MINUTES OF THE THIRTY-FOURTH MEETING OF THE
WASTE AND FACILITIES MANAGEMENT COMMITTEE
HELD ON JANUARY 16, 2008

Pursuant to a notice and agenda dated January 8, 2008, a copy of which is annexed hereto, the thirty-fourth (34th) meeting of the Waste and Facilities Management Committee of the NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY was convened at 12:30 p.m. on Wednesday, January 16, 2008, at the Authority's Albany Office at 17 Columbia Circle, Albany, New York, and by video-conference from the Authority's New York City office, at 485 Seventh Avenue, 10th floor, New York, New York.

The following members of the Committee were present in Albany:

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

Robert G. Callender, Vice President for Programs; Jeffrey J. Pitkin, Treasurer; Hal Brodie, Secretary and General Counsel; Paul Bembia, Director, West Valley Site Management Program; and Jacquelyn L. Jerry, Deputy Counsel; all of the Authority, were present, as were 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 January 8, 2008, and noted the presence of a quorum. Dr. Thorndike began by explaining that Authority President and Chief Executive Officer Paul D. Tonko sends his regrets for not attending the meeting. Governor Spitzer asked President and CEO Tonko to join him in Western New York, while the Governor delivered his "State of Upstate New York" speech. This invitation is illustrative of the importance of the Authority's work and the Governor's high regard for Authority programs, and everyone associated with the Authority should be proud of this recognition.

Dr. Thorndike then called upon Mr. Callender, Vice President for Programs. Mr. Callender announced that Paul J. Bembia had been appointed Director of the West Valley Site Management Program. A national search had been undertaken to fill this position. Candidates were required to have an advanced degree in a relevant field and at least ten years of relevant technical experience. Candidates were also required to have had experience in developing and leading technical teams, as well as in demonstrating an ability to establish quality relationships with key stakeholders including federal, state, and local officials, as well as public interest groups. The Authority advertised in newspapers and websites, including through various technical associations, such as the American Nuclear Society. Forty resumes were received. A team of Authority employees interviewed the top candidates and the Officers interviewed the two top external candidates and Mr. Bembia. Mr. Bembia was selected for the position based upon his seventeen years of experience with the Authority, including 14 years of supervisory experience, and his knowledge of relevant issues at the West Valley site. Mr. Bembia's educational background includes a Master of Science degree in Geological Sciences from the State University of New York at Binghamton, and a Bachelor of Science degree in Geology from the State University of New York at Fredonia. Mr. Callender and the Committee members joined in congratulating Mr. Bembia.

Mr. Bembia thanked the Authority for the opportunity and said that he was honored to be chosen to serve both the Authority and the State of New York in this capacity.

Dr. Thorndike then stated that the first item on the agenda concerned approval of the minutes of the thirty-third meeting, held on September 17, 2007.

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

Dr. Thorndike then said that a report on recent activities of the West Valley Site Management Program was next on the agenda. Mr. Bembia explained that, with respect to the West Valley

Demonstration Project (WVDP), in December 2007, the Federal government adopted a budget for Federal Fiscal Year 2008, which included $54 million in funding for the WVDP. This is significantly less than the $90 million that the WVDP received in 2007, but it is the amount that the U.S. Department of Energy (DOE) requested. It is not clear why DOE requested only $54 million; however, the budget request was prepared not long after the Authority filed its lawsuit against the U.S. Secretary of Energy and the United States. Both the U.S. House of Representatives and the U.S. Senate had marked up appropriation bills and based on these markups, DOE staff at West Valley said that they expected that the funding level for 2008 would be between $63 and $78 million. Unfortunately, the amount that was ultimately approved was the originally requested $54 million. As a result, DOE staff at West Valley is assessing the impact of this reduced funding level. DOE staff indicated that there is unspent money from the 2007 budget and they are working to identify the specific amount available. In addition, DOE West Valley staff is working to identify activities that can be pushed out into future years without requiring layoffs, as well as looking for funds that can be reprogrammed from other sites.

From the State's perspective, the Authority is concerned that a funding shortfall will mean that some important projects may not be funded this year. This includes potentially postponing work to stop the spread of the Sr-90 groundwater plume, and to remove radioactive liquids from one of the underground high-level radioactive waste (HLW) storage tanks. Authority staff is discussing the funding cuts with the Governor's Office to determine whether it is appropriate for the Governor to send letters to the New York State Congressional delegation and the U.S. Secretary of Energy in regard to the funding cut.

