

MINUTES OF THE TWENTY-NINTH MEETING OF THE
WASTE AND FACILITIES MANAGEMENT COMMITTEE
HELD ON SEPTEMBER 12, 2005

Pursuant to a notice dated September 7, 2005, a copy of which is annexed hereto, the twenty-ninth (29th) meeting of the Waste and Facilities Management Committee of the NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY was convened at 10:00 a.m. on Monday, September 13, 2004, in the Authority's New York office, 485 Seventh Avenue, 10th floor, New York, New York and by video conference in the Authority's Albany Office at 17 Columbia Circle, Albany, New York.

The following members of the Committee were present:

Elizabeth W. Thorndike, Ph. D., Chair
Vincent A. Delorio
Parker D. Mathusa

Member William F. Edwards participated by conference call, but was not counted as present for quorum or voting purposes. Peter R. Smith, President; Robert G. Callender, Vice President for Programs; Wendy M. Shave, Vice President for Administration and Secretary to the Board; Roger D. Avent, General Counsel; Jeffrey J. Pitkin, Treasurer; Paul L. Piciulo, Director, West Valley Site Management Program; John P. Spath, Program Manager, Energy Analysis Program; Hal Brodie, Deputy Counsel; and Peter Keane, Senior Counsel and Secretary to the Waste and Facilities Management Committee; all of the Authority, were present. Also present were John Cashin of the Battery Park City Authority and various members of the Authority's staff.

Ms. Thorndike called the meeting to order, stated that notice of the meeting had been forwarded to the Committee Members and the press on September 7, 2005, and noted the presence of a quorum. Ms. Thorndike stated that the first item on the agenda concerned approval of the minutes of the twenty-eighth meeting, held on June 9, 2005.

Whereafter, upon motion duly made and seconded, and by unanimous voice vote, the minutes of the twenty-eighth meeting were approved.

Ms. Thorndike next called upon President Peter Smith, who provided a summary of recent developments regarding West Valley Site Management Program activities.

Mr. Smith advised the Committee that the West Valley legislation drafted by Authority Staff, with input from the Citizen Task Force, was introduced in the House of Representatives on June 29th, with Representative Kuhl as the Sponsor and Representatives Tom Reynolds, Sherwood Boehlert, and Brian Higgins as cosponsors. The Bill was referred to the House Committee on Energy and Commerce and then to the Subcommittee on Energy and Air Quality. Mr. Kuhl has indicated that he hopes to move the Bill this fall.

As to potential litigation, Peter reported that Authority Staff is currently reviewing a first draft of

a complaint against the United States government concerning responsibilities for the cleanup at West Valley. At the same time, The Authority is working to set up a meeting with the Secretary of Energy to determine whether there has been any change in the Department of Energy's (DOE) willingness to negotiate on the key West Valley issues.

Ms. Thorndike next asked Paul Piciulo to provide the Committee with an overall status report on West Valley Site Management Program activities.

Mr. Piciulo reported that the Authority's West Valley Staff has relocated to the Ashford office complex, as have some DOE and West Valley Nuclear Services Company (WVNSCo) employees. According to Mr. Piciulo, WVNSCo's workforce has declined by 126 workers since December of 2004, and they are progressing with the removal of trailers from the Site. WVNSCo has completed the removal of all of the equipment from the vitrification cell, and wastes continue to be processed through the Remote Handled Waste Facility. WVNSCo is active in characterizing, packaging and shipping low-level radioactive waste (LLW) for off site disposal.

According to Mr. Piciulo, DOE extended their contract with WVNSCo through 2005, and they are planning to extend the contract for another year, through 2006. Mr. Piciulo has been told that the scope of work for 2006 will include continuation of activities started in 2005, as well as (1) a resumption of decontamination in the Process Building, (2) additional cleaning of the interior of the tanks, and (3) additional characterization of the interior of the tanks for hazardous constituents. Mr. Piciulo reported that, in his view, the addition of these activities reflects a significant DOE response to the Authority's criticisms about the current work scope.

Mr. Piciulo next advised the Committee that DOE has provided him with a "Site Utilization Management Plan," dated August 2005, which describes three different "End States" or phases for the future of the Project. DOE plans to achieve the first phase, or "Interim End State," by 2010. DOE has described the objective for this end state as doing as much cleanup as they believe they are authorized to do within the West Valley Demonstration Project (WVDP) Act, except for the high-level waste (HLW) tanks, process building, HLW canisters and the lagoons, which are to be cleaned up at some later time. To achieve the Interim End State, DOE is planning a solicitation for work starting in 2007 and extending through 2010.

