled this aspect of the Stipulation. However, the Stipulation does not preclude DOE from completing its obligations under the Stipulation by a slightly different route than was envisioned in 1988, separating the original scope of the Completion and Closure EIS into two EISs, one that analyzes proposed waste management activities and one that addresses future decisions regarding site decommissioning, closure, and/or long-term stewardship. As stated above, DOE believes that this approach is consistent with the Council on Environmental Quality NEPA implementing regulations regarding connected actions (40 CFR 1506.1) and that this approach, upon completion of the future Decommissioning and/or Long-Term Stewardship EIS, will meet all of the conditions of the Stipulation of Compromise. An Advance NOI was issued on November 6, 2001 (66 FR 56090), formalizing DOE's commitment to continue work on the Closure EIS process by beginning work on the Decommissioning and/or Long-Term Stewardship EIS. DOE is anticipating that NYSERDA will participate in the preparation of the Decommissioning and/or Long-Term Stewardship EIS as a joint lead agency, that the Nuclear Regulatory Commission (NRC) will participate as a cooperating agency, and that the New York State Department of Environmental Conservation will participate as an involved agency under the New York State Environmental Quality Review Act (SEQRA).

Coalition Comment 5. *According to the Notice of Intent published in the Federal Register on March 26, 2001, DOE intends to dispose of certain low-level and mixed wastes in either Nevada or Washington prior to completion of the West Valley closure EIS. The Stipulation allows off-site disposal of Class A wastes in accordance with applicable law but does not allow any disposal (offsite or otherwise) of Class B/C wastes until the closure EIS is completed.*

DOE Response: Pursuant to the Stipulation, DOE retains the ability to dispose of Class A LLW in accordance with applicable law at a site other than the Center. In addition, for waste material containing elements having an atomic number greater than 92 in concentrations greater than 10 nanocuries per gram but less than or equal to 100 nanocuries per gram, the Stipulation provides that "[f]or disposal at locations other than the Center, such disposal will be in accordance with applicable law." The Stipulation does not address transportation and subsequent offsite disposal of TRU (waste material containing elements having an atomic number greater than 92 in concentrations greater than 100 nanocuries per gram) or HLW. Further, the Stipulation does not preclude the offsite disposal of any type of radioactive waste in accordance with applicable law prior to the completion of a closure EIS. This Waste Management EIS does not address onsite disposal; however, DOE will not initiate any of the waste shipping proposed under the action alternatives until this EIS is completed and a ROD is issued.

Coalition Comment 6. *According to the Notice of Intent published in the Federal Register on March 26, 2001, DOE intends to provide a 45-day public comment period following the issuance of the draft*

Decontamination and Waste Management EIS. The Stipulation requires a six month public comment period.

DOE Response: DOE provided a 6-month comment period for the 1996 Completion and Closure Draft EIS in compliance with the Stipulation and intends to provide a 6-month comment period for the future Decommissioning and/or Long-Term Stewardship EIS, which will be the continuation of the 1996 Completion and Closure Draft EIS. Thus, DOE has complied with, and will continue to comply with, this provision of the Stipulation. The 6-month comment period noted in the Stipulation does not apply to the Waste Management EIS.

Coalition Comment 7. *DOE asserts in the Notice of Intent published in the Federal Register on March 26, 2001, that the "decontamination and waste management actions will not be connected within the meaning of the regulations to decommissioning and/or long-term stewardship actions because decontamination and waste disposal actions can be implemented without previous or simultaneous actions being taken, are not an interdependent part of a larger action, and do not depend on a larger action for their justification . . ." This assertion is false. The actions of decontamination, decommissioning and/or long term stewardship are clearly interconnected in the context of the West Valley Demonstration Project.*

DOE Response: As originally scoped, DOE agrees that the proposed decontaminations actions could have been linked to decommissioning and/or long-term stewardship decisions and has accordingly eliminated them from the scope of this EIS. However, DOE believes that the waste management actions it proposes would need to occur regardless of any future decisions regarding site decommissioning, closure, and/or long-term stewardship. For this reason, DOE believes that these proposed waste management actions are independent from future site decommissioning and/or long-term stewardship decisions and do not depend on those future actions for their justification.

