

MINUTES OF THE SIXTY-FOURTH MEETING OF THE
WASTE AND FACILITIES MANAGEMENT COMMITTEE
HELD ON JANUARY 28, 2020

Pursuant to a notice and agenda dated January 14, 2020, the sixty-fourth (64th) meeting of the Waste and Facilities Management Committee of the NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY (“Authority”) was convened at 10:00 a.m. on Tuesday, January 28, 2020, at the office of the New York State Dormitory Authority (“DASNY”), One Penn Plaza, 52nd Floor, New York, New York, and in the Authority’s Albany Office at 17 Columbia Circle, Albany, New York. The two locations were connected by videoconference.

The following members of the Committee were present:

Charles Bell, *Committee Chair*

Richard Kauffman, *Chair of the Authority*

Sherburne B. Abbott, *Committee Member*

Kate Fish, *Committee Member*

Also present were Alicia Barton, President and Chief Executive Officer; Janet Joseph, Senior Vice President; Jeff Pitkin, Treasurer; Peter Costello, General Counsel; John Williams, Vice President; Paul Bembia, West Valley Program Director; Alyse Peterson, Nuclear Regulatory Commission State Liaison Designee, and Janice Dean, Secretary to the Committee.

Mr. Bell 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 January 14, 2020.

The first item on the agenda concerned approval of the Minutes of the sixty-third (63rd) meeting, held on October 8, 2019. A copy of the Minutes was included with the January 14th mailing. Whereafter, upon motion duly made and seconded, and by unanimous voice vote, the minutes of the 63rd meeting were approved.

Mr. Bell indicated that the next item on the agenda was a report from the Authority’s Treasurer, Jeff Pitkin, regarding the Authority’s fiscal year 2020-2021 Budget for the West Valley Site Management Program and radioactive waste policy and nuclear coordination activities.

Mr. Pitkin stated that the committee is asked to approve a resolution for the portion of the budget concerning the West Valley Program, and that he would give just a brief overview for the committee. The Budget for the West Valley program is approximately \$20 million, an increase of about \$600,000 from the previous year. This includes operations at the State Licensed Disposal Area and funding for activities under the New York State Low Level Radioactive Management Act of 1986, which includes collecting information and providing reports to the government, legislature and other interested parties on low level radioactive waste generation in the state.

Following Mr. Pitkin's presentation, Mr. Bell called for a motion approving a resolution for the fiscal year 2020-2021 Budget for the West Valley Site Management Program and radioactive waste policy and nuclear coordination activities. Whereafter, upon motion duly made and seconded, and by unanimous voice vote of the members present, the following resolution was adopted.

Resolution

RESOLVED, that the proposed fiscal year 2020-21 Budget and Financial Plan submitted to the Members for consideration at this meeting, with such non-material, editorial changes and supplementary schedules as the President and Chief Executive Officer, in her discretion, may deem necessary or appropriate, be and it hereby is recommended for approval by the Board for submission to the persons designated in Sections 1867(4) and 2801 of the Public Authorities Law.

Mr. Bell indicated that the next item on the agenda was a status report on the Authority's Nuclear Coordination Program. This item was presented by Alyse Peterson.

Ms. Peterson noted that her report would be focused on the decommissioning of Indian Point. She explained that in 2017, the Governor and Entergy reached an agreement about Indian Point, a nuclear power plant with three units. She reported that Unit 1 had been shut down decades ago, whereas Unit 2 will come offline in April 2020 and Unit 3 will come offline in April 2021. She noted that in the Spring of 2019, Entergy announced plans to sell the plants to a subsidiary of Holtec International for decommissioning, maintaining that it could not

decommission the plants itself in less than 60 years or more, under the traditional approach called SAFSTOR wherein the plants are defueled right away and then monitored for up to 60 years before decontamination and dismantling of the plant occurs.

Ms. Peterson reported that Holtec has stated that it will be able to decommission the plants in just 15 years using an alternative approach called DECON, wherein decommissioning activities would begin as soon as the plant shuts down. Ms. Peterson explained that at the federal level, Holtec and Entergy have filed a petition with the U.S. Nuclear Regulatory Commission to transfer Indian Point's federal licenses, and that at the state level, Entergy and Holtec have filed a petition with the Public Service Commission ("PSC") seeking to clarify the PSC's jurisdiction over the license transfer pursuant to Public Service Law 70, and if the law applies, seeking approval of the transfer.

Ms. Peterson explained that in the Authority's nuclear coordination role, it has been meeting with the state agencies that have nuclear responsibilities for many months to discuss and review this proposed transfer. She stated that the Authority, along with other state agencies, supports the rapid decommissioning of Indian Point's three units, but noted that Holtec has acquired three other plants over the past year, but that it has never decommissioned any facility from beginning to end. She expressed concern for New York State and other host states, who question the ability of Holtec's limited liability subsidiary to complete the simultaneous decommissioning of all of these facilities simultaneously, and with no funds other than the decommissioning trust fund.

