

MINUTES OF THE FIFTY-FOURTH MEETING OF THE
WASTE AND FACILITIES MANAGEMENT COMMITTEE
HELD ON JANUARY 26, 2016

Pursuant to a notice and agenda dated January 13, 2016, the fifty-fourth (54th) meeting of the Waste and Facilities Management Committee of the NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY (“Authority”) was convened at 11:00 a.m. on Tuesday, January 26, 2016, in the New York State Dormitory Authority’s office at 1 Penn Plaza, New York, New York, and the Authority’s Albany Office at 17 Columbia Circle, Albany, New York.

The following members of the Committee were present:

Elizabeth W. Thorndike, Committee Chair
Richard Kauffman
Sherburne B. Abbott
Charles Bell

Also present were John B. Rhodes, President and Chief Executive Officer; David Margalit, Chief Operating Officer; Janet Joseph, Vice President for Technology and Strategic Planning; Jeff Pitkin, Treasurer; Noah Shaw, General Counsel; Paul Bembia, West Valley Program Director; Alyse Peterson, Senior Project; and Janice Dean, Secretary to the Committee.

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 January 13, 2016. 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-third (53rd) meeting, held on September 1, 2015. A copy of the Minutes was included with the January 13, 2016, mailing. Whereafter, upon motion duly made and seconded, and by unanimous voice vote, the minutes of the fifty-third meeting were approved.

Dr. Thorndike then asked Treasurer Jeff Pitkin to provide a report regarding the Authority's Fiscal Year 2016-17 Budget for the West Valley Site Management Program and radioactive waste policy and nuclear coordination activities. Mr. Pitkin stated that the Budget for the West Valley program is approximately \$15.7 million, an increase of \$1.1 million from the current year budget. This includes an increase for the State's share of projected federal spending at the site under the Cooperative Agreement and Consent Decree, and costs maintenance and monitoring activities at the State Licensed Disposal Area (SDA).

Mr. Pitkin stated that the Energy Analysis program budget includes 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. These activities are funded with a State appropriation of \$150,000 sub-allocated from an appropriation provided to the New York State Department of Health, which is funded through an assessment collected on operating nuclear power plant licensees. This amount is unchanged from the amount included in the current year budget.

Ms. Abbott inquired if the Authority receives public comment on the proposed budget. Mr. Pitkin noted that materials are posted publicly 30 days prior to the meeting, and that there is no legal requirement for public comment on the materials although the public would be welcome to provide feedback if they so wished. Mr. Shaw confirmed that Board materials are not subject to public comment, noting that the public could send letters in response to the public notice, and Dr. Thorndike inquired if comments are nonetheless received. Mr. Pitkin reported receiving no public comments on the budget.

Mr. Kauffman inquired as to the context of the West Valley budget, and whether it will continue to go up. Mr. Pitkin directed Mr. Kauffman to a trendline identified in his presentation, showing a Department of Energy (DOE) credit for the State's cost share, but stated that his presentation did not identify DOE spending. Mr. Bembia noted that the budget increase is primarily related to a couple of new activities, including performance of a Probabilistic Performance Assessment, a 50/50 cost share item and the beginning of the Supplemental

Environmental Impact Study. Mr. Bembia reported that there is about \$1 million in the budget for these activities.

In response to Mr. Kauffman's question, Dr. Thorndike stated that it is a priority to get the work done quickly on the site, and that more money would result in the work getting done more quickly. Mr. Bembia noted that funding for public health and safety is the first priority, and that reduces the funding available for the decommissioning work. He noted that federal funding was requested at \$75 million, but provided at \$60 million, the result of which will be the extension of the timetable of the project from 10 years to roughly 16-20 years.

Mr. Kauffman sought to confirm that the lower federal budget did not provide any public safety issues, and Mr. Bembia confirmed, saying it is a duration and cost issue only.

