

MINUTES OF THE 66<sup>TH</sup> MEETING OF THE  
WASTE AND FACILITIES MANAGEMENT COMMITTEE  
HELD ON FEBRUARY 3, 2021

Pursuant to a notice and agenda dated January 15, 2021, the sixty-sixth (66<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 10:00 a.m. on Wednesday, February 3, 2021 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 Jeff Pitkin, Treasurer; Peter Costello, General Counsel; Paul Bembia, West Valley Program Director; Alyse Peterson, Nuclear Regulatory Commission State Liaison Designee, and Janice Dean, Secretary to the Committee.

Chair Bell called the meeting of the Waste and Facilities Management Committee to order, stating that notice of the meeting was provided to the Committee Members and the press on January 15th, 2021, and a revised notice was provided to the Committee Members on January 25th, 2021, and to the press on January 26, 2021. He noted that the meeting was being conducted by video conference and that the Authority will be posting a video and transcript of this meeting on the web. To confirm that a quorum, Chair Bell asked Janice Dean, Secretary to the Committee, to conduct a roll call of each of the Committee Members in attendance, which she did; Authority Chair Kauffman and member Sherburne (Shere) Abbott were in attendance, and the Secretary noted the presence of a quorum.

Chair Bell sought a motion for the approval of the minutes of the June 23rd, 2020 meeting, hearing no comments on the minutes, after noting that a copy of the minutes was

included with the January 15th, 2020 mailing. Shere Abbott so moved, seconded by Authority Chair Kauffman; the minutes were unanimously approved. Chair Bell introduced Treasurer Jeff Pitkin to present regarding the Authority's Fiscal Year 2021-22 budget for the West Valley Site Management Program and Radioactive Waste Policy and Nuclear Coordination activities, noting that at the close of Jeff Pitkin's presentation, the Committee would be asked to vote on a resolution recommending that the Board adopt the resolution approving the Authority's Fiscal Year 2021-22 budget.

Jeff Pitkin stated that the budget for the West Valley program for the upcoming fiscal year is approximately \$22.5 million, an increase of \$2.3 million from the current year state budget funding, and noted that this includes an increase for the state share of potential federal funding and spending at the site and that it reflects funding that was approved in the COVID relief and omnibus federal funding bill for federal fiscal year 20-21 in the amount of approximately \$92 million. Jeff Pitkin compared this to a funding amount of about \$78 million for the project in the federal fiscal year '20, and noted that the low level radioactive waste site generation program were funded in the amount of \$142,500 which is sub- allocated from an appropriation provided to the Department of Health and ultimately collected through an assessment on the operating nuclear power plant licensees, an amount that amount was reduced by \$7,500 from the current year budget. Chair Bell called for questions, to which Authority Chair Kauffman asked whether in terms of a change in the Biden administration and Congress, what the Treasurer's early thoughts are about additional funding or anything else that would have budget implications. Jeff Pitkin suggested that Paul Bembia opine, who noted that there was some consideration of whether there could be some additional funding for the West Valley Demonstration Project as part of COVID relief that did not come through during the current year, but it is a possibility for upcoming years, further noting that the increase seen in funding for the current year is money that was requested by the Department of Energy to begin the demolition of the Main Plant Process Building, and that the West Valley budget request's increase for this year is primarily related to that increase in the WVDP.

Authority Chair Kauffman sought to clarify that if there is an increase in the DOE budget at the site, whether an increase from the state would be required, and Paul Bembia and Treasurer

Pitkin concurred, the latter noting that he would work with Paul, the Division of Budget, and DOE through any unanticipated budget increases that could occur. Kate Fish joined the meeting during this discussion.

Chair Bell then asked if there any unanticipated effects of the COVID-19 pandemic on spending for the West Valley site activities and are these, are these incorporated in the budget, and Paul Bembia noted that there were, in the form of decreases in the amount of work activities at the site over the last year. Chair Bell, upon hearing no further questions, asked for a motion recommending that the board adopt the resolution approving the Authority's fiscal year 2021-22 budget. Authority Chair Kauffman so moved, Shere Abbott seconded, and the Secretary called for votes. There were all aye votes and no no votes; the resolution passed.