Coalition Comment 8. *DOE asserts in the Notice of Intent published in the Federal Register on March 26, 2001, that DOE and NYSERDA "may decide to proceed independently." This segmentation of the overall cleanup and closure is inappropriate under federal and state environmental review law.*

DOE Response: DOE noted that DOE and NYSERDA intended to prepare the future Decommissioning and/or Long-Term Stewardship EIS jointly under both NEPA and SEQRA, although either agency could decide to proceed independently in support of its separate mission. Applicable NEPA regulations encourage federal and state agencies to become joint lead agencies where appropriate; there is no requirement to do so, particularly when the agencies have responsibilities under different laws and regulations. It is not unlawful for DOE to prepare an EIS pursuant to NEPA to support its decisionmaking process and for NYSERDA to prepare separate documentation pursuant to SEQRA.

CONCERNED CITIZENS OF CATTARAUGUS COUNTY, INC. (CCCC)

CCCC Comment 1. *The substantive mandate of New York's State Environmental Quality Review Act (SEQRA) is much broader than that of the National Environmental Policy Act (NEPA). In particular, SEQRA disfavors dividing an action for environmental review in such a way that the various segments are addressed as though they were independent and unrelated activities where the earlier part of the action may practically determine a subsequent part of the action. Such an approach impermissibly avoids considering the combined environmental effects of all parts of the action. This mandate does not preclude action in stages; it only requires that cumulative impacts of likely subsequent actions be considered in the initial EIS. Unless DOE/NYSERDA's proposed new decontamination and waste management EIS also considers what standards for protection of health and the environment will be met*

at closure and decommissioning of the site, DOE/NYSERDA's proposal will violate SEQRA's mandate. Isn't the proposal dependent on decisions regarding closure of the West Valley site? Won't decisions regarding closure of the West Valley site depend on decontamination and waste management decisions?

DOE Response: The proposed action and alternatives to be addressed in the Waste Management EIS are activities that are solely DOE's responsibility under the West Valley Demonstration Project Act. These proposed activities include management of waste for which DOE is responsible. For this reason, the applicable environmental review statute is NEPA, not SEQRA. DOE is not required to comply with SEQRA.

However, NEPA, like the SEQRA, requires that an agency consider connected actions together in the same EIS to avoid segmenting a large project into smaller projects with fewer impacts (*see* Council on Environmental Quality, NEPA Implementing Regulations, 40 CFR 1508.25(a)). NEPA also requires that agencies consider the cumulative impacts of past, present, and reasonably foreseeable future actions, along with the impacts of the proposed action (*see* 40 CFR 1508.7)). Thus, although SEQRA does not apply to DOE actions, NEPA imposes similar segmentation and cumulative impact requirements on federal agencies.

DOE does not believe that the proposed waste management activities in this EIS are connected to future decommissioning and/or long-term stewardship decisions for WVDP or the Center. These proposed waste management activities would not trigger other actions that would require the preparation of an EIS, can proceed independently of other actions at the site, and are not dependent upon future decisions regarding long-term plans for the site.

Rather, the proposed waste management activities are those that DOE would need to take regardless of eventual decisions regarding the long-term management of the Center. Undertaking these activities in the near term would not limit or prejudge the range of alternatives or the decisions to be made for eventual decommissioning of Project facilities and/or long-term stewardship of the Center. Further, DOE believes that preparing an EIS for waste management activities will allow the Department to make progress in removing wastes from the site, rather than waiting until site decommissioning and/or long-term stewardship decisions are made in the future.

CCCC Comment 2. *The West Valley Demonstration Project Act's Section 2(a)(5) requires DOE to "decontaminate and decommission" in accordance with NRC requirements. Under what authority does DOE now propose to decontaminate without considering requirements for decommissioning?*

DOE Response: DOE has modified the scope of this EIS as a result of public comments received during scoping. The scope is now limited to onsite waste management and offsite waste transportation activities, and no longer includes decontamination activities as proposed in the NOI.

CCCC Comment 3. *Current federal regulations require monitoring for radionuclides be performed at entry points to community water distribution systems and impose drinking water limits for radionuclides on such water systems. 65 FR 76707 (Dec. 7, 2000). Will the scope include the impact of DOE/NYSERDA's proposed new approach on the ability of community water systems to comply with current MCLs for radionuclides? If such impacts are considered, will they extend to community water systems that rely on the Cattaraugus Creek Sole Source Aquifer that underlies the WVDP site? See 52 FR 36100 (September 25, 1987).*

DOE Response: Because the proposed activities analyzed in the Waste Management EIS are limited to the shipping of wastes offsite and continued management of the HLW tanks prior to decisions from the Decommissioning and/or Long-Term Stewardship EIS, there would be no change in any site releases that

could affect the ability of community water systems to comply with maximum contaminant levels for radionuclides. The EIS that will be prepared to address decommissioning and/or long-term stewardship of the site will address any potential impacts to water quality in general and to the Cattaraugus Creek Sole Source Aquifer in particular.