Turning to the issue of LLRW and nuclear coordination, Mr. Bell inquired how the cost figures Mr. Pitkin provided were set. Mr. Pitkin indicated they are predictable costs, built into the State budget. Mr. Bell inquired if these costs could increase because of leaks, and Mr. Bembia stated that the LLRW and nuclear coordination budget does not relate to West Valley.

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 Authority's Fiscal Year 2016-17 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 then asked Mr. Bembia to provide a status report on West Valley Site Management Program activities. Mr. Bembia began by providing an update on the aerial radiation survey and soil sampling that was conducted jointly by the DOE and the Authority beginning in the fall of 2014, explaining that the purpose of the soil sampling is to collect additional information from five offsite areas where the aerial radiation survey showed radiation levels that were slightly above the level of normal "background radiation" that is present throughout the environment. Mr. Bembia reminded the Committee that this "background radiation" results from the presence of

radioactive materials that occur naturally in bedrock, soil, air, and water, and also includes some man-made sources of radioactive materials such as the atmospheric testing of nuclear weapons that was conducted in the 1940s through the 1970s.

Mr. Bembia stated that three of the five areas identified for sampling are near the Center property, and two areas are downstream of the Center on the Cattaraugus Territory of the Seneca Nation of Indians, and that prior to conducting the sampling, Authority staff visited with each property owner to explain the sampling program and to request permission to sample. For the areas on the Seneca Nation, West Valley staff met with representatives of the Seneca Nation at the end of September, and they requested a written request to enter the Cattaraugus Territory to conduct the sampling. The Seneca Nation provided permission to enter the Cattaraugus Territory in mid-November.

The soil sampling work began in mid-October at the three locations near the Center and was completed in late December at the two locations on the Cattaraugus Territory. The soil samples were sent to an offsite laboratory for radiological analysis, and analytical results are not yet back from the laboratory. Mr. Bembia stated that if the sample results show elevated levels of radionuclides, his team will perform a radiological dose assessment to evaluate the soil conditions relative to public health and safety standards.

Once the analytical results are available and any necessary dose assessments have been completed, information will be provided to the regulatory agencies for their review, and to property owners, including Seneca Nation representatives, in meetings to discuss the sampling results and the dose assessments. Mr. Bembia stated that he will also be presenting the results at a West Valley Demonstration Project (WVDP) Quarterly Public Meeting and to this Committee when they are available.

Mr. Bembia noted that the soil sampling program has provided an opportunity for the Seneca Nation, DOE and the Authority to expand communications in regard to the West Valley site. Mr. Bembia stated that he and Bryan Bower, the DOE-West Valley Director, were invited to participate in a presentation series on West Valley that was organized by a Seneca Nation Group

called the “Water Walkerz,” and that he and Bryan have now given presentations on West Valley at three public meetings on the Cattaraugus Territory, and plan to address at least three more sessions.

Mr. Shaw noted that the process Mr. Bembia described was not a simple one either regulatorily, politically, technologically, or in terms of communications, and that Mr. Bembia and his staff had done a great job. Mr. Shaw further noted that the result of this work was an improved relationship between all parties involved.

Dr. Thorndike inquired if the Authority had received requests for sampling in other locations. Mr. Bembia answered in the affirmative, from the Seneca Nation.

Mr. Kauffman inquired about the subject of the Water Walkerz meetings. Mr. Bembia indicated that to date he has provided the history of West Valley, along with DOE staff, and that the second meeting described the soil sampling program, and the third meeting would likely focus on the results of the sampling and Phase 2 decisionmaking. He stated that the Seneca Nation members were not all familiar with West Valley, and wished to learn more about the site.

