

MINUTES OF THE 68TH MEETING OF THE
WASTE AND FACILITIES MANAGEMENT COMMITTEE
HELD ON JANUARY 25, 2022

Pursuant to a notice and agenda dated January 18, 2022, the sixty-eighth (68th) 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 25, 2022, by videoconference.

The following members of the Committee were present:

Charles Bell, *Committee Chair*

Richard Kauffman, *Chair of the Authority*

Shere Abbott

Arturo Garcia-Costas

Also, present were Doreen Harris, President and CEO; Janet Joseph, Senior Vice President for Strategy and Market Development; John Williams, Vice President for Policy and Regulatory Affairs; Peter J. Costello, General Counsel; Pam Poisson, Chief Financial Officer; Janice Dean, Deputy Counsel and Secretary to the Committee; and various other staff of the Authority.

Charles Bell called the meeting to order and noted the presence of a quorum. The meeting notice and agenda was forwarded to the Committee on January 18, 2022, and to the Press on January 22, 2022.

Mr. Bell indicated that the first item on the agenda concerned the approval of the minutes of the sixty-seventh (67th) meeting of the Committee held on June 21, 2021.

Whereafter, upon a motion duly made and seconded, and by unanimous voice vote of the Committee members, the minutes of the sixty-seventh (67th) meeting of the Committee held on June 21, 2022 were approved.

Mr. Bell indicated the next item on the agenda was a report regarding the Authority’s Budget for the fiscal year 2022-2023 for the West Valley site management program and radioactive waste policy and nuclear coordination activities. This item was presented by Chief Financial Officer, Pam Poisson.

Ms. Poisson began by indicating to the Committee that they are requested to recommend the adoption of a resolution recommending the approval of its portions of the Authority's Budget for the fiscal year ending March 31, 2023. Ms. Poisson reported that the budget for the West Valley program is proposed at \$26.1 million, an increase of \$3.5 million from the current year budget, representing the State's share of costs at the site under the Cooperative Agreement. Ms. Poisson also noted that the cost for maintenance and monitoring activities at the State Licensed Disposal Area and other Authority managed portions of the Center decreased by approximately \$300,000. Lastly, Ms. Poisson indicated that federal funding for the federal fiscal year 2022 has remained the same at \$92.5 million. Ms. Poisson indicated that the budget included funding to meet the state's requirements under the Low-Level Radioactive Waste Management Act of 1986, funded with \$150,000 suballocated from a Department of Health appropriation which is funded by a fee assessed on nuclear power plant operation.

The Chair asked questions regarding the anticipated scale-up of costs in future years and whether the Authority remained in contact with the Division of Budget, which Ms. Poisson confirmed. Members were satisfied with the answers.

Whereafter, upon motion duly made and seconded, and by voice of the Committee the following resolution was adopted.

Resolution

RESOLVED, that the proposed fiscal year 2022-23 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 their 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 the next item on the agenda was a status report on the West Valley Site management program activities. This item was presented by Program Director, Paul Bembia with Program Managers, Brad Frank and Andrea Mellon.

Mr. Bembia provided an update to the Committee on the impacts of COVID-19 by indicating that its staff reports two days per week and that all inspections, maintenance and environmental monitoring services are being conducted as scheduled. Mr. Bembia went on to

report that work activities on the West Valley Demonstration Project have decreased due to the recent spike in COVID-19 cases but are continuing. Mr. Bembia also indicated that the Department of Energy's (DOE) federal staff's plan to implement a phased return to the office during the month of January has been delayed by 30 days.

The Committee asked questions regarding the nature of remote work at the site, and were satisfied with the answers.

Mr. Bembia discussed impacts from the continuing resolution funding for the federal government on the West Valley Demonstration Project reporting that the budget for Federal Fiscal '22 is the same as was appropriated in 2021 and noted that it does not have an impact on the West Valley Demonstration Project funding for Federal Fiscal '22, \$92 million.

The Committee asked clarifying questions regarding federal funding and were satisfied with the answers.

With respect to the amendment of the Nuclear Regulatory Commission License Mr. Bembia advised that the amendment request was submitted in February 2020 and on November 5, 2021, the Nuclear Regulatory Commission issued the amendment. Mr. Bembia also noted that now West Valley has clarity on the regulatory authority to work on the retained premises and advised the amendment also included the incorporation of an updated radiation safety plan.

Program Manager Brad Frank provided an update to the Committee on the Main Plant Process Building in West Valley. Mr. Frank began by discussing the remaining decontamination efforts within the building, advising that within the building there are three main areas where decontamination efforts are continuing and noted that each area requires a different decontamination technique to achieve the desired condition for demolition. Mr. Frank highlighted those techniques: high pressured liquid nitrogen to remove contaminated concrete surfaces, cutting and removing ventilation duct work and cutting contaminated floor slabs with a large concrete saw.