CCCC Comment 4. *Will the proposed EIS consider the effect of contaminated materials left onsite after decontamination on the collective dose for the population that uses the Cattaraugus Creek Sole Source Aquifer? If so, will this be the population at the time of the final status survey is performed?*

DOE Response: DOE will address the potential environmental impacts of contamination remaining after implementation of a decontamination and decommissioning alternative and disposition of the remaining wastes at the Center in the EIS for site decommissioning and/or long-term stewardship. To that end, DOE will use the most current population data available.

CCCC Comment 5. *Will the scope of the proposed decontamination and waste management EIS include the cumulative impact of releases of radioactive and non-radioactive hazardous or toxic substances into surface waters and groundwater from the West Valley site on the Cattaraugus Creek Sole Source Aquifer and the communities and private well water users who rely on the aquifer?*

DOE Response: The Waste Management EIS evaluates potential releases from the proposed waste management actions to the environment (Chapter 4) and the cumulative impacts (Chapter 5) of such releases for each alternative considered. As shown by the analyses, the proposed waste management actions would not result in adverse impacts to groundwater or surface water. Such impacts will be addressed in the Decommissioning and/or Long-Term Stewardship EIS.

CCCC Comment 6. *Together with the Nuclear Regulatory Commission (NRC), DOE and NYSERDA "have long favored addressing environmental impacts on a site-wide basis. Therefore, the EIS, the [NRC's] decommissioning criteria, and long-term control alternatives discussed in [SECY-98-251] cover both DOE's completion of the project and NYSERDA's closure of the site." NRC, SECY-98-251, note 1 (October 30, 1998). Isn't the proposed new decontamination and waste management EIS part of a long-term plan that includes closure of the West Valley site under NEPA? The EIS should consider impacts of decontamination and waste management activities on future site closure options.*

DOE Response: The proposed waste management activities analyzed in this EIS are those that DOE would need to take regardless of eventual decisions regarding the long-term closure and/or management of the Center. Undertaking these activities in the near term would not limit or prejudge the range of alternatives or the decisions to be made for eventual decommissioning of WVDP facilities and/or long-term stewardship of the Center. The proposed waste management activities addressed in this EIS would not have any impact on future site closure options. The potential environmental impacts of contamination remaining after implementation of a decontamination alternative and disposition of remaining wastes from the Center will be evaluated as part of the future EIS for site decommissioning and/or long-term stewardship.

CCCC Comment 7. *Low level radioactive waste and transuranic waste produced by the solidification of high level radioactive waste under the WVDP may be left in place or be left on the West Valley site following completion of the proposed decontamination and waste management activities. Will the scope of the proposed decontamination and waste management EIS measure, calculate, estimate or otherwise determine the amounts of these low level radioactive wastes and transuranic wastes or the exposure levels to be expected from these wastes?*

DOE Response: DOE has limited this EIS to those waste management actions that would ship wastes that are currently stored and that would be generated over the next 10 years to offsite disposal or interim storage. Information regarding the volume and exposure rates of other wastes left onsite after completion of proposed waste management activities (and the proposed disposition of that waste) will be provided in the future Decommissioning and/or Long-Term Stewardship EIS.

CCCC Comment 8. *Will the scope of the proposed decontamination and waste management EIS include the question whether long-term or perpetual institutional controls are necessary to ensure adequate protectiveness results from any decontamination and waste management activities? If this question of institutional controls is considered within the scope, will impacts of decontamination and waste management activities on resources and staff necessary to support long-term institutional controls also be included within the scope?*

DOE Response: This Waste Management EIS examines the potential environmental impacts of performing certain near-term waste management activities for which DOE is responsible under the West Valley Demonstration Project Act. The need for long-term or perpetual institutional controls will be examined in the future Decommissioning and/or Long-Term Stewardship EIS.