Mr. Bembia then provided an update on the WVDP’s transfer of the high-level waste canisters from the Main Plant Process Building to the new high-level waste interim storage pad. At the September Committee meeting, Mr. Bembia had reported that a malfunctioning shield door in the Main Plant Process Building was delaying the start of high-level waste transfer operations; that shield door was successfully repaired in October, and the first Vertical Storage Cask (containing five high-level waste canisters) was transferred to the high-level waste interim storage pad in November. Mr. Bembia reported that the high-level waste transfer operations have been going smoothly, and a total of four Vertical Storage Casks containing 20 high-level waste canisters were transferred to the High-Level Waste Interim Storage Pad before operations were halted for the winter. DOE’s contractor is currently increasing their high-level waste operations staff, and plan to have all 275 high-level waste canisters transferred to the Interim Storage Pad by the end of 2016.

Mr. Bembia then provided an update on the investigation of the slow increase in the water level in Disposal Trench 14 at the SDA. As he reported previously, he engaged a geotechnical consulting firm to assist staff identifying the source of the water and recommend a mitigation approach. This past summer, the contractor recommended the collection of additional geologic and hydrologic information to more definitively identify the water source and to aid in developing an effective remedial action. West Valley staff received and evaluated the contractor's field investigation plan for collecting the additional information, and provided a draft of that field investigation plan to the New York State Department of Environmental Conservation (NYSDEC) for their review. Staff are now working with the contractor to address the NYSDEC comments and finalize the plan. Mr. Bembia and his staff plan to conduct the field work this spring through the summer, and expect to have the recommendation for mitigating the increase by the fall. The rate of water increase continues to be slow - about 1 inch per year, and because the water elevation is about 14 feet below the top of the trench, there is presently no threat of a release.

Mr. Bembia provided an update on the repair work needed at the site after a severe rainfall event in July caused erosion damage to the WVDP reservoir spillway, and damaged the stream channels in Frank's Creek and Erdman Brook near the SDA and the Nuclear Regulatory Commission-Licensed Disposal Area. Authority staff completed the repairs to the Erdman Brook stream channel in October and completed the repairs to the Frank's Creek stream channel in November. DOE's contractor completed interim repairs to the WVDP spillway in November, and before more extensive repairs are performed, DOE and its contractor are conducting an evaluation of whether both of the existing reservoirs are required to meet the site's water system needs.

Mr. Bembia's next item was an update on DOE's work to take WVDP Lagoon 3 out of service. The first step in taking the lagoon out of service involved the relocation of a surface water discharge structure away from the Lagoon 3 embankment. That work was completed by DOE's contractor in October. The remaining work involves the modification of the site's water treatment system to allow the lagoon to be taken entirely out of service. DOE's contractor is working on the design and planning activities for that portion of the project, and if funding is available, DOE would like to take the lagoon out of service by the end of 2017.

Mr. Bembia ended by providing an update on worker safety, reporting that as of the end of December, the WVDP worked over 1,758,471 hours (or over 1,100 days) without a lost-time injury or illness, one of the best safety records in the DOE environmental cleanup complex. For the SDA and Retained Premises, Mr. Bembia reported that Authority staff continues to manage the SDA and the Retained Premises in full compliance with all applicable regulations and with no work-related illnesses or injuries. In November, the NYSDEC Radiation Program conducted an inspection of the West Valley plans, procedures, and systems for managing the SDA, which confirmed that the Authority is in compliance with the New York State Radiation Control Regulations and with all requirements of our Radiation Control Permit.

Mr. Kauffman noted the occurrence of more extreme weather events, affecting spillways and stream channels, and inquired if materials are going from State portions of the site to federal portions of the site. Mr. Shaw responded that the environmental impact statement process will be underway for the next few years, which will include a climate change analysis, and noted that this would have budget implications. In the near term, Mr. Shaw said, he is evaluating liabilities, indemnification, and insurance, and is happy to discuss Mr. Kauffman's question in that framework in a more specific, private session. Mr. Shaw stated that he is confident the concerns raised are accounted for fully.

Mr. Kauffman followed up by asking whether there are lines of demarcation physically blurred by climate change, to which Mr. Shaw responded in the negative, noting that where erosion issues are occurring, the impacts are not traveling onto federal property. Mr. Bembia noted that the Probabilistic Performance Assessment will be modeling the site on the whole.