Mr. Frank noted two main projects underway: the demolition of an adjacent building which will allow greater access to the Main Plant building during demolition and a water management system that will be used to manage water generated from dust suppression and precipitation during demolition. Mr. Frank also advised that the additional decontamination efforts are projected to be complete by spring of 2022 and will be followed by DOE's demolition readiness review. Lastly, Mr. Frank indicated that once approved, the demolition is projected to be completed in three years.

Mr. Frank reminded the Committee that twenty years of work has been done to ready the building for demolition, which has already removed 98% of the contamination in the building.

With respect to the community concerns regarding the open-air demolition, Mr. Frank reported that there will be extensive air and water monitoring conducted throughout the process and noted there are quarterly meetings held to inform the public what to expect during open air demolition of the Main Plant, including water management, waste management, and air monitoring. In addition, Mr. Frank reported that at the request of the Town of Ashford, DOE held additional meetings and brought in subject matter experts to allow members of the community to speak directly with the individuals who are responsible for planning of the safety.

The Committee asked questions regarding the remaining contamination, to which Mr. Frank indicated that the complexity remaining with the final 2% of contamination is due to the location of the contamination within the structure and that the residual contamination will require slow and deliberate work, and that the community outreach has sought to address the public's questions regarding monitoring established around the demolition work, and that outreach will continue. Mr. Frank indicated that DOE outreach to the community has addressed a number of community concerns, explaining how the slow and deliberate manner of decontamination should not result in any contamination reaching outer ring monitors, and that community outreach will continue. The members were satisfied with the answers.

Lastly, Mr. Frank provided an update on the Demonstration Project's rail shipping campaign by reporting that over 11,000 cubic yards of contaminated soil have been shipped to Utah for disposal and noted that this has been a very successful campaign providing the contractor with the opportunity to learn and streamline their rail loading process prior to beginning work on the Main Plant.

Program Manager Andrea Mellon provided an update to the Committee on Trench 14 construction activities and reported that in October 2021 West Valley completed both construction activities focused on the prevention of water from infiltrating one of the disposal trenches. Ms. Mellon noted that a geomembrane was placed on top of the NRC Licensed Disposal Area (NDA) to prevent snow and rain from infiltrating into the hard stand, and a sub-surface barrier wall placed north of Trenches 13 and 14 to cut off any ground water from entering the trench, completed in 2021 and in a data collection phase right now.

Ms. Mellon next discussed the slope of the SDA by explaining that in the last 50 years, the slope has gradually moved. Ms. Mellon noted that in addition to routine monthly inspections, West Valley has also increased surveying and inspections, including both DEC and DOE in those inspections. Ms. Mellon also reported that they installed additional survey markers upslope and downslope of the fractured area to better understand the movement in that area.

Ms. Mellon reported that in the inspection performed on November 4, 2021 it was noted that the fracture moved down slope by 1-1 ½ feet. Ms. Mellon indicated that West Valley's engineering contractor advised that they believed that this was shallow soil originally placed on top of the slope during trench construction. Ms. Mellon advised that daily inspections of the soil and weekly topographic surveys were initiated to better understand if there was a significant increase in the movement. In addition, Ms. Mellon indicated that several rounds of additional environmental monitoring focusing on the surface water in the bricks located directly below the north slope were being performed. Ms. Mellon reported that the data collected was consistent with historical values and trenches still remain fully contained and safe.

Ms. Mellon noted that despite the shallow movement of the slope, there have not been any large-scale changes with the surveys completed from November 4th to December. In addition, Ms. Mellon reported that a radiological survey was conducted, identifying one area in the bottom of the slope, southwest corner, that is elevated for radionuclides, a finding consistent with legacy contamination during the SDA operation; Ms. Mellon indicated that while these levels do not pose a health or safety threat, further controls will be implemented to prevent further contamination and ensure worker protection. Ms. Mellon summarized her presentation and indicated that work is ongoing on a daily and weekly basis, with mitigation work anticipated in the March 2022 timeframe.

The Committee asked questions related to environmental monitoring, inquiring if mitigation will take into consideration climate-related impacts into the future, to which Ms. Mellon confirmed that changes in climate conditions will be considered without prejudicing ongoing Phase Two decisions, and confirmed that her current belief is that notwithstanding shallow soil movement, competent soils will maintain a sufficient barrier to keep the trenches intact. Mr. Bell thanked the speakers for their commitment to public service at the West Valley site, and noted for the record that Arturo Garcia-Costas had joined the meeting during this prior presentation.

Mr. Bell indicated the next item on the agenda was a status report on the Nuclear Coordination Program, presented by Senior Advisor for Policy and Regulatory Affairs, Alyse Peterson.

