

MINUTES OF THE FIFTY-EIGHTH MEETING OF THE  
WASTE AND FACILITIES MANAGEMENT COMMITTEE  
HELD ON SEPTEMBER 19, 2017

Pursuant to a notice and agenda dated September 5, 2017, the fifty-eighth (58<sup>th</sup>) meeting of the Waste and Facilities Management Committee of the NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY (“Authority”) was convened at 10:30 a.m. on Tuesday, September 19, 2016, 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 1359 Broadway, New York, New York.

The following members of the Committee were present:

Richard Kauffman  
Sherburne B. Abbott (delayed arrival)  
Charles Bell, Chair  
Kate Fish

Also present were Alicia B. Barton, President and Chief Executive Officer; Kevin Kelly, Director, Office of the Chief Operating Officer; Janet Joseph, Vice President for Technology and Strategic Planning; Jeff Pitkin, Treasurer; Noah Shaw, General Counsel; Alyse Peterson, Senior Project Manager; Paul Bembia, West Valley Program Director; and Janice Dean, Secretary to the Committee.

The Chair 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 5, 2017. A copy of the notice is attached hereto as Exhibit A.

The first item on the agenda concerned approval of the Minutes of the fifty-seventh (57<sup>th</sup>) meeting, held on January 11, 2017. A copy of the Minutes was included with the September 5, 2017, mailing. Whereafter, upon motion duly made and seconded, and by unanimous voice vote, the

minutes of the fifty-seventh meeting were approved.

The second item on the agenda concerned an update to the 2017-18 Budget for the West Valley Site Management Program and radioactive waste policy and nuclear coordination activities. Treasurer Jeff Pitkin reported that the Revised Budget for the West Valley program is approximately \$15.6 million, an amount unchanged from the original approved FY 17-18 budget; however, he noted minor changes among the expenditure categories are included, principally due to changes in indirect costs.

Mr. Pitkin reported that included in the Energy Analysis program budget is funding to meet requirements under the State Low-Level Radioactive Waste (LLRW) Management Act of 1986 for collecting information and providing regular reports to the Governor and Legislature on LLRW generation in the State. Mr. Pitkin stated that these activities are funded with a State appropriation of \$150,000 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, and he noted that this amount is unchanged from the amount included in the current year budget.

Mr. Kaufman inquired, given these minor adjustments, why a resolution is needed. Mr. Pitkin stated that historically, these budget adjustments are appropriate for the Committee, and that although ministerial in certain years, it is appropriate to do given similar changes made at the Program Planning Committee.

Based on Mr. Pitkin's report, upon motion duly made and seconded, and by unanimous voice vote, the Committee recommended that the Board adopt the resolution approving the revisions to the 2017-18 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.

The third item on the agenda was a second report from Treasurer Jeff Pitkin, regarding the Authority's Fiscal Year 2018-2019 Budget for the West Valley Site Management Program and radioactive waste policy and nuclear coordination activities. Mr. Pitkin reported that the State

Budget Request includes an increase in funding requested for the West Valley program from \$15.6 million to \$17.0 million. The increase in the FY 2018-19 budget request is primarily related to a potential increase in the federal appropriations for the West Valley Demonstration Project (WVDP) as proposed by the House and the Senate for Federal Fiscal Year 2018. This increase in federal appropriation increases the Authority's 10 percent cost share for the WVDP by about \$1 million. Mr. Pitkin reported that the remainder of the increase is due to costs associated with analyses being conducted by DOE and the Authority that are needed to support the Phase 2 decommissioning decisions in 2020. Mr. Pitkin reported that 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 prior year.

Mr. Kauffman inquired about risk elements present given federal budget uncertainty. Mr. Pitkin responded that there is little risk here, given that this number relates to the cost share in each fiscal year, and adjustments can be made in the State Fiscal Year budget to address changes, if needed, when the federal appropriation is actually finalized.

Based on Mr. Pitkin's report, 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 the Fiscal Year 2018-19 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 C.

### **Nuclear Coordination Activities**

Next, the Chair called on Alyse Peterson to give a report on nuclear coordination activities. Ms. Peterson reported that as the State's lead agency for radioactive waste policy, with a legislated responsibility (the State Low-Level Radioactive Waste Management Act) to collect annual reports from facilities in New York that generated, stored or disposed of low-level waste, the Authority is obligated to prepare an annual summary report for submission to the Governor and legislative leaders by July 1 each year. Ms. Peterson reported that the Authority successfully met this

statutory requirement again this year, submitting a report covering calendar year 2016 for which 208 facilities, including all six nuclear power plants, filed reports. Of those, 48 reported disposing low-level waste at out-of-state disposal facilities in Utah and Texas for a total volume of 90,000 cubic feet. She indicated that Committee members had already received a copy of the report.