Mr. Rhodes stated that anticipated erosion goes to the heart of why the environmental impact statement needs to be probabilistic.

Dr. Thorndike observed that we have seen erosion occurring in just the last 2-3 years. She noted that the Authority maintains \$3M for unanticipated events, but inquired where that fits into the legal analysis, whether there will be major offsite impacts, and observed that we are in uncharted territory here and she anticipated issues for the future. Mr. Shaw indicated that these

issues had been discussed relatively recently. Ms. Abbott inquired when the next environmental impact statement would be done, and Mr. Bembia responded that the draft is expected in 2019. Ms. Abbott inquired whether this falls under the new New York State requirements for evaluating climate change impacts, and Mr. Shaw answered in the affirmative.

Alyse Peterson then provided her report on issues relating to radioactive waste policy and nuclear coordination activities. Ms. Peterson reminded the Committee that the Authority is the State's lead agency for radioactive waste policy and has a legislated responsibility under the State LLRW Management Act to collect annual reports from facilities in New York that generated, stored or disposed of low-level waste, and that the legislation includes a requirement to prepare an annual summary report for submission to the Governor and legislative leaders by July 1 of each year. Ms. Peterson reported that the Authority met this requirement in July 2015, submitting a report that covers calendar year 2014 for which 176 facilities, including all six nuclear power plants, filed reports. Fifty of those facilities reported disposing low-level waste at out-of-state disposal facilities for a total volume of 30,000 cubic feet. Ms. Peterson offered to provide a copy of the report to any Committee member who had not previously received one.

Ms. Peterson then provided an update on the Low-Level Waste Forum. She is the State's representative and Chair-Elect for the Low-Level Waste Forum, a national organization of state, federal, waste compact, and industry representatives that facilitates continued implementation of the Low-Level Radioactive Waste Policy Act of 1980 and its Amendments. Ms. Peterson stated that over the years the Forum has become the primary venue for developing national and regional solutions to LLRW management issues, and that New York will be hosting the Fall 2016 Forum meeting in Saratoga Springs this coming November, expressing her appreciation that the Authority is able to bring this meeting to New York making it accessible to State staff and waste producing facilities in the northeast. Dr. Thorndike congratulated Ms. Peterson on her election as Chair-Elect.

Ms. Peterson provided an update on her role as liaison to the Nuclear Regulatory Commission (NRC), noting that the Authority coordinated State comment on two significant license amendment requests for Indian Point; one related to reactor containment leak testing and the other related to testing and repair of a reactor control rod mechanism, strongly opposing both amendments as they sought to relax important testing requirements. The Authority worked with

staff from the Department of Public Service, the Attorney General's Office and the Governor's Office to put the State's objections on the record.

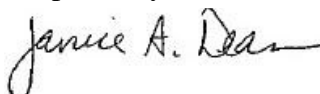
Ms. Peterson also reported that in late Fall, NRC announced several regulatory initiatives impacting nuclear power plants and the Authority is coordinating State review, the most important of which is an Advance Notice of Public Rulemaking for decommissioning of nuclear power. The Advance Notice of Public Rulemaking is not a set of draft rules for review, but rather is a complex set of questions designed to solicit broad stakeholder input to assist NRC in preparation of draft rules. Ms. Peterson stated that with the recent spate of plant closures, it has become apparent that the existing NRC rules for decommissioning need major updating. The opportunity to provide input at this early, pre-draft stage is valuable and the Authority is working closely with the Department of Public Service, the Department of Health, the Office of Emergency Management, the Office of Counterterrorism, the Department of State, and the Attorney General's Office to prepare comprehensive State comments.

Dr. Thorndike then identified one item of Other Business, recognizing Paul Bembia for his twenty-five years of service to the Authority. In honor of Mr. Bembia's dedication to the work of the West Valley site, Dr. Thorndike proposed a resolution, a copy of which is attached as Exhibit C. Dr. Thorndike also sought a motion to move the Resolution before the full Board.