Under the second phase, titled the "Environmental Management Completion End State," DOE would move forward with decommissioning the HLW tank farm and WVDP supporting facilities per the Decommissioning Environmental Impact Statement (EIS) Record of Decision, which they plan to publish in 2008. The HLW canisters would be maintained in the process building awaiting transport to a federal repository. DOE still expects payment of the HLW disposal fee before the canisters will be shipped. Mr. Piciulo stated his belief that, at the end of the Environmental Management Completion End State, the DOE may transfer the WVDP site to their Office of Legacy Management for monitoring and maintenance until it is time to complete the Project, with an annual budget of approximately \$6 million.

According to Mr. Piciulo, the third phase, the "Project Completion End State," would be achieved after the HLW canisters have been shipped for disposal. Activities would include demolition and removal of any other interim storage support facilities and transition of the site back to New York State. No budget plan or schedule for this phase is included in the Site Utilization Management Plan. The Site Utilization Management Plan also does not include any additional cleanup of the ground water plume. According to Mr. Piciulo, John Swailes, the DOE's Project Director, has stated that DOE may approach the Department of Environmental Conservation (DEC) to put a cover system over the Nuclear Regulatory Commission (NRC) Licensed Disposal Area as an interim measure.

Mr. Piciulo next reported that the DOE contractors have completed a preliminary draft of the EIS which is under review by DOE headquarters. DOE intended to distribute the 1200 page document along with supporting documents to the Authority and the regulatory agencies on September 15. The Authority and the other involved agencies will have five months to review the preliminary draft EIS; the agencies will prepare and submit written comments to DOE. There will then be a period for comment resolution among the agencies, followed by the preparation of a draft EIS. DOE is planning to issue the draft EIS in early 2007 for a six month public review.

Mr. Piciulo advised that Authority staff is moving forward with assembling the Peer Review Group, the panel of nationally known technical experts that we plan to enlist in support of our review of the performance assessment in the draft EIS. A request for qualifications was issued, and responses were received from 16 individuals. DOE requested and has been granted the opportunity to participate in the reviewer selection process, which is expected to take place in the next several weeks. Expenses for the Peer Review will be shared between DOE and the Authority.

Mr. Piciulo stated his opinion that DOE's involvement in the Peer Review is a positive development, given that we will need DOE contractor support to help orient the review panel to the site and to the EIS content, and because it reflects a desire to work cooperatively. It also makes it more likely that DOE will have to address the concerns of the Peer Review Group, and will help avoid concerns that might arise from potential peer reviewers if DOE was not involved in this review process.

Mr. Piciulo next reported that the Citizen Task Force (CTF) continues to meet monthly. According to Mr. Piciulo, representatives from several national and state environmental groups opposed to the West Valley Remediation Act have presented their concerns about the West Valley Remediation Act to the CTF. In July, the CTF sent a letter to Senators Clinton and Schumer encouraging them to introduce a companion bill to the House version of the West Valley Remediation Act.

Finally, Mr. Piciulo advised the Committee that Staff continue to work conscientiously on environmental monitoring and maintenance at the State-Licensed Disposal Area. There have been no unexpected results.

Ms. Thorndike next asked Jack Spath to provide a status report on radioactive waste policy and nuclear coordination activities.

According to Mr. Spath, based on reports from 237 facilities, 750,000 cubic feet of low-level radioactive waste, including a total of 940 curies, were shipped to out-of-state disposal facilities during 2004. Regarding nuclear coordination activities, Mr. Spath reported that Staff is engaged in reviewing a variety of federal initiatives aimed at increasing security at plants across the nation. For instance, Mr. Spath advised that the Federal Energy Policy Act of 2005 includes provisions requiring enhanced security measures for radioactive material and nuclear power plants. Implementation of those measures is likely to result in additional workload for the New York agencies, and for the Authority in its coordination role.

Mr. Spath advised that NYSERDA staff is coordinating a review of Constellation's application for a 20 year renewal of the Nuclear Regulatory Commission licenses for Nine Mile 1 and 2, as well as Constellation's request for approval to increase the power level of the Ginna Nuclear power plant by about 17%.

Next, President Smith addressed the Committee with regard to the Authority's fiscal year (FY) 2006-07 budget. As reported by Mr. Smith, the overall, Authority-wide FY 06-07 Budget is estimated at approximately \$252 million, a slight decrease from the FY 05-06 Budget of approximately \$264 million. The decrease is primarily due to reductions in amounts budgeted for the Authority's administration of demand reduction programs funded by the Con Edison Rate Settlement, partially offset by increased funding for the Renewable Portfolio Standard program.