Additionally, Ms. Peterson reminded the Committee that she is the State's representative to and the current Chair of the national Low-Level Waste Forum, a national organization of state, federal, interstate waste compact, and industry representatives that facilitates continued implementation of the federal Low-Level Radioactive Waste Policy Act. Ms. Peterson reported that the Forum's fall 2017 meeting is coming up next month, and that as Chair of the Forum, she will be running the meeting and conducting other Forum business.

Ms. Fish inquired about the long-term prospects for waste disposal in Utah and Texas, and whether recent weather events impacted storage at these facilities. Ms. Peterson noted that there is a great deal of room left in those facilities, and she is aware of no capacity issues; she stated that she is not aware of any impacts to the Texas facility from the storm but will get an update on that issue at the Forum meeting.

Mr. Kauffman inquired if there has been any discussion of possible changes the Low Level Radioactive Waste Policy Act at the federal level; Ms. Peterson stated that she is not aware of any.

At this point in the meeting, Ms. Abbott arrived. Next, the Chair called on Paul Bembia, West Valley Program Director, to give a report on the West Valley Nuclear Service Center.

### **West Valley Demonstration Project**

Mr. Bembia explained that in regard to the WVDP, the nuclear decommissioning work at the Western New York Nuclear Service Center is being done in two phases, called Phase 1 and Phase 2. He reported that in Phase 1, earlier this month, the West Valley Demonstration Project began the demolition of the Vitrification Facility; he explained that the Vitrification Facility housed the systems that converted the site's liquid high-level waste into a durable glass waste

form between 1996 and 2002. Mr. Bembia stated that the U.S. Environmental Protection Agency and the U.S. Nuclear Regulatory Commission approved the demolition approach and the monitoring systems that will be used during the demolition work, which is expected to take about 8 months, and about 300,000 cubic feet of waste will be shipped to National Nuclear Security Site in Nevada for disposal by both truck and rail.

Mr. Kauffman inquired when materials for the Vitrification Facility demolition would be shipped; Mr. Bembia responded that demolition activities began just a week ago, and shipments will begin soon because the plan is to store as little waste onsite as possible. Mr. Shaw clarified that these materials are low-level waste, and are pieces of the building.

Mr. Kauffman said that 300 cubic feet sounds like a good-sized building, and that he is mindful of rail impacts and tanker issues around transportation, mentioning in particular the condition of bridges used for transport. He inquired about the State's role in overseeing the integrity of the rail system. Mr. Shaw indicated that previous shipments from the site were successfully completed recently when heavy equipment was relocated to the rail line, and that the Department of Energy and the New York State Department of Transportation approve the route, and are attendant to any risks. Ms. Fish inquired whether there is a state policy on the safety of the materials, and Mr. Bembia indicated that the Department of Energy hired the same transportation company as in the previous shipment, and that the containers are approved by the Department of Transportation and they are tracked across the country on the appropriate rail systems.

Ms. Abbott inquired if waste on the rail system was procured via the Department of Energy, and whether this bolstered the State's argument that waste at West Valley is defense waste. Mr. Shaw indicated that the answer was probably no because this is not high-level waste, but noted that Congress would not have placed 90% responsibility for the cleanup of this site with the federal government had there not been strong federal responsibility, and shared responsibility is inherent in all conversations about the site. Mr. Bell inquired if some waste would travel by truck, which Mr. Bembia confirmed, saying that transport will be intermodal (as the site's rail line is being upgraded, trucks will be used to transport to the train to Arizona).

As to Phase 2 decommissioning, Mr. Bembia reported that DOE and NYSERDA are continuing

to work toward making the decisions on the cleanup or decommissioning of the remaining facilities, which will be done in Phase 2 of the decommissioning process -- those remaining facilities include the High-Level Waste tanks, the two radioactive waste disposal areas (including the State Licensed Disposal Area), and the rest of the groundwater contamination plume.

Mr. Bembia stated that his team has been working on a set of studies and evaluations that will feed into the Phase 2 decision process, focused on 1) improving the understanding of the erosion processes at the site, 2) compiling information on exhumation projects and technology improvements over the last decade, and 3) confirming or improving the information we have on the materials and wastes that remain in the facilities, and that these studies, along with others, will be completed between now and August of next summer, respectively. Mr. Bembia stated that DOE and NYSERDA will be preparing a Supplemental Environmental Impact Statement to evaluate the environmental impacts from a range of different Phase 2 cleanup alternatives, which will be performed by SC&A from Arlington, Virginia.

### **State-Licensed Disposal Area**

In regard to the SDA, Mr. Bembia provided an update on the trench leachate investigation begun in 2014 to understand why leachate levels are increasing slowly in certain trenches. Mr. Bembia reported that a recommendation report is expected by the end of the year. He noted that water elevations in Trench 14 and Trench 1 have increased less than one inch over the last 12 months, and these increases do not represent an increased threat of a release from the disposal trenches.