Upon separate motions duly made and seconded, and by unanimous voice vote, the Committee recommended that the Board adopt the Resolution and move the Resolution to the full Board.

There being no additional other business, upon motion duly made and seconded and upon unanimous voice vote, the meeting was adjourned at 11:50 a.m.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Janice A. Dean". The signature is fluid and cursive, with a long horizontal stroke at the end.

Janice A. Dean
Secretary to the Committee



ANDREW M. CUOMO
Governor

NYSERDA

Exhibit A

RICHARD L. KAUFFMAN
Chair

JOHN B. RHODES
President and CEO

NOTICE OF MEETING AND AGENDA

January 13, 2016

TO THE MEMBERS OF THE WASTE AND FACILITIES MANAGEMENT COMMITTEE:

PLEASE TAKE NOTICE that the fifty-fourth (54th) meeting of the WASTE AND FACILITIES MANAGEMENT COMMITTEE of the NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY will be held 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, on Tuesday, January 26, 2016, commencing at 11:00 a.m., for the following purposes:

1. To consider the Minutes of the fifty-third (53rd) meeting of the Committee held on September 1, 2015.
2. To receive a report from the Treasurer regarding the Authority's Fiscal Year 2016-17 Budget and to consider and act upon a resolution recommending approval of that Budget.
3. To receive a status report on West Valley Site Management Program activities.
4. To receive a status report on radioactive waste policy and nuclear coordination activities.
5. 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 order to expedite the entry procedures established by the building management, any members of the public planning to attend the meeting at DASNY's office should notify DASNY's receptionist at 212-273-5000, 24 hours in advance of the meeting, and must be prepared to show valid photo identification upon arrival at One Penn Plaza.

Video conferencing will be used at both locations and 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.ny.gov/About/Board-Governance/Board-and-Committee-Meetings>.

Janice A. Dean
Secretary to the Waste and Facilities
Management Committee

New York State Energy Research and Development Authority

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New York City

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West Valley Site

Management Program
9030-B Route 219
West Valley, NY
14171-9500
(P) 716-942-9960
(F) 716-942-9961

Exhibit B

Resolution No. ____

RESOLVED, that the proposed fiscal year 2016-17 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 his discretion, may deem necessary or appropriate, be and it hereby is approved for submission to the persons designated in Sections 1867(4) and 2801 of the Public Authorities Law.

Exhibit C

Resolution No. ____

WHEREAS, as of November 12, 2015, Paul J. Bembia has served for twenty-five years with distinction on behalf of the New York State Energy Research and Development Authority as the West Valley Program Director; and

WHEREAS, during his tenure, Mr. Bembia has provided on behalf of the citizens of New York State exemplary guidance, leadership, expertise and judgment with respect to the important and long-lived matters of the Western New York Nuclear Service Center (West Valley), including managing multiple regulatory, intergovernmental and community relationships, setting strategy regarding the generation of the environmental impact statements that provide the plan for the long-term management of the site, guiding the litigation involving the site, managing the day-to-day operations of the site, ensuring the safety of all those who work at the site on behalf of the State, managing the both short- and long-term risks associated with the site; all with the highest degree of skill and professionalism; and

WHEREAS, Mr. Bembia's efforts on behalf of the Authority have been distinguished by an unwavering dependability, dedication, and willingness to serve; and

WHEREAS, the Members of the Authority's Waste and Facilities Management Committee wish to commend Mr. Bembia for his twenty-five years and continuing exemplary commitment to the People of the State of New York and his outstanding contributions to the mission of the Authority and the State and to memorialize that recognition;

NOW, THEREFORE, BE IT RESOLVED THAT, the Members of the Waste and Facilities Management Committee of the New York State Energy Research and Development Authority, assembled on this 26th day of January, 2016, unanimously express to Paul J. Bembia their gratitude for his twenty-five years of dedicated and exemplary service to the Authority and the People of the State of New York, and their appreciation for his continuing service.