

MINUTES OF THE FORTY-NINTH MEETING OF THE
WASTE AND FACILITIES MANAGEMENT COMMITTEE
HELD ON APRIL 7, 2014

Pursuant to a notice and agenda dated March 26, 2014, and a revised notice and agenda dated April 1, 2014, the forty-ninth (49th) meeting of the Waste and Facilities Management Committee of the NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY was convened at 10:30 a.m. on Monday, April 7, 2014, in the Authority's Albany Office at 17 Columbia Circle, Albany, New York, and by video conference at the office of the New York State Division of Housing & Community Renewal at 641 Lexington Avenue, 4th Floor (conference room D), New York, New York.

Elizabeth W. Thorndike, Ph.D., Chair of the Committee, was present in Albany. Richard Kauffman, Chair of NYSERDA and member of the Committee, was present in New York City.

Also present in Albany were John B. Rhodes, President and CEO; David Margalit, Chief Operating Officer; Janet Joseph, Vice President for Technology and Strategic Planning; Tom Barone, Acting Vice President for Energy Services; Jeff Pitkin, Treasurer; Hal Brodie, General Counsel; Benjamin Levitan, Secretary to the Committee; and Paul 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 March 26, 2014, and that a revised notice of the meeting was mailed to Committee members and the press on April 1, 2014. A copy of the revised notice is attached hereto as Exhibit A.

The first item on the agenda concerned approval of the Minutes of the forty-eighth (48th) meeting, held on January 13, 2014. A copy of the Minutes was included with the March 26, 2014, mailing. Dr. Thorndike expressed appreciation for the incisiveness of Mr. Kauffman's questions as exhibited in the Minutes. Upon motion duly made and seconded, and by unanimous voice vote, the Minutes of the forty-eighth meeting were approved.

Dr. Thorndike then asked Director Paul Bembia to report on a resolution recommending renewal of the lease between the Authority and the Town of Ashford with respect to a parcel of land at the Western New York Nuclear Service Center (the “Center”). Mr. Bembia explained that renewing the lease would allow the Town to continue mining gravel and storing equipment on a twenty-one-acre parcel within the Authority’s property at the Center. The Town uses the gravel to restore and maintain its roads. In return, the Town would deliver gravel to the Authority upon request. The Authority first granted the lease to the Town in 1985, the most recent extension expired on January 31, 2013, and the Town has requested that the lease be renewed.

Mr. Bembia explained that the Town’s current mining permit from the New York State Department of Environmental Conservation expires in 2018. Extending the lease through December 31, 2024, would provide additional time for the storage of equipment and would allow the Town to conduct the required reclamation after mining operations cease. The total value of gravel to be removed from the property by the Town during the five-year mining period is estimated at not more than \$13,000.

Mr. Bembia noted that the Public Authorities Accountability Act (the “Act”) allows the Authority to negotiate a lease of Authority property at less than market value where “the transferee is a government or other public entity, and the terms and conditions of the transfer require that the ownership and use of the asset will remain with the government or any other public entity.” Mr. Bembia stated that NYSERDA staff believe the proposed lease is consistent with the Act and recommend adoption of the proposed resolution approving the lease.

In response to questions from Mr. Kauffman regarding the value of the lease to the Authority, Mr. Bembia emphasized the importance of good relations with the Town and noted that the Town had not actually extracted any gravel from the site over the past few years. Mr. Bembia stated that he did not believe that, under the lease, the Town would be required to provide NYSERDA with gravel from a different mine in the event that the gravel supply in the leased mine were depleted. In response to questions from Mr. Kauffman concerning possible liability to the Authority should the Town become unable to complete the reclamation, Mr. Bembia stated that the Town was required to complete the reclamation under its mining permit.

Mr. Bembia explained that the Town should be able to complete the reclamation, which will likely entail the addition of topsoil and seeding to ensure proper drainage, at relatively little cost with equipment it already possesses.

Dr. Thorndike emphasized the importance of NYSERDA's longstanding good-neighbor policy with the Town. Such cooperation with the Town is merited based on the Town's hosting the only nuclear waste facility in New York State. In the context of the Authority's historic efforts to maintain positive working relationships with the Town, the lease is a reasonable request.

Mr. Brodie noted that the site imposes burdens upon the Town, particularly regarding the use of roads. In the past year, the site has seen the construction of a pad for the storage of high-level radioactive waste, which involved approximately one hundred cement trucks on two different occasions. There is also regular traffic on the roads as a result of operations at the site. Such burdens are one reason that helping the Town's Highway Department is a reasonable accommodation.

