

MINUTES OF THE FORTY-SECOND MEETING OF THE
WASTE AND FACILITIES MANAGEMENT COMMITTEE
HELD ON SEPTEMBER 19, 2011

Pursuant to a notice and agenda dated September 8, 2011, a copy of which is annexed hereto as Exhibit A, the forty-second (42nd) meeting of the Waste and Facilities Management Committee of the NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY was convened at 12:00 p.m. on Monday, September 19, 2011 in the Authority's Albany Office at 17 Columbia Circle, Albany, New York, and by video conference in 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 DeIorio

Member Townsend did not attend.

Also present were Francis J. Murray, Jr., President and CEO of the Authority; Robert G. Callender, Vice President for Operations and Energy Services; Janet Joseph, Vice President for Technology and Strategic Planning; Jeff Pitkin, Treasurer; Hal Brodie, General Counsel; David A. Munro, Deputy Counsel and Secretary to the Committee; and Paul J. Bembia, West Valley Program Director.

Dr. Thorndike called the meeting to order, noted the presence of a quorum, and stated that a Notice of the meeting was mailed to Committee members and the press on September 8, 2011. Each of the Committee members introduced themselves.

The first item on the agenda concerned approval of the minutes of the forty-first (41st) meeting, held on January 14, 2011. A copy of the Minutes was included with the September 8, 2011 mailing. Whereafter, upon motion duly made and seconded, and by unanimous voice vote, the minutes of the forty-first meeting were approved.

The next agenda item was a status report on West Valley Site Management Program (WVSMP) activities by Program Director Paul Bembia. The first item Mr. Bembia covered was Federal Funding for the West Valley Demonstration Project for Federal Fiscal Year (FFY) 2012.

- The Senate Appropriations Committee met on September 7, 2011. The total funding recommended for the West Valley Demonstration Project by that committee was only \$60 million.
- The initial House Bill for FFY 2012 also included only \$60 million for West Valley. However, on July 14, 2011 an amendment introduced by New York Representatives Brian Higgins and Tom Reed added \$41 million to the Non-Defense Environmental Cleanup account (the account used to fund the West Valley appropriation). DOE-WV representatives were hopeful that West Valley could receive between \$15 million and \$31 million of this additional funding, meaning that the House would be targeting as much as \$75 million to \$91 million for West Valley.
- The additional funds would be used to move the High-Level Waste canisters out of the Main Plant Process Building to a new Interim Storage Facility to be built at the Site. Those canisters must be moved before the highly contaminated Main Plant building can be demolished.
- The cost for the new High-Level Waste Interim Storage Facility is between \$70 million and \$100 million over a three-year period. Because safe site operations are presently running at about \$20 million per year, a \$60 million annual appropriation would leave little money for cleanup activities at the site over the next three years.
- In visits with staff of the WNY Congressional Delegation over the last year, and in correspondence with the Department of Energy, NYSERDA has consistently requested \$85 million for West Valley for FFY 2012 to maintain positive momentum on the cleanup.
- The full Senate has not yet taken up funding for West Valley.

Next, Mr. Bembia advised that DOE has hired a new Prime Contractor, CH2M HILL and Babcock & Wilcox (CHBWV), which took over site operations on August 29, 2011. This is a \$333 million, six-year contract that includes significant decommissioning work at the site, including the relocation of the High-Level Waste canisters from the Main Plant Process Building to a new on-site High-Level Waste Storage Facility; removal of the Main Plant Process Building, Vitrification Facility, and a number of support facilities; management of the site's underground waste tank farm; and operation and maintenance of site facilities and infrastructure.

Mr. Bembia also addressed the status of Phase 1 Studies. NYSERDA's West Valley staff continues to work with DOE to initiate the Phase 1 Studies, which are scientific studies intended to evaluate the concerns NYSERDA identified during the preparation of the Decommissioning Environmental Impact Statement. NYSERDA and DOE are working to resolve these issues before decisions are made in 2020 on the next phase of decommissioning activities.

The next item addressed by Mr. Bembia was DOE's Asset Revitalization Initiative, previously called the Energy Parks Program.

- Early this year, Congress authorized DOE to allow the establishment of energy parks at DOE defense sites as a way to reuse existing assets as cleanup projects wind down. In response, DOE has established an "Asset Revitalization Task Force" to explore reuse opportunities. The task force will make recommendations to DOE management and Congress by the end of this year.
- Although DOE does not consider West Valley to be a defense site, DOE and NYSERDA have been working to include the site in the Asset Revitalization program. The DOE-West Valley Director has been in communication with members of the Asset Revitalization Task Force, and NYSERDA staff prepared and submitted an initial asset inventory for the site. Since this was a congressional initiative, the Ashford Town Board has been in communication with the Western New York Congressional delegation to see if the delegation can help to ensure that West Valley will be considered in this program.