Mr. Bembia provided an update to his previous report to the Committee regarding a new synthetic cover being installed over the 10 acres of the SDA disposal trenches this year as well as drainage improvements; the previous cover, which was installed in 1996, was reaching the end of its effective life. Mr. Bembia stated that NYSERDA staff continue to manage the SDA safely and in compliance with all regulations.

### **DEFENSE ORIGIN OF WEST VALLEY WASTES**

Next, Mr. Bembia provided an update on NYSERDA staff efforts that identified connections between the work that was done at West Valley in the 60s and 70s and the federal government's

nuclear weapons complex; these connections have important implications for West Valley because DOE currently has classified the West Valley site and wastes as “commercial” wastes, leaving them without a current disposal pathway. Mr. Bembia report that on May 4<sup>th</sup>, Congressman Tom Reed introduced the West Valley Reauthorization Act, which authorizes appropriations for the WVDP of up to \$75 million each year from 2017 through 2026 and specifies that all radioactive waste at the West Valley Demonstration Project shall be considered to be waste resulting from “atomic energy defense activities.” Mr. Bembia stated that staff are working with the Governor’s Washington, DC Office to keep a close eye on the progress on this bill.

## **BUDGET OVERVIEW FOR THE WVDP**

Mr. Bembia stated that the WVDP has generally received about \$60 to \$63 million in federal funding over the last decade, that funding was at \$69.6 million for FFY 2017, and that the President’s FFY 2018 Budget request included \$63.68 million for the WVDP, but that the House and Senate markups provide some confidence that the WVDP federal appropriation will be at \$70 million or higher for FFY 2018.

## **ASHFORD SOLAR FACILITY**

Finally, Mr. Bembia reported on efforts to support a solar development facility to benefit the Town of Ashford on the West Valley site; he stated that NYSERDA’s 3,300 acre West Valley property is located in the Town of Ashford and the West Valley Central School District, and the property is exempt from Town, County and School taxes, resulting in the view that there have been significant impacts from the loss of property tax revenue.

Mr. Bembia reported that the Town recently approached NYSERDA with a proposal to reuse about 50 acres of the property for a solar generation facility; under this proposal, the Town would lease the property from NYSERDA, and the Town would enter into an agreement with a solar developer. Mr. Bembia reported that he has come to understand that the developer chosen

by the Town submitted a proposal to the New York Power Authority as part of its large scale renewables Request for Proposals, and that the property would stay under NYSERDA ownership and under the Nuclear Regulatory Commission License that covers the entire 3300 acre property. He stated that he and his staff are currently working to obtain an independent appraisal of the property for the purposes of ensuring that we meet all requirements of the NYS Public Authorities Act for dispositioning property, and working to prepare a submittal to the US Nuclear Regulatory Commission to get their approval to use the licensed property for this purpose. He stated that if this development continues, he will provide a package to the Committee and Board for approval.

Ms. Fish inquired if the developer is from out of state, and Mr. Bembia said that while he is not certain how much information is public, he does believe the developer is in-state. Mr. Kauffman indicated that the PSC mandate for 50% reduction in greenhouse gases by 2030 certainly supports renewables and community solar, but that he seeks clarity about the loss of property tax impacts from the West Valley property, and whether this is a new phenomenon. Mr. Shaw indicated that this has been a long dialogue with the Town about what NYSERDA and the State can do to offset the concerns over property values and taxes raised by the Town, and that this is a good faith effort in support of that dialogue, along with taking great lengths such as technical and consulting assistance and education provided by NY-Sun personnel and contractors. Mr. Shaw indicated that additional potential challenges to the development may exist including regarding the NRC license, interconnection, the NYPA solicitation, and other issues.

Mr. Kauffman stated that he supports NYSERDA being as helpful as it can be while recognizing that the proposal stands alone.

Ms. Barton stated that this site, which is outside the tax rolls, is limited in terms of what can be done there, and that this project is a good alignment with the State's goals and solar development, and reuse of the site. Mr. Kauffman agreed, stating that it would be very nice if this could work.

Mr. Bell inquired what the prior life of the SDA geomembrane cover is, and Mr. Bembia

responded that is 25 years. Hearing no other questions, Mr. Bembia concluded his remarks.

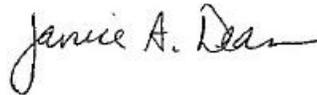
The Chair called for any additional business.

**ADDITIONAL BUSINESS**

Janice Dean, Deputy Counsel and Secretary to the Committee, reported that since the Committee's last meeting, a lawsuit was brought against the Authority in a dispute over gas service to the site, but resolved quickly in the Authority's favor.

There being no additional other business, upon motion duly made and seconded and upon unanimous voice vote, the meeting was adjourned at 11:17 a.m.

Respectfully submitted,

A handwritten signature in cursive script that reads "Janice A. Dean".

Janice A. Dean  
Secretary to the Committee