Mr. Bembia then reported that, with respect to the West Valley Decommissioning Environmental Impact Statement (EIS), in December 2007, the Authority learned that DOE shortened the schedule for the completion of the EIS by almost a year. For an EIS that has gone on for 18 years, this would normally be positive news. In this case, however, the shortening of the schedule actually heightens NYSERDA's concerns about the quality of and the ability to defend the

EIS technical analyses. DOE convened a Federal and State interagency discussion group designated the "Core Team" to try to resolve the technical issues. This group has been meeting since late 2006, but little progress has been made. As a result, the Authority is now assembling a broad-based group of independent experts to assess DOE's updated EIS analyses. This review group will also assess the revised environmental analyses, the transportation analyses, and the engineering approaches proposed to remove the HLW storage tanks and the U.S. Nuclear Regulatory (NRC)-licensed radioactive waste disposal area (NDA) and the State-licensed radioactive waste disposal area (SDA).

If the Authority does not ultimately agree with DOE's EIS analyses, staff will use the input from the independent review experts to prepare a critical analysis, based on the State's interests, that will be submitted to DOE and become a part of the EIS document.

The Authority also believes that it will be prudent to have the independent experts conduct or direct an independent performance analysis for closure of the SDA. Their involvement in this analysis will increase confidence that the decisions on the future of the SDA are based on a scientifically defensible analysis. Such analysis will also be provided to DOE for inclusion in the EIS document.

Mr. Bembia then discussed the Core Team's preferred alternative. In addition to trying to resolve technical issues, the Core Team has been working on the preferred alternative for the Decommissioning EIS for several months. The preferred alternative includes a "phased approach" for the remaining cleanup work. This phased approach was developed to try to address disagreements among the various Core Team agencies on the ability to defend the long-term erosion estimates and the long-term performance assessment analysis. In the Core Team preferred alternative, the first phase of the work focuses on near-term removal actions for: (1) the Main Plant Process Building, (2) the lagoon system that was used to treat radioactive liquids, (3) a number of ancillary facilities, and (4) contaminated soil beneath the Main Plant Process Building (the source of the Sr-90 groundwater plume).

For the WVDP facilities where in-place closure is being considered (i.e., the four HLW tanks, the source of the Sr-90 groundwater plume, and the NDA, decisions will be deferred due to the lack of agreement among the Core Team on the validity of the long-term analyses. This deferral period may be as long as 20-30 years, during which additional data collection, model development, and other activities will be conducted to try to address the erosion analysis and other issues. In the meantime, there will be annual, routine assessments of facility condition, performance, and other factors, and more extensive assessments, every 5 years. At a later date, but within the next 30 years, a decision will be made on the disposition of the remainder of the contaminated materials. Authority staff understands that this approach may not be viewed as an acceptable approach by some members of the Citizens Task Force (CTF) and the public, but this alternative does have some benefits - - it results in the removal of a number of facilities and sources of contamination, while keeping open the possibility for removing other on-site facilities such as the HLW tanks.

In regard to the preferred alternative for the SDA, at a presentation to the CTF in November 2006, Authority staff stated that it believed the SDA can to be safely managed, in place, for an additional period of time with ongoing monitoring, maintenance, and institutional controls. Authority staff continues to believe that this is possible. The SDA is performing very well, and operating experience shows that infiltration and erosion can be managed with active monitoring and maintenance. Authority staff also believes that the EIS analysis will show that the costs and impacts from exhuming and transporting millions of cubic feet of SDA waste to another disposal facility are uncertain, and likely to be very large, including at least several billion dollars in related costs. When these risks and benefits are weighed, the Authority has concluded that the preferred alternative at this time is to manage the SDA in place for up to the next 30 years. Using active monitoring and maintenance, the facility could be managed in accordance with required permits for this period and this decision can be revisited periodically for possible modification.

Mr. Bembia concluded his presentation by stating that, on January 23, 2008, the Core Team's preferred alternative for decommissioning the site will be presented by DOE staff at a quarterly

WVDP public meeting in the Town of Ashford and with the CTF. Mr. Bembia will present the preferred alternative for the SDA. This will allow the public to provide early input.

Dr. Thorndike remarked that, unlike the previous independent review group's recommendations, it is important that DOE recognizes the validity of the Authority's newly formed independent review experts, give their recommendations serious consideration, and include the group's recommendations in the final EIS. With respect to the SDA, the decision process must recognize that removal of the SDA waste will potentially expose additional populations to LLRW, in addition to costing billions of dollars. Since the SDA is being maintained with routine amount of effort and at a reasonable cost, developing a plan for final disposal of the SDA should not be a high priority at this time.

Authority Treasurer Jeffrey J. Pitkin next reported to the Committee on the Authority's proposed Fiscal Year (FY) 2008-2009 Budget (Budget) for the West Valley Site Management Program and radioactive waste policy and nuclear coordination activities. Mr. Pitkin reported that the Committee members are requested to recommend that the full Board adopt a resolution approving the related portion of the Authority's Budget for FY 2008-09. The other portion of the Budget was reviewed by the Program Planning Committee.