CCCC Comment 9. *Will dose-based criteria that include all pathways and that take into account exposures from the entire site, including the State Disposal Area and NYSERDA's 3300 acres around the WVDP, be used to evaluate potential impacts from decontamination and waste management activities?*

DOE Response: This Waste Management EIS examines the potential environmental impacts of performing certain near-term waste management activities for which DOE is responsible under the West Valley Demonstration Project Act. This EIS analyzes the potential worker and public dose from all pathways that could result from these activities. Cumulative impacts from past, present, and reasonably foreseeable future actions also are also analyzed. The future EIS that will be prepared to address decommissioning and/or long-term stewardship of the site will address potential exposures from the 13-square-kilometer (3,300-acre) Center as a whole, including the State-licensed Disposal Area.

CCCC Comment 10. *Will NYSDEC's technical and administrative guidance memorandum 4003, "Cleanup Guidelines for Soils Contaminated with Radioactive Materials," be adopted by DOE as a currently applicable, relevant and appropriate regulation for purposes of decontaminating areas of soil contamination?*

DOE Response: DOE has modified the scope of this EIS as a result of public comments received during scoping. The scope is now limited to onsite waste management and offsite waste transportation activities, and no longer includes decontamination activities as proposed in the NOI; therefore, the guidance memorandum is not applicable to the proposed actions of this EIS. The future Decommissioning and/or Long-Term Stewardship EIS will consider all relevant regulations and standards in its assessments of impacts.

CCCC Comment 11. *Will the scope of the proposed decontamination and waste management EIS include the question whether new waste disposal cells on the site will be needed to manage hazardous or mixed wastes generated as a result of decontamination activities?*

DOE Response: The activities analyzed in the Waste Management EIS do not include onsite disposal of any waste. For that reason, this EIS does address the need for new onsite waste disposal cells.

CCCC Comment 12. *NRC's decommissioning criteria for the West Valley site, including areas outside the Demonstration Project's 200 acres, NRC "rel[ies] on the DOE/NYSERDA's EIS for [NEPA]*

purpose[s]." 64 FR 67952, at p. 67954 (Dec. 3, 1999) (NRC Draft Policy Statement on West Valley). Will the proposed decontamination and waste management EIS stand in for or otherwise consider impacts on NRC's NEPA responsibilities?

DOE Response: This Waste Management EIS examines the potential impacts of activities at WVDP for which DOE is responsible, and does not affect the NRC's NEPA responsibilities.

WEST VALLEY CITIZEN TASK FORCE (CTF)

CTF Comment 1. *Concerns about Splitting the EIS: The CTF agrees that we must stay within the requirements of the National Environmental Policy Act (NEPA) and the West Valley Demonstration Project (WVDP) Act, both of which seem to call for one process. We are concerned that some important matters might get lost in the changeover; that segmentation could be an issue, and that the second phase could get bogged down if the DOE/NYSERDA disagreement continues. We are eager to see the wording of the proposal for the second phase to be assured that the emphasis will be on closure rather than long-term stewardship and that the possibility of further decontamination is addressed adequately. We believe arriving at a cost/benefit analysis for waste removal and closure could be substantially more difficult once the EIS is split. We note that the recent DOE budget cut could be an omen of future funding shortages, a disturbing possibility.*

DOE Response: Neither NEPA nor the West Valley Demonstration Project Act requires only one NEPA document for all of the activities that must be undertaken at the site in compliance with the Act. The two-EIS strategy allows DOE to progress while longer term discussions with NYSERDA continue.

The Waste Management EIS will address activities that DOE would need to take regardless of eventual decisions regarding the long-term management of the Center, such as transporting nuclear waste for which DOE is responsible to offsite locations for storage or disposal. Decontamination, decommissioning, and site closure will be addressed in the future Decommissioning and/or Long-Term Stewardship EIS. DOE recognizes the CTF's stated preference for a focus on closure in the upcoming EIS and will consider that in the scoping process for that document. An Advance NOI was issued on November 6, 2001 (66 FR 56090), formalizing DOE's commitment to begin work on the Decommissioning and/or Long-Term Stewardship EIS.

DOE disagrees that the generation of two EISs would have a negative effect on its ability to assess the costs of the various decommissioning and/or closure alternatives available to DOE and NYSERDA. DOE annually reassesses its estimated operating costs and uses this information in its budget submittals. DOE is committed to seeking the funding necessary to meet its obligations under the West Valley Demonstration Project Act in its annual budget submittal to Congress; however, it cannot control Congressional decisionmaking.