Ms. Peterson began by providing the Committee with an update on Indian Point by advising that the facility is shut down, has been transferred to Holtec, and that physical decommissioning actions have commenced beginning with dismantlement and segmentation of the reactor vessels and their internal components. Ms. Peterson noted operative documents including the Consent Decree with the Attorney General's Office and the Administrative Order on Consent entered into by DEC. Ms. Peterson noted also the Authority's continuous tracking of decommissioning activities including any potential technical, financial or regulatory issues, mentioning three activities that the Authority has taken part in. First, the Authority submitted comments in response to Holtec's 2019 Post-Shutdown Decommissioning Activities Report, expressing support for expedited decommissioning but reiterating ongoing concerns regarding financial assurance and other issues; second, the Authority commented on Holtec's proposed use of a crane to facilitate movement of the spent fuel from Unit 3's pool into dry cask storage, expressing general support but seeking strict adherence to safety. Ms. Peterson indicated that these multi-agency comments may have played a role in the Nuclear Regulatory Commission's (NRC) initiation of an audit of Holtec's technical proposal specifications and documentation regarding the crane, and that a decision is anticipated in upcoming weeks. Third, Ms. Peterson reported that the Texas Low Level Radioactive Waste Commission issued its first approval for acceptance of Indian Point waste in July, and thus far the Commission has approved all shipments requested by Holtec, and advised that low level waste shipments from Indian Point have commenced. In response to a question from Mr. Kauffman, Ms. Peterson confirmed that the site in Texas is the same site utilized by Indian Point, and that there is no anticipated constraint on this waste, which has been set by the Commission referenced earlier; Mr. Bembia clarified that waste from West Valley are not included in Compact waste limits because its waste is considered federal waste, stored at the Texas federal cell. Ms. Peterson also confirmed in response to a question that the Indian Point site is under NRC regulatory oversight, but for state environmental regulatory oversight, and that her role is to liaise with the NRC to reflect the State's interests, which have been adequately addressed via state proceedings related to Indian Point.

Ms. Peterson then provided an update on three additional items related to the NRC, including the NRC's decommissioning rulemaking, advising that in November the Commission directed NRC to proceed with preparation and publication of a draft rule for public comment and expects publication to occur in April of this year, but that regretfully, the Commission did not incorporate nearly any of the considerations put forward by NYSERDA and other states, though Commissioner Baran did favorably note NYSERDA's comments in his dissent. In addition, Ms. Peterson noted that the Authority will conduct a thorough review of the draft rule and lead the State agency team in preparation of comments for submission to the NRC.

Ms. Peterson then discussed an environmental justice initiative that NRC launched titled, "Systematic Assessment for How the NRC Addressed Environmental Justice in its Programs, Policies and Activities" and noted that the Authority submitted comments to NRC putting forward New York's CLCPA structure as a potential model, and seeking changes to the NRC's overly-strict and exclusionary hearing procedures.

Lastly, Ms. Peterson discussed a new NRC rulemaking on non-emergency notifications and indicated that this could significantly reduce the notification requirements for non-emergency events at nuclear power plants. The rulemaking was in response to a nuclear industry petition requesting the elimination of all timely notifications for such events and leaving only the requirement for 60-day notifications. Ms. Peterson stated that this is unreasonable and would severely curtail the State's receipt of necessary information on incidents at the plants. In addition, Ms. Peterson noted that the Authority presented remarks at a public meeting in strong opposition of the industry petition.

In response to a question from Mr. Garcia-Costas, Ms. Peterson indicated that the NRC's environmental justice initiative is primarily internal, which Ms. Dean confirmed, indicating that it is not expected that the NRC's environmental justice initiative will look at state environmental impacts from site closure and similar issues local to Indian Point, but that the process is nevertheless an important one for the Commission to undertake.

Mr. Bell indicated the next item on the agenda was a status report on the Saratoga Technology + Energy Park (STEP). This was presented by Project Manager Kevin Hunt.

Mr. Hunt reported that in May 2021 the Authority issued Request for Qualifications 4703 Commercial Real Estate Services-Sale of STEP which sought an experienced commercial real estate broker to assist with the sale. Mr. Hunt advised that the proposers were asked to provide a

fee structure based on sale proceeds and noted that the Authority entered into a contract with CB Richard Ellis-Albany or CBRE. Mr. Hunt indicated that the Authority commissioned an appraisal of STEP and based on that it was listed the Multiple Listing Service with an asking price of \$12,000,000. Mr. Hunt noted that CBRE has had discussions with parties expressing initial interest in the purchase of STEP and that the Authority is working with CBRE and outside counsel to review all offers. Lastly, Mr. Hunt reported that Hudson Valley Community College (HVCC), a tenant of STEP, plans to begin construction of HVCC North, the first new building on the site in many years, in February of 2022; the building seeks to achieve LEED Silver rating and counsel is drafting the lease for the new building, while the Office of General Services issues relevant permits.

Arturo Garcia-Costas inquired whether there will be any covenants protecting multi-use trails on the property; Mr. Hunt did not identify any such covenants, but noted that the Authority has a memorandum of understanding with the Town of Malta to maintain such trails. Mr. Costello clarified that the trails are not in a developable parcel; Mr. Garcia-Costas expressed his support for ongoing public use of the trails. Mr. Costello indicated that he would work with outside counsel on such covenants, and would address any potential issues should they arise.

Mr. Bell indicated the next item on the agenda was other business. There being no other business, a motion to adjourn was made and seconded, and the meeting was adjourned.

Respectfully submitted,

Janice A. Dean
Secretary to the Committee