Dr. Thorndike stated that a resolution regarding approval of the lease with the Town of Ashford was included in the meeting materials and called for a motion recommending that the Board adopt the resolution. Whereafter, upon motion duly made and seconded, and by unanimous voice vote, the motion was carried. A copy of this Resolution is attached hereto as Exhibit B.

The Committee next received a status report from Mr. Bembia on West Valley Site Management Program activities. Mr. Bembia briefed the Committee on three items: the President's federal fiscal year 2015 budget request for the West Valley Demonstration Project ("WVDP"), the framework for making Phase 2 decisions about the WVDP, and leachate levels at the State-Licensed Disposal Area ("SDA").

First, regarding the President's federal fiscal year 2015 budget request, Mr. Bembia stated that the request includes \$60.5 million for the WVDP. This was the amount assumed by

the U.S. Department of Energy (“DOE”) for WVDP when it placed the Phase 1 Decommissioning contract with CHBWV in 2011 but is \$15 million less than the \$75 million annual funding level assumed in the 2010 Decommissioning Environmental Impact Statement (“2010 EIS”). Mr. Bembia stated that NYSERDA staff believe that the annual federal appropriation for Phase 1 decommissioning should be \$75 million per year, which would allow for the completion of the Phase 1 decommissioning work by 2026 and provide a cost savings of over \$120 million compared to funding at the \$60 million annual level. Staff are keeping the Governor’s Office informed about the proposed federal appropriation.

Regarding the process for making decisions about Phase 2 decommissioning, Mr. Bembia stated that DOE and NYSERDA staffs have agreed on a path forward for making the Phase 2 decisions, and this process should help to resolve NYSERDA’s technical concerns about the long-term site analysis in the 2010 EIS, as well as other issues. NYSERDA and DOE staffs have agreed on the following framework, which has four main components:

- First, NYSERDA and DOE will use a consistent approach for analyzing all of the facilities at the WVDP and the Center, including the SDA. The analytical approach agreed upon is the framework that the U.S. Nuclear Regulatory Commission (“NRC”) identified for the WVDP and the rest of the NRC-Licensed portion of the Center.
- Second, NYSERDA and DOE will use that analysis to make decisions for all facilities that will remain at the Center after the Phase 1 decommissioning work, including the SDA.
- Third, NYSERDA and DOE will engage specialized performance assessment experts to conduct sensitivity analyses on the 2010 EIS long-term site assessment in order to identify the process and parameters that drove the uncertainty in the outcome. NYSERDA and DOE will then use that information to build a new long-term site analysis using a probabilistic framework.
- Fourth, NYSERDA and DOE will jointly prepare a Supplemental Environmental Impact Statement (“Supplemental EIS”), with a 50/50 cost share, to support the Phase 2 decisions. The cost share arrangement will put the Authority on equal footing with DOE in the preparation of the Supplemental EIS.

Mr. Bembia explained that agreement upon this framework represents significant progress, particularly in regard to the development of the new long-term performance assessment and the Supplemental EIS. NYSERDA staff have presented this framework to the NRC, U.S. Environmental Protection Agency, New York State Department of Environmental Conservation, and New York State Department of Health, as well as to the public at the Quarterly Public Meeting in February and to the Citizen Task Force in March. Feedback has been very positive from regulators and the public.

In response to a question from Mr. Kauffman regarding dissenting or outlier viewpoints during the creation of the Phase 2 decision-making framework, Mr. Bembia stated that there was no dissent, but initially there were different perspectives from NYSERDA and DOE. DOE was supportive of the 2010 EIS and had not yet agreed to prepare a Supplemental EIS or to revisit the long-term performance assessment, while NYSERDA had significant concerns about the analytical approach and the outcome of the 2010 EIS. DOE's agreement to jointly prepare a probabilistic performance assessment and a Supplemental EIS was significant progress from NYSERDA's perspective. DOE had concerns about how the SDA would fit into the remedial approach for the rest of the Center. At this point, there are no closure requirements for the SDA, and there are no decommissioning criteria that formally apply because the SDA was created very early within the framework of nuclear facilities in the United States. NYSERDA agreed that, in the path forward, the SDA will be analyzed using the same method as the rest of the facilities at the Center, and NYSERDA will make a decision on the continued management or remediation of the SDA. That addressed some of the DOE concerns. The resolution of those issues led to the agreement on the new approach.