CTF Comment 2. *Concerns about Phase One: We support only option two, as it is defined in the Federal Register notice (option three as presented at the scoping meeting), which includes decontaminating the high and low-level waste areas, the main plant, Vitrification facility, 01/14 Building and the waste tank farm. In regard to all cleanup, we would like to see all of EPA's concerns addressed, as expressed in their comment to NRC January 2000, including assurance that both radioactive and hazardous waste will be included in the cleanup, and that groundwater and air emissions standards likewise will be upheld. The CTF also has concerns about the brevity of the 45-day comment period.*

DOE Response: DOE has modified the scope of this EIS as a result of public comments received during scoping. The scope is now limited to onsite waste management and offsite waste transportation activities,

and no longer includes decontamination activities as proposed in the NOI. DOE's ability to continue to comply with groundwater and air emission standards during the proposed waste management activities is addressed in the Waste Management EIS (Chapter 4).

With respect to the 45-day comment period, DOE believes that the standard 45-day comment period called for in NEPA implementing regulations will be sufficient given the limited nature of the proposed waste management activities analyzed in this Waste Management EIS. DOE provided a 6-month comment period for the 1996 Completion and Closure Draft EIS in compliance with the Stipulation of Compromise and intends to provide a 6-month comment period for the future Decommissioning and/or Long-Term Stewardship EIS.

CTF Comment 3. *Concerns about Phase Two: Our primary concern about splitting the EIS relates to the impact on phase two. Our concerns include:*

- *DOE's definition of the term "closure or long-term management";*
- *Whether the waste left in the tanks could be reclassified as incidental, as at other sites, yet could still be HLW by other definitions;*
- *Whether and how EPA and NRC criteria will be reconciled;*
- *The impact of the NRC Decontamination and Decommissioning guidelines when they are finally made public; and*
- *Most imminent, the ultimate division of responsibility between DOE and NYSERDA.*

DOE Response: These issues relate to the scope of the future Decommissioning and/or Long-Term Stewardship EIS and the basis for ultimate decisions to be made regarding site closure or future use, and are not addressed in the Waste Management EIS due to its limited scope. However, the issues raised in the comment will be within the scope of the second EIS.

NUCLEAR INFORMATION AND RESOURCE SERVICE AND PUBLIC CITIZEN/CRITICAL MASS ENERGY AND ENVIRONMENT PROGRAM (JOINT SUBMITTAL)

NIRS/PC Comment 1. *[Our organizations] request direct notification of all future comment periods, proposed actions and meetings regarding the long-term management and clean-up at the West Valley site. We believe that the 30-day comment period for this Notice of Intent is inadequate and that a 45-day comment period for the proposed segmented Draft Environmental Impact Statement to be published later this year is inadequate.*

DOE Response: DOE has included both organizations on its mailing list for future notices and copies of the Draft Waste Management EIS when it is issued. While DOE allowed for the usual 30-day public comment period on the scope of this EIS, the Department also stated in the Notice of Intent published in the Federal Register on March 26, 2001, that late comments would be considered to the extent practicable (the last comment letter DOE received was dated May 10, 2001). DOE has received no indication that any party seeking to submit scoping comments was unable to do so because of the length of the formal scoping period. Given the limited nature of the proposed activities to be analyzed in the Waste Management EIS, DOE believes that the standard 45-day comment period called for in NEPA implementing regulations will be sufficient for this EIS.

NIRS/PC Comment 2. *[Our organizations] oppose the splitting or segmenting of the Environmental Impact Statement for the West Valley Demonstration Project and Nuclear Service Center site. Some of us are already on record calling for the inclusion of the entire site in long-term planning so that the entire legacy at the site is evaluated in total, all areas, including the DOE Demonstration Project and the NYS*

areas. Segmenting the property into smaller sub-groups for purposes of long-term management and closure opens the door to leaving greater amounts of contamination and risk. We believe that the decontamination and waste management activities are inextricably linked to the decommissioning and long-term management of the site and should not be severed into two distinct Environmental Impact Statements. The Federal Register Notice of Intent does not fully explain or make the case for revising the strategy for completing the demonstration project and closure/long-term site management.