Chair Bell then invited Paul Bembia to provide a status report on the West Valley Site Management Program activities. Paul noted that most of the work at West Valley Demonstration Project was on hold in keeping with New York State and federal COVID-19 work restrictions, with work restrictions lifted in July, but imposed again in November when COVID numbers climbed in Western New York impacting the site.

Paul Bembia noted that other on-site work is continuing where COVID 19 controls could be properly maintained, though most DOE and contractor staff continue to telework. Only the Main Plant Process Building and one support facility remain under this contract to be demolished, likely at the end of 2021, Paul Bembia stated, sharing photographs indicating the extent of demolition work done to date and since the Board members' recent visit to the site in 2019.

Paul Bembia provided an update on high pressure nitrocion decontamination work in one particular cell called PPC South, or product purification cell, noting that the cell is about 16 feet long, eight feet wide, and over 50 feet tall, similar to an elevator shaft, and that there are high levels of contamination in this cell necessitating operator protective gear and breathing equipment. He described the process of removing contamination from the walls. Kate Fish inquired whether the workers can work together in the cell now, with separate air sources; Paul

Bembia confirmed that they are on totally independent supplied air systems, but noted there are parts of the suiting up process when the operator cannot be in a surgical mask for COVID protection, so respiratory protection activities have been suspended for now because of COVID.

Authority Chair Kauffman inquired if the decontamination activities that are happening in the Main Process Building, are different than the decontamination activities that were done in the other buildings and whether it had been used elsewhere, and Paul Bembia indicated that while the nitrogen system had been used before, this particular application with very high levels of alpha contamination is the first time it's being done within the DOE complex. In response to a question from Shere Abbott about the expected total time this is going to take, Paul Bembia indicated that the work is being assessed on a day-to-day basis right now. Chair Bell inquired about the classification of waste removed from the cell; Paul Bembia indicated that the contamination has a relatively high concentration of plutonium, and could end up as either transuranic waste or low level waste; in response to followup questions from the Chair, Paul Bembia indicated that if low-level, it can be disposed of on-site; that there are two below ground cells that are being grouted right now to be removed in Phase 1B; and that work on the vent washroom will begin at the conclusion of the PPC South work.

Paul Bembia continued his report as to the State Licensed Disposal Area (SDA), noting that monitoring maintenance and inspection work continues amid telework, and that the SDA is continuing to be managed safely and in compliance with all regulations. Paul Bembia reported that the Trench 14 design is now complete, been reviewed by the regulators and the Department of Energy, that no concerns have been identified, and that work should begin in April or May. He reported that Trench 14 is continuing to increase at about an inch per year, and at that rate, there is no threat of a release from the trench today. He noted that the highest water levels appear to be coming from the old hardstand area, which will be covered to both cut off the source of the water into the area, and the permeable geologic deposit that's moving the water towards Trench 14 will be mitigated using a sheet pile wall.

Paul Bembia reported that the environmental impact statement work is continuing, that his team has been working with DOE on model development to extend the probabilistic

performance assessment (PPA) downstream and out into the water intakes of Lake Erie. He reported that as to the NRC license amendment application is pending, and that this amendment seeks to provide clarity in regard to NYSERDA's authority to protect workers, public health and safety. He noted that he is also working with the NRC, DOE, and the National Nuclear Security Administration (NNSA) to identify restricted material in the license related to information on the reprocessing plant that can't be made available to the public, noting that once the license has been reviewed by NNSA he'll be able to have a version of the license that can be made available to stakeholders.

In response to a question from Kate Fish regarding how the tribe downstream from the site is being engaged, Paul Bembia responded that the Authority held public meetings at the Seneca Nation during the scoping phase of the EIS, and that he expects to include culturally specific land use scenarios in the environmental impact statements, engaging closely with the tribe.