The Chair asked whether the West Valley site may benefit from the Asset Revitalization Initiative. Hal Brodie responded that NYSERDA's goal is to convince DOE that, even though West Valley is not owned by the federal government, DOE has responsibility to consider some revitalization alternatives for the Site.

Mr. Bembia also advised that the West Valley Citizen Task Force (CTF) is discussing the issue of High-Level Waste and spent fuel interim storage at West Valley.

- At the July 2011 CTF meeting, the Ashford Town Supervisor (who is a CTF member) discussed the draft report issued by the Blue Ribbon Commission on America's Nuclear Future. This Commission was established by President Obama after the Yucca Mountain Repository project was halted. Its purpose is to conduct a comprehensive review of policies for managing the back end of the nuclear fuel cycle. The report includes a recommendation for developing a small number of regional spent fuel storage facilities to provide for consolidated High-Level Waste and spent fuel storage until a High-Level Waste repository can be constructed.
- The Ashford Town Supervisor stated at the CTF meeting that he wants to see West Valley "totally cleaned up," and he suggested that if West Valley agrees to host a regional spent fuel storage facility, perhaps money from the Nuclear Waste Fund could be used to clean up the site. Because the vitrified High-Level Waste will be stored for decades at West Valley in a new High-Level Waste interim storage facility, he suggested that it may make sense to store other waste, if it could bring in enough money to clean up the site. This might mean, for example, transporting and storing spent fuel from commercial nuclear facilities in New York and elsewhere, such as Indian Point.
- Several CTF members were wary of the concept and expressed a concern that once the waste was brought in, there is no guarantee that it will ever leave. The Supervisor said that he agrees with that concern, but he still believes that the idea should be discussed further by the CTF.
- New York State has not taken a position on this issue.

Mr. DeIorio stated that if the Indian Point nuclear power plant closes, disposition of the High-Level Waste from that plant would likely become a major issue. Dr. Thorndike asked whether governmental agencies are investigating alternative sources of power in the event Indian Point closes. Mr. Murray responded that there is a multi-agency group within state government that is looking at this issue, and that NYSERDA is involved in this effort. Mr. Murray also stated that he has no reason to believe that New York State is looking to the West Valley site as a solution to disposition of any waste that may be shipped offsite from Indian Point or any other nuclear facility.

Mr. Bembia's final item was an update on efforts to release property from the Nuclear Regulatory Commission (NRC) license for the Center.

- NYSERDA's West Valley staff initiated work last year on a project to release the empty and unused Bulk Storage Warehouse (BSW) and approximately 200 acres of adjacent undeveloped Center property in three separate parcels from the Nuclear Regulatory Commission Part 50 license. This was being done to make these areas available for possible public reuse without waiting for decades until the entire WVDP cleanup is completed.
- Last fall, as part of the release project, NYSERDA's environmental support contractor collected samples of sludge from the BSW septic tank. The septic tank sludge samples showed very low levels of plutonium and americium at concentrations that are slightly above background. These are levels well below NRC cleanup criteria, so this does not represent a public health and safety concern.
- However, there may be some implications to the property release project, because:
 - NRC's process for releasing property from the license early is only for unimpacted areas. This means areas with no reasonable potential for residual radioactivity in excess of natural background or fallout levels. Thus, sample results that are above background may preclude the BSW from being released under the NRC process for non-impacted property.

- If the BSW is eliminated from the property release project, NYSERDA may reevaluate the project because the Town Board has advised that the warehouse was likely to be most attractive in terms of reuse.

NYSERDA staff will be discussing this issue with the NRC later this Fall.

Dr. Thorndike stated that there was no report on issues relating to radioactive waste and nuclear coordination, as staff advised that there are no new developments. However, prior to the Committee meeting, Dr. Thorndike asked staff for an update on Low-Level Radioactive Waste compacts in light of news that has emerged recently about the Texas Low-Level Radioactive Waste site. NYSERDA employee Alyse Peterson advised Dr. Thorndike that (1) the Texas site is still moving forward as planned and is expected to open in October 2011; and (2) out-of-compact generators, including New York, should have access to the site subject to requirements currently being prepared by the Texas Compact. Ms. Peterson expects to receive full details at an upcoming Low-Level Radioactive Waste Forum meeting. Dr. Thorndike concluded by stating that there is presently some controversy about the adequacy of the site, and New York State should remain cautious and informed if it is considering sending waste to this site.

Dr. Thorndike then asked Treasurer Jeff Pitkin to report on the Authority's revised Fiscal Year 2011-12 Budget for the West Valley Site Management Program and radioactive waste policy and nuclear coordination activities. Mr. Pitkin stated that for the West Valley program, the revised Budget did not change the total program expenditures, which remain at \$15,310,000. However, minor changes among the expenditure categories are included, principally due to changes in indirect costs. Additionally, the revised Budget reflects an increase of \$5,000 in the Low-Level Radioactive Waste appropriation which reflects a restoration of prior year budget cuts. The Energy Analysis program budget includes \$150,000 to meet requirements under the State Low-Level Radioactive Waste Management Act of 1986 for collecting information and providing regular reports to the Governor and Legislature on Low-Level Radioactive Waste generation in the State. That \$150,000 amount is funded with a State appropriation sub-allocated from an appropriation provided to the NYS Department of Health, which is funded through an assessment collected on operating nuclear power plant licensees. Minor changes among expenditure categories are included due to the increase in the appropriation.