DOE Response: DOE is not proposing to split the consideration of decommissioning and/or long-term stewardship of the WVDP facilities from the decommissioning and/or long-term stewardship of the Center. Rather, DOE is proposing to analyze the potential impacts associated with waste management activities such as offsite transportation of waste. DOE has modified the scope of this EIS as a result of public comments received during scoping. The scope is now limited to onsite waste management and offsite waste transportation activities, and no longer includes decontamination activities as proposed in the NOI. The proposed waste management activities are those that DOE would need to take regardless of eventual decisions regarding the long-term management of the Center. The future Decommissioning and/or Long-Term Stewardship EIS will analyze the potential impacts of closure and/or long-term management of the Center as a whole, including the Project facilities. An Advance NOI was issued on November 6, 2001(66 FR 56090), formalizing DOE's commitment to begin work on the Decommissioning and/or Long-Term Stewardship EIS.

NIRS/PC Comment 3. *[Our organizations] support efforts by DOE and NYSERDA to comply with the Agreement (Stipulation of Compromise Settlement) with the local community organization, the Coalition on West Valley Nuclear Wastes, in 1987, which resulted from legal action on the long-term management of the site. We do not support efforts to circumvent or violate the Agreement or NEPA. We support the Coalition in its efforts toward isolation of radioactivity from all of the West Valley nuclear activities.*

DOE Response: DOE is not proposing to take any action that would violate either the Stipulation of Compromise or NEPA. DOE supports the efforts to isolate radioactivity from WVDP nuclear activities and believes that preparing an EIS for waste management activities will allow the Department to make progress in onsite waste management and offsite waste transportation activities, rather than waiting until site decommissioning and/or long-term stewardship decisions are made some time in the future.

NIRS/PC Comment 4. *[Our organizations] consider this notice inadequate as an announcement of Scoping for a new segmented EIS, since we contest the simultaneous announcement splitting the existing process.*

DOE Response: In its NOI, published in the *Federal Register* on March 26, 2001, DOE stated that it welcomed comments on the plan for revising the strategy for completion of the 1996 Completion and Closure Draft EIS as well as on the scope of the anticipated Waste Management EIS. DOE has considered all of the comments it received regarding its plan to rescope the 1996 Draft EIS, and continues to believe that this course of action is appropriate and consistent with NEPA and the Stipulation of Compromise.

NIRS/PC Comment 5. *[Our organizations] support the goal of complete isolation of all of the West Valley wastes, support both short and long term remedial actions and planning that prevent leakage, exposure and loss of control of the radioactivity from all of the West Valley activities.*

DOE Response: DOE also supports the efforts to isolate WVDP wastes and believes that preparing an EIS for waste management activities will allow the Department to make progress in onsite waste management and offsite waste transportation activities, rather than waiting until site decommissioning and/or long-term stewardship decisions are made some time in the future.

THE LEAGUE OF WOMEN VOTERS OF BUFFALO/NIAGARA

LWV Comment 1. *The official time period on this revised strategy was inadequate.*

DOE Response: DOE provided the required 30-day comment period for the proposed rescoping of the 1996 Completion and Closure Draft EIS. In addition, DOE stated that late comments would be considered to the extent practicable. For example, DOE received the League of Women Voters comments on May 11, 2001, and has considered those comments along with comments received by the April 25, 2001 due date.

LWV Comment 2. *We concur with all the comments made by the [Citizens Task Force] in this matter, especially questioning the legality of the proposed change, emphasizing the need for staying within the laws of NEPA and the West Valley Demonstration Project Act, and reiterating the necessity that the Nuclear Regulatory Commission guidelines be available soon, before completion of the draft EIS, and honored therein.*

DOE Response: Please see the DOE responses to the CTF comments above. With respect to NRC guidelines, the West Valley Demonstration Project Act requires DOE to decontaminate and decommission material and hardware used in connection with the project "in accordance with such requirements as the Commission may prescribe." West Valley Demonstration Project Act, Section 2((a)(5)(C). The level to which the Center should be cleaned up will be addressed in the future Decommissioning and/or Long-Term Stewardship EIS.

DOE has modified the scope of the EIS as a result of public comments received during scoping. The scope is now limited to onsite waste management and offsite waste transportation activities, and no longer includes decontamination activities as proposed in the NOI.