The details of the Budget are outlined and explained in the materials provided to the Committee members, so Mr. Pitkin only described some of the more significant items related to the Waste and Facilities Management Committee's responsibilities. The West Valley Site Management Program budget is $13.5 million, which is unchanged from FY 2007-08. The Budget includes $7,825,000 for the State's required 10% share of the WVDP costs, based upon the anticipated Federal funding level. The Budget also includes $1.45 million for costs associated with the EIS, and includes $4,225,000 for maintenance and monitoring activities at the SDA and other non-WVDP costs, including outside counsel support costs.

With respect to the Radioactive Waste Policy and Nuclear Coordination Program, the Budget includes $150,000 in State appropriation funding expected to be provided for the Authority's responsibilities under the Low Level Radioactive Waste Management Act, including funds related to preparation of the annual report on LLRW generation. The Authority's activities for coordinating with other State governmental entities on matters relating to nuclear materials and for serving as the State's liaison with the NRC are not funded with State funding, but rather are paid using corporate funds; the Budget estimates these costs at $158,000. Staff recommends adoption of the Budget.

Mr. Mathusa added that, in addition to this presentation, all members of the Waste and Facilities Committee attended the Program Planning Committee where the details of the entire Budget were discussed in detail.

Whereafter, upon motion duly made and seconded, and by unanimous voice vote, the Committee unanimously recommended that the Board adopt the resolution approving the Authority's Fiscal Year 2008-09 budget for the above-described programs.

Dr. Thorndike stated that the next item on the agenda concerned the renewal of a lease with the Town of Ashford (Town). Dr. Thorndike asked Hal Brodie, General Counsel, to discuss this agenda item. Mr. Brodie explained that the Committee members are requested to recommend adoption of a resolution approving renewal of the lease between the Authority and the Town to allow the Town to continue mining gravel at the site and to use it to repair and maintain Town roads. The Authority originally entered into the lease in 1985, for a ten-year term. The lease allowed the Town to mine gravel on approximately 18.5 acres of property at the Western New York Nuclear Service Center (Center). (The area is far from any of the activities at the Center involving contamination.) In return, the Town agreed to construct a road to provide alternative access to the SDA and agreed to deliver gravel to the Center at the Authority's request.

Since 1985, the lease was extended twice, most recently in 1997. That extension also

expanded the leased area to 21 acres. The proposed five-year lease renewal includes the entire 21 acres and would again require delivery of gravel to the Center as needed for Authority operations.

Although it is difficult to estimate the market value of the lease, Authority staff has estimated the value of the gravel that will be removed over the 5 year period at approximately $7,000. The Public Authorities Accountability Act allows negotiation of a lease for less than market value where the lease is "intended to further the public health, safety or welfare or an economic development interest of the State or a political subdivision." All of those interests would be furthered by this lease. The mining of gravel will allow the Town to rebuild and maintain its roads, which will improve safety and improve the transportation of goods through the Town.

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 recommending approval of the renewal of the lease with the Town.

Dr. Thorndike indicated that the next agenda item concerned a motion to convene in executive session to receive a report regarding the litigation with respect to West Valley against the United States and the U. S. Department of Energy.

Whereafter, upon motion duly made and seconded, and by unanimous voice vote of the Committee Members present, pursuant to Section 105 of the Public Officers Law, the Members of the Waste and Facilities Management Committee convened in executive session for the purpose of receiving a report regarding the litigation with respect to West Valley against the United States and the Department of Energy.

Thereafter, Dr. Thorndike reconvened the meeting in open session. She advised that no formal action was taken during executive session.

The last item on the agenda concerned other business and Dr. Thorndike asked if there was anything else the Committee members wished to discuss. There being none, upon motion duly made and seconded, and upon unanimous voice vote, the meeting was adjourned.

Respectfully submitted,

David J. Prior
Secretary to the Committee

Resolution No. _____

RESOLVED, that the proposed fiscal year 2008-09 operating budget submitted to the Members for consideration at this meeting, with such non-material, editorial changes and supplementary schedules as the Chair, in his discretion, may deem necessary or appropriate, be and it hereby is approved for submission, as appropriate, to the persons designated in Sections 1867(4) and 2801 of the Public Authorities Law.

Resolution No. ___

WHEREAS, the Town of Ashford (Lessee) has leased certain parcels of land at the Western New York Service Center at West Valley from the Authority since January 1, 1985; and

WHEREAS, the Authority and the Lessee wish to renew the lease under the same terms and conditions for a term expiring January 31, 2013 (the "Lease Agreement");

NOW, THEREFORE, BE IT RESOLVED, that the President, or his designee, be, and they hereby are, authorized to enter into the Lease Agreement with the Lessee to provide for the lease of a parcel of land at the Western New York Nuclear Service Center to the Lessee and to allow the Lessee to mine gravel from the parcel for use in rebuilding and maintaining the Lessee's roads in return for the Lessee's agreeing to deliver to the Authority such loads of gravel as may be needed for Authority operations.