Based upon the reports and discussions, upon motion duly made and seconded, and by unanimous voice vote, the Committee recommended that the Board adopt the resolution approving the revised 2011-12 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 B.

Dr. Thorndike next asked Mr. Pitkin to provide a report regarding the State Appropriation Request for Fiscal Year 2012-13. Mr. Pitkin explained that the State Appropriation Request for Fiscal Year 2012-2013 includes an increase in funding requested for the West Valley program from \$15,310,000 to \$16,017,000. The majority of this increase is based on NYSERDA's required share of costs under the Demonstration Project and the Consent Decree (primarily Phase 1 Study Costs), offset by a decrease in costs for the State Licensed Disposal Area landfill (SDA). The majority of the funding (\$10.1 million) is based on the required cost shares. The balance of the funding (\$5.9 million) includes costs to maintain regulatory compliance and to provide public health and safety protection for the State's obligations at the SDA, additional costs to support Phase 2 decisions, and other non-project expenditures at West Valley, including outside legal counsel.

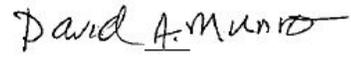
For the Low-Level Radioactive Waste program, the funding request of \$150,000 is expected to be provided from an appropriation which is funded from an assessment on operating nuclear power plant licensees, as in the current fiscal year.

Finally, the Preliminary Spending Plan reflects the projected revenues and expenditures for the West Valley and Radioactive Waste Policy and Nuclear Coordination programs, as well as the other program areas which were reviewed by the Program Planning Committee.

Based upon the reports and discussions, upon motion duly made and seconded, and by unanimous voice vote, the Committee recommended that the Board adopt the resolution approving the proposed State Appropriation Request for Fiscal Year 2012-13 as presented. A copy of this Resolution is attached hereto as Exhibit C.

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 that reads "David A. Munro". The signature is written in a cursive style with a horizontal line at the end.

David A. Munro
Acting Secretary to the Committee



Exhibit A
New York State Energy Research and Development Authority

Vincent A. DeIorio, Esq., *Chairman*
Francis J. Murray, Jr., *President and CEO*

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NOTICE OF MEETING AND AGENDA

September 8, 2011

TO THE MEMBERS OF THE WASTE AND FACILITIES MANAGEMENT COMMITTEE:

PLEASE TAKE NOTICE that the forty-second (42nd) meeting of the WASTE AND FACILITIES MANAGEMENT COMMITTEE of the NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY will be held in the Authority's Albany Office at 17 Columbia Circle, Albany, New York, and by video conference in the Authority's New York City Office at 485 Seventh Avenue, 10th floor, New York, New York, on Monday, September 19, 2011, commencing at 12:00 noon, for the following purposes:

1. To consider the Minutes of the forty-first (41st) meeting of the Committee held on January 14, 2011.
2. To receive a status report on West Valley Site Management Program activities.
3. To receive a status report on radioactive waste policy and nuclear coordination activities.
4. To receive a report from the Treasurer and to consider and act upon recommending approval of a resolution approving revisions to the Authority's Fiscal Year 2011-12 budget.
5. To receive a report from the Treasurer regarding the Authority's Fiscal Year 2012-13 Preliminary Spending Plan and the Authority's State Appropriation Request For Fiscal Year 2012-13 and to consider and act upon a resolution recommending approval of the Authority's State Appropriation Request for Fiscal Year 2012-13.
6. To transact such other business as may properly come before the Committee.

Members of the public may attend the meeting at either of the above locations. In accordance with guidance from the Office of Taxpayer Accountability, the Authority will be posting a video of the meeting to the web within two business days of the meeting. The video will be posted at <http://www.nyserda.org/governancemeetings2.asp>.

David A. Munro
Secretary to the Waste and Facilities
Management Committee

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Exhibit B

Resolution No. _____

RESOLVED, that the Fiscal Year 2011-12 Budget and Financial Plan (Revised September 2011) submitted to the Members for consideration at this meeting, with such non-material, editorial changes and supplementary schedules as the President and CEO, in his discretion, may deem necessary or appropriate, be and it hereby is approved.

Exhibit C

Resolution No. _____

RESOLVED, that the proposed State Appropriation Request for Fiscal Year 2012-13 submitted to the Members for consideration at this meeting, with such non-material, editorial changes and supplementary schedules as the President and CEO, in his discretion, may deem necessary or appropriate, be and it hereby is approved for submission to, and at the request of, the New York State Division of the Budget.