Paul Bembia reported that the Government Accountability Office (GAO) issued a report in January stating that DOE has made significant progress on the WVDP cleanup, but noting that some critical decisions remain as to the phase two decisions for the remainder of the decommissioning work, and that the report called on Congress to resolve the lack of the disposal path for the transuranic waste, including the possibility that that Congress amend appropriate federal legislation to create the legal pathway for disposing of the transuranic waste. Paul Bembia also reiterated the budget figures offered earlier in the meeting by the Treasurer.

Authority Chair Kauffman inquired about the leachate work, to which Paul Bembia indicated that as NYSERDA's project, the Department of Energy and NYSERDA split costs at NYSERDA 70%, DOE 30%, that construction will begin this year, and that total costs are already factored into the budget and are expected to cost approximately \$750,000. In response to question from Chair Bell, Paul Bembia confirmed that the Authority submitted comments to the GAO, and that the GAO report provided a fair presentation of the issues, and concluded his report.

Chair Bell introduced Alyse Peterson for a status report on the Nuclear Coordination Program. Alyse Peterson reminded the Committee that Indian Point Unit Two was permanently shut down last spring, and all of the fuel in the reactor was removed and placed in the spent fuel pool, and reported that the Unit Three reactor is scheduled for permanent shutdown in April with fuel removal from Unit Three be completed in May; that will be followed by formal notification to NRC of the shutdown and defueling. With that certification submitted, Alyse Peterson noted that the facility can never put fuel in the reactor again, and that physical decommissioning actions for the whole site will then commence, beginning with dismantling and segmentation of the Unit Three reactor vessel and its internal components.

Alyse Peterson reported that as to Entergy's proposed sale of the entire site to limited liability subsidiaries of Holtec International for decommissioning, NRC staff approved the license transfer on November 23<sup>rd</sup>, to take effect after the property transfer between the two companies is completed, and that also on November 23<sup>rd</sup>, NRC approved an exemption request by the plant to allow use of decommissioning trust fund monies for costs associated with spent fuel management and site restoration.

Alyse Peterson noted that there does still remain an open proceeding for state approval of the proposed sale at the Public Service Commission and that NYSERDA and the other state agencies submitted comments to that proceeding as well, and added that NYSERDA also coordinated the state's review of technical proposals, and submission of legal papers in both the federal and state proceedings to express the state concerns and seek financial assurance measures to help protect Holtec's ability to complete decommissioning, should the company experienced financial hardship or the existing decommissioning trust funds prove to be insufficient.

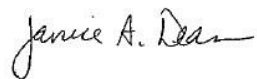
In response to a question from Authority Chair Kauffman regarding the Authority's level of concern about the transfer, Alyse Peterson asked Janice Dean to opine about legal matters; Janice Dean indicated that the Authority put its position forward in legal filings that are publicly available, primarily seeking to ensure that in the event of a bankruptcy that proper financial assurance for unexpected expenditures or a faster than usual drawdown of funds is in place, if the cleanup process does not go as they planned. Janice Dean noted that the NRC, who does have

authority to impose additional financial assurance did not believe that that financial assurance was warranted in this case, so while the Authority may have used a different lens to examine the issue, it is at least some comfort that federal experts looked at this decommissioning model and did approve it, not only at this facility, but at two others as well with another pending. Alyse Peterson concluded her report, hearing no additional questions.

Chair Bell asked the members to consider a resolution to enter into private session, asking for a motion recommending approval to convene in private session for the purpose of discussing attorney client privilege matters; Shere Abbott moved and Authority Chair Kauffman seconded; the resolution received unanimous aye votes and was approved, at which point the Members terminated participation in the WebEx and logged onto the private session. Upon returning to open session, Chair Bell noted that no action were taken during the private session, that the members were briefed on ongoing legal issues relating to the Authority's statutory obligations and lease obligations at Indian Point, and that the members were satisfied with ongoing work being done on this matter. He noted that the final agenda item is other business, and hearing none, asked for a motion to adjourn; Kate Fish moved, Shere Abbott seconded, and all members voted in favor of adjournment. The meeting was adjourned.

Respectfully submitted,

Janice A. Dean

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

Secretary to the Committee