LWV Comment 3. *The 1996 Draft Environmental Impact Statement for Completion and Closure called for one project while the strategy change requires two separate NEPA documents. When a coordinated plan is split into two or more phases, the overall plan remains in effect. When the plan itself is split, many unforeseen problems can emerge:*

- *Parts of the original plan could be changed, ignored, or forgotten*
- *Cumulative effects may go unchecked because of the segmentation of various portions*
- *Arriving at a cost benefit analysis for a split project will be difficult, and completion will be more expensive*
- *Considering the uncertainty of Congressional budget allotments (recent cuts in the DOE budget presents a prime example), budget constraints could disallow continuance of the project, thus endangering its completion*
- *Splitting the EIS into two could allow for serious delay in drafting and implementing the final EIS and completion and closure for the entire site.*

DOE Response: The West Valley Demonstration Project Act established a single program with multiple components. DOE has already prepared numerous NEPA documents to carry out its numerous responsibilities under the Act, including the *Final Environmental Impact Statement, Long Term Management of Liquid High-Level Radioactive Wastes Stored at the Western New York Nuclear Service Center* (DOE/EIS-0081, June 1982). Rather than address the waste management activities and decommissioning components in one EIS, as originally planned for the Completion and Closure EIS, DOE decided that addressing the two components separately would facilitate its decisionmaking process. Regardless of the number of NEPA documents prepared, the overall plan required by the West Valley Demonstration Project Act remains in place.

DOE believes that all of the activities that were addressed in the 1996 Completion and Closure Draft EIS will be addressed in either the Waste Management EIS or in the future Decommissioning and/or Long-Term Stewardship EIS. Cumulative impacts will be addressed in both documents.

Because DOE proposes to implement actions that will need to occur regardless of any future decommissioning and/or long-term stewardship scenario, DOE does not expect that significant additional costs would be incurred. Although DOE does not anticipate discontinuance of federal funds for the WVDP, possible future budget constraints are a reason to analyze and implement initial cleanup decisions in the short term.

DOE does not expect that the decision to prepare the Waste Management EIS will delay the final decision on the future of the site. DOE issued an Advance NOI on November 6, 2001, to prepare the Decommissioning and/or Long-Term Stewardship EIS in the near future with NYSERDA, demonstrating its commitment to making final decisions regarding the site. Moreover, the waste management activities addressed in the Waste Management EIS would take several years to implement, allowing sufficient time for DOE and the NYSERDA to resolve their differences and make the necessary decommissioning and/or long-term stewardship decisions.

LWV Comment 4. *The second phase could get bogged down, in light of the fact that the Department of Energy withdrew in January from negotiations with the New York State Energy Research and Development Authority regarding their individual responsibilities. We find it very disturbing that the future of the entire project and the surrounding community is being held hostage to intra-governmental squabbles.*

DOE Response: One of the reasons DOE decided to rescope the 1996 Completion and Closure Draft EIS was to be able to make decisions more quickly regarding its responsibilities for the cleanup of the WVDP site. DOE believes that preparing an EIS for waste management activities will allow the Department to make progress in removing waste from the site, rather than waiting until site decommissioning and/or long-term stewardship decisions are made some time in the future.

LWV Comment 5. *Under the proposed change, the first EIS refers to Decontamination and Waste Management. The proposed second EIS does not mention further decontamination and waste management, including removal, which we assume will be necessary. We all need assurance that waste removal and closure will remain the goal and become the reality at the completion of the entire cleanup process at the West Valley site.*

DOE Response: DOE has modified the scope of this EIS as a result of public comments received during scoping. The scope is now limited to onsite waste management and offsite waste transportation activities, and no longer includes decontamination activities as proposed in the NOI. The proposed actions evaluated in this EIS would remove all stored and newly generated wastes from the site. Further decontamination, and decommissioning actions will be the subject of the Decommissioning and/or Long-Term Stewardship EIS.

B.4 REFERENCES

DOE (U.S. Department of Energy), 1996. *Draft Environmental Impact Statement for Completion of the West Valley Demonstration Project and Closure or Long-Term Management of Facilities at the Western New York Nuclear Service Center - Volumes 1 and 2*, DOE/EIS-0226-D, January.

DOE (U.S. Department of Energy), 1997. *Final Waste Management Programmatic Environmental Impact Statement for Managing Treatment, Storage, and Disposal of Radioactive and Hazardous Waste (Volumes 1 through 5)*, DOE/EIS-0200, Washington, DC, May.