Ms. Peterson noted that with this information, the Authority plans to participate in both the federal and PSC proceedings to express the State's concerns, seeking to impose financial assurance measures ensure Holtec's ability to complete the decommissioning should the company experience financial hardship, or if the existing decommissioning trust funds prove to be insufficient. She stated that the Authority would be filing comments in the PSC proceeding by April 7, and that the Nuclear Regulatory Commission filing deadlines have not yet been set. This completed Ms. Peterson's report.

In response to an inquiry made by Mr. Kauffman regarding what legal authority the Authority has if the state comes to the conclusion that Holtec taking over the units is a bad idea, Ms. Dean stated that the Authority is currently working with the Attorney General's office in a Nuclear Regulatory Commission proceeding similar to the State's intervention in past proceedings, and that the public right to intervene has been laid out in Nuclear Regulatory Commission regulations and the Authority would follow that process.

In response to an inquiry made by Mr. Bell, Ms. Dean stated that there are two opportunities for public comment, both with the NRC and with the PSC. Both of these notices published for public review the facts, relevant filings, and summaries of the filings for public comment. Ms. Dean noted that the PSC notice did ask for comments on quite a few items specifically. In response to a question from Mr. Kauffman in terms of the Board's role, if any, in these proceedings, Mr. Costello stated that state agencies are working in collaboration with the Executive Chamber and the Attorney General's Office, taking a substantive look at the issues. Ms. Abbott inquired what would happen if the Authority were to take no action; Mr. Costello responded that the Authority would be filing legal papers. Mr. Kauffman indicated that the question is what will be filed; Ms. Barton responded that, with deference to counsel, this matter falls within the scope of Authority management and staff but noted that members do have the discretion to ask to be included in discussion of matters of interest. Mr. Costello concurred. Mr. Bell inquired if adequate staff capacity exists given the potential longstanding nature of these proceedings, given Authority expertise in radioactive waste issues; Ms. Barton indicate that the Authority will play a role but will not be the only agency to participate, noting also that the state team will make use of any available resource to protect public health and safety and the environment are fully protected, noting that Attorney General James has made statements in alignment with those interests. Mr. Kauffman stated that he is comfortable with this matter being handled at the management level.

Mr. Bell then indicated that the next item on the agenda was a report on the West Valley site management program activities. This report was presented by Paul Bembia. At this time, Committee Member Fish arrived and participated in the remainder of the meeting.

Mr. Bembia explained that he would be providing an update on two items for the committee. The first of these items was the West Valley Reauthorization Act and the second was an update on the lease with the Town of Ashford on the development of the solar facility. Mr. Bembia noted that the West Valley Reauthorization Act was passed by the House in March of 2019, by the Senate in December 2019, and signed into law on December 20, 2019. The Act provides Congressional authorization for the West Valley Demonstration Project to receive an annual federal appropriation of \$75 million from 2020 through 2026. For the federal fiscal year 2020, the West Valley demonstration project appropriation is \$75.2 million in non-defense cleanup funds and \$3.2 million in the defense category for safeguards and security. In January 2020, there was an additional \$1 million in funds added to the safeguards and security appropriations, bringing the total up to \$79.4 million for the 2020 federal fiscal year.

Mr. Bembia stated that the Act also requires the Government Accountability Office (“GAO”) to prepare a report for Congress on West Valley wastes, including waste types, volume, origin, and options and timeframes for costs and the costs for disposal. The GAO had begun their evaluation in mid-December 2019, NYSERDA met with the GAO January 15, 2020, and provided a detailed briefing on the defense sources and defense uses for the West Valley radioactive material. The Authority will also be sending responses to the GAO on two sets of questions they had submitted, and GAO report is to be completed within 18 months.

Mr. Bembia stated that the next item included in his report was the status of a groundlease with the Town of Ashford for the development of a solar facility. He reported that Ashford had requested some changes to be made to the blueprint of the facility in order to protect wetlands on the lease property, requesting a shift of the property boundary without changing the size of the lease area. Mr. Bembia noted that he does not believe there will be any action required by the Board, but if legal review indicates otherwise, the members will be notified. This concluded Mr. Bembia’s report.

In response to an inquiry made by Ms. Abbott about the intersection between dialogue with DOE and the Reauthorization Act, Mr. Bembia explained that this Act give the Authority the opportunity to provide information detailing the defense sources and the defense uses of

West Valley waste, and he indicated his hope that providing this information to the GAO will help to influence the discussions with DOE regarding pathways for disposal of the waste.

Mr. Bell indicated that the next item on the agenda was a resolution considering entering into private session pursuant to section 108(3) of the Public Officers Law to discuss attorney-client privileged matters. Whereafter, upon motion duly made and seconded, and by unanimous voice vote of the members present, the following resolution was adopted.

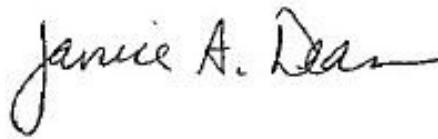
Resolution

RESOLVED, that pursuant to Section 108 of the Public Officers Law, the Members shall convene in private session on January 28, 2020 for the purpose of discussing attorney-client privileged matters.

Following the private session, the meeting was reconvened in open session. No formal action was taken during the private session.

Mr. Bell indicated that the next item on the agenda was other business. There being no other business, the meeting was adjourned.

Respectfully Submitted,



Janice A. Dean
Secretary to the Committee