In response to a request from Mr. Kauffman to clarify what is new about the long-term site assessment based on a probabilistic framework, Mr. Bembia stated that the analysis in the 2010 EIS is deterministic. This means that the mathematical equations in the modeling have a single value for each variable, such as radionuclide inventory or groundwater travel time. In reality, there is uncertainty in those values. The probabilistic analysis will introduce the ability to consider ranges of values and the likelihood of occurrence for each value within those ranges. The model will then provide a range of outcomes and a range of probabilities for each of those

outcomes. Accounting for this uncertainty is the major step forward of the probabilistic framework.

Mr. Brodie stated that DOE's willingness to conduct a Supplemental EIS was also new. DOE had previously reserved judgment on that issue, and the public was concerned that DOE might render a decision based on the 2010 EIS with which NYSERDA strongly disagreed.

Third, regarding the leachate level at the SDA, Mr. Bembia stated that NYSERDA's enhanced monitoring of leachate levels and groundwater elevations was continuing. From February 2014 to March 2014, the leachate level in Trench 14 decreased by one-half inch. This is good news, though it does not necessarily signal a long-term trend. More recent measurements from April 2014 showed the leachate level in Trench 14 to be stable. These new data points are important to understanding the cause of the fluctuations in the leachate levels. In addition, NYSERDA recently received the report from the hydrogeologist, who recommended continued monitoring. The hydrogeologist is not recommending any actions until more data have been collected. NYSERDA is also considering input provided by DOE. Addressing a question that Mr. Kauffman raised at the January 13, 2014, Committee meeting, Mr. Bembia stated that modeling and other actions are still under consideration, but NYSERDA was not yet at the point of taking such actions.

Responding to questions from Mr. Kauffman regarding the process of monitoring the leachate levels, Mr. Bembia stated that NYSERDA has groundwater monitoring wells around the disposal area, as well as pipes installed directly into the disposal trenches to measure water levels. NYSERDA both measures groundwater levels and samples groundwater for quality. Mr. Bembia stated that he was unaware of any imaging technology that could be used to create a three-dimensional survey of groundwater levels for the entire site. However, NYSERDA is evaluating new geophysical techniques to produce more accurate depictions of the interfaces of the groundwater with the trenches. Mr. Kauffman expressed concern about the issue and emphasized the importance of avoiding a sudden negative surprise. Mr. Bembia indicated his assent, noting that monitoring has increased from quarterly to monthly, and stated that NYSERDA was continuing to watch the situation very closely.

Dr. Thorndike stated that this was another example of the need to view the entire West Valley site holistically, rather than looking at just the State's or NRC's portion of the Center. She also noted that climate change, specifically the effects on precipitation and resultant erosion, is a necessary consideration in the analysis and projections. Mr. Rhodes stated that these concerns were why a more searching, Supplemental EIS makes so much sense.

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, appearing to read "Benjamin M. Levitan". The signature is written in a cursive style with a long, sweeping underline.

Benjamin Levitan
Secretary to the Committee

REVISED NOTICE OF MEETING AND AGENDA

April 1, 2014

TO THE MEMBERS OF THE WASTE AND FACILITIES MANAGEMENT COMMITTEE:

PLEASE TAKE NOTICE that the forty-ninth (49th) 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 at the office of the New York State Division of Housing & Community Renewal at 641 Lexington Avenue, 4th Floor (conference room D), New York, New York, on Monday, April 7, 2014, commencing at 10:30 a.m., for the following purposes:

1. To consider the Minutes of the forty-eighth (48th) meeting of the Committee held on January 13, 2014;
2. To consider and act upon a resolution recommending renewal of the lease with the Town of Ashford with respect to a parcel of land at the Western New York Nuclear Service Center;
3. To receive a status report on West Valley Site Management Program activities;
4. 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. 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.nyserderda.ny.gov/About/Board-Governance/Board-and-Committee-Meetings.aspx>.



Allyson Zipp
Secretary to the Waste and Facilities
Management Committee

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Exhibit B

Resolution No. _____

WHEREAS, the Town of Ashford (Lessee) has leased certain parcels of land at the Western New York Nuclear 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 terms and conditions memorialized in 2014 Extension of Lease for a term expiring December 31, 2024 (the “Lease Agreement”);

NOW, THEREFORE, BE IT RESOLVED, that the President and Chief Executive Officer, 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 and to allow the Lessee to store equipment, machinery, and material at the site, in return for the Lessee’s agreeing to deliver to the Authority such loads of gravel as may be needed for Authority operations.