Mr. Smith explained that the Budget continues to hold the line on controllable administrative, costs and keeps staffing levels relatively constant. The Authority continues to exercise fiscal responsibility to deliver its programs in an effective and efficient manner. According to Mr. Smith, the Authority continues to live within its means, but State fiscal pressures make this increasingly difficult without some detrimental impact on the Authority's programs and the benefits they provide.

President Smith introduced Treasurer Jeffrey Pitkin, who reported to the Committee on the proposed FY 2006-2007 Budget for the West Valley Program and Radioactive Waste Policy and Nuclear Coordination activities. Mr. Pitkin drew the Committee's attention to the package of materials mailed to the Committee in advance of the meeting, which included a one-page budget summary which summarizes the budgeted revenues and expenditures of each of the Authority's programs. The package also included graphs summarizing the sources and uses of the Authority's budgeted funding, an analysis which compares budget amounts with the prior year amounts and with actual amounts for the fiscal year ended March 2005, and detailed budget schedules for certain expenditure items. The package also included a draft of the request for State appropriation funding which will be submitted to the Division of the Budget (DOB) for purposes of formulating the Governor's Executive Budget, anticipated to be released in January 2006.

Mr. Pitkin reported that the funding request for the West Valley program is \$14 million, a \$2.65 million increase from the FY 2005-06 Budget. Mr. Pitkin explained that the majority of the increase is for additional funding to meet the State's 10% share of the West Valley Demonstration Project costs. Last year's Budget, developed in consultation with DOB staff, held the total funding for the West Valley program constant at \$11.35 million even though costs increased for the SDA and other non-Project expenditures including development of legislation and litigation strategies. The \$9.75 million in funding included in the Budget for the State's 10% share is expected to meet the State's funding obligations based on DOE funding presently authorized. A total of \$4.25 million is budgeted for costs for monitoring and management activities at the SDA and for other non-Project expenditures. According to Mr. Pitkin, this \$350,000 increase over the prior year's budget is primarily due to anticipated increases in costs for environmental laboratory support and waste disposition planning. Included in the Budget is \$1 million to cover outside counsel support costs for ongoing regulatory, legislative, and litigation preparatory activities.

Mr. Pitkin further advised that the Authority's costs for West Valley are dependent upon the federal budget, and could also be affected by future decisions to pursue litigation or a negotiated settlement on long-term care of the site, if one were to be reached. However, because of the overlap in federal and State fiscal years, such fluctuations can be, and historically have been, managed by adjusting amounts requested in the subsequent State fiscal year. Costs for West Valley were bonded in FY2004-05 by the Environmental Facilities Corporation and are authorized to be bonded again in FY2005-06. The Authority's request does not address the manner in which the State funds its obligations for West Valley.

Mr. Pitkin next reported that, pursuant to the Low Level Radioactive Waste Management Act of 1986, the Authority is responsible for, among other things, collecting information and providing an annual report on the generation and disposal of LLW in New York State. The cost of this activity is recovered through an assessment authorized under the Act against the operators of licensed nuclear power plants in New York State, which also provides funding for activities of the Departments of Environmental Conservation and Health. No change is recommended in the \$150,000 funding amount requested for this activity.

Mr. Pitkin explained that the budget also includes costs for the Authority's activities in serving as the State's liaison to the Nuclear Regulatory Commission and for monitoring nuclear matters, which is funded out of unrestricted revenue sources. The budgeted costs for these activities are comparable to the prior year.

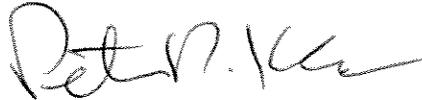
Finally, Mr. Pitkin made reference to the Authority-wide detailed budget expenditures for salaries and benefits and other administrative costs that were documented in the materials package. According to Mr. Pitkin, salaries and benefits are expected to increase by approximately \$1.4 million, which will provide funding for four additional positions, performance-based salary increases, and inflationary increases to match those authorized for State Management/Confidential employees. Other administrative costs are expected to decrease

slightly from the prior year's budget due to reductions in rent costs for the Authority's former offices with the expiration of these leases in July 2006, and also because of certain non-recurring costs included in the prior year's budget.

Based upon the reports and discussions, upon motion duly made and seconded, and by unanimous voice vote, the Committee unanimously recommended that the Board adopt the resolution approving the budget for the West Valley Site Management Program and Radioactive Waste Policy and Nuclear Coordination activities as presented. A copy of this Resolution is attached hereto as Exhibit A.

The last item on the agenda concerned other business. There being none, upon motion duly made and seconded and upon unanimous voice vote, the meeting was adjourned.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Peter R. Keane". The signature is fluid and cursive, with a long horizontal stroke at the end.

Peter R. Keane
Secretary to the Committee